

120-2-2-.25 Trade Secret Assertions

(a) Any records containing trade secrets that are submitted by a person to comply with a law, regulation, bid, or request for proposal and which are submitted to the Office of the Commissioner of Insurance in a manner consistent with this Rule shall be exempt from public disclosure pursuant to O.C.G.A. Section 50-18-72(a)(34).

(b) Any entity submitting records containing trade secrets that wishes to keep such records confidential shall submit and attach to the records an affidavit that includes the following:

(1) An affirmative declaration that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10;

(2) An affirmative declaration that the information is not publicly available elsewhere;

(3) An affirmative declaration that the entity does not wish the trade secrets to be made public;

(4) An identification of the specific information;

(5) An explanation describing why the information is trade secret and how the release of the information would cause economic injury to the person asserting trade secret protection; and

(6) A description of the efforts that the person has engaged in to maintain the secrecy of the information.

(c) The affidavit must be submitted at the same time that the information is submitted and a trade secret notation must be on the documents containing the information. In the event, however, that this agency obtains the information pursuant to an investigation, the entity will have until the conclusion of the investigation to claim and designate trade secret information.

(d) If this agency makes a determination that a record does not constitute a trade secret, it shall notify the person that submitted the affidavit of its intent to disclose the information at least ten days prior to the proposed disclosure date unless this agency is prohibited from disclosing the information by an appropriate court order. If the agency makes a determination that the specifically identified information does constitute a trade secret, the agency shall not disclose the records.

(e) Where the person claiming the trade secret or the requestor thereof moves for redress of this agency's determination regarding the disclosure or non-disclosure of a record through an action in superior court, the moving party shall serve the non-moving party with a copy of its court filing.

Authority O.C.G.A. Sections 10-1-761(4), 33-2-9, and 50-18-72(a)(34).