

Legislative Analysis



INSURERS: CONFIDENTIALITY OF TRADE SECRETS

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<http://www.house.mi.gov/hfa>

House Bill 4354 as enacted
Public Act 141 of 2015
Sponsor: Rep. Michael Webber
House Committee: Insurance
Senate Committee: Insurance
Complete to 11-11-18

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

The bill amends the Insurance Code to allow certain required filings of insurance companies selling automobile, home, and worker's compensation insurance to be exempt from the Freedom of Information Act as trade secrets, with the approval of the director of the Department of Insurance and Financial Services (DIFS).

The Insurance Code requires insurance companies to file manuals of classification, rules, and rates, and rating plans for automobile, home insurance, and worker's compensation insurance with the director of DIFS. The code says that such filings and accompanying information are open for public inspection. (This provision is retained, but the bill requires that DIFS make these filings open to public inspection.)

However, House Bill 4354 allows an insurance company, or a rating organization filing on a company's behalf, to designate a filing or any accompanying information as a **trade secret** (and demonstrate as much to the DIFS director). If the DIFS director determines that a filing or accompanying information is a trade secret, then the filing or information is not subject to public inspection and is exempt from the Freedom of Information Act.

The term **trade secret** is defined in the Uniform Trade Secrets Act as information, including a formula, pattern, compilation, program, device, method, technique, or process, that both: (1) derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

The term **trade secret** does not apply to information accompanying filings subject to public inspection that were filed before the bill took effect (January 11, 2016).

Additionally, the bill makes the following accommodations throughout statute for this change:

- In its annual disclosures to policyholders, an insurer is not required to provide information that is a trade secret, as determined by DIF director under the bill's provisions.

- The current requirement that a rating organization or insurer that makes its own rates must disclose pertinent information after receiving a written request and payment excludes from the category of “pertinent information” trade secrets as determined by the DIF director under the bill’s provisions.

MCL 500.2108 et al.

FISCAL IMPACT:

The bill would not have a significant fiscal impact on the state or local units of government.

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