



PAT QUINN
Governor

ANDREW BORON
Director

TO: THE LICENSED PROPERTY AND CASUALTY INSURERS IN ILLINOIS, RATING ORGANIZATIONS, ADVISORY ORGANIZATIONS AND AUTHORIZED FILERS

FROM: ANDREW BORON *AB*

DATE: DECEMBER 13, 2012

RE: BULLETIN# 2012-08
REQUESTING CONFIDENTIAL TREATMENT OF DATA CONTAINED IN
FILINGS SUBJECT TO PUBLIC DISCLOSURE

PURPOSE

Pursuant to the Illinois Freedom of Information Act ("FOIA"), any information or data received by, in the possession of, or under the control of any public body is deemed a public record. (5 ILCS 140/2). Thus, any information or data, regardless of its form (collectively referred to herein as "information"), obtained and maintained by the Department of Insurance is accessible by the public, unless a federal or State statute, or regulation provides an exemption to public disclosure. (5 ILCS 140/7).

Information contained in filings submitted to the Department, via the System for Electronic Rate and Form Filing ("SERFF"), or otherwise, is accordingly considered a public record. Public access to certain information in a SERFF filing is restricted only if such information meets the standards for exemption. This Bulletin explains the procedure for requesting confidential treatment of information in SERFF filings based on exemptions protecting trade secret information and limiting disclosure to the public in justifiable circumstances. (5 ILCS 140/7(1)(g) and 765 ILCS 1065/1, *et seq.*).

PROCEDURE

1. When a company submits a filing via SERFF, it may request confidential treatment of information by specifically identifying the portions of the filing that it wishes to maintain as a trade secret exempt from public disclosure. To do this select the "Set Confidentiality" button and use the applicable options buttons and check the appropriate boxes to select the headers which containing the information that you wish to maintain as a trade secret. All confidential information must be isolated within its own header in the "Supporting Documentation" tab. Since rating material and rules not qualifying for confidential treatment as a trade secret must be filed and are publically available, do not select confidentiality for such information. At this stage, the selected parts of the filing are not accessible by the public.

2. Companies must explain in writing why the highlighted or bracketed information should be maintained as a confidential trade secret under the “Supporting Documentation” tab. This explanation is included under a separate header titled “Request to Maintain Data as Trade Secret Information.” To qualify for a trade secret exemption, the explanation must demonstrate that:
 - a. It is sufficiently secret to derive economic value, actual or potential, from not being generally known to other persons who can obtain economic value from its disclosure or use; and
 - b. It is the subject of efforts that are reasonable under the circumstances to maintain its secrecy or confidentiality; and
 - c. Disclosure of the information will result in competitive harm to the company.

At the time of filing, the Department will not determine whether the information submitted as a Trade Secret meets the criteria for confidential treatment. Additionally, filings that are withdrawn may be subject to disclosure. A person whose FOIA request is denied by the Department may file an appeal with the Public Access Counselor, established in the Office of the Attorney General, not later than 60 days after the date of the denial. (5 ILCS 140/9.5).

FOR FORM AND RATE/RULE/QUESTIONS, PLEASE E-MAIL: JOHN GATLIN – ASSISTANT DEPUTY DIRECTOR OF THE P&C COMPLIANCE UNIT.

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