



OLR RESEARCH REPORT

December 13, 2011

2011-R-0482

INSURANCE COMPANY INCOME AS TRADE SECRET

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You asked if there is a state or federal law that protects trade secrets. You also asked whether an insurance company's income and how the company spends it can be protected as a trade secret.

The Office of Legislative Research is not authorized to give legal opinions and this should not be considered one.

SUMMARY

Trade secrets are protected by both state and federal law. In general, a trade secret is anything that derives economic value from not being generally known or readily ascertainable. The owner must take reasonable measures to maintain its secrecy. Trade secrets include financial and business data, such as formulas, methods, processes, and programs.

An insurance company's income is likely not a trade secret because the company discloses its income publicly in financial statements. However, how a company spends its income may be proprietary information and subject to protection as a trade secret.

STATE LAW

Most states, including Connecticut, have adopted a version of the Uniform Trade Secrets Act (UTSA) as a set of rules to deal with misappropriation of trade secrets. The UTSA outlines civil liability and injunctions to remedy any misappropriation.

Under the UTSA, “trade secret” means information, including a formula, pattern, compilation, program, device, method, technique, process, drawing, cost data, or customer list, that:

1. derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, others 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 (CGS § [35-51\(d\)](#)).

FEDERAL LAW

The 1996 federal Economic Espionage Act makes it a felony to sell, disseminate, or otherwise deal in trade secrets without the owner’s consent (18 USC §§ 1831-1839).

The act defines “trade secret” as all forms and types of financial, business, scientific, technical, economic, or engineering information, including patterns, plans, compilations, program devices, formulas, designs, prototypes, methods, techniques, processes, procedures, programs, or codes, whether tangible or intangible, and whether stored, compiled, or memorialized physically, electronically, graphically, photographically, or in writing, if:

1. the owner has taken reasonable measures to keep such information secret and
2. the information derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable through proper means by, the public.

INSURANCE COMPANY INCOME

Insurance companies routinely publish their income in quarterly and annual financial statements, which are often publicly available on the companies' websites. Because the companies make the information publicly known, it is likely not protected as a trade secret. However, insurance companies do make efforts to keep secret certain uses of their income and arguably derive economic value from keeping such secrets. Thus, the companies may seek to protect such information as a trade secret under UTSA and the Economic Espionage Act.

According to Beth Cook, counsel at the Connecticut Insurance Department, "Under both of those [state and federal law] definitions, a company could theoretically claim that [its] income is a trade secret; whether [it] could sustain a legal challenge would be up to the courts . . . factors that would come into play are whether it's a public or private company, if it has released earnings statements, made filings with agencies that permit disclosure, or if the filings are confidential by law."

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