

VPA

1 **§2.2-37xx. Confidential business information submitted by a private entity to a public**
2 **body.**

3 When a private entity submits a record to a public body subject to the provisions of this chapter,
4 the submitting entity shall designate at the time of submission all information contained in the
5 record that it considers confidential and seeks to have the public body withhold from inspection
6 or copying as provided in this chapter, but only if such information falls within one of the
7 following categories:

8 (a) the information qualifies as a trade secret under the Uniform Trade Secrets Act, § 59.1-
9 336, et seq., and continues to be maintained as a trade secret by the private entity; or

10 (b) the information is confidential financial information of the submitting entity, including
11 balance sheets, income statements, other accounting records, audit materials, or
12 projections of revenue or expenses, and the financial information (1) has not become
13 publicly available through regulatory disclosure or otherwise; (2) continues to be treated
14 by the private entity as confidential in the regular course of business and is the subject of
15 reasonable steps to maintain its confidentiality; and (3) has not been identified by the
16 public body prior to its submission as information material to the decision making of the
17 public body and a proper subject of disclosure notwithstanding the presence of elements
18 (b)(1) and (2) above, or

19 (c) the information is in the nature of a trade secret or confidential financial information and
20 is subject to a federal or state law that prohibits its dissemination to the public.

21 A private entity seeking protection of information under this section shall submit a statement of
22 reasons at the time it submits the subject information to the public body. The statement of
23 reasons shall designate with specificity all information within the record for which protection is

1 sought, describe the general subject matter of the information with clarity, and identify the
2 provisions of this section upon which the submitting private entity is relying to seek protection of
3 the identified information. A request for protection of information under subsection (c) above
4 shall specify the federal or state statute requiring that the material be maintained in confidence
5 and not be subject to public disclosure. The statement of reasons shall be a public record
6 available for inspection and copying under the provisions of this chapter.

7 In the event a public body denies a request for information submitted pursuant to this chapter on
8 the ground that it is being withheld pursuant to this section, it shall, simultaneously with
9 communicating the denial, send an open copy of the communication denying the request to the
10 submitting private entity, along with a copy of the request that was denied.

11
12
13
14
15
16
17
18
19
20
21

22 Submitted by Virginia Press Association to VFOIAC work group
23 September 1, 2015