

By: Vasut, Bumgarner, Hayes

H.B. No. 4081

A BILL TO BE ENTITLED

AN ACT

relating to the sealing of certain documents alleged to contain trade secrets.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 134A, Civil Practice and Remedies Code, is amended by adding Section 134A.0065 to read as follows:

Sec. 134A.0065. SEALING OF CERTAIN DOCUMENTS. (a) A party to an action under this chapter seeking to seal a document containing the party's own alleged trade secret must:

(1) file with the trial court:

(A) a notice of sealing; and

(B) an affidavit:

(i) generally describing the type of information contained in the document;

(ii) providing contact information for subsequent notice of any motion to unseal the document; and

(iii) setting forth the factual basis for the party's allegation that the information constitutes a trade secret;

(2) deliver a copy of the document to be sealed to the trial court in a sealed envelope labeled to identify the notice of sealing to which the document corresponds; and

(3) serve a copy of the notice, affidavit, and document on each other party to the action.

1 (b) A party to an action under this chapter filing a
2 document the party knows another person alleges to contain the
3 person's trade secret shall:

4 (1) file with the trial court:

5 (A) a notice of sealing; and

6 (B) a statement:

7 (i) generally describing the type of
8 information contained in the document; and

9 (ii) identifying the person who alleges the
10 document contains the person's trade secret;

11 (2) deliver a copy of the document to be sealed to the
12 trial court in a sealed envelope labeled to identify the notice of
13 sealing to which the document corresponds; and

14 (3) serve a copy of the notice, affidavit, and
15 document on:

16 (A) each other party to the action; and

17 (B) any person who alleges the document contains
18 the person's trade secret who is not a party to the action.

19 (c) Not later than the 14th day after the date a person who
20 alleges a document contains the person's trade secret receives a
21 notice under Subsection (b) with respect to the document, the
22 person must file with the trial court in the same numbered cause an
23 affidavit:

24 (1) generally describing the type of information
25 contained in the document;

26 (2) providing contact information for subsequent
27 notice of any motion to unseal the document; and

1 (3) setting forth the factual basis for the person's
2 allegation that the information in the document constitutes a trade
3 secret.

4 (d) If the trial court receives a notice, statement, and
5 sealed document under Subsection (b):

6 (1) the document shall be treated as filed under seal
7 until the time for filing an affidavit under Subsection (c)
8 expires; and

9 (2) if no affidavit is timely filed under Subsection
10 (c), the document shall be treated as publicly filed until an
11 affidavit described by that subsection is filed.

12 (e) Once the trial court receives a notice, affidavit, and
13 sealed document under Subsection (a) or under Subsections (b) and
14 (c), the document shall be treated as permanently filed under seal.

15 (f) Any person may intervene as a matter of right at any time
16 before or after judgment in an action under this chapter to seal or
17 unseal a document. If a person alleges the person's trade secret
18 was filed of public record, the person may seal the document
19 containing the alleged trade secret by taking the same actions with
20 respect to the document that a party to an action under this chapter
21 is authorized to take with respect to the party's alleged trade
22 secret under Subsection (a).

23 (g) The trial court retains continuing jurisdiction to seal
24 or unseal a document filed in an action under this chapter.

25 (h) Any person may move to unseal any document filed under
26 seal under this section. The motion, and notice of hearing, shall
27 be served on the parties to the action in which the document was

1 filed, and the person who submitted an affidavit under Subsection
2 (c) or (f), by certified mail, return receipt requested, not later
3 than the 14th day before any hearing on the motion in the trial
4 court. The trial court shall grant the motion and unseal all or
5 part of the document if the person who alleges that the document
6 contains the person's trade secrets fails to demonstrate by a
7 preponderance of the evidence that the document, or a part of the
8 document, contains a trade secret.

9 (i) If the trial court determines that only a part of the
10 document should be unsealed, the trial court shall redact all
11 information that contains a trade secret before providing the
12 document to the movant.

13 (j) An order granting or denying a motion to unseal a
14 document under Subsection (h) is considered to be severed from the
15 action and is a final judgment that may be appealed by any party or
16 intervenor who participated in the hearing preceding the issuance
17 of the order.

18 (k) Notwithstanding Section 22.004, Government Code, the
19 supreme court may not adopt rules in conflict with this section.

20 SECTION 2. The change in law made by this Act applies only
21 to a document filed in an action on or after the effective date of
22 this Act. A document filed before the effective date of this Act is
23 governed by the law applicable to the document immediately before
24 the effective date of this Act, and that law is continued in effect
25 for that purpose.

26 SECTION 3. This Act takes effect September 1, 2025.