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LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/26/2012	.	
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	.	

The Committee on Banking and Insurance (Negron) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 626.84195, Florida Statutes, is created to read:

626.84195 Confidentiality of information supplied by title insurance agencies and insurers.-

(1) As used in this section, the term "proprietary business information" means information that:

(a) Is owned or controlled by a title insurance agency or insurer requesting confidentiality under this section;



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13 (b) Is intended to be and is treated by the title insurance
14 agency or insurer as private in that the disclosure of the
15 information would cause harm to the business operations of the
16 title insurance agency or insurer;

17 (c) Has not been publicly disclosed unless disclosed
18 pursuant to a statutory provision, an order of a court or
19 administrative body, or a private agreement, providing that the
20 information may be released to the public; and

21 (d) Concerns:

22 1. Business plans;

23 2. Internal auditing controls and reports of internal
24 auditors;

25 3. Reports of external auditors for privately held
26 companies;

27 4. Trade secrets, as defined in s. 688.002; or

28 5. Financial information, including, but not limited to,
29 revenue data, loss expense data, gross receipts, taxes paid,
30 capital investment, customer identification, and employee wages.

31 (2) Proprietary business information provided to the office
32 by a title insurance agency or insurer is confidential and
33 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
34 Constitution until such information is otherwise publicly
35 available or is no longer treated by the title insurance agency
36 or insurer as proprietary business information. However,
37 information provided by multiple title insurance agencies and
38 insurers may be aggregated on an industry-wide basis and
39 disclosed to the public as long as the specific identities of
40 the agencies or insurers are not revealed.

41 (3) This section is subject to the Open Government Sunset



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42 Review Act in accordance with s. 119.15 and shall stand repealed
43 on October 2, 2017, unless reviewed and saved from repeal
44 through reenactment by the Legislature.

45 Section 2. The Legislature finds that it is a public
46 necessity that proprietary business information relating to the
47 title insurance industry, title insurers, and title insurance
48 agents, including, but not limited to, trade secrets, be made
49 confidential and exempt from the requirements of s. 119.07(1),
50 Florida Statutes, and s. 24(a), Article I of the State
51 Constitution. The disclosure of information, such as revenue,
52 loss expense data, analyses of gross receipts, the amount of
53 taxes paid, the amount of capital investment, customer
54 identification, the amount of employee wages paid, and the
55 detailed documentation substantiating such performance
56 information, could injure a business in the marketplace by
57 providing its competitors with detailed insights into the
58 financial status and the strategic plans of the business,
59 thereby diminishing the advantage that the business maintains
60 over competitors that do not possess such information. Without
61 this exemption, title insurance agencies and title insurers,
62 whose records are generally not required to be open to the
63 public, might refrain from providing accurate and unbiased data,
64 thus impairing the Office of Insurance Regulation's ability to
65 set fair and adequate title insurance rates. Proprietary
66 business information derives actual or potential independent
67 economic value from not being generally known to, and not being
68 readily ascertainable by proper means by, other persons who can
69 derive economic value from its disclosure or use. The Office of
70 Insurance Regulation, or any subsidiary or contractor of the



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71 office, in performing its lawful duties and responsibilities,
72 may need to obtain information from the proprietary business
73 information. Without an exemption from public records
74 requirements for proprietary business information held by the
75 Office of Insurance Regulation or its designee, such information
76 becomes a public record when received and must be divulged upon
77 request. Divulgence of any proprietary business information
78 under the public records law would destroy the value of that
79 property to the proprietor, causing a financial loss not only to
80 the proprietor but also to the residents of this state due to
81 the loss of reliable financial data necessary for fair and
82 adequate rate regulation. Release of proprietary business
83 information would give business competitors an unfair advantage
84 and weaken the position in the marketplace of the proprietor
85 that owns or controls the proprietary business information. The
86 harm to businesses in the marketplace and to the effective
87 administration of the ratemaking function caused by the public
88 disclosure of such information far outweighs the public benefits
89 derived from its release. In addition, the confidentiality
90 provided by this act does not preclude the reporting of
91 statistics in the aggregate concerning the collection of data,
92 as well as the names of the title insurance agencies and title
93 insurers participating in the data collection. Such aggregate
94 reported data is available to the public and is important to an
95 assessment of the setting of title insurance premiums. Thus, the
96 Legislature declares that it is a public necessity that
97 proprietary business information of title insurers, title
98 insurance agents, and the title insurance industry held by the
99 Office of Insurance Regulation, or any subsidiary, contractor,



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100 or agent of the office, be made confidential and exempt from s.
101 119.07(1), Florida Statutes, and s. 24(a), Article I of the
102 State Constitution.

103 Section 3. This act shall take effect on the same date that
104 SB 1404 or similar legislation takes effect, if such legislation
105 is adopted in the same legislative session, or an extension
106 thereof, and becomes law.

107
108 ===== T I T L E A M E N D M E N T =====

109 And the title is amended as follows:

110 Delete everything before the enacting clause
111 and insert:

112 A bill to be entitled
113 An act relating to public records; creating s.
114 626.84195, F.S.; providing an exemption from public
115 records requirements for proprietary business
116 information provided by title insurance agencies and
117 insurers to the Office of Insurance Regulation;
118 providing a definition; authorizing disclosure of
119 aggregated information; providing for future
120 legislative review and repeal of the exemption under
121 the Open Government Sunset Review Act; providing a
122 statement of public necessity; providing a contingent
123 effective date.