

By the Committees on Governmental Oversight and Accountability;
and Banking and Insurance; and Senator Altman

585-03097-12

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 626.84195, F.S.; providing an exemption from public
4 records requirements for proprietary business
5 information provided by title insurance agencies and
6 insurers to the Office of Insurance Regulation;
7 providing a definition; authorizing disclosure of
8 aggregated information; providing for future
9 legislative review and repeal of the exemption under
10 the Open Government Sunset Review Act; providing a
11 statement of public necessity; providing a contingent
12 effective date.

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14 Be It Enacted by the Legislature of the State of Florida:

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

18 626.84195 Confidentiality of information supplied by title
19 insurance agencies and insurers.-

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

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

24 (b) Is intended to be and is treated by the title insurance
25 agency or insurer as private in that the disclosure of the
26 information would cause harm to the business operations of the
27 title insurance agency or insurer;

28 (c) Has not been publicly disclosed unless disclosed
29 pursuant to a statutory provision, an order of a court or

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30 administrative body, or a private agreement, providing that the
31 information may be released to the public; and

32 (d) Concerns:

33 1. Business plans;

34 2. Internal auditing controls and reports of internal
35 auditors;

36 3. Reports of external auditors for privately held
37 companies;

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

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

42 (2) Proprietary business information provided to the office
43 by a title insurance agency or insurer is confidential and
44 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
45 Constitution until such information is otherwise publicly
46 available or is no longer treated by the title insurance agency
47 or insurer as proprietary business information. However,
48 information provided by multiple title insurance agencies and
49 insurers may be aggregated on an industry-wide basis and
50 disclosed to the public as long as the specific identities of
51 the agencies or insurers are not revealed.

52 (3) This section is subject to the Open Government Sunset
53 Review Act in accordance with s. 119.15 and shall stand repealed
54 on October 2, 2017, unless reviewed and saved from repeal
55 through reenactment by the Legislature.

56 Section 2. The Legislature finds that it is a public
57 necessity that proprietary business information provided to the
58 Office of Insurance Regulation by a title insurance agency or

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59 insurer, including, but not limited to, trade secrets, be made
60 confidential and exempt from the requirements of s. 119.07(1),
61 Florida Statutes, and s. 24(a), Article I of the State
62 Constitution. The disclosure of information, such as revenue
63 data, loss expense data, gross receipts, the amount of taxes
64 paid, the amount of capital investment, customer identification,
65 and the amount of employee wages paid, could injure a business
66 in the marketplace by providing its competitors with detailed
67 insights into the financial status and the strategic plans of
68 the business, thereby diminishing the advantage that the
69 business maintains over competitors that do not possess such
70 information. Without this exemption, title insurance agencies
71 and title insurers, whose records are generally not required to
72 be open to the public, might refrain from providing accurate and
73 unbiased data, thus impairing the Office of Insurance
74 Regulation's ability to set fair and adequate title insurance
75 rates. Proprietary business information derives actual or
76 potential independent economic value from not being generally
77 known to, and not being readily ascertainable by proper means
78 by, other persons who can derive economic value from its
79 disclosure or use. The Office of Insurance Regulation, in
80 performing its lawful duties and responsibilities, may need to
81 obtain information from the proprietary business information.
82 Without an exemption from public records requirements for
83 proprietary business information provided to the Office of
84 Insurance Regulation, such information becomes a public record
85 when received and must be divulged upon request. Divulgence of
86 any proprietary business information under the public records
87 law would destroy the value of that property to the proprietor,

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88 causing a financial loss not only to the proprietor but also to
89 the residents of this state due to the loss of reliable
90 financial data necessary for fair and adequate rate regulation.
91 Release of proprietary business information would give business
92 competitors an unfair advantage and weaken the position in the
93 marketplace of the proprietor that owns or controls the
94 proprietary business information. The harm to businesses in the
95 marketplace and to the effective administration of the
96 ratemaking function caused by the public disclosure of such
97 information far outweighs the public benefits derived from its
98 release. In addition, the confidentiality provided by this act
99 does not preclude the reporting of statistics in the aggregate
100 concerning the collection of data, as well as the names of the
101 title insurance agencies and title insurers participating in the
102 data collection. Such aggregate reported data is available to
103 the public and is important to an assessment of the setting of
104 title insurance premiums. Thus, the Legislature declares that it
105 is a public necessity that proprietary business information of
106 title insurers and title insurance agencies provided to the
107 Office of Insurance Regulation be made confidential and exempt
108 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
109 the State Constitution.

110 Section 3. This act shall take effect on the same date that
111 CS for SB 1404 or similar legislation takes effect, if such
112 legislation is adopted in the same legislative session, or an
113 extension thereof, and becomes law.