

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Insurance & Banking
2 Subcommittee

3 Representative Ingram offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 624.4212, Florida Statutes, is created
8 to read:

9 624.4212 Confidentiality of proprietary business and other
10 information.-

11 (1) As used in this section, the term "proprietary
12 business information" means information, regardless of form or
13 characteristics, which is owned or controlled by an insurer, or
14 a person or an affiliated person who seeks acquisition of
15 controlling stock in a domestic stock insurer or controlling
16 company, and which:

17 (a) Is intended to be and is treated by the insurer or the

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18 person as private in that the disclosure of the information
19 would cause harm to the insurer, the person, or the company's
20 business operations and that the information has not been
21 disclosed unless disclosed pursuant to a statutory requirement,
22 an order of a court or administrative body, or a private
23 agreement that provides that the information will not be
24 released to the public;

25 (b) Is not otherwise readily ascertainable or publicly
26 available by proper means by other persons from another source
27 in the same configuration as requested by the office; and

28 (c) Includes, but is not limited to:

29 1. Trade secrets as defined in s. 688.002 which comply
30 with s. 624.4213.

31 2. Information relating to competitive interests, the
32 disclosure of which would impair the competitive business of the
33 provider of the information.

34 3. The source, nature, and amount of the consideration
35 used or to be used in carrying out a merger or other acquisition
36 of control in the ordinary course of business, including the
37 identity of the lender, if the person filing a statement
38 regarding consideration so requests.

39 4. Information relating to bids or other contractual data,
40 the disclosure of which would impair the efforts of the insurer
41 or its affiliates to contract for goods or services on favorable
42 terms.

43 5. Internal auditing controls and reports of internal

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44 auditors.

45 (2) Proprietary business information contained in the
46 following items held by the office is confidential and exempt
47 from s. 119.07(1) and s. 24(a), Art. I of the State
48 Constitution:

49 1. The actuarial opinion summary required under ss.
50 624.424(1)(b) and 625.121(3) and information related thereto.

51 2. A notice filed with the office by the person or
52 affiliated person who seeks to divest controlling stock in an
53 insurer pursuant to s. 628.461.

54 3. The filings required under s. 628.801 and information
55 related thereto.

56 4. The enterprise risk report required under ss.
57 628.461(3) and 628.801 and information related thereto.

58 5. Information provided to or obtained by the office
59 pursuant to participation in a supervisory college established
60 under s. 628.805.

61 6. Beginning on the operative date of the valuation manual
62 as defined in s. 625.1212(2):

63 a. An actuarial examination conducted pursuant to s.
64 625.1212(5)(c), and information related thereto;

65 b. The annual certification submitted by the insurer
66 pursuant to s. 625.1212(6)(b)2., and information related
67 thereto;

68 c. The principle-based valuation report filed pursuant to
69 s. 625.1212(6)(b)3., and information related thereto; and

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70 d. Mortality, morbidity, policyholder behavior, or expense
71 experience and other data submitted pursuant to s. 625.1212(7),
72 which includes potentially company-identifiable or personally
73 identifiable information.

74 (3) Information received from the NAIC or another
75 governmental entity in this or another state, the Federal
76 Government, or another nation which is confidential or exempt if
77 held by that entity and which is held by the office for use in
78 the office's performance of its duties relating to insurer
79 valuation and solvency is confidential and exempt from s.
80 119.07(1) and s. 24(a), Art. I of the State Constitution.

81 (4) The office may disclose information made confidential
82 and exempt under this section:

83 (a) If the insurer to which it pertains gives prior
84 written consent;

85 (b) Pursuant to a court order;

86 (c) To the American Academy of Actuaries upon a request
87 stating that the information is for the purpose of professional
88 disciplinary proceedings and specifying procedures satisfactory
89 to the office for preserving the confidentiality of the
90 information;

91 (d) To other states, federal and international agencies,
92 the National Association of Insurance Commissioners and its
93 affiliates and subsidiaries, and state, federal, and
94 international law enforcement authorities, including members of
95 a supervisory college described in s. 628.805 if the recipient

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96 agrees in writing to maintain the confidential and exempt status
97 of the document, material, or other information and has
98 certified in writing its legal authority to maintain such
99 confidentiality; or

100 (e) For the purpose of aggregating information on an
101 industrywide basis and disclosing the information to the public
102 only if the specific identities of the insurers, or persons or
103 affiliated persons, are not revealed.

104 (5) This section is subject to the Open Government Sunset
105 Review Act in accordance with s. 119.15 and is repealed on
106 October 2, 2019, unless reviewed and saved from repeal through
107 reenactment by the Legislature.

108 Section 2. (1) The Legislature finds that it is a public
109 necessity that proprietary business information that is provided
110 to the Office of Insurance Regulation by an insurer or by an
111 acquiring party pursuant to the Florida Insurance Code or the
112 Holding Company System Regulatory Act of the National
113 Association of Insurance Commissioners in order for the office
114 to conduct its regulatory duties with respect to insurer
115 valuation and solvency, be made confidential and exempt from s.
116 119.07(1), Florida Statutes, and s. 24(a), Article I of the
117 State Constitution. The disclosure of such information could
118 injure an insurer in the marketplace by providing its
119 competitors with detailed insight into the reserve assumptions
120 and strategies, modeling methodologies, business plans, pricing
121 and marketing strategies, management systems and operational

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122 protocols, and financial status of the insurer, thereby
123 diminishing the advantage that the insurer maintains over
124 competitors that do not possess such information. Without this
125 exemption, an insurer or an acquiring party might refrain from
126 providing accurate and unbiased data, thus impairing the
127 office's ability to accurately evaluate the propriety of
128 proposed acquisitions in the state and the financial condition
129 of insurers and their affiliates. Proprietary business
130 information derives actual or potential independent economic
131 value from not being generally known to, and not being readily
132 ascertainable by proper means by, other persons who can derive
133 economic value from its disclosure or use. The office, in
134 performing its duties and responsibilities, may need to obtain
135 proprietary business information from insurers and regulated
136 entities. Without an exemption from public records requirements
137 for proprietary business information provided to the office,
138 such information becomes a public record when received and must
139 be divulged upon request. Divulgence of proprietary business
140 information under the public records law would destroy the value
141 of that property to the proprietor, causing a financial loss not
142 only to the proprietor but also to the residents of this state
143 due to the loss of reliable financial data necessary for the
144 accurate evaluation of proposed acquisitions. Release of
145 proprietary business information would give business competitors
146 an unfair advantage and weaken the position in the marketplace
147 of the proprietor who owns or controls the business information.

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148 (2) The Legislature also finds that it is a public
149 necessity that information received by the office from the
150 National Association of Insurance Commissioners, or from an
151 agency in this or another state or nation or the Federal
152 Government, which is otherwise exempt or confidential pursuant
153 to the laws of this or another state or nation or pursuant to
154 federal law or which is confidential or exempt if held by that
155 entity, for use by the office in the performance of duties
156 related to insurer valuation and solvency under the Florida
157 Insurance Code, be made confidential and exempt from s.
158 119.07(1), Florida Statutes, and s. 24(a), Article I of the
159 State Constitution. Divulgence of such information could impede
160 the exchange of information and communication among regulators
161 across multiple agencies and jurisdictions and jeopardize the
162 ability of regulators to effectively supervise insurers and
163 groups operating in multiple jurisdictions and engaged in
164 significant cross-border activities.

165 Section 3. This act shall take effect October 1, 2014, if
166 HB 1271 or similar legislation is adopted in the same
167 legislative session or an extension thereof and becomes a law.
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170 -----
171 **T I T L E A M E N D M E N T**

172 Remove everything before the enacting clause and insert:

173 A bill to be entitled

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1273 (2014)

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174 An act relating to public records; creating s. 624.4212, F.S.;

175 defining the term "proprietary business information"; creating

176 an exemption from public records requirements for proprietary

177 business information and information that is confidential when

178 held by another entity in this state, the Federal Government, or

179 another state or nation, and which is held by the Office of

180 Insurance Regulation; providing exceptions; providing for future

181 legislative review and repeal; providing a statement of public

182 necessity; providing a contingent effective date.