

By the Committee on Banking and Insurance; and Senator Simmons

597-02618-16

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1 A bill to be entitled

2 An act relating to public records; amending s.  
3 624.4212, F.S.; providing an exemption from public  
4 records requirements for certain reports and documents  
5 submitted to the Office of Insurance Regulation  
6 related to an own-risk and solvency assessment by an  
7 insurer or insurance group; providing an exemption  
8 from public records requirements for a corporate  
9 governance annual disclosure and supporting documents  
10 submitted to the office; revising the actuarial board  
11 to which the office may disclose certain information;  
12 providing for and revising future legislative review  
13 and repeal; providing a statement of public necessity;  
14 providing a contingent effective date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18 Section 1. Present subsections (3), (4), and (5) of section  
19 624.4212, Florida Statutes, are redesignated as subsections (4),  
20 (5), and (6), respectively, and amended, and a new subsection  
21 (3) is added to that section, to read:

22 624.4212 Confidentiality of proprietary business and other  
23 information.—

24 (3) Except for information obtained by the office which  
25 would otherwise be available for public inspection, the  
26 following information held by the office is confidential and  
27 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
28 Constitution:

29 (a) An ORSA summary report, a substantially similar ORSA  
30 report, and supporting documents submitted pursuant to s.  
31 628.8015.

32 (b) A corporate governance annual disclosure and supporting

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33 documents submitted pursuant to s. 628.8015.

34 (4)~~(3)~~ Information received from the NAIC, a ~~or another~~  
35 governmental entity in this or another state, the Federal  
36 Government, or a government of another nation which is  
37 confidential or exempt if held by that entity and which is held  
38 by the office for use in the ~~office's~~ performance of its duties  
39 relating to insurer valuation and solvency is confidential and  
40 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
41 Constitution.

42 (5)~~(4)~~ The office may disclose information made  
43 confidential and exempt under this section:

44 (a) If the insurer to which it pertains gives prior written  
45 consent;

46 (b) Pursuant to a court order;

47 (c) To the Actuarial Board for Counseling and Discipline  
48 ~~American Academy of Actuaries~~ upon a request stating that the  
49 information is for the purpose of professional disciplinary  
50 proceedings and specifying procedures satisfactory to the office  
51 for preserving the confidentiality of the information;

52 (d) To other states, federal and international agencies,  
53 the National Association of Insurance Commissioners and its  
54 affiliates and subsidiaries, and state, federal, and  
55 international law enforcement authorities, including members of  
56 a supervisory college described in s. 628.805 if the recipient  
57 agrees in writing to maintain the confidential and exempt status  
58 of the document, material, or other information and has  
59 certified in writing its legal authority to maintain such  
60 confidentiality; or

61 (e) For the purpose of aggregating information on an

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62 industrywide basis and disclosing the information to the public  
63 only if the specific identities of the insurers, or persons or  
64 affiliated persons, are not revealed.

65 ~~(6)-(5)~~ This section is subject to the Open Government  
66 Sunset Review Act in accordance with s. 119.15 and is repealed  
67 on October 2, 2021 ~~2019~~, unless reviewed and saved from repeal  
68 through reenactment by the Legislature.

69 Section 2. (1) The Legislature finds that it is a public  
70 necessity that the own-risk and solvency assessment (ORSA)  
71 summary report, a substantially similar ORSA report, and  
72 supporting documents submitted to and held by the Office of  
73 Insurance Regulation pursuant to s. 628.8015, Florida Statutes,  
74 be exempt from public records requirements. In conducting this  
75 required internal assessment, an insurer or insurance group  
76 identifies and evaluates the material and relevant risks to the  
77 insurer or insurance group and the adequacy of capital resources  
78 to support these risks. The ORSA summary report, substantially  
79 similar ORSA report, and supporting documents contain highly  
80 sensitive and strategic financial information about an insurer  
81 or insurer group. Having a comprehensive and unbiased assessment  
82 will provide the office with an effective early warning  
83 mechanism for preventing insolvencies and protecting  
84 policyholders and promote a stable insurance market. Divulging  
85 the ORSA summary report, substantially similar ORSA summary  
86 report, and supporting documents will injure the insurer or  
87 insurance group by providing competitors with detailed insight  
88 into their financial position, risk management strategies,  
89 business plans, pricing and marketing strategies, management  
90 systems, and operational protocols.

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91       (2) The Legislature finds that it is a public necessity  
92 that the corporate governance annual disclosure and supporting  
93 documents submitted to and held by the office be exempt from  
94 public records requirements. The corporate governance annual  
95 disclosure describes an insurer's governance structure and the  
96 internal practices and procedures used in conducting the  
97 business affairs of the company, making strategic operational  
98 decisions affecting its competitive position, and managing its  
99 financial condition. Broad disclosure will give state regulators  
100 a thorough understanding of the corporate governance structure  
101 and internal policies and practices used by insurers and promote  
102 market integrity. Effective governance mechanisms will enable  
103 insurers to take any necessary corrective actions and achieve  
104 strategic goals.

105       Section 3. This act shall take effect on the same date that  
106 SB 1422 or similar legislation takes effect, if such legislation  
107 is adopted in the same legislative session or an extension  
108 thereof and becomes a law.