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LEGISLATIVE ACTION

Senate

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House

The Committee on Governmental Oversight and Accountability
(Albritton) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 631.195, Florida Statutes, is created to
read:

631.195 Records of insurers; public records exemptions.—

(1) As used in this section, the term:

(a) "Consumer" means a prospective purchaser of, a



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11 purchaser of, a beneficiary of, or an applicant for any
12 insurance product or service. The term also includes a family
13 member or dependent of such person.

14 (b) "Personal financial and health information" means:

15 1. A consumer's personal health condition, disease, or
16 injury;

17 2. A history of a consumer's personal medical diagnosis or
18 treatment;

19 3. The existence, nature, source, or amount of a consumer's
20 personal income or expenses;

21 4. Records of, or relating to, a consumer's personal
22 financial transactions of any kind;

23 5. The existence, identification, nature, or value of a
24 consumer's assets, liabilities, or net worth;

25 6. The existence or content of, or any individual coverage
26 or status under a consumer's beneficial interest in, any
27 insurance policy or annuity contract; or

28 7. The existence, identification, nature, or value of a
29 consumer's interest in any insurance policy, annuity contract,
30 or trust.

31 (2) The following records, in whatever form, of an insurer
32 which are made or received by the department, acting as receiver
33 pursuant to this chapter, are confidential and exempt from s.
34 119.07(1) and s. 24(a), Art. I of the State Constitution:

35 (a) All personal financial and health information of a
36 consumer.

37 (b) Underwriting files of a type customarily maintained by
38 an insurer transacting lines of insurance similar to those lines
39 transacted by the insurer.



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- 40 (c) Personnel and payroll records of the insurer.
- 41 (d) Consumer claim files.
- 42 (e) An ORSA summary report, a substantially similar ORSA
43 summary report, and supporting documents submitted to the office
44 pursuant to s. 628.8015.
- 45 (f) A corporate governance annual disclosure and supporting
46 documents submitted to the office pursuant to s. 628.8015.
- 47 (g) Information received from the National Association of
48 Insurance Commissioners, a governmental entity in this or
49 another state, the Federal Government, or a government of
50 another nation which is confidential or exempt if held by that
51 entity and which is held by the department for use in the
52 performance of its duties relating to insurer solvency.
- 53 (3) The exemptions in subsection (2) applies to records
54 held by the department before, on, and after July 1, 2020.
- 55 (4) Records or portions of records made confidential and
56 exempt by this section may be released under any of the
57 following circumstances:
- 58 (a) To any state or federal agency, upon written request,
59 if disclosure is necessary for the receiving entity to perform
60 its duties and responsibilities. The receiving agency shall
61 maintain the confidential and exempt status of such record or
62 portion of such record.
- 63 (b) To comply with a properly authorized civil, criminal,
64 or regulatory investigation or a subpoena or summons by a
65 federal, state, or local authority.
- 66 (c) To the National Association of Insurance Commissioners
67 and its affiliates and subsidiaries, if the recipient agrees in
68 writing to maintain the confidential and exempt status of the



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69 records.

70 (d) To the guaranty associations and funds of the various
71 states which are receiving, adjudicating, and paying claims of
72 the insolvent insurer subject to delinquency proceedings
73 pursuant to this chapter. The receiving guaranty association
74 shall maintain the confidential and exempt status of such record
75 or portion of such record.

76 (e) Upon written request, to persons identified as
77 designated employees as described in s. 626.989(4)(d), whose
78 responsibilities include the investigation and disposition of
79 claims relating to suspected fraudulent insurance acts.

80 (f) In the case of personal financial and health
81 information of a consumer, upon written request of the consumer
82 or the consumer's legally authorized representative.

83 (5) This section is subject to the Open Government Sunset
84 Review Act in accordance with s. 119.15 and shall stand repealed
85 on October 2, 2025, unless reviewed and saved from repeal
86 through reenactment by the Legislature.

87 Section 2. (1) The Legislature finds it is a public
88 necessity to make confidential and exempt from s. 119.07(1),
89 Florida Statutes, and s. 24(a), Article I of the State
90 Constitution:

91 1. All personal financial and health information of a
92 consumer;

93 2. Underwriting files of a type customarily maintained by
94 an insurer transacting lines of insurance similar to those lines
95 transacted by the insurer;

96 3. Personnel and payroll records of an insurer;

97 4. Consumer claim files;



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98 5. An own-risk and solvency assessment (ORSA) summary
99 report, a substantially similar ORSA summary report, and
100 supporting documents submitted to the Office of Insurance
101 Regulation pursuant to s. 628.8015, Florida Statutes;

102 6. A corporate governance annual disclosure and supporting
103 documents submitted to the office pursuant to s. 628.8015,
104 Florida Statutes; and

105 7. Information received from the National Association of
106 Insurance Commissioners, a governmental entity in this or
107 another state, the Federal Government, or a government of
108 another nation which is confidential or exempt if held by that
109 entity and which is held by the department for use in the
110 performance of its duties relating to insurer solvency.

111 (2) (a) Disclosure of financial, health, underwriting,
112 personnel, payroll, or consumer claim information would create
113 the opportunity for theft or fraud, thereby jeopardizing the
114 financial security of a person. Limiting disclosure of such
115 information held by the department is also necessary in order to
116 protect the financial interests of the persons to whom that
117 information pertains. Such information could be used for
118 fraudulent or other illegal purposes, including identity theft,
119 and could result in substantial financial harm. Furthermore,
120 every person has an expectation of and a right to privacy in all
121 matters concerning his or her financial interests. Additionally,
122 matters of personal health are traditionally private and
123 confidential concerns between the patient and his or her health
124 care provider. The private and confidential nature of personal
125 health matters pervades both the public and private health care
126 sectors. Public disclosure of health information could have a



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127 negative effect upon a person's business and personal
128 relationships and could also have detrimental financial
129 consequences.

130 (b) In conducting an ORSA, an insurer or insurance group
131 identifies and evaluates the material and relevant risks to the
132 insurer or insurance group and the adequacy of capital resources
133 to support these risks. The ORSA summary report, substantially
134 similar ORSA report, and supporting documents contain highly
135 sensitive and strategic financial information about an insurer
136 or insurer group. Having a comprehensive and unbiased assessment
137 provides the office with an effective early warning mechanism
138 for preventing insolvencies and protecting policyholders and
139 promotes a stable insurance market. Divulging the ORSA summary
140 report, substantially similar ORSA summary report, and
141 supporting documents will injure the insurer or insurance group
142 by providing competitors with detailed insight into their
143 financial position, risk management strategies, business plans,
144 pricing and marketing strategies, management systems, and
145 operational protocols.

146 (c) The corporate governance annual disclosure describes an
147 insurer's governance structure and the internal practices and
148 procedures used in conducting the business affairs of the
149 company, making strategic operational decisions affecting its
150 competitive position, and managing its financial condition.
151 Release of the corporate governance annual disclosure and
152 supporting documents will injure the insurer or insurance group
153 in the marketplace by providing competitors with the insurer's
154 or the insurance group's confidential business information.
155 Broad disclosure will give state regulators a thorough



156 understanding of the corporate governance structure and internal
157 policies and practices used by insurers and promote market
158 integrity. Effective governance mechanisms will enable insurers
159 to take any necessary corrective actions and achieve strategic
160 goals while allowing the office to perform its regulatory duties
161 effectively and efficiently.

162 (d) Divulgence of confidential or exempt information
163 received from the National Association of Insurance
164 Commissioners or governments could impede the exchange of
165 information and communication among regulators across multiple
166 agencies and jurisdictions and jeopardize the ability of
167 regulators to effectively supervise insurers and groups
168 operating in multiple jurisdictions and engaged in significant
169 cross-border activities.

170 (3) The legislature finds that the harm that may result
171 from the release of such location information outweighs any
172 public benefit that may be derived from the disclosure of the
173 information.

174 Section 3. This act shall take effect July 1, 2020.

175
176 ===== T I T L E A M E N D M E N T =====

177 And the title is amended as follows:

178 Delete everything before the enacting clause
179 and insert:

180 A bill to be entitled
181 An act relating to public records; creating s.
182 631.195, F.S.; defining the terms "consumer" and
183 "personal financial and health information"; exempting
184 from public records requirements when made or received



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185 by the Department of Financial Services acting as
186 receiver as to an insurer: consumer personal financial
187 and health information, certain underwriting files,
188 insurer personnel and payroll records, consumer claim
189 files, certain reports and documents held by the
190 department relating to insurer own-risk, solvency
191 assessments, corporate governance annual disclosures,
192 and certain information received from the National
193 Association of Insurance Commissioners or governments;
194 providing retroactive applicability; providing that
195 exempted records may be released under specified
196 circumstances; providing for future legislative review
197 and repeal of the exemptions; providing statements of
198 public necessity; providing an effective date.