

By Representatives Mackenzie and Bainter

1                                   A bill to be entitled  
2           An act relating to confidentiality of  
3           risk-based capital information; providing  
4           legislative intent; providing a declaration of  
5           public purpose; providing confidentiality and a  
6           public meetings and records exemption for  
7           certain information relating to risk-based  
8           capital; providing for termination of the  
9           exemption; providing for legislative review and  
10          future repeal; providing an effective date.

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

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14           Section 1.   Confidentiality of risk-based capital  
15 information.--

16           (1) The Legislature finds that unrestricted public  
17 access to information, proceedings, and hearings relating to  
18 an insurer's risk-based capital plan and risk-based capital  
19 adjusted report, and documents and examination reports related  
20 thereto, might damage the insurer if made available to its  
21 competitors and could substantially affect the solvency of an  
22 insurer. Damage to an insurer's solvency could have a  
23 substantial effect on the public as well as on other insurers.  
24 Therefore, it is in the public interest to maintain the  
25 confidentiality of this information and these proceedings and  
26 hearings within the regulatory body responsible for the  
27 oversight of insurer solvency.

28           (2) The initial risk-based capital report made,  
29 furnished, or filed with the department, any risk-based  
30 capital plan, revised risk-based capital plan, adjusted  
31 risk-based capital report, and working papers and reports of

1 examination or analysis of an insurer performed pursuant to a  
2 plan or corrective order, or regulatory action level,  
3 subsequently filed at the request of the department, with  
4 respect to any domestic insurer or foreign insurer, are  
5 confidential and exempt from s. 119.07(1), Florida Statutes,  
6 and s. 24(a), Art. I of the State Constitution.

7 (3) Proceedings and hearings relating to the  
8 department's actions regarding any insurer's risk-based  
9 capital plan, revised risk-based capital plan, risk-based  
10 capital report or adjusted risk-based capital report, are  
11 exempt from the provisions of s. 286.011, Florida Statutes,  
12 and s. 24(b), Art. I of the State Constitution, except as  
13 otherwise provided in this section.

14 (4) The department shall open such proceedings or  
15 hearings or disclose the contents of notices, correspondence,  
16 reports, records, or other information to a department,  
17 agency, or instrumentality of this or another state or of the  
18 United States if the department determines the disclosure is  
19 necessary or proper for the enforcement of the laws of the  
20 United States or of this or another state.

21 (5) This section does not apply to proceedings,  
22 hearings, notices, correspondence, reports, records, or other  
23 information obtained upon the appointment of a receiver for  
24 the insurer by a court of competent jurisdiction.

25 (6) The exemptions provided by this section shall  
26 terminate:

27 (a) One year following the conclusion of any  
28 risk-based capital plan or revised risk-based capital plan; or

29 (b) On the date of entry of an order of seizure,  
30 rehabilitation, or liquidation pursuant to chapter 631,  
31 Florida Statutes.

1           (7) This section is subject to the Open Government  
2 Sunset Review Act of 1995 in accordance with s. 119.15,  
3 Florida Statutes, and shall stand repealed on October 2, 2001,  
4 unless reviewed and saved from repeal through reenactment by  
5 the Legislature.

6           Section 2. This act shall take effect upon the  
7 effective date of House Bill \_\_\_\_\_, Senate Bill \_\_\_\_\_, or  
8 similar legislation, if such legislation is enacted in the  
9 same legislative session or extension thereof.

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HOUSE SUMMARY

Provides confidentiality and an exemption from public records requirements for risk-based capital information.