

By Senator Holzendorf

2-1339-01

1                                   A bill to be entitled  
 2           An act relating to public records; providing  
 3           exemption from public-records requirements for  
 4           documents, materials, or other information  
 5           furnished to the Department of Insurance by  
 6           insurers, producers, or their agents or  
 7           employees or obtained by the department  
 8           pursuant to certain investigations; providing  
 9           for future review and repeal; prohibiting the  
 10          department, its employees, or its agents from  
 11          testifying in a private civil action concerning  
 12          such information; authorizing the department to  
 13          disclose the information under specified  
 14          conditions; providing that such disclosure does  
 15          not waive the protected person's privilege;  
 16          providing that nothing in the act prohibits the  
 17          department from releasing adjudicated actions  
 18          available to the public to the National  
 19          Association of Insurance Commissioners and its  
 20          affiliates; providing findings of public  
 21          necessity; providing an effective date.

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

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 25           Section 1. (1) Any documents, materials, or other  
 26 information in the control or possession of the Department of  
 27 Insurance which is furnished by an insurer, a producer, or an  
 28 agent or employee thereof acting on behalf of the insurer or  
 29 producer, or obtained by the department in an investigation  
 30 pursuant to the provisions of Senate Bill \_\_\_\_\_, is  
 31 confidential and exempt from section 119.07(1), Florida

1 Statutes, and Section 24(a), Article I of the State  
2 Constitution. Such information is not subject to subpoena or  
3 to discovery and is not admissible into evidence in any  
4 private civil action. The department may use the documents,  
5 materials, or other information in the furtherance of any  
6 regulatory or legal action brought as part of the department's  
7 duties. This section is subject to the Open Government Sunset  
8 Review Act of 1995 in accordance with section 119.15, Florida  
9 Statutes, and shall stand repealed October 2, 2006, unless  
10 reviewed and saved from repeal through reenactment by the  
11 Legislature.

12 (2) Neither the Department of Insurance nor any person  
13 who has received documents, materials, or other information  
14 while acting under the authority of the department may testify  
15 in any private civil action concerning any confidential  
16 documents, materials, or information subject to subsection  
17 (1)(a).

18 (3) In order to assist in the performance of the  
19 duties of the Department of Insurance under this act, the  
20 department:

21 (a) May share documents, materials, or other  
22 information, including the confidential and privileged  
23 documents, materials, or information subject to subsection  
24 (1), with other state, federal, and international regulatory  
25 agencies, with the National Association of Insurance  
26 Commissioners, its affiliates, or its subsidiaries, and with  
27 state, federal, and international law enforcement authorities,  
28 provided that the recipient agrees to maintain the  
29 confidentiality and privileged status of the documents,  
30 materials, or other information;

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1           (b) May receive documents, materials, or information,  
2 including otherwise confidential and privileged documents,  
3 materials, or information, from the National Association of  
4 Insurance Commissioners, its affiliates, or its subsidiaries,  
5 and from regulatory and law enforcement officials of other  
6 foreign or domestic jurisdictions, and shall maintain as  
7 confidential or privileged any document, material, or  
8 information received with notice or with the understanding  
9 that it is confidential or privileged under the laws of the  
10 jurisdiction that is the source of the document, material, or  
11 information; and

12           (c) May enter into agreements governing sharing and  
13 use of information consistent with this section.

14           (4) No waiver of any applicable privilege or claim of  
15 confidentiality in the documents, materials, or information  
16 occurs as a result of disclosure to the Department of  
17 Insurance under Senate Bill \_\_\_\_ or as a result of sharing as  
18 authorized in subsection (3).

19           (5) Nothing in this section prohibits the Department  
20 of Insurance from releasing final, adjudicated actions  
21 including for cause terminations that are open to public  
22 inspection pursuant to chapter 119, Florida Statutes, to a  
23 database or other clearinghouse service maintained by the  
24 National Association of Insurance Commissioners, its  
25 affiliates, or its subsidiaries.

26           Section 2. The Legislature finds that the exemptions  
27 from public records requirements specified in section 1 are a  
28 public necessity, and that it would be an invasion of an  
29 insurer's or producer's, or their agent's or employee's,  
30 privacy for sensitive information contained in the documents,  
31 materials, and other information to be publicly available.

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Section 3. This act shall take effect July 1, 2001.

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SENATE SUMMARY

Provides an exemption from the public records requirements for documents, materials, and other information furnished to the Department of Insurance by insurers, producers, or their agents and employees or obtained by the department pursuant to an investigation authorized by Senate Bill           . Prohibits the department, its agents, and its employees from testifying in a private civil action concerning such information. Authorizes the department to disclose such information under specified circumstances. The disclosure does not waive the protected person's privilege. The act does not prohibit the department from releasing adjudicated actions open to the public to the National Association of Insurance Commissioners. Provides findings of fact and for future review and repeal.