

By the Committee on Banking and Insurance; and Senator Clary

311-1984-02

1 A bill to be entitled
2 An act relating to public records; amending s.
3 624.319, F.S.; exempting workpapers relating to
4 examinations and investigations of insurers,
5 certain organizations, adjusters,
6 administrators, service organizations, and
7 others from public records requirements;
8 providing for future legislative review and
9 repeal; providing findings of public necessity;
10 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. Subsection (3) of section 624.319, Florida
15 Statutes, is amended to read:

16 624.319 Examination and investigation reports.--
17 (3)(a) Examination reports, until filed, are
18 confidential and exempt from the provisions of s. 119.07(1).
19 Investigation reports are confidential and exempt from the
20 provisions of s. 119.07(1) until the investigation is
21 completed or ceases to be active. For purposes of this
22 subsection, an investigation is active while it is being
23 conducted by the department with a reasonable, good faith
24 belief that it could lead to the filing of administrative,
25 civil, or criminal proceedings. An investigation does not
26 cease to be active if the department is proceeding with
27 reasonable dispatch and has a good faith belief that action
28 could be initiated by the department or other administrative
29 or law enforcement agency. After an investigation is completed
30 or ceases to be active, portions of the investigation report

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1 relating to the investigation remain confidential and exempt
2 from the provisions of s. 119.07(1) if disclosure would:
3 1. Jeopardize the integrity of another active
4 investigation;
5 2. Impair the safety and financial soundness of the
6 licensee or affiliated party;
7 3. Reveal personal financial information;
8 4. Reveal the identity of a confidential source;
9 5. Defame or cause unwarranted damage to the good name
10 or reputation of an individual or jeopardize the safety of an
11 individual; or
12 6. Reveal investigative techniques or procedures.
13 (b) Workpapers and other information held by the
14 department in the performance of the department's examination
15 or investigation duties pursuant to this section or ss.
16 624.316, 624.3161, 624.317, and 624.318 are confidential and
17 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
18 I of the State Constitution. This exemption applies to
19 workpapers and other information held by the department
20 before, on, or after the effective date of this exemption.
21 Such confidential and exempt information may be disclosed to
22 another governmental entity, if disclosure is necessary for
23 the receiving entity to perform its duties and
24 responsibilities, and may be disclosed to the National
25 Association of Insurance Commissioners. The receiving
26 governmental entity or the association must maintain the
27 confidential and exempt status of the information. The
28 information made confidential and exempt by this paragraph may
29 be used in a criminal, civil, or administrative proceeding so
30 long as the confidential and exempt status of such information
31 is maintained. This paragraph is subject to the Open

1 Government Sunset Review Act of 1995 in accordance with s.
2 119.15 and shall stand repealed on October 2, 2007, unless
3 reviewed and saved from repeal through reenactment by the
4 Legislature.

5 (c)(b) Lists of insurers or regulated companies are
6 confidential and exempt from the provisions of s. 119.07(1)
7 if:

8 1. The financial solvency, condition, or soundness of
9 such insurers or regulated companies is being monitored by the
10 department;

11 2. The list is prepared to internally coordinate
12 regulation by the department of the financial solvency,
13 condition, or soundness of the insurers or regulated
14 companies; and

15 3. The Insurance Commissioner and Treasurer determine
16 that public inspection of such list could impair the financial
17 solvency, condition, or soundness of such insurers or
18 regulated companies.

19 Section 2. The Legislature finds that the
20 public-records exemption created by this act is a public
21 necessity in order to effectively and efficiently administer a
22 government program. Disclosure of such information would
23 reveal information that could be used in preparing examination
24 reports and investigation reports, and could thus thwart the
25 state's interest in assuring the integrity of the regulatory
26 process. Such confidential and exempt information is, by its
27 nature, incomplete and could be misleading. Release of
28 inaccurate or incomplete information could be detrimental to
29 the persons and insurers examined or investigated.
30 Furthermore, disclosure of such information would impair the
31 ability of the department to gather information it needs to

1 complete examinations and investigations because persons who
2 would otherwise provide confidential information would be
3 unwilling to do so for fear that such information will not
4 remain confidential.

5 Section 3. This act shall take effect upon becoming a
6 law.

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8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 Senate Bill 1478

11 Clarifies that workpapers and other information held by the
12 Department of Insurance in its examination and investigation
13 functions would be confidential and exempt from the public
14 records laws.

15 Authorizes the department to disclose the confidential
16 information to another governmental entity and the National
17 Association of Insurance Commissions, and requires that the
18 receiving entity must maintain the confidential status of such
19 information.

20 Provides that the confidential information may be used in
21 criminal, civil, or administrative proceedings so long as the
22 confidential status of the information is maintained.

23 Clarifies the public necessity statement.
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