

Bill No. CS for SB 1478

Barcode 050936

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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The Committee on Governmental Oversight and Productivity
(Garcia) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 627.06292, Florida Statutes, is
created to read:

627.06292 Reports of hurricane loss data and
associated exposure data; public-records exemption.--

(1) Reports of hurricane loss data and associated
exposure data that are specific to a particular insurance
company, as reported by an insurer or a licensed rating
organization to the office or to a type I center at a state
university pursuant to s. 627.06281, are exempt from s.
119.07(1) and s. 24(a), Art. I of the State Constitution.

(2) For the purposes of this section, the term "loss
data and associated exposure data" means the type, age, wind
mitigation features, and location of each property insured;
the amount and type of coverage written on each of those

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1 properties; the amount, date, and type of damage paid for by
 2 the insurer on each property; and the amount of any reserves
 3 held by an insurer for future payments or expenses on damages
 4 associated with the date of occurrence of a hurricane.

5 (3) This section is subject to the Open Government
 6 Sunset Review Act of 1995 in accordance with s. 119.15, and
 7 shall stand repealed on October 2, 2010, unless reviewed and
 8 saved from repeal through reenactment by the Legislature.

9 Section 2. The Legislature finds that it is a public
 10 necessity that reports of hurricane loss data and associated
 11 exposure data that are specific to a particular insurance
 12 company be made exempt from public-records requirements. The
 13 Legislature finds that revealing such information could
 14 substantially harm insurers in the insurance market and give
 15 competitor insurers an unfair economic advantage. Hurricane
 16 loss data and associated exposure data of an insurer include
 17 the type and location of properties insured by an insurer, the
 18 amount of damage incurred by an insured, the amount a property
 19 is insured for, and the reserves an insurer has for future
 20 losses. This information is of value to an insurer and would
 21 provide a competitive advantage if disclosed to another
 22 insurer. Information concerning the hurricane losses that are
 23 paid by an insurer for specific types and locations of homes
 24 is proprietary in nature. Such information could be used by a
 25 competitor to solicit business by offering lower prices based
 26 on the information gathered. As such, the Legislature finds
 27 that the exemption for reports of hurricane loss data and
 28 associated exposure data is a public necessity.

29 Section 3. Section 627.0628, Florida Statutes, is
 30 amended to read:

31 627.0628 Florida Commission on Hurricane Loss

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1 Projection Methodology; public records exemption; public
2 meetings exemption.--

3 (1) LEGISLATIVE FINDINGS AND INTENT.--

4 (a) Reliable projections of hurricane losses are
5 necessary in order to assure that rates for residential
6 property insurance meet the statutory requirement that rates
7 be neither excessive nor inadequate. The ability to
8 accurately project hurricane losses has been enhanced greatly
9 in recent years through the use of computer modeling. It is
10 the public policy of this state to encourage the use of the
11 most sophisticated actuarial methods to assure that consumers
12 are charged lawful rates for residential property insurance
13 coverage.

14 (b) The Legislature recognizes the need for expert
15 evaluation of computer models and other recently developed or
16 improved actuarial methodologies for projecting hurricane
17 losses, in order to resolve conflicts among actuarial
18 professionals, and in order to provide both immediate and
19 continuing improvement in the sophistication of actuarial
20 methods used to set rates charged to consumers.

21 (c) It is the intent of the Legislature to create the
22 Florida Commission on Hurricane Loss Projection Methodology as
23 a panel of experts to provide the most actuarially
24 sophisticated guidelines and standards for projection of
25 hurricane losses possible, given the current state of
26 actuarial science. It is the further intent of the Legislature
27 that such standards and guidelines must be used by the State
28 Board of Administration in developing reimbursement premium
29 rates for the Florida Hurricane Catastrophe Fund, and may be
30 used by insurers in rate filings under s. 627.062 unless the
31 way in which such standards and guidelines were applied by the

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1 insurer was erroneous, as shown by a preponderance of the
2 evidence.

3 (d) It is the intent of the Legislature that such
4 standards and guidelines be employed as soon as possible, and
5 that they be subject to continuing review thereafter.

6 (2) COMMISSION CREATED.--

7 (a) There is created the Florida Commission on
8 Hurricane Loss Projection Methodology, which is assigned to
9 the State Board of Administration. For the purposes of this
10 section, the term "commission" means the Florida Commission on
11 Hurricane Loss Projection Methodology. The commission shall be
12 administratively housed within the State Board of
13 Administration, but it shall independently exercise the powers
14 and duties specified in this section.

15 (b) The commission shall consist of the following 11
16 members:

- 17 1. The insurance consumer advocate.
- 18 2. The senior employee of the State Board of
19 Administration responsible for operations of the Florida
20 Hurricane Catastrophe Fund.
- 21 3. The Executive Director of the Citizens Property
22 Insurance Corporation.
- 23 4. The Director of the Division of Emergency
24 Management of the Department of Community Affairs.
- 25 5. The actuary member of the Florida Hurricane
26 Catastrophe Fund Advisory Council.
- 27 6. An employee of the office who is an actuary
28 responsible for property insurance rate filings and who is
29 appointed by the director of the office.
- 30 7. Five members appointed by the Chief Financial
31 Officer, as follows:

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1 a. An actuary who is employed full time by a property
2 and casualty insurer which was responsible for at least 1
3 percent of the aggregate statewide direct written premium for
4 homeowner's insurance in the calendar year preceding the
5 member's appointment to the commission.

6 b. An expert in insurance finance who is a full-time
7 member of the faculty of the State University System and who
8 has a background in actuarial science.

9 c. An expert in statistics who is a full-time member
10 of the faculty of the State University System and who has a
11 background in insurance.

12 d. An expert in computer system design who is a
13 full-time member of the faculty of the State University
14 System.

15 e. An expert in meteorology who is a full-time member
16 of the faculty of the State University System and who
17 specializes in hurricanes.

18 (c) Members designated under subparagraphs (b)1.-5.
19 shall serve on the commission as long as they maintain the
20 respective offices designated in subparagraphs (b)1.-5. The
21 member appointed by the director of the office under
22 subparagraph (b)6. shall serve on the commission until the end
23 of the term of office of the director who appointed him or
24 her, unless removed earlier by the director for cause. Members
25 appointed by the Chief Financial Officer under subparagraph
26 (b)7. shall serve on the commission until the end of the term
27 of office of the Chief Financial Officer who appointed them,
28 unless earlier removed by the Chief Financial Officer for
29 cause. Vacancies on the commission shall be filled in the
30 same manner as the original appointment.

31 (d) The State Board of Administration shall annually

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1 appoint one of the members of the commission to serve as
2 chair.

3 (e) Members of the commission shall serve without
4 compensation, but shall be reimbursed for per diem and travel
5 expenses pursuant to s. 112.061.

6 (f) The State Board of Administration shall, as a cost
7 of administration of the Florida Hurricane Catastrophe Fund,
8 provide for travel, expenses, and staff support for the
9 commission.

10 (g) There shall be no liability on the part of, and no
11 cause of action of any nature shall arise against, any member
12 of the commission, any member of the State Board of
13 Administration, or any employee of the State Board of
14 Administration for any action taken in the performance of
15 their duties under this section. In addition, the commission
16 may, in writing, waive any potential cause of action for
17 negligence of a consultant, contractor, or contract employee
18 engaged to assist the commission.

19 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

20 (a) The commission shall consider any actuarial
21 methods, principles, standards, models, or output ranges that
22 have the potential for improving the accuracy of or
23 reliability of the hurricane loss projections used in
24 residential property insurance rate filings. The commission
25 shall, from time to time, adopt findings as to the accuracy or
26 reliability of particular methods, principles, standards,
27 models, or output ranges.

28 (b) In establishing reimbursement premiums for the
29 Florida Hurricane Catastrophe Fund, the State Board of
30 Administration must, to the extent feasible, employ actuarial
31 methods, principles, standards, models, or output ranges found

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1 by the commission to be accurate or reliable.

2 (c) With respect to a rate filing under s. 627.062, an
3 insurer may employ actuarial methods, principles, standards,
4 models, or output ranges found by the commission to be
5 accurate or reliable to determine hurricane loss factors for
6 use in a rate filing under s. 627.062, which findings and
7 factors are admissible and relevant in consideration of a rate
8 filing by the office or in any arbitration or administrative
9 or judicial review.

10 (d) The commission shall adopt revisions to previously
11 adopted actuarial methods, principles, standards, models, or
12 output ranges at least annually.

13 (e)1. A trade secret, as defined in s. 812.081, that
14 is used in designing and constructing a hurricane loss model
15 and that is provided pursuant to this section, by a private
16 company, to the commission, office, or consumer advocate
17 appointed pursuant to s. 627.0613, is confidential and exempt
18 from s. 119.07(1) and s. 24(a), Art. I of the State
19 Constitution.

20 2. That portion of a meeting of the commission or of a
21 rate proceeding on an insurer's rate filing at which a trade
22 secret made confidential and exempt by this paragraph is
23 discussed is exempt from s. 286.011 and s. 24(b), Art. I of
24 the State Constitution.

25 3. This paragraph is subject to the Open Government
26 Sunset Review Act of 1995 in accordance with s. 119.15, and
27 shall stand repealed on October 2, 2010, unless reviewed and
28 saved from repeal through reenactment by the Legislature.

29 Section 4. The Legislature finds that it is a public
30 necessity that a trade secret, as defined in section 812.081,
31 Florida Statutes, which is used in designing and constructing

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1 a hurricane loss model and which is provided pursuant to law,
2 by a private company, to the Florida Commission on Hurricane
3 Loss Projection Methodology, the Office of Insurance
4 Regulation, or an appointed consumer advocate be made
5 confidential and exempt from public-records requirements and
6 be made exempt from public meetings requirements. Disclosing
7 trade secrets would negatively impact the business interests
8 of a private company that has invested substantial economic
9 resources in developing the model, and competitor companies
10 would gain an unfair competitive advantage if provided access
11 to such information. Reliable projections of hurricane losses
12 are necessary in order to ensure that rates for residential
13 property insurance meet the statutory requirement that rates
14 be neither excessive nor inadequate. This goal is served by
15 enabling the Florida Commission on Hurricane Loss Projection
16 Methodology, the Office of Insurance Regulation, and the
17 consumer advocate appointed pursuant to section 627.0613,
18 Florida Statutes, to have access to all aspects of hurricane
19 loss models, and encouraging private companies to submit such
20 models to the commission, office, and consumer advocate for
21 review without concern that trade secrets will be disclosed.
22 In addition, the Legislature finds that it is a public
23 necessity to protect trade secrets discussed during meetings
24 or rate proceedings, because release of such information via a
25 public meeting or proceeding would defeat the purpose of the
26 public-records exemption and would allow competitors and other
27 persons to attend those meetings and discover the protected
28 trade secrets.

29 Section 5. This act shall take effect on the same date
30 that CS for CS for SB 1488 or substantially similar
31 legislation takes effect, if such legislation is adopted in

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1 the same legislative session or an extension thereof and
2 becomes law.

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5 ===== T I T L E A M E N D M E N T =====

6 And the title is amended as follows:

7 Delete everything before the enacting clause

8

9 and insert:

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A bill to be entitled

11

An act relating to public records and public
meetings; creating s. 627.06292, F.S.; creating
an exemption from public-records requirements
for reports of hurricane loss data and
associated exposure data that are specific to a
particular insurance company; providing a
definition; providing for review and repeal
under the Open Government Sunset Review Act;
providing a statement of public necessity;
amending s. 627.0628, F.S.; creating an
exemption from public-records requirements for
trade secrets used in designing and
constructing hurricane loss models; creating an
exemption from public-meetings requirements for
that portion of a meeting of the Florida
Commission on Hurricane Loss Projection
Methodology or of a rate proceeding wherein
confidential and exempt trade secrets are
discussed; providing for review and repeal
under the Open Government Sunset Review Act;
providing a statement of public necessity;

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