

CHAMBER ACTION

1 The Commerce Council recommends the following:

2  
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

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6 A bill to be entitled

7 An act relating to public records and public meetings;  
8 creating s. 627.06292, F.S.; creating an exemption from  
9 public records requirements for reports of hurricane loss  
10 data and associated exposure data that are specific to a  
11 particular insurance company; providing a definition;  
12 providing for review and repeal; providing a statement of  
13 public necessity; amending s. 627.0628, F.S.; creating an  
14 exemption from public records requirements for trade  
15 secrets used in designing and constructing hurricane loss  
16 models; creating an exemption from public meetings  
17 requirements for that portion of a meeting of the Florida  
18 Commission on Hurricane Loss Projection Methodology or of  
19 a rate proceeding wherein confidential and exempt trade  
20 secrets are discussed; providing for review and repeal;  
21 providing a statement of public necessity; providing a  
22 contingent effective date.

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

25

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

28 627.06292 Reports of hurricane loss data and associated  
29 exposure data; public records exemption.--

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

36 (2) For the purposes of this section, "loss data and  
37 associated exposure data" means the type, age, wind mitigation  
38 features, and location of each property insured; the amount and  
39 type of coverage written on each of those properties; the  
40 amount, date, and type of damage paid for by the insurer on each  
41 property; and the amount of any reserves held by an insurer for  
42 future payments or expenses on damages associated with the date  
43 or dates of occurrence of hurricanes.

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46 repealed on October 2, 2010, unless reviewed and saved from  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

48 Section 2. The Legislature finds that it is a public  
49 necessity that reports of hurricane loss data and associated  
50 exposure data that are specific to a particular insurance  
51 company be made exempt from public records requirements. The

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52 Legislature finds that revealing such information could  
 53 substantially harm insurers in the insurance market and give  
 54 competitor insurers an unfair economic advantage. Hurricane loss  
 55 data and associated exposure data of an insurer include the type  
 56 and location of properties insured by an insurer, the amount of  
 57 damage incurred by an insured, the amount a property is insured  
 58 for, and the reserves an insurer has for future losses. This  
 59 information is of value to an insurer and would provide a  
 60 competitive advantage if disclosed to another insurer.  
 61 Information concerning the hurricane losses that are paid by an  
 62 insurer for specific types and locations of homes is proprietary  
 63 in nature. Such information could be used by a competitor to  
 64 solicit business by offering lower prices based on the  
 65 information gathered. As such, the Legislature finds that the  
 66 exemption for reports of hurricane loss data and associated  
 67 exposure data is a public necessity.

68 Section 3. Paragraph (e) is added to subsection (3) of  
 69 section 627.0628, Florida Statutes, to read:

70 627.0628 Florida Commission on Hurricane Loss Projection  
 71 Methodology; public records exemption; public meetings  
 72 exemption.--

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

74 (e)1. A trade secret, as defined in s. 812.081, that is  
 75 used in designing and constructing a hurricane loss model and  
 76 that is provided pursuant to this section, by a private company,  
 77 to the commission, office, or consumer advocate appointed  
 78 pursuant to s. 627.0613, is confidential and exempt from s.  
 79 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

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

89        Section 4. The Legislature finds that it is a public  
 90 necessity that a trade secret, as defined in s. 812.081, Florida  
 91 Statutes, that is used in designing and constructing a hurricane  
 92 loss model and that is provided pursuant to law, by a private  
 93 company, to the Florida Commission on Hurricane Loss Projection  
 94 Methodology, the Office of Insurance Regulation, or an appointed  
 95 consumer advocate be made confidential and exempt from public  
 96 records requirements and be made exempt from public meetings  
 97 requirements. Disclosing trade secrets would negatively impact  
 98 the business interests of a private company that has invested  
 99 substantial economic resources in developing the model, and  
 100 competitor companies would gain an unfair competitive advantage  
 101 if provided access to such information. Reliable projections of  
 102 hurricane losses are necessary in order to ensure that rates for  
 103 residential property insurance meet the statutory requirement  
 104 that rates be neither excessive nor inadequate. This goal is  
 105 served by enabling the Florida Commission on Hurricane Loss  
 106 Projection Methodology, the Office of Insurance Regulation, and  
 107 the consumer advocate appointed pursuant to s. 627.0613, Florida

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108 | Statutes, to have access to all aspects of hurricane loss  
109 | models, and encouraging private companies to submit such models  
110 | to the commission, office, and consumer advocate for review  
111 | without concern that trade secrets will be disclosed. In  
112 | addition, the Legislature finds that it is a public necessity to  
113 | protect trade secrets discussed during meetings or rate  
114 | proceedings, because release of such information via a public  
115 | meeting or proceeding would defeat the purpose of the public  
116 | records exemption and would allow competitors and other persons  
117 | to attend those meetings and discover the protected trade  
118 | secrets.

119 |       Section 5. This act shall take effect on the same date  
120 | that HB 1937 or substantially similar legislation takes effect,  
121 | if such legislation is adopted in the same legislative session  
122 | or an extension thereof and becomes a law.