

By Senator Altman

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 626.84195, F.S.; providing an exemption from public-
4 records requirements for financial information, such
5 as revenue, loss, and expense data, which is supplied
6 periodically by a licensed title insurance agency to
7 the Department of Financial Services in order to
8 assist the department in analyzing title insurance
9 premium rates, title search costs, and the financial
10 viability of the title insurance industry in the
11 state; requiring that the information be supplied to
12 the department by a specified date; requiring the
13 department to adopt rules; authorizing the department
14 to disclose the total combined responses of all
15 agencies and reporting entities; providing for future
16 legislative review and repeal of the exemption under
17 the Open Government Sunset Review Act; providing a
18 statement of public necessity; providing a contingent
19 effective date.

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

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23 Section 1. Section 626.84195, Florida Statutes, is created
24 to read:

25 626.84195 Collection of title insurance information;
26 confidential information.—

27 (1) (a) Each title insurance agency licensed to do business
28 in this state and each insurer doing direct, retail, or
29 affiliated business in this state shall maintain and submit

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30 information, including revenue, loss, and expense data, as the
31 department determines necessary to assist in the analysis of
32 title insurance premium rates, title search costs, and the
33 financial viability of the title insurance industry in this
34 state.

35 (b) This information must be transmitted to the department
36 no later than March 31 of each year following the reporting
37 year.

38 (c) The department shall adopt rules pursuant to ss.
39 120.536(1) and 120.54 to administer this section.

40 (2) The financial information supplied by each title
41 insurance agency or insurer is confidential and exempt from the
42 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
43 Constitution in order to prevent disclosure of private
44 information of that agency or insurer to the public. However,
45 the total combined responses of all the agencies and reporting
46 insurers may be disclosed to the public as long as the specific
47 identities of the agencies or insurers are not revealed.

48 (3) This section is subject to the Open Government Sunset
49 Review Act in accordance with s. 119.15 and shall stand repealed
50 on October 2, 2016, unless reviewed and saved from repeal
51 through reenactment by the Legislature.

52 Section 2. The Legislature finds that it is a public
53 necessity that proprietary business information relating to the
54 title insurance industry, title insurers, and title insurance
55 agents, including, but not limited to, trade secrets, be made
56 confidential and exempt from the requirements of s. 119.07(1),
57 Florida Statutes, and s. 24(a), Article I of the State
58 Constitution. The disclosure of information, such as revenue,

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59 loss expense data, analyses of gross receipts, the amount of
60 taxes paid, the amount of capital investment, customer
61 identification, the amount of employee wages paid, and the
62 detailed documentation to substantiate such performance
63 information, could injure a business in the marketplace by
64 providing its competitors with detailed insights into the
65 financial status and the strategic plans of the business,
66 thereby diminishing the advantage that the business maintains
67 over competitors that do not possess such information. Without
68 this exemption, title insurance agencies and title insurers,
69 whose records are generally not required to be open to the
70 public, may refrain from providing accurate and unbiased data
71 and would thus impair the Department of Financial Services in
72 setting fair and adequate title insurance rates. Proprietary
73 business information derives actual or potential independent
74 economic value from not being generally known to, and not being
75 readily ascertainable by proper means by, other persons who can
76 derive economic value from its disclosure or use. The Department
77 of Financial Services, or any subsidiary or contractor of the
78 department, in performing its lawful duties and
79 responsibilities, may need to obtain information from the
80 proprietary business information. Without an exemption from
81 public-records requirements for proprietary business information
82 held by the department or its designee, such information becomes
83 a public record when received and must be divulged upon request.
84 Divulgence of any proprietary business information under public-
85 records laws would destroy the value of that property to the
86 proprietor, causing a financial loss not only to the proprietor
87 but also to the residents of this state due to the loss of

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88 reliable financial data necessary for fair and adequate rate
89 regulation. Release of proprietary business information would
90 give business competitors an unfair advantage and weaken the
91 position of the proprietor of the proprietary business
92 information in the marketplace. The harm to businesses in the
93 marketplace and to the effective administration of the
94 ratemaking function caused by the public disclosure of such
95 information far outweighs the public benefits derived from its
96 release. In addition, the confidentiality provided by this act
97 does not preclude the reporting of statistics in the aggregate
98 concerning the collection of data, as well as the names of the
99 title insurance agencies and title insurers participating in the
100 data collection. Such aggregate reported data is available to
101 the public and is important to an assessment of the setting of
102 title insurance premiums. Thus, the Legislature declares that it
103 is a public necessity that proprietary business information of
104 title insurers, title insurance agents, and the title insurance
105 industry held by the Department of Financial Services, or any
106 subsidiary, contractor, or agent of the department, be made
107 confidential and exempt from s. 119.07(1), Florida Statutes, and
108 s. 24(a), Article I of the State Constitution.

109 Section 3. This act shall take effect on the same date that
110 SB ___ or similar legislation takes effect, if such legislation
111 is adopted in the same legislative session, or an extension
112 thereof, and becomes law.