

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Banking and Insurance Committee

BILL: SB 1406

INTRODUCER: Senator Altman

SUBJECT: Public Records/Title Insurance

DATE: January 23, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Burgess	BI	Pre-meeting
2.			GO	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill creates a public records exemption for proprietary business information provided to the Department of Financial Services by title insurers and title insurance agencies. It also sets forth a statement of public necessity for the exemption.

The bill provides for repeal of the exemption on October 2, 2017, unless reviewed and saved from repeal by the Legislature. The bill also provides a statement of public necessity as required by the State Constitution.¹

This bill creates the following section of the Florida Statutes: 626.84195

II. Present Situation:

Public Records Law

Article I, s. 24(a) of the State Constitution sets forth the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature, however, may provide by general law for the exemption of records from the requirements of Article I, s. 24(a) of the State Constitution. The general law must state with specificity the public necessity justifying the exemption (public necessity statement) and must be no broader than necessary to accomplish its purpose. A bill enacting an exemption or substantially amending an

¹ Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present and voting for final passage of a newly created public record or public meeting exemption. The bill creates a new exemption; thus, it requires a two-thirds vote for final passage.

existing exemption may not contain other substantive provisions, although it may contain multiple exemptions that relate to one subject.²

Public policy regarding access to government records is addressed further in the Florida Statutes. Section 119.07(1), F.S., guarantees every person a right to inspect and copy any state, county, or municipal record. Furthermore, the Open Government Sunset Review Act³ provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

III. Effect of Proposed Changes:

The bill creates a public records exemption for proprietary business information provided to the Department of Financial Services (DFS) by title insurance agencies and title insurers.

The bill sets forth legislative findings of public necessity for proprietary business information to be made confidential and exempt from public records disclosure, and provides examples of such information, including trade secrets and other specified information. The exemption does not preclude the reporting of such statistics in the aggregate, or the release of the names of title insurance agencies and title insurers that submit data to the DFS.

The bill takes effect on the date that SB (1404), or similar legislation adopted by the Legislature during the 2012 Regular Legislative Session and subsequently enacted into law, takes effect.

Other Potential Implications:

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

² Section 24(c), Art. I of the State Constitution.

³ Section 119.15, F.S.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Article I, s. 24(c) of the State Constitution, requires a two-thirds vote of the members present for final passage.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

See Technical Deficiencies.

VI. Technical Deficiencies:

The bill incorrectly refers to the “department” and not the “office.”

SB 1404 needs to be added to the effective date.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.