

By Senator Altman

24-00988-12

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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.

20  
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, 2017, 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.