

By the Committee on Banking and Insurance; and Senator Altman

597-02427-12

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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 proprietary business  
5       information provided by title insurance agencies and  
6       insurers to the Office of Insurance Regulation;  
7       providing a definition; authorizing disclosure of  
8       aggregated information; providing for future  
9       legislative review and repeal of the exemption under  
10      the Open Government Sunset Review Act; providing a  
11      statement of public necessity; providing a contingent  
12      effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

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16       Section 1. Section 626.84195, Florida Statutes, is created  
17 to read:

18       626.84195 Confidentiality of information supplied by title  
19 insurance agencies and insurers.-

20       (1) As used in this section, the term "proprietary business  
21 information" means information that:

22       (a) Is owned or controlled by a title insurance agency or  
23 insurer requesting confidentiality under this section;

24       (b) Is intended to be and is treated by the title insurance  
25 agency or insurer as private in that the disclosure of the  
26 information would cause harm to the business operations of the  
27 title insurance agency or insurer;

28       (c) Has not been publicly disclosed unless disclosed  
29 pursuant to a statutory provision, an order of a court or

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30 administrative body, or a private agreement, providing that the  
31 information may be released to the public; and

32 (d) Concerns:

33 1. Business plans;

34 2. Internal auditing controls and reports of internal  
35 auditors;

36 3. Reports of external auditors for privately held  
37 companies;

38 4. Trade secrets, as defined in s. 688.002; or

39 5. Financial information, including, but not limited to,  
40 revenue data, loss expense data, gross receipts, taxes paid,  
41 capital investment, customer identification, and employee wages.

42 (2) Proprietary business information provided to the office  
43 by a title insurance agency or insurer is confidential and  
44 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
45 Constitution until such information is otherwise publicly  
46 available or is no longer treated by the title insurance agency  
47 or insurer as proprietary business information. However,  
48 information provided by multiple title insurance agencies and  
49 insurers may be aggregated on an industry-wide basis and  
50 disclosed to the public as long as the specific identities of  
51 the agencies or insurers are not revealed.

52 (3) This section is subject to the Open Government Sunset  
53 Review Act in accordance with s. 119.15 and shall stand repealed  
54 on October 2, 2017, unless reviewed and saved from repeal  
55 through reenactment by the Legislature.

56 Section 2. The Legislature finds that it is a public  
57 necessity that proprietary business information relating to the  
58 title insurance industry, title insurers, and title insurance

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59 agents, including, but not limited to, trade secrets, be made  
60 confidential and exempt from the requirements of s. 119.07(1),  
61 Florida Statutes, and s. 24(a), Article I of the State  
62 Constitution. The disclosure of information, such as revenue,  
63 loss expense data, analyses of gross receipts, the amount of  
64 taxes paid, the amount of capital investment, customer  
65 identification, the amount of employee wages paid, and the  
66 detailed documentation substantiating such performance  
67 information, could injure a business in the marketplace by  
68 providing its competitors with detailed insights into the  
69 financial status and the strategic plans of the business,  
70 thereby diminishing the advantage that the business maintains  
71 over competitors that do not possess such information. Without  
72 this exemption, title insurance agencies and title insurers,  
73 whose records are generally not required to be open to the  
74 public, might refrain from providing accurate and unbiased data,  
75 thus impairing the Office of Insurance Regulation's ability to  
76 set fair and adequate title insurance rates. Proprietary  
77 business information derives actual or potential independent  
78 economic value from not being generally known to, and not being  
79 readily ascertainable by proper means by, other persons who can  
80 derive economic value from its disclosure or use. The Office of  
81 Insurance Regulation, or any subsidiary or contractor of the  
82 office, in performing its lawful duties and responsibilities,  
83 may need to obtain information from the proprietary business  
84 information. Without an exemption from public records  
85 requirements for proprietary business information held by the  
86 Office of Insurance Regulation or its designee, such information  
87 becomes a public record when received and must be divulged upon

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88 request. Divulgence of any proprietary business information  
89 under the public records law would destroy the value of that  
90 property to the proprietor, causing a financial loss not only to  
91 the proprietor but also to the residents of this state due to  
92 the loss of reliable financial data necessary for fair and  
93 adequate rate regulation. Release of proprietary business  
94 information would give business competitors an unfair advantage  
95 and weaken the position in the marketplace of the proprietor  
96 that owns or controls the proprietary business information. The  
97 harm to businesses in the marketplace and to the effective  
98 administration of the ratemaking function caused by the public  
99 disclosure of such information far outweighs the public benefits  
100 derived from its release. In addition, the confidentiality  
101 provided by this act does not preclude the reporting of  
102 statistics in the aggregate concerning the collection of data,  
103 as well as the names of the title insurance agencies and title  
104 insurers participating in the data collection. Such aggregate  
105 reported data is available to the public and is important to an  
106 assessment of the setting of title insurance premiums. Thus, the  
107 Legislature declares that it is a public necessity that  
108 proprietary business information of title insurers, title  
109 insurance agents, and the title insurance industry held by the  
110 Office of Insurance Regulation, or any subsidiary, contractor,  
111 or agent of the office, be made confidential and exempt from s.  
112 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
113 State Constitution.

114 Section 3. This act shall take effect on the same date that  
115 CS for SB 1404 or similar legislation takes effect, if such  
116 legislation is adopted in the same legislative session, or an

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117 extension thereof, and becomes law.