

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u> </u>	(Y/N)
ADOPTED AS AMENDED	<u> </u>	(Y/N)
ADOPTED W/O OBJECTION	<u> </u>	(Y/N)
FAILED TO ADOPT	<u> </u>	(Y/N)
WITHDRAWN	<u> </u>	(Y/N)
OTHER	<u> </u>	

1 Committee/Subcommittee hearing bill: Insurance & Banking
2 Subcommittee

3 Representative Moraitis offered the following:

4
5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 626.84195, Florida Statutes, is created
8 to read:

9 626.84195 Confidentiality of information supplied by title
10 insurance agencies and insurers.-

11 (1) For purposes of this section, "proprietary business
12 information" means information that is owned or controlled by a
13 title insurance agency or insurer requesting confidentiality
14 under this section; that is intended to be and is treated by the
15 title insurance agency or insurer as private in that the
16 disclosure of the information would cause harm to the business
17 operations of the title insurance agency or insurer; that has
18 not been publicly disclosed unless disclosed pursuant to a
19 statutory provision, an order of a court or administrative body,

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20 or a private agreement providing that the information may be
21 released to the public; and that is information concerning:

22 1. Business plans.

23 2. Internal auditing controls and reports of internal
24 auditors.

25 3. Reports of external auditors for privately held
26 companies.

27 4. Trade secrets, as defined in s. 688.002.

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

31 (2) Proprietary business information provided to the office
32 by a title insurance agency or insurer is confidential and
33 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
34 of the State Constitution, until such information is otherwise
35 publicly available or is no longer treated by the title
36 insurance agency or insurer as proprietary business information.
37 However, information provided by multiple title insurance
38 agencies and insurers may be aggregated on an industry-wide
39 basis and disclosed to the public as long as the specific
40 identities of the agencies or insurers are not revealed.

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

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

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

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

101 Section 3. This act shall take effect on the same date
102 that HB 643 or similar legislation takes effect, if such

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103 legislation is adopted in the same legislative session, or an
104 extension thereof, and becomes law.

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T I T L E A M E N D M E N T

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Remove the entire title and insert:

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A bill to be entitled

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An act relating to public records; creating s. 626.84195, F.S.;

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providing an exemption from public records requirements for

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proprietary business information provided by title insurance

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agencies and insurers to the Office of Insurance Regulation;

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providing a definition; authorizing disclosure of aggregated

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information; providing for future legislative review and repeal

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of the exemption under the Open Government Sunset Review Act;

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providing a statement of public necessity; providing a

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contingent effective date.