

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.

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 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
 21 business 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
 25 insurance agency or insurer as private in that the disclosure of
 26 the information would cause harm to the business operations of
 27 the title insurance agency or insurer;

28 (c) Has not been publicly disclosed unless disclosed

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29 pursuant to a statutory provision, an order of a court or
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
43 office by a title insurance agency or insurer is confidential
44 and 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
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
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

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113 | State Constitution.

114 | Section 3. This act shall take effect on the same date
115 | that HB 643 or similar legislation takes effect, if such
116 | legislation is adopted in the same legislative session, or an
117 | extension thereof, and becomes law.