

ENROLLED  
CS/CS/HB 645

2012 Legislature

1  
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:

15  
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

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57 necessity that proprietary business information provided to the  
58 Office of Insurance Regulation by a title insurance agency or  
59 insurer, 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 data, loss expense data, gross receipts, the amount of taxes  
64 paid, the amount of capital investment, customer identification,  
65 and the amount of employee wages paid, could injure a business  
66 in the marketplace by providing its competitors with detailed  
67 insights into the financial status and the strategic plans of  
68 the business, thereby diminishing the advantage that the  
69 business maintains over competitors that do not possess such  
70 information. Without this exemption, title insurance agencies  
71 and title insurers, whose records are generally not required to  
72 be open to the public, might refrain from providing accurate and  
73 unbiased data, thus impairing the Office of Insurance  
74 Regulation's ability to set fair and adequate title insurance  
75 rates. Proprietary business information derives actual or  
76 potential independent economic value from not being generally  
77 known to, and not being readily ascertainable by proper means  
78 by, other persons who can derive economic value from its  
79 disclosure or use. The Office of Insurance Regulation, in  
80 performing its lawful duties and responsibilities, may need to  
81 obtain information from the proprietary business information.  
82 Without an exemption from public records requirements for  
83 proprietary business information provided to the Office of  
84 Insurance Regulation, such information becomes a public record

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

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

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112 | legislation is adopted in the same legislative session, or an  
113 | extension thereof, and becomes law.