



29 would cause harm to the insurer, the person, or the company's  
30 business operations and has not been disclosed unless disclosed  
31 pursuant to a statutory requirement, an order of a court or  
32 administrative body, or a private agreement that provides that  
33 the information will not be released to the public;

34 (b) Is not otherwise readily ascertainable or publicly  
35 available by proper means by other persons from another source  
36 in the same configuration as requested by the office; and

37 (c) Includes, but is not limited to:

38 1. Trade secrets as defined in s. 688.002 that comply with  
39 s. 624.4213.

40 2. Information relating to competitive interests the  
41 disclosure of which would impair the competitive business of the  
42 provider of the information.

43 3. The source, nature, and amount of the consideration  
44 used or to be used in carrying out a merger or other acquisition  
45 of control in the ordinary course of business, including the  
46 identity of the lender, if the person filing a statement  
47 regarding consideration so requests.

48 4. Information relating to bids or other contractual data  
49 the disclosure of which would impair the efforts of the insurer  
50 or its affiliates to contract for goods or services on favorable  
51 terms.

52 5. Internal auditing controls and reports of internal  
53 auditors.

54 6. The actuarial opinion summary required under s.  
55 624.424(1)(b) and the documents, materials, and other  
56 information related thereto.

57 7. A notice filed with the office by the person or  
58 affiliated person who seeks to divest controlling stock in an  
59 insurer pursuant to s. 628.461.

60 8. The filings required by s. 628.801 and all documents,  
61 materials, and other information related thereto.

62 9. The enterprise risk report required by ss. 628.461(3)  
63 and 628.801 and the documents, materials, and other information  
64 related to the enterprise risk report.

65 10. Information provided to or obtained by the office  
66 pursuant to participation in a supervisory college established  
67 under s. 628.805.

68 11. Information received from another governmental entity  
69 or the National Association of Insurance Commissioners that is  
70 confidential or exempt if held by that entity for use by the  
71 office in the performance of its duties.

72 (2) The office may disclose confidential and exempt  
73 proprietary business information:

74 (a) If the insurer to which it pertains gives prior  
75 written consent;

76 (b) Pursuant to a court order;

77 (c) To the American Academy of Actuaries upon a request  
78 stating that the information is for the purpose of professional  
79 disciplinary proceedings and specifying procedures satisfactory  
80 to the office for preserving the confidentiality of the  
81 information;

82 (d) To other states, federal and international agencies,  
83 the National Association of Insurance Commissioners and its  
84 affiliates and subsidiaries, and state, federal, and

85 international law enforcement authorities, including members of  
86 a supervisory college described in s. 628.805, if the recipient  
87 agrees in writing to maintain the confidential and exempt status  
88 of the document, material, or other information and has verified  
89 in writing its legal authority to maintain such confidentiality;  
90 or

91 (e) For the purpose of aggregating information on an  
92 industrywide basis and disclosing the information to the public  
93 only if the specific identities of the insurers, or persons or  
94 affiliated persons, are not revealed.

95 (3) This section is subject to the Open Government Sunset  
96 Review Act in accordance with s. 119.15 and shall stand repealed  
97 on October 2, 2018, unless reviewed and saved from repeal  
98 through reenactment by the Legislature.

99 Section 2. The Legislature finds that it is a public  
100 necessity that proprietary business information that is provided  
101 to the Office of Insurance Regulation by an insurer or acquiring  
102 party pursuant to the requirements of the Florida Insurance Code  
103 or the Holding Company System Regulatory Act of the National  
104 Association of Insurance Commissioners in order for the office  
105 to conduct its regulatory duties with respect to insurer  
106 solvency be made confidential and exempt from s. 119.07(1),  
107 Florida Statutes, and s. 24(a), Article I of the State  
108 Constitution. The disclosure of such information could injure an  
109 insurer in the marketplace by providing its competitors with  
110 detailed insight into the financial status and strategic plans  
111 of the insurer, thereby diminishing the advantage that the  
112 insurer maintains over competitors that do not possess such

113 information. Without this exemption, an insurer or acquiring  
114 party might refrain from providing accurate and unbiased data,  
115 thus impairing the office's ability to accurately evaluate the  
116 propriety of proposed acquisitions in the state and the  
117 financial condition of insurers and their affiliates.  
118 Proprietary business information derives actual or potential  
119 independent economic value from not being generally known to,  
120 and not being readily ascertainable by proper means by, other  
121 persons who can derive economic value from its disclosure or  
122 use. The office, in performing its duties and responsibilities,  
123 may need to obtain proprietary business information from  
124 insurers and regulated entities. Without an exemption from  
125 public records requirements for proprietary business information  
126 provided to the office, such information becomes a public record  
127 when received and must be divulged upon request. Divulgence of  
128 proprietary business information under the public records law  
129 would destroy the value of that property to the proprietor,  
130 causing a financial loss not only to the proprietor but also to  
131 the residents of this state due to the loss of reliable  
132 financial data necessary for the accurate evaluation of proposed  
133 acquisitions. Release of proprietary business information would  
134 give business competitors an unfair advantage and weaken the  
135 position in the marketplace of the proprietor who owns or  
136 controls the business information. The harm to insurers in the  
137 marketplace and to the effective administration of acquisitions  
138 caused by the public disclosure of such information far  
139 outweighs the public benefits derived from its release.

140 Section 3. This act shall take effect October 1, 2013, if

CS/CS/HB 823

2013

141 | HB 821 or similar legislation is adopted in the same legislative  
142 | session or an extension thereof and becomes law.