

By Senator Brandes

22-00990-14

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1                   A bill to be entitled  
2       An act relating to public records and meetings;  
3       amending s. 627.0628, F.S.; providing an exemption  
4       from public records and public meetings requirements  
5       for trade secrets used to design an insurance flood  
6       loss model held in records or discussed in meetings of  
7       the Florida Commission on Hurricane Loss Projection  
8       Methodology, the Office of Insurance Regulation, or  
9       the appointed consumer advocate; providing for  
10      legislative review and repeal of the exemption under  
11      the Open Government Sunset Review Act; providing a  
12      statement of public necessity; providing a contingent  
13      effective date.

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

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17       Section 1. Paragraph (f) of subsection (3) of section  
18       627.0628, Florida Statutes, is amended to read:

19       627.0628 Florida Commission on Hurricane Loss Projection  
20       Methodology; public records exemption; public meetings  
21       exemption.—

22       (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

23       (f)1. A trade secret, as defined in s. 688.002, which ~~that~~  
24       is used in designing and constructing a hurricane or flood loss  
25       model and which ~~that~~ is provided pursuant to this section, by a  
26       private company, to the commission, office, or consumer advocate  
27       appointed pursuant to s. 627.0613~~7~~ is confidential and exempt  
28       from s. 119.07(1) and s. 24(a), Art. I of the State  
29       Constitution.

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30 2.a. That portion of a meeting of the commission or of a  
31 rate proceeding on an insurer's rate filing at which a trade  
32 secret made confidential and exempt by this paragraph is  
33 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the  
34 State Constitution. The closed meeting must be recorded, and no  
35 portion of the closed meeting may be off the record.

36 b. The recording of a closed portion of a meeting is exempt  
37 from s. 119.07(1) and s. 24(a), Art. I of the State  
38 Constitution.

39 c. This ~~paragraph~~ ~~subparagraph~~ is subject to the Open  
40 Government Sunset Review Act in accordance with s. 119.15 and  
41 shall stand repealed on October 2, 2019 ~~2015~~, unless reviewed  
42 and saved from repeal through reenactment by the Legislature.

43 Section 2. The Legislature finds that it is a public  
44 necessity that a trade secret, as defined in s. 688.002, Florida  
45 Statutes, which is used in designing and constructing a flood  
46 loss model and which is provided by a private company to the  
47 Florida Commission on Hurricane Loss Projection Methodology, the  
48 Office of Insurance Regulation, or a consumer advocate appointed  
49 pursuant to s. 627.0613, Florida Statutes, be made confidential  
50 and exempt from public records requirements and from public  
51 meetings requirements.

52 (1) Disclosing trade secrets would negatively impact the  
53 business interests of a private company that has invested  
54 substantial economic resources in developing such model, and  
55 competitor companies would gain an unfair competitive advantage  
56 if provided access to such information. Reliable projections of  
57 flood losses are necessary in order to ensure that rates for  
58 flood insurance meet the statutory requirement that rates be

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59 neither excessive nor inadequate. This goal is served by  
60 enabling the commission, the office, and the consumer advocate  
61 to have access to all aspects of flood loss models and by  
62 encouraging private companies to submit such models to the  
63 commission, office, and consumer advocate for review without  
64 concern that trade secrets will be disclosed through a public  
65 records request.

66 (2) In addition, the Legislature finds that it is a public  
67 necessity to protect trade secrets relating to such model which  
68 are discussed during a meeting of the commission or during a  
69 rate proceeding on an insurer's rate filing held by the office,  
70 because the release of such information via a public meeting or  
71 proceeding would allow competitors and other persons to attend  
72 those meetings and discover the protected trade secrets and  
73 would defeat the purpose of the public records exemption. The  
74 Legislature also finds that it is a public necessity to exempt  
75 from public records requirements the recordings generated during  
76 those portions of a commission meeting or a rate proceeding at  
77 which confidential and exempt trade secrets are discussed.  
78 Release of such recordings would compromise the discussions that  
79 take place during the closed meeting or proceeding and would  
80 negate the public meetings exemption. Current law provides a  
81 public records exemption for trade secrets. As such, release of  
82 the recordings generated during those closed portions of a  
83 meeting or proceeding on trade secrets would compromise the  
84 current protections already afforded to trade secrets.

85 Section 3. This act shall take effect upon becoming a law  
86 if SB 542 or similar legislation is adopted in the same  
87 legislative session or an extension thereof and becomes a law.