

1 A bill to be entitled
2 An act relating to public records; amending s.
3 624.4212, F.S.; providing an exemption from public
4 records requirements for certain reports and documents
5 submitted to the Office of Insurance Regulation
6 related to an own-risk and solvency assessment by an
7 insurer or insurance group; providing an exemption
8 from public records requirements for a corporate
9 governance annual disclosure and supporting documents
10 submitted to the office; revising the actuarial board
11 to which the office may disclose certain information;
12 providing for and revising future legislative review
13 and repeal; providing a statement of public necessity;
14 providing a contingent effective date.

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16 Be It Enacted by the Legislature of the State of Florida:

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18 Section 1. Present subsections (3), (4), and (5) of
19 section 624.4212, Florida Statutes, are redesignated as
20 subsection (4), (5), and (6), respectively, and amended, and a
21 new subsection (3) is added to that section, to read:

22 624.4212 Confidentiality of proprietary business and other
23 information.—

24 (3) Except for information obtained by the office that is
25 otherwise available for public inspection, the following
26 information held by the office is confidential and exempt from

27 s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

28 (a) An ORSA summary report, a substantially similar ORSA
 29 report, and supporting documents submitted pursuant to s.
 30 628.8015.

31 (b) A corporate governance annual disclosure and
 32 supporting documents submitted pursuant to s. 628.8015.

33 (4)-(3) Information received from the NAIC, a ~~or another~~
 34 governmental entity in this or another state, the Federal
 35 Government, or a government of another nation which is
 36 confidential or exempt if held by that entity and which is held
 37 by the office for use in the ~~office's~~ performance of its duties
 38 relating to insurer valuation and solvency is confidential and
 39 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 40 Constitution.

41 (5)-(4) The office may disclose information made
 42 confidential and exempt under this section:

43 (a) If the insurer to which it pertains gives prior
 44 written consent;

45 (b) Pursuant to a court order;

46 (c) To the Actuarial Board for Counseling and Discipline
 47 ~~American Academy of Actuaries~~ upon a request stating that the
 48 information is for the purpose of professional disciplinary
 49 proceedings and specifying procedures satisfactory to the office
 50 for preserving the confidentiality of the information;

51 (d) To other states, federal and international agencies,
 52 the National Association of Insurance Commissioners and its

53 affiliates and subsidiaries, and state, federal, and
54 international law enforcement authorities, including members of
55 a supervisory college described in s. 628.805 if the recipient
56 agrees in writing to maintain the confidential and exempt status
57 of the document, material, or other information and has
58 certified in writing its legal authority to maintain such
59 confidentiality; or

60 (e) For the purpose of aggregating information on an
61 industrywide basis and disclosing the information to the public
62 only if the specific identities of the insurers, or persons or
63 affiliated persons, are not revealed.

64 ~~(6)-(5)~~ This section is subject to the Open Government
65 Sunset Review Act in accordance with s. 119.15 and is repealed
66 on October 2, 2021 ~~2019~~, unless reviewed and saved from repeal
67 through reenactment by the Legislature.

68 Section 2. (1) The Legislature finds that it is a public
69 necessity that the own-risk and solvency assessment (ORSA)
70 summary report, a substantially similar ORSA report, and
71 supporting documents submitted to and held by the Office of
72 Insurance Regulation pursuant to s. 628.8015, Florida Statutes,
73 be exempt from public records requirements. In conducting this
74 required internal assessment, an insurer or insurance group
75 identifies and evaluates the material and relevant risks to the
76 insurer or insurance group and the adequacy of capital resources
77 to support these risks. The ORSA summary report, substantially
78 similar ORSA report, and supporting documents contain highly

79 sensitive and strategic financial information about an insurer
80 or insurer group. Having a comprehensive and unbiased assessment
81 will provide the office with an effective early warning
82 mechanism for preventing insolvencies and protecting
83 policyholders and promote a stable insurance market. Divulging
84 the ORSA summary report, substantially similar ORSA summary
85 report, and supporting documents will injure the insurer or
86 insurance group by providing competitors with detailed insight
87 into their financial position, risk management strategies,
88 business plans, pricing and marketing strategies, management
89 systems, and operational protocols.

90 (2) The Legislature finds that it is a public necessity
91 that the corporate governance annual disclosure and supporting
92 documents submitted to and held by the office be exempt from
93 public records requirements. The corporate governance annual
94 disclosure describes an insurer's governance structure and the
95 internal practices and procedures used in conducting the
96 business affairs of the company, making strategic operational
97 decisions affecting its competitive position, and managing its
98 financial condition. Broad disclosure will give state regulators
99 a thorough understanding of the corporate governance structure
100 and internal policies and practices used by insurers and promote
101 market integrity. Effective governance mechanisms will enable
102 insurers to take any necessary corrective actions and achieve
103 strategic goals.

104 Section 3. This act shall take effect on the same date

CS/HB 1165

2016

105 | that CS/HB 1163 or similar legislation takes effect, if such
106 | legislation is adopted in the same legislative session or an
107 | extension thereof and becomes a law.