

By the Committees on Governmental Oversight and Accountability;
and Banking and Insurance; and Senator Simmons

585-03242-16

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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 section
19 624.4212, Florida Statutes, are redesignated as subsections (4),
20 (5), and (6), respectively, and amended, and a new subsection
21 (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 which
25 would otherwise be available for public inspection, the
26 following information held by the office is confidential and
27 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
28 Constitution:

29 (a) An ORSA summary report, a substantially similar ORSA
30 report, and supporting documents submitted pursuant to s.
31 628.8015.

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

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

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

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

46 (b) Pursuant to a court order;

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

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

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

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

69 Section 2. (1) The Legislature finds that it is a public
70 necessity that the own-risk and solvency assessment (ORSA)
71 summary report, a substantially similar ORSA report, and
72 supporting documents submitted to and held by the Office of
73 Insurance Regulation pursuant to s. 628.8015, Florida Statutes,
74 be confidential and exempt from s. 119.07(1), Florida Statutes,
75 and s. 24(a), Article I of the State Constitution. In conducting
76 this required internal assessment, an insurer or insurance group
77 identifies and evaluates the material and relevant risks to the
78 insurer or insurance group and the adequacy of capital resources
79 to support these risks. The ORSA summary report, substantially
80 similar ORSA report, and supporting documents contain highly
81 sensitive and strategic financial information about an insurer
82 or insurer group. Having a comprehensive and unbiased assessment
83 will provide the office with an effective early warning
84 mechanism for preventing insolvencies and protecting
85 policyholders and promote a stable insurance market. Divulging
86 the ORSA summary report, substantially similar ORSA summary
87 report, and supporting documents will injure the insurer or
88 insurance group by providing competitors with detailed insight
89 into their financial position, risk management strategies,

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90 business plans, pricing and marketing strategies, management
91 systems, and operational protocols.

92 (2) The Legislature finds that it is a public necessity
93 that the corporate governance annual disclosure and supporting
94 documents submitted to and held by the office be confidential
95 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
96 Article I of the State Constitution. The corporate governance
97 annual disclosure describes an insurer's governance structure
98 and the internal practices and procedures used in conducting the
99 business affairs of the company, making strategic operational
100 decisions affecting its competitive position, and managing its
101 financial condition. Release of the corporate governance annual
102 disclosure and supporting documents will injure the insurer or
103 insurance group in the marketplace by providing competitors with
104 the insurer's or the insurance group's confidential business
105 information. Broad disclosure will give state regulators a
106 thorough understanding of the corporate governance structure and
107 internal policies and practices used by insurers and promote
108 market integrity. Effective governance mechanisms will enable
109 insurers to take any necessary corrective actions and achieve
110 strategic goals while allowing the office to perform its
111 regulatory duties effectively and efficiently.

112 Section 3. This act shall take effect on the same date that
113 SB 1422 or similar legislation takes effect, if such legislation
114 is adopted in the same legislative session or an extension
115 thereof and becomes a law.