

ENROLLED

CS/HB 1009

2017 Legislature

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An act relating to public records; amending s. 626.9891, F.S.; providing an exemption from public records requirements for reports, documents, or other information relating to the investigation and tracking of insurance fraud submitted by insurers to the Department of Financial Services; providing for future legislative review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (9) is added to section 626.9891, Florida Statutes, to read:

626.9891 Insurer anti-fraud investigative units; reporting requirements; penalties for noncompliance.—

(9) (a) The information submitted to the department pursuant to paragraphs (3) (d), (e), and (f) and paragraphs (5) (d), (e), (f), (g), and (k) is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

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26 (c) This exemption applies to records held before, on, or
27 after the effective date of this act.

28 Section 2. (1) The Legislature finds that it is a public
29 necessity to make exempt from s. 119.07(1), Florida Statutes,
30 and s. 24(a), Art I. of the State Constitution the description
31 of an insurer's anti-fraud education and training, the
32 description of an insurer's anti-fraud investigative unit, and
33 an insurer's rationale for the level of staffing and resources
34 it provides to the anti-fraud investigative unit as required in
35 s. 626.9891(3)(d), (e), and (f), Florida Statutes, and filed
36 with the Division of Investigative and Forensic Services
37 pursuant to s. 626.9891(2), Florida Statutes, and the data
38 collected and reported to the Division of Investigative and
39 Forensic Services pursuant to s. 626.9891(5)(d), (e), (f), (g),
40 and (k), Florida Statutes.

41 (2) The description of an insurer's anti-fraud education
42 and training that assists in identifying and evaluating
43 instances of suspected fraudulent insurance acts, the
44 description of an insurer's anti-fraud investigative unit, and
45 an insurer's rationale for the level of staffing and resources
46 it provides to the anti-fraud investigative unit will allow the
47 department to ensure that insurers have adequate procedures in
48 place to properly detect, investigate, and report potential
49 insurance fraud. The public disclosure of this information would
50 allow criminal elements to use such information to identify

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51 fraud prevention or detection strategies employed by insurers
52 and use this information to commit insurance fraud. The
53 Legislature further finds that disclosure of this information
54 would allow persons suspected of fraud to be alerted to a
55 potential or ongoing investigation and alter behavior to impede
56 an investigation. To ensure the integrity of such records
57 already in the possession of the department, this exemption is
58 made retroactive in its application.

59 (3) The data submitted pursuant to s. 626.9891(5)(d), (e),
60 (f), (g), and (k), Florida Statutes, allow the department to
61 track and assess trends in insurance fraud in this state. Such
62 information includes the number of claims referred to the anti-
63 fraud investigative unit, the number of matters referred to the
64 anti-fraud investigative unit that were not claim related, the
65 number of claims investigated or accepted by the anti-fraud
66 investigative unit, the number of other insurance fraud matters
67 investigated or accepted by the anti-fraud investigative unit
68 that were not claim related, and the estimated dollar amount or
69 range of damages on cases referred to the Division of
70 Investigative and Forensic Services or other agencies. The
71 public disclosure of this information could injure a business in
72 the marketplace by providing its competitors with detailed
73 insights into the claim investigation processes and statistics
74 of the company, thereby diminishing the advantage that the
75 business maintains over competitors that do not possess such

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76 | information. Without this exemption, insurers might refrain from
77 | providing accurate and unbiased data, thus impairing the
78 | department's ability to track and assess insurance fraud in this
79 | state. This data will allow insurance fraud investigators to
80 | better track, predict, and curb fraud trends in this state by
81 | providing access to data gathered by insurers' anti-fraud
82 | investigative units. Information regarding the amount of
83 | insurance fraud experienced, referred, and addressed internally
84 | will be valuable material for the department and will better
85 | enable law enforcement agencies to assist state prosecutors in
86 | the successful prosecution of fraudulent behavior.

87 | Section 3. This act shall take effect on the same date
88 | that CS/HB 1007 or similar legislation takes effect, if such
89 | legislation is adopted in the same legislative session or an
90 | extension thereof and becomes a law.