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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
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The Committee on Banking and Insurance (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (10) is added to section 626.9891,
Florida Statutes, to read:

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

(10) (a) The information submitted to the department
pursuant to paragraphs (3) (d), (e), and (f) and paragraphs



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11 (5) (d), (e), (f), (g), and (k) is exempt from s. 119.07(1) and
12 s. 24(a), Art. I of the State Constitution.

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15 repealed on October 2, 2022, unless reviewed and saved from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

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

19 Section 2. (1) The Legislature finds that it is a public
20 necessity to make exempt from s. 119.07(1), Florida Statutes,
21 and s. 24(a), Article I of the State Constitution the
22 description of an insurer's anti-fraud education and training,
23 the description of an insurer's anti-fraud investigative unit,
24 and an insurer's rationale for the level of staffing and
25 resources it provides to the anti-fraud investigative unit as
26 required in s. 626.9891(3) (d), (e), and (f), Florida Statutes,
27 and filed with the Division of Investigative and Forensic
28 Services pursuant to s. 626.9891(2), Florida Statutes, and the
29 data collected and reported to the Division of Investigative and
30 Forensic Services pursuant to s. 626.9891(5) (d), (e), (f), (g),
31 and (k), Florida Statutes.

32 (2) The description of an insurer's anti-fraud education
33 and training that assists in identifying and evaluating
34 instances of suspected fraudulent insurance acts, the
35 description of an insurer's anti-fraud investigative unit, and
36 an insurer's rationale for the level of staffing and resources
37 it provides to the anti-fraud investigative unit will allow the
38 Department of Financial Services to ensure that insurers have
39 adequate procedures in place to properly detect, investigate,



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40 and report potential insurance fraud. The public disclosure of
41 this information would allow criminal elements to use such
42 information to identify fraud prevention or detection strategies
43 employed by insurers and use this information to commit
44 insurance fraud. The Legislature further finds that disclosure
45 of this information would allow persons suspected of fraud to be
46 alerted to a potential or ongoing investigation and alter
47 behavior to impede an investigation. To ensure the integrity of
48 such records already in the possession of the department, this
49 exemption is made retroactive in its application.

50 (3) The data submitted pursuant to s. 626.9891(5)(d), (e),
51 (f), (g), and (k), Florida Statutes, allow the department to
52 track and assess trends in insurance fraud in this state. Such
53 information includes the number of claims referred to the anti-
54 fraud investigative unit, the number of matters referred to the
55 anti-fraud investigative unit which were not claim-related, the
56 number of claims investigated or accepted by the anti-fraud
57 investigative unit, the number of other insurance fraud matters
58 investigated or accepted by the anti-fraud investigative unit
59 which were not claim-related, and the estimated dollar amount or
60 range of damages on cases referred to the Division of
61 Investigative and Forensic Services or other agencies. The
62 public disclosure of this information could injure a business in
63 the marketplace by providing its competitors with detailed
64 insights into the claim investigation processes and statistics
65 of the company, thereby diminishing the advantage that the
66 business maintains over competitors that do not possess such
67 information. Without this exemption, insurers might refrain from
68 providing accurate and unbiased data, thus impairing the



69 department's ability to track and assess insurance fraud in this
70 state. This data will allow insurance fraud investigators to
71 better track, predict, and curb fraud trends in this state by
72 providing access to data gathered by insurers' anti-fraud
73 investigative units. Information regarding the amount of
74 insurance fraud experienced, referred, and addressed internally
75 will be valuable material for the department and will better
76 enable law enforcement agencies to assist state prosecutors in
77 the successful prosecution of fraudulent behavior.

78 Section 3. This act shall take effect on the same date that
79 CS/SB 1012 or similar legislation takes effect, if such
80 legislation is adopted in the same legislative session or an
81 extension thereof and becomes a law.

82
83 ===== T I T L E A M E N D M E N T =====

84 And the title is amended as follows:

85 Delete everything before the enacting clause
86 and insert:

87 A bill to be entitled
88 An act relating to public records; amending s.
89 626.9891, F.S.; providing an exemption from public
90 records requirements for reports, documents, or other
91 information relating to the investigation and tracking
92 of insurance fraud submitted by insurers to the
93 Department of Financial Services; providing for future
94 legislative review and repeal of the exemption;
95 providing retroactive applicability; providing a
96 statement of public necessity; providing a contingent
97 effective date.