

By the Committee on Banking and Insurance; and Senator Brandes

597-03364-17

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 626.9891, F.S.; providing an exemption from public
4 records requirements for reports, documents, or other
5 information relating to the investigation and tracking
6 of insurance fraud submitted by insurers to the
7 Department of Financial Services; providing for future
8 legislative review and repeal of the exemption;
9 providing retroactive applicability; providing a
10 statement of public necessity; providing a contingent
11 effective date.

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

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

17 626.9891 Insurer anti-fraud investigative units; reporting
18 requirements; penalties for noncompliance.—

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

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25 repealed on October 2, 2022, unless reviewed and saved from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

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

29 Section 2. (1) The Legislature finds that it is a public

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

42 (2) The description of an insurer's anti-fraud education
43 and training that assists in identifying and evaluating
44 instances of suspected fraudulent insurance acts, the
45 description of an insurer's anti-fraud investigative unit, and
46 an insurer's rationale for the level of staffing and resources
47 it provides to the anti-fraud investigative unit will allow the
48 Department of Financial Services to ensure that insurers have
49 adequate procedures in place to properly detect, investigate,
50 and report potential insurance fraud. The public disclosure of
51 this information would allow criminal elements to use such
52 information to identify fraud prevention or detection strategies
53 employed by insurers and use this information to commit
54 insurance fraud. The Legislature further finds that disclosure
55 of this information would allow persons suspected of fraud to be
56 alerted to a potential or ongoing investigation and alter
57 behavior to impede an investigation. To ensure the integrity of
58 such records already in the possession of the department, this

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59 exemption is made retroactive in its application.

60 (3) The data submitted pursuant to s. 626.9891(5)(d), (e),
61 (f), (g), and (k), Florida Statutes, allow the department to
62 track and assess trends in insurance fraud in this state. Such
63 information includes the number of claims referred to the anti-
64 fraud investigative unit, the number of matters referred to the
65 anti-fraud investigative unit which were not claim-related, the
66 number of claims investigated or accepted by the anti-fraud
67 investigative unit, the number of other insurance fraud matters
68 investigated or accepted by the anti-fraud investigative unit
69 which were not claim-related, and the estimated dollar amount or
70 range of damages on cases referred to the Division of
71 Investigative and Forensic Services or other agencies. The
72 public disclosure of this information could injure a business in
73 the marketplace by providing its competitors with detailed
74 insights into the claim investigation processes and statistics
75 of the company, thereby diminishing the advantage that the
76 business maintains over competitors that do not possess such
77 information. Without this exemption, insurers might refrain from
78 providing accurate and unbiased data, thus impairing the
79 department's ability to track and assess insurance fraud in this
80 state. This data will allow insurance fraud investigators to
81 better track, predict, and curb fraud trends in this state by
82 providing access to data gathered by insurers' anti-fraud
83 investigative units. Information regarding the amount of
84 insurance fraud experienced, referred, and addressed internally
85 will be valuable material for the department and will better
86 enable law enforcement agencies to assist state prosecutors in
87 the successful prosecution of fraudulent behavior.

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