

By Senator Albritton

26-00996A-20

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1                                   A bill to be entitled  
 2       An act relating to public records; creating s.  
 3       631.195, F.S.; defining the terms "consumer" and  
 4       "personal financial and health information"; exempting  
 5       from public records requirements consumer personal  
 6       financial and health information, certain underwriting  
 7       files, insurer personnel and payroll records, and  
 8       consumer claim files that are made or received by the  
 9       Department of Financial Services acting as receiver as  
 10      to an insurer; exempting from public records  
 11      requirements certain reports and documents held by the  
 12      department relating to insurer own-risk and solvency  
 13      assessments and corporate governance annual  
 14      disclosures and certain information received from the  
 15      National Association of Insurance Commissioners or  
 16      governments; providing retroactive applicability;  
 17      providing that exempted records may be released under  
 18      specified circumstances; providing for future  
 19      legislative review and repeal of the exemptions;  
 20      providing statements of public necessity; providing an  
 21      effective date.

22  
 23 Be It Enacted by the Legislature of the State of Florida:

24  
 25       Section 1. Section 631.195, Florida Statutes, is created to  
 26 read:

27       631.195 Records of insurers; public records exemptions.-

28       (1) As used in this section, the term:

29       (a) "Consumer" means a prospective purchaser of, a

26-00996A-20

20201188\_\_

30 purchaser of, a beneficiary of, or an applicant for any  
31 insurance product or service. The term also includes a family  
32 member or dependent of such person.

33 (b) "Personal financial and health information" means:

34 1. A consumer's personal health condition, disease, or  
35 injury;

36 2. A history of a consumer's personal medical diagnosis or  
37 treatment;

38 3. The existence, nature, source, or amount of a consumer's  
39 personal income or expenses;

40 4. Records of, or relating to, a consumer's personal  
41 financial transactions of any kind;

42 5. The existence, identification, nature, or value of a  
43 consumer's assets, liabilities, or net worth;

44 6. The existence or content of, or any individual coverage  
45 or status under a consumer's beneficial interest in, any  
46 insurance policy or annuity contract; or

47 7. The existence, identification, nature, or value of a  
48 consumer's interest in any insurance policy, annuity contract,  
49 or trust.

50 (2) The following records, in whatever form, of an insurer  
51 which are made or received by the department, acting as receiver  
52 pursuant to this chapter, are exempt from s. 119.07(1) and s.  
53 24(a), Art. I of the State Constitution:

54 (a) All personal financial and health information of a  
55 consumer.

56 (b) Underwriting files of a type customarily maintained by  
57 an insurer transacting lines of insurance similar to those lines  
58 transacted by the insurer.

26-00996A-20

20201188\_\_

59 (c) Personnel and payroll records of the insurer.

60 (d) Consumer claim files.

61 (3) The following records held by the department are  
62 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
63 of the State Constitution:

64 (a) An ORSA summary report, a substantially similar ORSA  
65 summary report, and supporting documents submitted to the office  
66 pursuant to s. 628.8015.

67 (b) A corporate governance annual disclosure and supporting  
68 documents submitted to the office pursuant to s. 628.8015.

69 (c) Information received from the National Association of  
70 Insurance Commissioners, a governmental entity in this or  
71 another state, the Federal Government, or a government of  
72 another nation which is confidential or exempt if held by that  
73 entity and which is held by the department for use in the  
74 performance of its duties relating to insurer solvency.

75 (4) The exemptions in subsections (2) and (3) apply to  
76 records held by the department before, on, and after July 1,  
77 2020.

78 (5) Records or portions of records made confidential and  
79 exempt by this section may be released under any of the  
80 following circumstances:

81 (a) To any state or federal agency, upon written request,  
82 if disclosure is necessary for the receiving entity to perform  
83 its duties and responsibilities. The receiving agency shall  
84 maintain the confidential and exempt status of such record or  
85 portion of such record.

86 (b) To comply with a properly authorized civil, criminal,  
87 or regulatory investigation or a subpoena or summons by a

26-00996A-20

20201188\_\_

88 federal, state, or local authority.

89 (c) To the National Association of Insurance Commissioners  
90 and its affiliates and subsidiaries, if the recipient agrees in  
91 writing to maintain the confidential and exempt status of the  
92 records.

93 (d) To the guaranty associations and funds of the various  
94 states which are receiving, adjudicating, and paying claims of  
95 the insolvent insurer subject to delinquency proceedings  
96 pursuant to this chapter. The receiving guaranty association  
97 shall maintain the confidential and exempt status of such record  
98 or portion of such record.

99 (e) Upon written request, to persons identified as  
100 designated employees as described in s. 626.989(4)(d), whose  
101 responsibilities include the investigation and disposition of  
102 claims relating to suspected fraudulent insurance acts.

103 (f) In the case of personal financial and health  
104 information of a consumer, upon written request of the consumer  
105 or the consumer's legally authorized representative.

106 (6) This section is subject to the Open Government Sunset  
107 Review Act in accordance with s. 119.15 and shall stand repealed  
108 on October 2, 2025, unless reviewed and saved from repeal  
109 through reenactment by the Legislature.

110 Section 2. (1) The Legislature finds it is a public  
111 necessity to exempt from s. 119.07(1), Florida Statutes, and s.  
112 24(a), Article I of the State Constitution all personal  
113 financial and health information of a consumer, underwriting  
114 files of a type customarily maintained by an insurer transacting  
115 lines of insurance similar to those lines transacted by the  
116 insurer, personnel and payroll records of an insurer, and

26-00996A-20

20201188\_\_

117 consumer claim files that are made or received by the Department  
118 of Financial Services acting as receiver as to an insurer.  
119 Disclosure of financial, health, underwriting, personnel,  
120 payroll, or consumer claim information would create the  
121 opportunity for theft or fraud, thereby jeopardizing the  
122 financial security of a person. Limiting disclosure of such  
123 information held by the department is also necessary in order to  
124 protect the financial interests of the persons to whom that  
125 information pertains. Such information could be used for  
126 fraudulent or other illegal purposes, including identity theft,  
127 and could result in substantial financial harm. Furthermore,  
128 every person has an expectation of and a right to privacy in all  
129 matters concerning his or her financial interests. The  
130 Legislature further finds that it is a public necessity that  
131 health information held by the department be made confidential  
132 and exempt because matters of personal health are traditionally  
133 private and confidential concerns between the patient and his or  
134 her health care provider. The private and confidential nature of  
135 personal health matters pervades both the public and private  
136 health care sectors. Moreover, public disclosure of health  
137 information could have a negative effect upon a person's  
138 business and personal relationships and could also have  
139 detrimental financial consequences.

140 (2) (a) The Legislature further finds that it is a public  
141 necessity to exempt from s. 119.07(1), Florida Statutes, and s.  
142 24(a), Article I of the State Constitution the following records  
143 held by the department:

144 1. An own-risk and solvency assessment (ORSA) summary  
145 report, a substantially similar ORSA summary report, and

26-00996A-20

20201188\_\_

146 supporting documents submitted to the Office of Insurance  
147 Regulation pursuant to s. 628.8015, Florida Statutes;

148 2. A corporate governance annual disclosure and supporting  
149 documents submitted to the office pursuant to s. 628.8015,  
150 Florida Statutes; and

151 3. Information received from the National Association of  
152 Insurance Commissioners, a governmental entity in this or  
153 another state, the Federal Government, or a government of  
154 another nation which is confidential or exempt if held by that  
155 entity and which is held by the department for use in the  
156 performance of its duties relating to insurer solvency.

157 (b) In conducting an ORSA, an insurer or insurance group  
158 identifies and evaluates the material and relevant risks to the  
159 insurer or insurance group and the adequacy of capital resources  
160 to support these risks. The ORSA summary report, substantially  
161 similar ORSA report, and supporting documents contain highly  
162 sensitive and strategic financial information about an insurer  
163 or insurer group. Having a comprehensive and unbiased assessment  
164 provides the office with an effective early warning mechanism  
165 for preventing insolvencies and protecting policyholders and  
166 promotes a stable insurance market. Divulging the ORSA summary  
167 report, substantially similar ORSA summary report, and  
168 supporting documents will injure the insurer or insurance group  
169 by providing competitors with detailed insight into their  
170 financial position, risk management strategies, business plans,  
171 pricing and marketing strategies, management systems, and  
172 operational protocols.

173 (c) The corporate governance annual disclosure describes an  
174 insurer's governance structure and the internal practices and

26-00996A-20

20201188\_\_

175 procedures used in conducting the business affairs of the  
176 company, making strategic operational decisions affecting its  
177 competitive position, and managing its financial condition.  
178 Release of the corporate governance annual disclosure and  
179 supporting documents will injure the insurer or insurance group  
180 in the marketplace by providing competitors with the insurer's  
181 or the insurance group's confidential business information.  
182 Broad disclosure will give state regulators a thorough  
183 understanding of the corporate governance structure and internal  
184 policies and practices used by insurers and promote market  
185 integrity. Effective governance mechanisms will enable insurers  
186 to take any necessary corrective actions and achieve strategic  
187 goals while allowing the office to perform its regulatory duties  
188 effectively and efficiently.

189 (d) Divulgence of confidential or exempt information  
190 received from the National Association of Insurance  
191 Commissioners or governments could impede the exchange of  
192 information and communication among regulators across multiple  
193 agencies and jurisdictions and jeopardize the ability of  
194 regulators to effectively supervise insurers and groups  
195 operating in multiple jurisdictions and engaged in significant  
196 cross-border activities.

197 Section 3. This act shall take effect July 1, 2020.