

By the Committees on Rules; and Governmental Oversight and Accountability; and Senator Albritton

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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"; providing
5 an exemption from public records requirements for
6 consumer personal financial and health information,
7 certain underwriting files, insurer personnel and
8 payroll records, consumer claim files, certain reports
9 and documents relating to insurer own-risk and
10 solvency assessments and corporate governance annual
11 disclosures, and certain information received from the
12 National Association of Insurance Commissioners or
13 governments, in records made or received by the
14 Department of Financial Services acting as receiver as
15 to an insurer; providing retroactive applicability of
16 the exemptions; authorizing the release of
17 confidential and exempt information under specified
18 circumstances; providing for future legislative review
19 and repeal of the exemptions; providing statements of
20 public necessity; providing an effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

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

26 631.195 Records of insurers; public records exemptions.-

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

28 (a) "Consumer" means a prospective purchaser of, a
29 purchaser of, a beneficiary of, or an applicant for any

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30 insurance product or service. The term also includes a family
31 member or dependent of such person.

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

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

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

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

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

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

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

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

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

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

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

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

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59 (d) Consumer claim files.

60 (e) An ORSA summary report, a substantially similar ORSA
61 summary report, and supporting documents submitted to the office
62 pursuant to s. 628.8015.

63 (f) A corporate governance annual disclosure and supporting
64 documents submitted to the office pursuant to s. 628.8015.

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

71 (3) The exemptions in subsection (2) apply to records held
72 by the department before, on, and after July 1, 2020.

73 (4) Records or portions of records made confidential and
74 exempt by this section may be released under any of the
75 following circumstances:

76 (a) To any state or federal agency, upon written request,
77 if disclosure is necessary for the receiving entity to perform
78 its duties and responsibilities. The receiving agency shall
79 maintain the confidential and exempt status of such record or
80 portion of such record.

81 (b) To comply with a properly authorized civil, criminal,
82 or regulatory investigation or a subpoena or summons by a
83 federal, state, or local authority.

84 (c) To the National Association of Insurance Commissioners
85 and its affiliates and subsidiaries, if the recipient agrees in
86 writing to maintain the confidential and exempt status of the
87 records.

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

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

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

101 (5) This section is subject to the Open Government Sunset
102 Review Act in accordance with s. 119.15 and shall stand repealed
103 on October 2, 2025, unless reviewed and saved from repeal
104 through reenactment by the Legislature.

105 Section 2. (1) The Legislature finds it is a public
106 necessity to make confidential and exempt from s. 119.07(1),
107 Florida Statutes, and s. 24(a), Article I of the State
108 Constitution:

109 (a) All personal financial and health information of a
110 consumer;

111 (b) Underwriting files of a type customarily maintained by
112 an insurer transacting lines of insurance similar to those lines
113 transacted by the insurer;

114 (c) Personnel and payroll records of an insurer;

115 (d) Consumer claim files;

116 (e) An own-risk and solvency assessment (ORSA) summary

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117 report, a substantially similar ORSA summary report, and
118 supporting documents submitted to the Office of Insurance
119 Regulation pursuant to s. 628.8015, Florida Statutes;

120 (f) A corporate governance annual disclosure and supporting
121 documents submitted to the office pursuant to s. 628.8015,
122 Florida Statutes; and

123 (g) Information received from the National Association of
124 Insurance Commissioners, a governmental entity in this or
125 another state, the Federal Government, or a government of
126 another nation which is confidential or exempt if held by that
127 entity and which is held by the Department of Financial Services
128 for use in the performance of its duties relating to insurer
129 solvency.

130 (2) (a) Disclosure of financial, health, underwriting,
131 personnel, payroll, or consumer claim information would create
132 the opportunity for theft or fraud, thereby jeopardizing the
133 financial security of a person. Limiting disclosure of such
134 information held by the department is also necessary in order to
135 protect the financial interests of the persons to whom that
136 information pertains. Such information could be used for
137 fraudulent or other illegal purposes, including identity theft,
138 and could result in substantial financial harm. Furthermore,
139 every person has an expectation of and a right to privacy in all
140 matters concerning his or her financial interests. Additionally,
141 matters of personal health are traditionally private and
142 confidential concerns between the patient and his or her health
143 care provider. The private and confidential nature of personal
144 health matters pervades both the public and private health care
145 sectors. Public disclosure of health information could have a

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146 negative effect upon a person's business and personal
147 relationships and could also have detrimental financial
148 consequences.

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

165 (c) The corporate governance annual disclosure describes an
166 insurer's governance structure and the internal practices and
167 procedures used in conducting the business affairs of the
168 company, making strategic operational decisions affecting its
169 competitive position, and managing its financial condition.
170 Release of the corporate governance annual disclosure and
171 supporting documents will injure the insurer or insurance group
172 in the marketplace by providing competitors with the insurer's
173 or the insurance group's confidential business information.
174 Broad disclosure will give state regulators a thorough

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175 understanding of the corporate governance structure and internal
176 policies and practices used by insurers and promote market
177 integrity. Effective governance mechanisms will enable insurers
178 to take any necessary corrective actions and achieve strategic
179 goals while allowing the office to perform its regulatory duties
180 effectively and efficiently.

181 (d) Divulgence of confidential or exempt information
182 received from the National Association of Insurance
183 Commissioners or governments could impede the exchange of
184 information and communication among regulators across multiple
185 agencies and jurisdictions and jeopardize the ability of
186 regulators to effectively supervise insurers and groups
187 operating in multiple jurisdictions and engaged in significant
188 cross-border activities.

189 (3) The Legislature finds that the harm that may result
190 from the release of such information outweighs any public
191 benefit that may be derived from the disclosure of the
192 information.

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