

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>      </u>	(Y/N)
ADOPTED AS AMENDED	<u>      </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>      </u>	(Y/N)
FAILED TO ADOPT	<u>      </u>	(Y/N)
WITHDRAWN	<u>      </u>	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: Oversight, Transparency &  
 2 Public Management Subcommittee  
 3 Representative Grant, M. offered the following:  
 4

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
 7 Section 1. Section 631.195, Florida Statutes, is created  
 8 to read:

9 631.195 Records of insurers; public records exemptions.-

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

11 (a) "Consumer" means a prospective purchaser of, a  
 12 purchaser of, a beneficiary of, or an applicant for any  
 13 insurance product or service. The term also includes a family  
 14 member or dependent of such person.

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

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16 1. A consumer's personal health condition, disease, or  
17 injury;

18 2. A history of a consumer's personal medical diagnosis or  
19 treatment;

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

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

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

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

29 7. The existence, identification, nature, or value of a  
30 consumer's interest in any insurance policy, annuity contract,  
31 or trust.

32 (2) The following records, in whatever form, of an insurer  
33 which are made or received by the department, acting as receiver  
34 pursuant to this chapter, are confidential and exempt from s.  
35 119.07(1) and s. 24(a), Art. I of the State Constitution:

36 (a) All personal financial and health information of a  
37 consumer.

38 (b) Underwriting files of a type customarily maintained by  
39 an insurer transacting lines of insurance similar to those lines  
40 transacted by the insurer.

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

42 (d) Consumer claim files.

43 (e) An ORSA summary report, a substantially similar ORSA  
44 summary report, and supporting documents submitted to the office  
45 pursuant to s. 628.8015.

46 (f) A corporate governance annual disclosure and  
47 supporting documents submitted to the office pursuant to s.  
48 628.8015.

49 (g) Information received from the National Association of  
50 Insurance Commissioners, a governmental entity in this or  
51 another state, the Federal Government, or a government of  
52 another nation which is confidential or exempt if held by that  
53 entity and which is held by the department for use in the  
54 performance of its duties relating to insurer solvency.

55 (3) The exemptions in subsection (2) applies to records  
56 held by the department before, on, and after July 1, 2020.

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

60 (a) To any state or federal agency, upon written request,  
61 if disclosure is necessary for the receiving entity to perform  
62 its duties and responsibilities. The receiving agency shall  
63 maintain the confidential and exempt status of such record or  
64 portion of such record.

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65 (b) To comply with a properly authorized civil, criminal,  
66 or regulatory investigation or a subpoena or summons by a  
67 federal, state, or local authority.

68 (c) To the National Association of Insurance Commissioners  
69 and its affiliates and subsidiaries, if the recipient agrees in  
70 writing to maintain the confidential and exempt status of the  
71 records.

72 (d) To the guaranty associations and funds of the various  
73 states which are receiving, adjudicating, and paying claims of  
74 the insolvent insurer subject to delinquency proceedings  
75 pursuant to this chapter. The receiving guaranty association  
76 shall maintain the confidential and exempt status of such record  
77 or portion of such record.

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

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

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

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

93           1. All personal financial and health information of a  
94 consumer;

95           2. Underwriting files of a type customarily maintained by  
96 an insurer transacting lines of insurance similar to those lines  
97 transacted by the insurer;

98           3. Personnel and payroll records of an insurer;

99           4. Consumer claim files;

100           5. An own-risk and solvency assessment (ORSA) summary  
101 report, a substantially similar ORSA summary report, and  
102 supporting documents submitted to the Office of Insurance  
103 Regulation pursuant to s. 628.8015, Florida Statutes;

104           6. A corporate governance annual disclosure and supporting  
105 documents submitted to the office pursuant to s. 628.8015,  
106 Florida Statutes; and

107           7. Information received from the National Association of  
108 Insurance Commissioners, a governmental entity in this or  
109 another state, the Federal Government, or a government of  
110 another nation which is confidential or exempt if held by that  
111 entity and which is held by the department for use in the  
112 performance of its duties relating to insurer solvency.

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113 (2) (a) Disclosure of financial, health, underwriting,  
114 personnel, payroll, or consumer claim information would create  
115 the opportunity for theft or fraud, thereby jeopardizing the  
116 financial security of a person. Limiting disclosure of such  
117 information held by the department is also necessary in order to  
118 protect the financial interests of the persons to whom that  
119 information pertains. Such information could be used for  
120 fraudulent or other illegal purposes, including identity theft,  
121 and could result in substantial financial harm. Furthermore,  
122 every person has an expectation of and a right to privacy in all  
123 matters concerning his or her financial interests. Additionally,  
124 matters of personal health are traditionally private and  
125 confidential concerns between the patient and his or her health  
126 care provider. The private and confidential nature of personal  
127 health matters pervades both the public and private health care  
128 sectors. Public disclosure of health information could have a  
129 negative effect upon a person's business and personal  
130 relationships and could also have detrimental financial  
131 consequences.

132 (b) In conducting an ORSA, an insurer or insurance group  
133 identifies and evaluates the material and relevant risks to the  
134 insurer or insurance group and the adequacy of capital resources  
135 to support these risks. The ORSA summary report, substantially  
136 similar ORSA report, and supporting documents contain highly  
137 sensitive and strategic financial information about an insurer

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138 or insurer group. Having a comprehensive and unbiased assessment  
139 provides the office with an effective early warning mechanism  
140 for preventing insolvencies and protecting policyholders and  
141 promotes a stable insurance market. Divulging the ORSA summary  
142 report, substantially similar ORSA summary report, and  
143 supporting documents will injure the insurer or insurance group  
144 by providing competitors with detailed insight into their  
145 financial position, risk management strategies, business plans,  
146 pricing and marketing strategies, management systems, and  
147 operational protocols.

148 (c) The corporate governance annual disclosure describes  
149 an insurer's governance structure and the internal practices and  
150 procedures used in conducting the business affairs of the  
151 company, making strategic operational decisions affecting its  
152 competitive position, and managing its financial condition.  
153 Release of the corporate governance annual disclosure and  
154 supporting documents will injure the insurer or insurance group  
155 in the marketplace by providing competitors with the insurer's  
156 or the insurance group's confidential business information.  
157 Broad disclosure will give state regulators a thorough  
158 understanding of the corporate governance structure and internal  
159 policies and practices used by insurers and promote market  
160 integrity. Effective governance mechanisms will enable insurers  
161 to take any necessary corrective actions and achieve strategic

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162 goals while allowing the office to perform its regulatory duties  
163 effectively and efficiently.

164 (d) Divulgence of confidential or exempt information  
165 received from the National Association of Insurance  
166 Commissioners or governments could impede the exchange of  
167 information and communication among regulators across multiple  
168 agencies and jurisdictions and jeopardize the ability of  
169 regulators to effectively supervise insurers and groups  
170 operating in multiple jurisdictions and engaged in significant  
171 cross-border activities.

172 (3) The legislature finds that the harm that may result  
173 from the release of such location information outweighs any  
174 public benefit that may be derived from the disclosure of the  
175 information.

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

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179 **T I T L E A M E N D M E N T**

180 Remove everything before the enacting clause and insert:  
181 An act relating to public records; creating s. 631.195, F.S.;  
182 defining the terms "consumer" and "personal financial and health  
183 information"; exempting from public records requirements when  
184 made or received by the Department of Financial Services acting  
185 as receiver as to an insurer: consumer personal financial and  
186 health information, certain underwriting files, insurer



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1409 (2020)

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187 personnel and payroll records, consumer claim files, certain  
188 reports and documents held by the department relating to insurer  
189 own-risk, solvency assessments, corporate governance annual  
190 disclosures, and certain information received from the National  
191 Association of Insurance Commissioners or governments; providing  
192 retroactive applicability; providing that exempted records may  
193 be released under specified circumstances; providing for future  
194 legislative review and repeal of the exemptions; providing  
195 statements of public necessity; providing an effective date.