

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.

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

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25          Section 1.   Section 631.195, Florida Statutes, is created

26 | to 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  
 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  
 39 | consumer's 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.

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  
68 supporting documents submitted to the office pursuant to s.  
69 628.8015.

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

76        (4) The exemptions in subsections (2) and (3) apply to  
77 records held by the department before, on, and after July 1,  
78 2020.

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

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

87        (b) To comply with a properly authorized civil, criminal,  
88 or regulatory investigation or a subpoena or summons by a  
89 federal, state, or local authority.

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

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

100        (e) Upon written request, to persons identified as

101 designated employees as described in s. 626.989(4)(d), whose  
102 responsibilities include the investigation and disposition of  
103 claims relating to suspected fraudulent insurance acts.

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

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

111 Section 2. (1) The Legislature finds it is a public  
112 necessity to exempt from s. 119.07(1), Florida Statutes, and s.  
113 24(a), Article I of the State Constitution all personal  
114 financial and health information of a consumer, underwriting  
115 files of a type customarily maintained by an insurer transacting  
116 lines of insurance similar to those lines transacted by the  
117 insurer, personnel and payroll records of an insurer, and  
118 consumer claim files that are made or received by the Department  
119 of Financial Services acting as receiver as to an insurer.  
120 Disclosure of financial, health, underwriting, personnel,  
121 payroll, or consumer claim information would create the  
122 opportunity for theft or fraud, thereby jeopardizing the  
123 financial security of a person. Limiting disclosure of such  
124 information held by the department is also necessary in order to  
125 protect the financial interests of the persons to whom that

126 information pertains. Such information could be used for  
127 fraudulent or other illegal purposes, including identity theft,  
128 and could result in substantial financial harm. Furthermore,  
129 every person has an expectation of and a right to privacy in all  
130 matters concerning his or her financial interests. The  
131 Legislature further finds that it is a public necessity that  
132 health information held by the department be made confidential  
133 and exempt because matters of personal health are traditionally  
134 private and confidential concerns between the patient and his or  
135 her health care provider. The private and confidential nature of  
136 personal health matters pervades both the public and private  
137 health care sectors. Moreover, public disclosure of health  
138 information could have a negative effect upon a person's  
139 business and personal relationships and could also have  
140 detrimental financial consequences.

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

145 1. An own-risk and solvency assessment (ORSA) summary  
146 report, a substantially similar ORSA summary report, and  
147 supporting documents submitted to the Office of Insurance  
148 Regulation pursuant to s. 628.8015, Florida Statutes;

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

151 Florida Statutes; and

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

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

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

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

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

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