

By the Committee on Banking and Insurance

597-01969-21

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1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 624.4212, F.S.; adding
 4 the Office of Insurance Consumer Advocate to the list
 5 of entities to which the Office of Insurance
 6 Regulation may disclose confidential and exempt
 7 information; removing the scheduled repeal of an
 8 exemption from public records requirements for certain
 9 proprietary business information and information that
 10 is confidential and held by the Office of Insurance
 11 Regulation; providing an 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. Section 624.4212, Florida Statutes, is amended
 16 to read:

17 624.4212 Confidentiality of proprietary business and other
 18 information.—

19 (1) As used in this section, the term "proprietary business
 20 information" means information, regardless of form or
 21 characteristics, which is owned or controlled by an insurer, or
 22 a person or an affiliated person who seeks acquisition of
 23 controlling stock in a domestic stock insurer or controlling
 24 company, and which:

25 (a) Is intended to be and is treated by the insurer or the
 26 person as private in that the disclosure of the information
 27 would cause harm to the insurer, the person, or the company's
 28 business operations and that the information has not been
 29 disclosed unless disclosed pursuant to a statutory requirement,

597-01969-21

20217014__

30 an order of a court or administrative body, or a private
31 agreement that provides that the information will not be
32 released to the public;

33 (b) Is not otherwise readily ascertainable or publicly
34 available by proper means by other persons from another source
35 in the same configuration as requested by the office; and

36 (c) Includes:

37 1. Trade secrets as defined in s. 688.002 which comply with
38 s. 624.4213.

39 2. Information relating to competitive interests, the
40 disclosure of which would impair the competitive business of the
41 provider of the information.

42 3. The source, nature, and amount of the consideration used
43 or to be used in carrying out a merger or other acquisition of
44 control in the ordinary course of business, including the
45 identity of the lender, if the person filing a statement
46 regarding consideration so requests.

47 4. Information relating to bids or other contractual data,
48 the disclosure of which would impair the efforts of the insurer
49 or its affiliates to contract for goods or services on favorable
50 terms.

51 5. Internal auditing controls and reports of internal
52 auditors.

53 (2) Proprietary business information contained in the
54 following items held by the office is confidential and exempt
55 from s. 119.07(1) and s. 24(a), Art. I of the State
56 Constitution:

57 (a) The actuarial opinion summary required under ss.
58 624.424(1)(b) and 625.121(3) and information related thereto.

597-01969-21

20217014__

59 (b) A notice filed with the office by the person or
60 affiliated person who seeks to divest controlling stock in an
61 insurer pursuant to s. 628.461.

62 (c) The filings required under s. 628.801 and information
63 related thereto.

64 (d) The enterprise risk report required under ss.
65 628.461(3) and 628.801 and information related thereto.

66 (e) Information provided to or obtained by the office
67 pursuant to participation in a supervisory college established
68 under s. 628.805.

69 (f) Beginning on the operative date of the valuation manual
70 as defined in s. 625.1212(2):

71 1. An actuarial examination conducted pursuant to s.
72 625.1212(5)(c), and information related thereto;

73 2. The annual certification submitted by the insurer
74 pursuant to s. 625.1212(6)(b)2., and information related
75 thereto;

76 3. The principle-based valuation report filed pursuant to
77 s. 625.1212(6)(b)3., and information related thereto; and

78 4. Mortality, morbidity, policyholder behavior, or expense
79 experience and other data submitted pursuant to s. 625.1212(7),
80 which includes potentially company identifiable or personally
81 identifiable information.

82 (3) Except for information obtained by the office which
83 would otherwise be available for public inspection, the
84 following information held by the office is confidential and
85 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
86 Constitution:

87 (a) An ORSA summary report, a substantially similar ORSA

597-01969-21

20217014__

88 report, and supporting documents submitted pursuant to s.
89 628.8015.

90 (b) A corporate governance annual disclosure and supporting
91 documents submitted pursuant to s. 628.8015.

92 (4) Information received from the NAIC, a governmental
93 entity in this or another state, the Federal Government, or a
94 government of another nation which is confidential or exempt if
95 held by that entity and which is held by the office for use in
96 the performance of its duties relating to insurer valuation and
97 solvency is confidential and exempt from s. 119.07(1) and s.
98 24(a), Art. I of the State Constitution.

99 (5) The office may disclose information made confidential
100 and exempt under this section:

101 (a) If the insurer to which it pertains gives prior written
102 consent;

103 (b) Pursuant to a court order;

104 (c) To the Actuarial Board for Counseling and Discipline
105 upon a request stating that the information is for the purpose
106 of professional disciplinary proceedings and specifying
107 procedures satisfactory to the office for preserving the
108 confidentiality of the information;

109 (d) To other states, federal and international agencies,
110 the Office of Insurance Consumer Advocate, the National
111 Association of Insurance Commissioners and its affiliates and
112 subsidiaries, and state, federal, and international law
113 enforcement authorities, including members of a supervisory
114 college described in s. 628.805 if the recipient agrees in
115 writing to maintain the confidential and exempt status of the
116 document, material, or other information and has certified in

597-01969-21

20217014__

117 writing its legal authority to maintain such confidentiality; or

118 (e) For the purpose of aggregating information on an
119 industrywide basis and disclosing the information to the public
120 only if the specific identities of the insurers, or persons or
121 affiliated persons, are not revealed.

122 ~~(6) This section is subject to the Open Government Sunset~~
123 ~~Review Act in accordance with s. 119.15 and is repealed on~~
124 ~~October 2, 2021, unless reviewed and saved from repeal through~~
125 ~~reenactment by the Legislature.~~

126 Section 2. This act shall take effect October 1, 2021.