

CHAPTER 2013-61

Senate Bill No. 1850

An act relating to public records; amending s. 627.3518, F.S.; providing an exemption from public records requirements for all proprietary business information submitted by an insurer to the Citizens Property Insurance Corporation's clearinghouse; providing a definition; providing exemption; providing for future review and repeal; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (10) is added to section 627.3518, Florida Statutes, as created by SB 1770 or similar legislation, 2013 Regular Session, to read:

627.3518 Citizens Property Insurance Corporation clearinghouse.—

(10) Proprietary business information provided to the corporation's clearinghouse by insurers with respect to identifying and selecting risks for an offer of coverage is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(a) As used in this subsection, the term "proprietary business information" means information, regardless of form or characteristics, which is owned or controlled by an insurer and:

1. Is identified by the insurer as proprietary business information and is intended to be and is treated by the insurer as private in that the disclosure of the information would cause harm to the insurer, an individual, or the company's business operations and has not been disclosed unless disclosed pursuant to a statutory requirement, an order of a court or administrative body, or a private agreement that provides that the information will not be released to the public;

2. Is not otherwise readily ascertainable or publicly available by proper means by other persons from another source in the same configuration as provided to the clearinghouse; and

3. Includes, but is not limited to:

a. Trade secrets.

b. Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.

Proprietary business information may be found in underwriting criteria or instructions which are used to identify and select risks through the program for an offer of coverage and are shared with the clearinghouse to facilitate the shopping of risks with the insurer.

(b) The clearinghouse may disclose confidential and exempt proprietary business information:

1. If the insurer to which it pertains gives prior written consent;
2. Pursuant to a court order; or
3. To another state agency in this or another state or to a federal agency if the recipient agrees in writing to maintain the confidential and exempt status of the document, material, or other information and has verified in writing its legal authority to maintain such confidentiality.

(c) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that all proprietary business information provided by an insurer to Citizens Property Insurance Corporation's clearinghouse which is used to identify and select risks from the clearinghouse be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The diversion program will facilitate obtaining offers of coverage from authorized insurers for new applicants for insurance coverage with the corporation and for policyholders seeking to renew existing insurance coverage with the corporation. Obtaining offers of coverage from authorized insurers through the clearinghouse will provide more choices for consumers and reduce the corporation's exposure and potential for imposing assessments on its policyholders and policyholders in the private market. In order for the program to efficiently determine whether there are authorized insurers interested in making an offer of coverage for a particular risk, a substantial amount of detailed data from participating insurers must be provided to the program. Public disclosure of the detailed data could result in a substantial chilling effect on insurer participation in the program and thereby undermine the program's success. Therefore, the Legislature declares that it is a public necessity that all proprietary business information provided by an insurer to Citizens Property Insurance Corporation's clearinghouse which is used to identify and select risks from the clearinghouse be made confidential and exempt from public record requirements.

Section 3. This act shall take effect on the same date that SB 1770 or similar legislation creating s. 627.3518, Florida Statutes, the Citizen's Property Insurance Corporation clearinghouse, takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

Approved by the Governor May 29, 2013.

Filed in Office Secretary of State May 29, 2013.