

CHAPTER 2014-98

Senate Bill No. 1262

An act relating to public records and meetings; amending s. 627.0628, F.S.; providing an exemption from public records and public meetings requirements for trade secrets used to design an insurance flood loss model held in records or discussed in meetings of the Florida Commission on Hurricane Loss Projection Methodology, the Office of Insurance Regulation, or the appointed consumer advocate; providing for legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Paragraph (f) of subsection (3) of section 627.0628, Florida Statutes, is amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.

(f)1. A trade secret, as defined in s. 688.002, ~~which that~~ is used in designing and constructing a hurricane or flood loss model and ~~which that~~ is provided pursuant to this section, by a private company, to the commission, office, or consumer advocate appointed pursuant to s. 627.0613; is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

2.a. That portion of a meeting of the commission or of a rate proceeding on an insurer's rate filing at which a trade secret made confidential and exempt by this paragraph is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. The closed meeting must be recorded, and no portion of the closed meeting may be off the record.

b. The recording of a closed portion of a meeting is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. This ~~paragraph~~ subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, ~~2019~~ 2015, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that a trade secret, as defined in s. 688.002, Florida Statutes, which is used in designing and constructing a flood loss model and which is provided by a private company to the Florida Commission on Hurricane Loss Projection Methodology, the Office of Insurance Regulation, or a consumer advocate appointed

pursuant to s. 627.0613, Florida Statutes, be made confidential and exempt from public records requirements and from public meetings requirements.

(1) Disclosing trade secrets would negatively impact the business interests of a private company that has invested substantial economic resources in developing such model, and competitor companies would gain an unfair competitive advantage if provided access to such information. Reliable projections of flood losses are necessary in order to ensure that rates for flood insurance meet the statutory requirement that rates be neither excessive nor inadequate. This goal is served by enabling the commission, the office, and the consumer advocate to have access to all aspects of flood loss models and by encouraging private companies to submit such models to the commission, office, and consumer advocate for review without concern that trade secrets will be disclosed through a public records request.

(2) In addition, the Legislature finds that it is a public necessity to protect trade secrets relating to such model which are discussed during a meeting of the commission or during a rate proceeding on an insurer's rate filing held by the office, because the release of such information via a public meeting or proceeding would allow competitors and other persons to attend those meetings and discover the protected trade secrets and would defeat the purpose of the public records exemption. The Legislature also finds that it is a public necessity to exempt from public records requirements the recordings generated during those portions of a commission meeting or a rate proceeding at which confidential and exempt trade secrets are discussed. Release of such recordings would compromise the discussions that take place during the closed meeting or proceeding and would negate the public meetings exemption. Current law provides a public records exemption for trade secrets. As such, release of the recordings generated during those closed portions of a meeting or proceeding on trade secrets would compromise the current protections already afforded to trade secrets.

Section 3. This act shall take effect upon becoming a law if SB 542 or similar legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.