

CHAPTER 2016-205

Committee Substitute for Committee Substitute for Senate Bill No. 1416

An act relating to public records; amending s. 624.4212, F.S.; providing an exemption from public records requirements for certain reports and documents submitted to the Office of Insurance Regulation related to an own-risk and solvency assessment by an insurer or insurance group; providing an exemption from public records requirements for a corporate governance annual disclosure and supporting documents submitted to the office; revising the actuarial board to which the office may disclose certain information; providing for and revising future legislative 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. Present subsections (3), (4), and (5) of section 624.4212, Florida Statutes, are redesignated as subsections (4), (5), and (6), respectively, and amended, and a new subsection (3) is added to that section, to read:

624.4212 Confidentiality of proprietary business and other information.

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

(a) An ORSA summary report, a substantially similar ORSA report, and supporting documents submitted pursuant to s. 628.8015.

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

~~(4)(3)~~ Information received from the NAIC, a or another governmental entity in this or another state, the Federal Government, or a government of another nation which is confidential or exempt if held by that entity and which is held by the office for use in the office's performance of its duties relating to insurer valuation and solvency is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

~~(5)(4)~~ The office may disclose information made confidential and exempt under this section:

- (a) If the insurer to which it pertains gives prior written consent;
- (b) Pursuant to a court order;

(c) To the Actuarial Board for Counseling and Discipline American Academy of Actuaries upon a request stating that the information is for the purpose of professional disciplinary proceedings and specifying procedures satisfactory to the office for preserving the confidentiality of the information;

(d) To other states, federal and international agencies, the National Association of Insurance Commissioners and its affiliates and subsidiaries, and state, federal, and international law enforcement authorities, including members of a supervisory college described in s. 628.805 if the recipient agrees in writing to maintain the confidential and exempt status of the document, material, or other information and has certified in writing its legal authority to maintain such confidentiality; or

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

(6)(5) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and is repealed on October 2, ~~2021~~ 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that the own-risk and solvency assessment (ORSA) summary report, a substantially similar ORSA report, and supporting documents submitted to and held by the Office of Insurance Regulation pursuant to s. 628.8015, Florida Statutes, be confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. In conducting this required internal assessment, an insurer or insurance group identifies and evaluates the material and relevant risks to the insurer or insurance group and the adequacy of capital resources to support these risks. The ORSA summary report, substantially similar ORSA report, and supporting documents contain highly sensitive and strategic financial information about an insurer or insurer group. Having a comprehensive and unbiased assessment will provide the office with an effective early warning mechanism for preventing insolvencies and protecting policyholders and promote a stable insurance market. Divulging the ORSA summary report, substantially similar ORSA summary report, and supporting documents will injure the insurer or insurance group by providing competitors with detailed insight into their financial position, risk management strategies, business plans, pricing and marketing strategies, management systems, and operational protocols.

(2) The Legislature finds that it is a public necessity that the corporate governance annual disclosure and supporting documents submitted to and held by the office be confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The corporate governance annual disclosure describes an insurer's governance structure and the internal practices and procedures used in conducting the business affairs of the company, making strategic operational decisions affecting its competitive position, and managing its financial condition. Release of the corporate governance annual disclosure and supporting documents will

injure the insurer or insurance group in the marketplace by providing competitors with the insurer's or the insurance group's confidential business information. Broad disclosure will give state regulators a thorough understanding of the corporate governance structure and internal policies and practices used by insurers and promote market integrity. Effective governance mechanisms will enable insurers to take any necessary corrective actions and achieve strategic goals while allowing the office to perform its regulatory duties effectively and efficiently.

Section 3. This act shall take effect on the same date that SB 1422 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Approved by the Governor April 8, 2016.

Filed in Office Secretary of State April 8, 2016.