

## CHAPTER 2017-179

### Committee Substitute for House Bill No. 1009

An act relating to public records; amending s. 626.9891, F.S.; providing an exemption from public records requirements for reports, documents, or other information relating to the investigation and tracking of insurance fraud submitted by insurers to the Department of Financial Services; providing for 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. Subsection (9) is added to section 626.9891, Florida Statutes, to read:

626.9891 Insurer anti-fraud investigative units; reporting requirements; penalties for noncompliance.—

(9)(a) The information submitted to the department pursuant to paragraphs (3)(d), (e), and (f) and paragraphs (5)(d), (e), (f), (g), and (k) is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

(c) This exemption applies to records held before, on, or after the effective date of this act.

Section 2. (1) The Legislature finds that it is a public necessity to make exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art I. of the State Constitution the description of an insurer's anti-fraud education and training, the description of an insurer's anti-fraud investigative unit, and an insurer's rationale for the level of staffing and resources it provides to the anti-fraud investigative unit as required in s. 626.9891(3)(d), (e), and (f), Florida Statutes, and filed with the Division of Investigative and Forensic Services pursuant to s. 626.9891(2), Florida Statutes, and the data collected and reported to the Division of Investigative and Forensic Services pursuant to s. 626.9891(5)(d),(e), (f), (g), and (k), Florida Statutes.

(2) The description of an insurer's anti-fraud education and training that assists in identifying and evaluating instances of suspected fraudulent insurance acts, the description of an insurer's anti-fraud investigative unit, and an insurer's rationale for the level of staffing and resources it provides to the anti-fraud investigative unit will allow the department to ensure that insurers have adequate procedures in place to properly detect, investigate, and report potential insurance fraud. The public disclosure of this information would allow criminal elements to use such information to identify fraud

prevention or detection strategies employed by insurers and use this information to commit insurance fraud. The Legislature further finds that disclosure of this information would allow persons suspected of fraud to be alerted to a potential or ongoing investigation and alter behavior to impede an investigation. To ensure the integrity of such records already in the possession of the department, this exemption is made retroactive in its application.

(3) The data submitted pursuant to s. 626.9891(5)(d), (e), (f), (g), and (k), Florida Statutes, allow the department to track and assess trends in insurance fraud in this state. Such information includes the number of claims referred to the anti-fraud investigative unit, the number of matters referred to the anti-fraud investigative unit that were not claim related, the number of claims investigated or accepted by the anti-fraud investigative unit, the number of other insurance fraud matters investigated or accepted by the anti-fraud investigative unit that were not claim related, and the estimated dollar amount or range of damages on cases referred to the Division of Investigative and Forensic Services or other agencies. The public disclosure of this information could injure a business in the marketplace by providing its competitors with detailed insights into the claim investigation processes and statistics of the company, thereby diminishing the advantage that the business maintains over competitors that do not possess such information. Without this exemption, insurers might refrain from providing accurate and unbiased data, thus impairing the department's ability to track and assess insurance fraud in this state. This data will allow insurance fraud investigators to better track, predict, and curb fraud trends in this state by providing access to data gathered by insurers' anti-fraud investigative units. Information regarding the amount of insurance fraud experienced, referred, and addressed internally will be valuable material for the department and will better enable law enforcement agencies to assist state prosecutors in the successful prosecution of fraudulent behavior.

Section 3. This act shall take effect on the same date that CS/HB 1007 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 June 26, 2017.

Filed in Office Secretary of State June 26, 2017.