

CHAPTER 2021-106

Senate Bill No. 7014

An act relating to a review under the Open Government Sunset Review Act; amending s. 624.4212, F.S.; adding the Office of Insurance Consumer Advocate to the list of entities to which the Office of Insurance Regulation may disclose confidential and exempt information; removing the scheduled repeal of an exemption from public records requirements for certain proprietary business information and information that is confidential and held by the Office of Insurance Regulation; providing an effective date.

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

Section 1. Section 624.4212, Florida Statutes, is amended to read:

624.4212 Confidentiality of proprietary business and other information.

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

(a) Is intended to be and is treated by the insurer or the person as private in that the disclosure of the information would cause harm to the insurer, the person, or the company’s business operations and that the information 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;

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

(c) Includes:

1. Trade secrets as defined in s. 688.002 which comply with s. 624.4213.
2. Information relating to competitive interests, the disclosure of which would impair the competitive business of the provider of the information.
3. The source, nature, and amount of the consideration used or to be used in carrying out a merger or other acquisition of control in the ordinary course of business, including the identity of the lender, if the person filing a statement regarding consideration so requests.
4. Information relating to bids or other contractual data, the disclosure of which would impair the efforts of the insurer or its affiliates to contract for goods or services on favorable terms.

5. Internal auditing controls and reports of internal auditors.

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

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

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

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

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

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

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

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

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

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

4. Mortality, morbidity, policyholder behavior, or expense experience and other data submitted pursuant to s. 625.1212(7), which includes potentially company identifiable or personally identifiable 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) Information received from the NAIC, a 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 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) 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 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 Office of Insurance Consumer Advocate, 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) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and is repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.~~

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

Approved by the Governor June 16, 2021.

Filed in Office Secretary of State June 16, 2021.