

## Committee Substitute for House Bill No. 1355

An act relating to public records; amending s. 624.319, F.S.; creating a public records exemption for workpapers prepared by the Department of Insurance, and workpapers and any other information received by the department from another governmental entity or the National Association of Insurance Commissioners, for the department's use in the performance of specified examination or investigation duties; providing exceptions to the exemption; providing for retroactive application of the exemption; providing for review and repeal of the exemption; providing a finding of public necessity; providing an effective date.

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

Section 1. Subsection (3) of section 624.319, Florida Statutes, is amended to read:

624.319 Examination and investigation reports.—

(3)(a) Examination reports, until filed, are confidential and exempt from the provisions of s. 119.07(1). Investigation reports are confidential and exempt from the provisions of s. 119.07(1) until the investigation is completed or ceases to be active. For purposes of this subsection, an investigation is active while it is being conducted by the department with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department is proceeding with reasonable dispatch and has a good faith belief that action could be initiated by the department or other administrative or law enforcement agency. After an investigation is completed or ceases to be active, portions of the investigation report relating to the investigation remain confidential and exempt from the provisions of s. 119.07(1) if disclosure would:

1. Jeopardize the integrity of another active investigation;
2. Impair the safety and financial soundness of the licensee or affiliated party;
3. Reveal personal financial information;
4. Reveal the identity of a confidential source;
5. Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual; or
6. Reveal investigative techniques or procedures.

(b) Workpapers and other information held by the department, and workpapers and other information received from another governmental entity or the National Association of Insurance Commissioners, for the department's use in the performance of its examination or investigation duties

pursuant to this section and ss. 624.316, 624.3161, 624.317, and 624.318 are confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to workpapers and other information held by the department before, on, or after the effective date of this exemption. Such confidential and exempt information may be disclosed to another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities, and may be disclosed to the National Association of Insurance Commissioners. The receiving governmental entity or the association must maintain the confidential and exempt status of the information. The information made confidential and exempt by this paragraph may be used in a criminal, civil, or administrative proceeding so long as the confidential and exempt status of such information is maintained. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

~~(c)~~<sup>(b)</sup> Lists of insurers or regulated companies are confidential and exempt from the provisions of s. 119.07(1) if:

1. The financial solvency, condition, or soundness of such insurers or regulated companies is being monitored by the department;
2. The list is prepared to internally coordinate regulation by the department of the financial solvency, condition, or soundness of the insurers or regulated companies; and
3. The Insurance Commissioner and Treasurer determine that public inspection of such list could impair the financial solvency, condition, or soundness of such insurers or regulated companies.

Section 2. The Legislature finds that the public records exemption created by this act is a public necessity in order to effectively and efficiently administer a government program. Disclosure of such information would reveal information that could be used in preparing examination reports and investigation reports, and could thus thwart the state's interest in ensuring the integrity of the regulatory process. Such confidential and exempt information is, by its nature, incomplete and could be misleading. Release of inaccurate or incomplete information could be detrimental to the persons and insurers examined or investigated. Furthermore, disclosure of such information would impair the ability of the department to gather information it needs to complete examinations and investigations because persons who would otherwise provide confidential information are unwilling to do so for fear that such information will not remain confidential.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor April 25, 2002.

Filed in Office Secretary of State April 25, 2002.