

House Bill No. 1939

An act relating to public records and public meetings; creating s. 627.06292, F.S.; creating an exemption from public records requirements for reports of hurricane loss data and associated exposure data that are specific to a particular insurance company; providing a definition; providing for review and repeal; providing a statement of public necessity; amending s. 627.0628, F.S.; creating an exemption from public records requirements for trade secrets used in designing and constructing hurricane loss models; creating an exemption from public meetings requirements for that portion of a meeting of the Florida Commission on Hurricane Loss Projection Methodology or of a rate proceeding wherein confidential and exempt trade secrets are discussed; providing for 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. Section 627.06292, Florida Statutes, is created to read:

627.06292 Reports of hurricane loss data and associated exposure data; public records exemption.—

(1) Reports of hurricane loss data and associated exposure data that are specific to a particular insurance company, as reported by an insurer or a licensed rating organization to the office or to a type I center at a state university pursuant to s. 627.06281, are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(2) For the purposes of this section, “loss data and associated exposure data” means the type, age, wind mitigation features, and location of each property insured; the amount and type of coverage written on each of those properties; the amount, date, and type of damage paid for by the insurer on each property; and the amount of any reserves held by an insurer for future payments or expenses on damages associated with the date or dates of occurrence of hurricanes.

(3) This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that reports of hurricane loss data and associated exposure data that are specific to a particular insurance company be made exempt from public records requirements. The Legislature finds that revealing such information could substantially harm insurers in the insurance market and give competitor insurers an unfair economic advantage. Hurricane loss data and associated exposure data of an insurer include the type and location of properties insured by an insurer, the amount of damage incurred by an insured, the amount a property is insured for, and the reserves an insurer has for future losses. This

information is of value to an insurer and would provide a competitive advantage if disclosed to another insurer. Information concerning the hurricane losses that are paid by an insurer for specific types and locations of homes is proprietary in nature. Such information could be used by a competitor to solicit business by offering lower prices based on the information gathered. As such, the Legislature finds that the exemption for reports of hurricane loss data and associated exposure data is a public necessity.

Section 3. Paragraph (e) is added to subsection (3) of section 627.0628, Florida Statutes, 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.—

(e)1. A trade secret, as defined in s. 812.081, that is used in designing and constructing a hurricane loss model and 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. 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.

3. 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, 2010, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 4. The Legislature finds that it is a public necessity that a trade secret, as defined in s. 812.081, Florida Statutes, that is used in designing and constructing a hurricane loss model and that is provided pursuant to law, by a private company, to the Florida Commission on Hurricane Loss Projection Methodology, the Office of Insurance Regulation, or an appointed consumer advocate be made confidential and exempt from public records requirements and be made exempt from public meetings requirements. Disclosing trade secrets would negatively impact the business interests of a private company that has invested substantial economic resources in developing the model, and competitor companies would gain an unfair competitive advantage if provided access to such information. Reliable projections of hurricane losses are necessary in order to ensure that rates for residential property insurance meet the statutory requirement that rates be neither excessive nor inadequate. This goal is served by enabling the Florida Commission on Hurricane Loss Projection Methodology, the Office of Insurance Regulation, and the consumer advocate appointed pursuant to s. 627.0613, Florida Statutes, to have access to all aspects of hurricane loss models, and encouraging private companies to submit such models to the commission, office, and consumer advocate for review without concern that trade secrets will be disclosed. In addition, the Legislature finds that it is a public necessity to protect trade secrets discussed during meetings or rate proceedings,

because release of such information via a public meeting or proceeding would defeat the purpose of the public records exemption and would allow competitors and other persons to attend those meetings and discover the protected trade secrets.

Section 5. This act shall take effect on the same date that HB 1937 or substantially 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 17, 2005.

Filed in Office Secretary of State June 17, 2005.