

ENROLLED
 HB 1939, Engrossed 1

2005 Legislature

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A bill to be entitled
 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

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29 office or to a type I center at a state university pursuant to
30 s. 627.06281, are exempt from s. 119.07(1) and s. 24(a), Art. I
31 of the State Constitution.

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

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42 repealed on October 2, 2010, unless reviewed and saved from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

44 Section 2. The Legislature finds that it is a public
45 necessity that reports of hurricane loss data and associated
46 exposure data that are specific to a particular insurance
47 company be made exempt from public records requirements. The
48 Legislature finds that revealing such information could
49 substantially harm insurers in the insurance market and give
50 competitor insurers an unfair economic advantage. Hurricane loss
51 data and associated exposure data of an insurer include the type
52 and location of properties insured by an insurer, the amount of
53 damage incurred by an insured, the amount a property is insured
54 for, and the reserves an insurer has for future losses. This
55 information is of value to an insurer and would provide a
56 competitive advantage if disclosed to another insurer.

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57 Information concerning the hurricane losses that are paid by an
58 insurer for specific types and locations of homes is proprietary
59 in nature. Such information could be used by a competitor to
60 solicit business by offering lower prices based on the
61 information gathered. As such, the Legislature finds that the
62 exemption for reports of hurricane loss data and associated
63 exposure data is a public necessity.

64 Section 3. Paragraph (e) is added to subsection (3) of
65 section 627.0628, Florida Statutes, to read:

66 627.0628 Florida Commission on Hurricane Loss Projection
67 Methodology; public records exemption; public meetings
68 exemption.--

69 (3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.--

70 (e)1. A trade secret, as defined in s. 812.081, that is
71 used in designing and constructing a hurricane loss model and
72 that is provided pursuant to this section, by a private company,
73 to the commission, office, or consumer advocate appointed
74 pursuant to s. 627.0613, is confidential and exempt from s.
75 119.07(1) and s. 24(a), Art. I of the State Constitution.

76 2. That portion of a meeting of the commission or of a
77 rate proceeding on an insurer's rate filing at which a trade
78 secret made confidential and exempt by this paragraph is
79 discussed is exempt from s. 286.011 and s. 24(b), Art. I of the
80 State Constitution.

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

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85 Section 4. The Legislature finds that it is a public
86 necessity that a trade secret, as defined in s. 812.081, Florida
87 Statutes, that is used in designing and constructing a hurricane
88 loss model and that is provided pursuant to law, by a private
89 company, to the Florida Commission on Hurricane Loss Projection
90 Methodology, the Office of Insurance Regulation, or an appointed
91 consumer advocate be made confidential and exempt from public
92 records requirements and be made exempt from public meetings
93 requirements. Disclosing trade secrets would negatively impact
94 the business interests of a private company that has invested
95 substantial economic resources in developing the model, and
96 competitor companies would gain an unfair competitive advantage
97 if provided access to such information. Reliable projections of
98 hurricane losses are necessary in order to ensure that rates for
99 residential property insurance meet the statutory requirement
100 that rates be neither excessive nor inadequate. This goal is
101 served by enabling the Florida Commission on Hurricane Loss
102 Projection Methodology, the Office of Insurance Regulation, and
103 the consumer advocate appointed pursuant to s. 627.0613, Florida
104 Statutes, to have access to all aspects of hurricane loss
105 models, and encouraging private companies to submit such models
106 to the commission, office, and consumer advocate for review
107 without concern that trade secrets will be disclosed. In
108 addition, the Legislature finds that it is a public necessity to
109 protect trade secrets discussed during meetings or rate
110 proceedings, because release of such information via a public
111 meeting or proceeding would defeat the purpose of the public
112 records exemption and would allow competitors and other persons

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113 | to attend those meetings and discover the protected trade
114 | secrets.

115 | Section 5. This act shall take effect on the same date
116 | that HB 1937 or substantially similar legislation takes effect,
117 | if such legislation is adopted in the same legislative session
118 | or an extension thereof and becomes a law.