



Sen. Antonio Muñoz

Adopted in Senate on Oct 29, 2019

10100SB0670sam001

LRB101 04430 BMS 64149 a

1 AMENDMENT TO SENATE BILL 670

2 AMENDMENT NO. _____. Amend Senate Bill 670 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Freedom of Information Act is amended by
5 changing Section 7.5 as follows:

6 (5 ILCS 140/7.5)

7 Sec. 7.5. Statutory exemptions. To the extent provided for
8 by the statutes referenced below, the following shall be exempt
9 from inspection and copying:

10 (a) All information determined to be confidential
11 under Section 4002 of the Technology Advancement and
12 Development Act.

13 (b) Library circulation and order records identifying
14 library users with specific materials under the Library
15 Records Confidentiality Act.

16 (c) Applications, related documents, and medical

1 records received by the Experimental Organ Transplantation
2 Procedures Board and any and all documents or other records
3 prepared by the Experimental Organ Transplantation
4 Procedures Board or its staff relating to applications it
5 has received.

6 (d) Information and records held by the Department of
7 Public Health and its authorized representatives relating
8 to known or suspected cases of sexually transmissible
9 disease or any information the disclosure of which is
10 restricted under the Illinois Sexually Transmissible
11 Disease Control Act.

12 (e) Information the disclosure of which is exempted
13 under Section 30 of the Radon Industry Licensing Act.

14 (f) Firm performance evaluations under Section 55 of
15 the Architectural, Engineering, and Land Surveying
16 Qualifications Based Selection Act.

17 (g) Information the disclosure of which is restricted
18 and exempted under Section 50 of the Illinois Prepaid
19 Tuition Act.

20 (h) Information the disclosure of which is exempted
21 under the State Officials and Employees Ethics Act, and
22 records of any lawfully created State or local inspector
23 general's office that would be exempt if created or
24 obtained by an Executive Inspector General's office under
25 that Act.

26 (i) Information contained in a local emergency energy

1 plan submitted to a municipality in accordance with a local
2 emergency energy plan ordinance that is adopted under
3 Section 11-21.5-5 of the Illinois Municipal Code.

4 (j) Information and data concerning the distribution
5 of surcharge moneys collected and remitted by carriers
6 under the Emergency Telephone System Act.

7 (k) Law enforcement officer identification information
8 or driver identification information compiled by a law
9 enforcement agency or the Department of Transportation
10 under Section 11-212 of the Illinois Vehicle Code.

11 (l) Records and information provided to a residential
12 health care facility resident sexual assault and death
13 review team or the Executive Council under the Abuse
14 Prevention Review Team Act.

15 (m) Information provided to the predatory lending
16 database created pursuant to Article 3 of the Residential
17 Real Property Disclosure Act, except to the extent
18 authorized under that Article.

19 (n) Defense budgets and petitions for certification of
20 compensation and expenses for court appointed trial
21 counsel as provided under Sections 10 and 15 of the Capital
22 Crimes Litigation Act. This subsection (n) shall apply
23 until the conclusion of the trial of the case, even if the
24 prosecution chooses not to pursue the death penalty prior
25 to trial or sentencing.

26 (o) Information that is prohibited from being

1 disclosed under Section 4 of the Illinois Health and
2 Hazardous Substances Registry Act.

3 (p) Security portions of system safety program plans,
4 investigation reports, surveys, schedules, lists, data, or
5 information compiled, collected, or prepared by or for the
6 Regional Transportation Authority under Section 2.11 of
7 the Regional Transportation Authority Act or the St. Clair
8 County Transit District under the Bi-State Transit Safety
9 Act.

10 (q) Information prohibited from being disclosed by the
11 Personnel Record Review Act.

12 (r) Information prohibited from being disclosed by the
13 Illinois School Student Records Act.

14 (s) Information the disclosure of which is restricted
15 under Section 5-108 of the Public Utilities Act.

16 (t) All identified or deidentified health information
17 in the form of health data or medical records contained in,
18 stored in, submitted to, transferred by, or released from
19 the Illinois Health Information Exchange, and identified
20 or deidentified health information in the form of health
21 data and medical records of the Illinois Health Information
22 Exchange in the possession of the Illinois Health
23 Information Exchange Authority due to its administration
24 of the Illinois Health Information Exchange. The terms
25 "identified" and "deidentified" shall be given the same
26 meaning as in the Health Insurance Portability and

1 Accountability Act of 1996, Public Law 104-191, or any
2 subsequent amendments thereto, and any regulations
3 promulgated thereunder.

4 (u) Records and information provided to an independent
5 team of experts under the Developmental Disability and
6 Mental Health Safety Act (also known as Brian's Law).

7 (v) Names and information of people who have applied
8 for or received Firearm Owner's Identification Cards under
9 the Firearm Owners Identification Card Act or applied for
10 or received a concealed carry license under the Firearm
11 Concealed Carry Act, unless otherwise authorized by the
12 Firearm Concealed Carry Act; and databases under the
13 Firearm Concealed Carry Act, records of the Concealed Carry
14 Licensing Review Board under the Firearm Concealed Carry
15 Act, and law enforcement agency objections under the
16 Firearm Concealed Carry Act.

17 (w) Personally identifiable information which is
18 exempted from disclosure under subsection (g) of Section
19 19.1 of the Toll Highway Act.

20 (x) Information which is exempted from disclosure
21 under Section 5-1014.3 of the Counties Code or Section
22 8-11-21 of the Illinois Municipal Code.

23 (y) Confidential information under the Adult
24 Protective Services Act and its predecessor enabling
25 statute, the Elder Abuse and Neglect Act, including
26 information about the identity and administrative finding

1 against any caregiver of a verified and substantiated
2 decision of abuse, neglect, or financial exploitation of an
3 eligible adult maintained in the Registry established
4 under Section 7.5 of the Adult Protective Services Act.

5 (z) Records and information provided to a fatality
6 review team or the Illinois Fatality Review Team Advisory
7 Council under Section 15 of the Adult Protective Services
8 Act.

9 (aa) Information which is exempted from disclosure
10 under Section 2.37 of the Wildlife Code.

11 (bb) Information which is or was prohibited from
12 disclosure by the Juvenile Court Act of 1987.

13 (cc) Recordings made under the Law Enforcement
14 Officer-Worn Body Camera Act, except to the extent
15 authorized under that Act.

16 (dd) Information that is prohibited from being
17 disclosed under Section 45 of the Condominium and Common
18 Interest Community Ombudsperson Act.

19 (ee) Information that is exempted from disclosure
20 under Section 30.1 of the Pharmacy Practice Act.

21 (ff) Information that is exempted from disclosure
22 under the Revised Uniform Unclaimed Property Act.

23 (gg) Information that is prohibited from being
24 disclosed under Section 7-603.5 of the Illinois Vehicle
25 Code.

26 (hh) Records that are exempt from disclosure under

1 Section 1A-16.7 of the Election Code.

2 (ii) Information which is exempted from disclosure
3 under Section 2505-800 of the Department of Revenue Law of
4 the Civil Administrative Code of Illinois.

5 (jj) Information and reports that are required to be
6 submitted to the Department of Labor by registering day and
7 temporary labor service agencies but are exempt from
8 disclosure under subsection (a-1) of Section 45 of the Day
9 and Temporary Labor Services Act.

10 (kk) Information prohibited from disclosure under the
11 Seizure and Forfeiture Reporting Act.

12 (ll) Information the disclosure of which is restricted
13 and exempted under Section 5-30.8 of the Illinois Public
14 Aid Code.

15 (mm) Records that are exempt from disclosure under
16 Section 4.2 of the Crime Victims Compensation Act.

17 (nn) Information that is exempt from disclosure under
18 Section 70 of the Higher Education Student Assistance Act.

19 (oo) Communications, notes, records, and reports
20 arising out of a peer support counseling session prohibited
21 from disclosure under the First Responders Suicide
22 Prevention Act.

23 (pp) Names and all identifying information relating to
24 an employee of an emergency services provider or law
25 enforcement agency under the First Responders Suicide
26 Prevention Act.

1 (qq) ~~(oo)~~ Information and records held by the
2 Department of Public Health and its authorized
3 representatives collected under the Reproductive Health
4 Act.

5 (rr) ~~(oo)~~ Information that is exempt from disclosure
6 under the Cannabis Regulation and Tax Act.

7 (ss) ~~(oo)~~ Data reported by an employer to the
8 Department of Human Rights pursuant to Section 2-108 of the
9 Illinois Human Rights Act.

10 (tt) ~~(oo)~~ Recordings made under the Children's
11 Advocacy Center Act, except to the extent authorized under
12 that Act.

13 (uu) ~~(oo)~~ Information that is exempt from disclosure
14 under Section 50 of the Sexual Assault Evidence Submission
15 Act.

16 (vv) ~~(oo)~~ Information that is exempt from disclosure
17 under subsections (f) and (j) of Section 5-36 of the
18 Illinois Public Aid Code.

19 (ww) ~~(oo)~~ Information that is exempt from disclosure
20 under Section 16.8 of the State Treasurer Act.

21 (xx) Information that is exempt from disclosure or
22 information that shall not be made public under the
23 Illinois Insurance Code.

24 (Source: P.A. 100-20, eff. 7-1-17; 100-22, eff. 1-1-18;
25 100-201, eff. 8-18-17; 100-373, eff. 1-1-18; 100-464, eff.
26 8-28-17; 100-465, eff. 8-31-17; 100-512, eff. 7-1-18; 100-517,

1 eff. 6-1-18; 100-646, eff. 7-27-18; 100-690, eff. 1-1-19;
2 100-863, eff. 8-14-18; 100-887, eff. 8-14-18; 101-13, eff.
3 6-12-19; 101-27, eff. 6-25-19; 101-81, eff. 7-12-19; 101-221,
4 eff. 1-1-20; 101-236, eff. 1-1-20; 101-375, eff. 8-16-19;
5 101-377, eff. 8-16-19; 101-452, eff. 1-1-20; 101-466, eff.
6 1-1-20; revised 9-25-19.)

7 Section 10. The Illinois Insurance Code is amended by
8 adding Article VIII.33 as follows:

9 (215 ILCS 5/Art. VIII.33 heading new)

10 ARTICLE VIII 1/3. Corporate Governance Annual Disclosure Law

11 (215 ILCS 5/130.1 new)

12 Sec. 130.1. Short title. This Article may be cited as the
13 Corporate Governance Annual Disclosure Law.

14 (215 ILCS 5/130.2 new)

15 Sec. 130.2. Purpose and scope. The purpose of this Article
16 is to:

17 (1) provide the Director a summary of an insurer's or
18 insurance group's corporate governance structure,
19 policies, and practices to permit the Director to gain and
20 maintain an understanding of the insurer's corporate
21 governance framework;

22 (2) outline the requirements for completing a

1 corporate governance annual disclosure with the Director;

2 (3) provide for the confidential treatment of the
3 corporate governance annual disclosure and related
4 information that will contain confidential and sensitive
5 information related to an insurer's or insurance group's
6 internal operations and proprietary and trade-secret
7 information that, if made public, could potentially cause
8 the insurer or insurance group competitive harm or
9 disadvantage.

10 Nothing in this Article shall be construed to prescribe or
11 impose corporate governance standards and internal procedures
12 beyond that which is required under applicable State corporate
13 law. Notwithstanding the foregoing, nothing in this Article
14 shall be construed to limit the Director's authority or the
15 rights or obligations of third parties under Sections 131.21,
16 132 through 132.7, and 401 through 403. The requirements of
17 this Article apply to all insurers domiciled in this State.

18 (215 ILCS 5/130.3 new)

19 Sec. 130.3. Definitions. As used in this Article:

20 "Director" means the Director of Insurance.

21 "Corporate governance annual disclosure" means a
22 confidential report filed by the insurer or insurance group
23 made in accordance with the requirements of this Article.

24 "Insurance group" means those insurers and affiliates
25 included within an insurance holding company system as defined

1 in Section 131.1.

2 "Insurer" has the same meaning given to that term in
3 Section 2, except that it does not include agencies,
4 authorities, or instrumentalities of the United States, its
5 possessions and territories, the Commonwealth of Puerto Rico,
6 the District of Columbia, or a state or political subdivision
7 of a state.

8 "ORSA summary report" means the own risk and solvency
9 assessment report filed in accordance with Article VIII 1/4.

10 (215 ILCS 5/130.4 new)

11 Sec. 130.4. Disclosure requirement.

12 (a) An insurer, or the insurance group of which the insurer
13 is a member, shall, no later than June 1 of each calendar year,
14 submit to the Director a corporate governance annual disclosure
15 that contains the information described in subsection (b) of
16 Section 130.5. Notwithstanding any request from the Director
17 made pursuant to subsection (c), if the insurer is a member of
18 an insurance group, the insurer shall submit the report
19 required by this Section to the Director of the lead state for
20 the insurance group, in accordance with the laws of the lead
21 state, as determined by the procedures outlined in the most
22 recent Financial Analysis Handbook adopted by the National
23 Association of Insurance Commissioners.

24 (b) The corporate governance annual disclosure must
25 include a signature of the insurer's or insurance group's chief

1 executive officer or corporate secretary attesting to the best
2 of that individual's belief and knowledge that the insurer has
3 implemented the corporate governance practices required by
4 this Section and that a copy of the disclosure has been
5 provided to the insurer's board of directors or the appropriate
6 committee thereof.

7 (c) An insurer not required to submit a corporate
8 governance annual disclosure under this Section shall do so
9 upon the Director's request.

10 (d) For purposes of completing the corporate governance
11 annual disclosure, the insurer or insurance group may provide
12 information regarding corporate governance at the ultimate
13 controlling parent level, an intermediate holding company
14 level, or the individual legal entity level, depending upon how
15 the insurer or insurance group has structured its system of
16 corporate governance. The insurer or insurance group is
17 encouraged to make the corporate governance annual disclosure
18 at the level at which the insurer's or insurance group's risk
19 appetite is determined, the level at which the earnings,
20 capital, liquidity, operations, and reputation of the insurer
21 are overseen collectively and at which the supervision of those
22 factors is coordinated and exercised, or the level at which
23 legal liability for failure of general corporate governance
24 duties would be placed. If the insurer or insurance group
25 determines the level of reporting based on these criteria, it
26 shall indicate which of the 3 criteria was used to determine

1 the level of reporting and explain any subsequent changes in
2 the level of reporting.

3 (e) The review of the corporate governance annual
4 disclosure and any additional requests for information shall be
5 made through the lead state as determined by the procedures
6 within the most recent Financial Analysis Handbook adopted by
7 the National Association of Insurance Commissioners.

8 (f) Insurers providing information substantially similar
9 to the information required by this Article in other documents
10 provided to the Director, including proxy statements filed in
11 conjunction with the requirements of Section 131.13 or other
12 State or federal filings provided to the Department, are not
13 required to duplicate that information in the corporate
14 governance annual disclosure but are only required to
15 cross-reference the document in which the information is
16 included.

17 (215 ILCS 5/130.5 new)

18 Sec. 130.5. Contents of corporate governance annual
19 disclosure.

20 (a) The insurer or insurance group has discretion over the
21 responses to the corporate governance annual disclosure
22 inquiries if the corporate governance annual disclosure
23 contains the material information necessary to permit the
24 Director to gain an understanding of the insurer's or insurance
25 group's corporate governance structure, policies, and

1 practices. The Director may request additional information
2 that he or she deems material and necessary to provide the
3 Director with a clear understanding of the corporate governance
4 policies, the reporting or information system, or controls
5 implementing those policies.

6 (b) Notwithstanding subsection (a), the corporate
7 governance annual disclosure shall be prepared in a manner
8 consistent with rules adopted by the Director. Documentation
9 and supporting information shall be maintained and made
10 available upon examination or upon the request of the Director.

11 (c) The Director may retain, at the insurer's expense,
12 third-party consultants, including attorneys, actuaries,
13 accountants, and other experts not otherwise a part of the
14 Director's staff, as may be reasonably necessary to assist the
15 Director in reviewing the corporate governance annual
16 disclosure and related information or the insurer's compliance
17 with this Article. Any persons retained shall be under the
18 direction and control of the Director and shall act only in an
19 advisory capacity.

20 (215 ILCS 5/130.6 new)

21 Sec. 130.6. Confidentiality.

22 (a) Documents, materials, or other information, including
23 the corporate governance annual disclosure, in the possession
24 or control of the Department that are obtained by, created by,
25 or disclosed to the Director or any other person under this

1 Article are recognized by this State as being proprietary and
2 to contain trade secrets. All such documents, materials, or
3 other information shall be confidential by law and privileged,
4 shall not be subject to the Freedom of Information Act, shall
5 not be subject to subpoena, and shall not be subject to
6 discovery or admissible in evidence in any private civil
7 action. However, the Director is authorized to use the
8 documents, materials, or other information in furtherance of
9 any regulatory or legal action brought as a part of the
10 Director's official duties. The Director shall not otherwise
11 make the documents, materials, or other information public
12 without the prior written consent of the insurer.

13 (b) Neither the Director nor any person who received
14 documents, materials, or other corporate governance annual
15 disclosure-related information through examination or
16 otherwise, while acting under the authority of the Director or
17 with whom such documents, materials, or other information are
18 shared pursuant to this Article, shall be permitted or required
19 to testify in any private civil action concerning any
20 confidential documents, materials, or information subject to
21 subsection (a).

22 (c) In order to assist in the performance of the Director's
23 regulatory duties, the Director may:

24 (1) upon request, share documents, materials, or other
25 corporate governance annual disclosure-related
26 information, including the confidential and privileged

1 documents, materials, and information subject to
2 subsection (a), including proprietary and trade-secret
3 documents and materials with other state, federal, and
4 international financial regulatory agencies, including
5 members of any supervisory college as defined in subsection
6 (c) of Section 131.20, with the National Association of
7 Insurance Commissioners, and with third-party consultants,
8 if the recipient agrees in writing to maintain the
9 confidentiality and privileged status of the corporate
10 governance annual disclosure-related documents, materials,
11 or other information and has verified in writing the legal
12 authority to maintain confidentiality; and

13 (2) receive documents, materials, or other corporate
14 governance annual disclosure-related information,
15 including otherwise confidential and privileged documents,
16 materials, and information, including proprietary and
17 trade-secret information and documents from regulatory
18 officials of other state, federal, and international
19 financial regulatory agencies, including members of any
20 supervisory college as defined in subsection (c) of Section
21 131.20, and from the National Association of Insurance
22 Commissioners, and shall maintain as confidential or
23 privileged any documents, materials, or information
24 received with notice or the understanding that it is
25 confidential or privileged under the laws of the
26 jurisdiction that is the source of the document, material,

1 or information.

2 (d) A written agreement with the National Association of
3 Insurance Commissioners or a third-party consultant governing
4 sharing and use of information provided pursuant to this
5 Article shall:

6 (1) include specific procedures and protocols for
7 maintaining the confidentiality and security of corporate
8 governance annual disclosure-related information shared
9 with the National Association of Insurance Commissioners
10 or a third-party consultant pursuant to this Article,
11 including procedures and protocols for sharing by the
12 National Association of Insurance Commissioners only with
13 other state regulators from states in which the insurance
14 group has domiciled insurers; the agreement shall provide
15 that the recipient agrees in writing to maintain the
16 confidentiality and privileged status of the corporate
17 governance annual disclosure-related documents, materials,
18 or other information and has verified in writing the legal
19 authority to maintain confidentiality;

20 (2) specify that ownership of the corporate governance
21 annual disclosure-related information shared with the
22 National Association of Insurance Commissioners or a
23 third-party consultant remains with the Director and that
24 the National Association of Insurance Commissioners' or
25 third-party consultant's use of the information is subject
26 to the direction of the Director;

1 (3) prohibit the National Association of Insurance
2 Commissioners or a third-party consultant from storing the
3 information shared pursuant to this Article in a permanent
4 database after the underlying analysis is completed;

5 (4) require the National Association of Insurance
6 Commissioners or a third-party consultant to provide
7 prompt notice to the Director and to the insurer or
8 insurance group regarding any subpoena, request for
9 disclosure, or request for production of the insurer's or
10 insurance group's corporate governance annual
11 disclosure-related information;

12 (5) require the National Association of Insurance
13 Commissioners or a third-party consultant to consent to
14 intervention by an insurer in any judicial or
15 administrative action in which the National Association of
16 Insurance Commissioners or a third-party consultant may be
17 required to disclose confidential information about the
18 insurer shared with the National Association of Insurance
19 Commissioners or a third-party consultant pursuant to this
20 Article; and

21 (6) require the National Association of Insurance
22 Commissioners or a third-party consultant to obtain
23 written consent of the insurer before making any of the
24 insurer's corporate governance annual disclosure-related
25 information public.

26 (e) The sharing of information and documents by the

1 Director pursuant to this Article shall not constitute a
2 delegation of regulatory authority or rulemaking, and the
3 Director is solely responsible for the administration,
4 execution, and enforcement of this Article.

5 (f) No waiver of any applicable privilege or claim of
6 confidentiality in the documents, proprietary and trade-secret
7 materials, or other corporate governance annual
8 disclosure-related information shall occur as a result of
9 disclosure of such information or documents to the Director
10 under this Section or as a result of sharing as authorized in
11 this Article.

12 (g) Documents, materials, or other information in the
13 possession or control of the National Association of Insurance
14 Commissioners or any third-party consultants pursuant to this
15 Article shall be confidential by law and privileged, shall not
16 be subject to the Freedom of Information Act, shall not be
17 subject to subpoena, and shall not be subject to discovery or
18 admissible in evidence in any private civil action.

19 (215 ILCS 5/130.7 new)

20 Sec. 130.7. Sanctions. Any insurer failing, without just
21 cause, to timely file the corporate governance annual
22 disclosure as required in this Article shall be required, after
23 notice and a hearing, to pay a penalty of \$200 for each day's
24 delay, to be recovered by the Director. Any penalty recovered
25 shall be paid into the General Revenue Fund. The Director may

1 reduce the penalty if the insurer demonstrates to the Director
2 that the imposition of the penalty would constitute a financial
3 hardship to the insurer.

4 Section 99. Effective date. This Act takes effect upon
5 becoming law.".