

1 A bill to be entitled
 2 An act relating to public records; amending s. 119.07,
 3 F.S.; requiring that requests to inspect or copy
 4 records in the custody of a law enforcement agency be
 5 made to a certain individual; amending s. 497.140,
 6 F.S.; correcting a cross-reference; amending ss.
 7 627.311 and 627.351, F.S.; conforming cross-
 8 references; providing an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Paragraphs (c) through (i) of subsection (1) of
 13 section 119.07, Florida Statutes, are redesignated as paragraphs
 14 (d) through (j), respectively, and a new paragraph (c) is added
 15 to that subsection, to read:

16 119.07 Inspection and copying of records; photographing
 17 public records; fees; exemptions.—

18 (1)

19 (c) A request to inspect or copy public records in the
 20 custody of a law enforcement agency must be made directly to the
 21 head of the agency or, if the head of the agency has designated
 22 another individual to permit the inspection or copying of public
 23 records, to his or her designee.

24 Section 2. Subsection (5) of section 497.140, Florida
 25 Statutes, is amended to read:

26 | 497.140 Fees.—

27 | (5) The department shall charge a fee not to exceed \$25
 28 | for the certification of a public record. The fee shall be
 29 | determined by rule of the department. The department shall
 30 | assess a fee for duplication of a public record as provided in
 31 | s. 119.07(4) ~~119.07(1)(a) and (e)~~.

32 | Section 3. Paragraph (b) of subsection (4) of section
 33 | 627.311, Florida Statutes, is amended to read:

34 | 627.311 Joint underwriters and joint reinsurers; public
 35 | records and public meetings exemptions.—

36 | (4) The Florida Automobile Joint Underwriting Association:

37 | (b) Shall keep portions of association meetings during
 38 | which confidential and exempt underwriting files or confidential
 39 | and exempt claims files are discussed exempt from the provisions
 40 | of s. 286.011 and s. 24(b), Art. I of the State Constitution.
 41 | All closed portions of association meetings shall be recorded by
 42 | a court reporter. The court reporter shall record the times of
 43 | commencement and termination of the meeting, all discussion and
 44 | proceedings, the names of all persons present at any time, and
 45 | the names of all persons speaking. No portion of any closed
 46 | meeting shall be off the record. Subject to the provisions of
 47 | this paragraph and s. 119.07(1)(e)-(g) ~~119.07(1)(d)-(f)~~, the
 48 | court reporter's notes of any closed meeting shall be retained
 49 | by the association for a minimum of 5 years. A copy of the
 50 | transcript, less any confidential and exempt information, of any

51 closed meeting during which confidential and exempt claims files
52 are discussed shall become public as to individual claims files
53 after settlement of that claim.

54 Section 4. Paragraph (x) of subsection (6) of section
55 627.351, Florida Statutes, is amended to read:

56 627.351 Insurance risk apportionment plans.—

57 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

58 (x)1. The following records of the corporation are
59 confidential and exempt from the provisions of s. 119.07(1) and
60 s. 24(a), Art. I of the State Constitution:

61 a. Underwriting files, except that a policyholder or an
62 applicant shall have access to his or her own underwriting
63 files. Confidential and exempt underwriting file records may
64 also be released to other governmental agencies upon written
65 request and demonstration of need; such records held by the
66 receiving agency remain confidential and exempt as provided
67 herein.

68 b. Claims files, until termination of all litigation and
69 settlement of all claims arising out of the same incident,
70 although portions of the claims files may remain exempt, as
71 otherwise provided by law. Confidential and exempt claims file
72 records may be released to other governmental agencies upon
73 written request and demonstration of need; such records held by
74 the receiving agency remain confidential and exempt as provided
75 herein.

76 c. Records obtained or generated by an internal auditor
77 pursuant to a routine audit, until the audit is completed, or if
78 the audit is conducted as part of an investigation, until the
79 investigation is closed or ceases to be active. An investigation
80 is considered "active" while the investigation is being
81 conducted with a reasonable, good faith belief that it could
82 lead to the filing of administrative, civil, or criminal
83 proceedings.

84 d. Matters reasonably encompassed in privileged attorney-
85 client communications.

86 e. Proprietary information licensed to the corporation
87 under contract and the contract provides for the confidentiality
88 of such proprietary information.

89 f. All information relating to the medical condition or
90 medical status of a corporation employee which is not relevant
91 to the employee's capacity to perform his or her duties, except
92 as otherwise provided in this paragraph. Information that is
93 exempt shall include, but is not limited to, information
94 relating to workers' compensation, insurance benefits, and
95 retirement or disability benefits.

96 g. Upon an employee's entrance into the employee
97 assistance program, a program to assist any employee who has a
98 behavioral or medical disorder, substance abuse problem, or
99 emotional difficulty that affects the employee's job
100 performance, all records relative to that participation shall be

101 confidential and exempt from the provisions of s. 119.07(1) and
102 s. 24(a), Art. I of the State Constitution, except as otherwise
103 provided in s. 112.0455(11).

104 h. Information relating to negotiations for financing,
105 reinsurance, depopulation, or contractual services, until the
106 conclusion of the negotiations.

107 i. Minutes of closed meetings regarding underwriting
108 files, and minutes of closed meetings regarding an open claims
109 file until termination of all litigation and settlement of all
110 claims with regard to that claim, except that information
111 otherwise confidential or exempt by law shall be redacted.

112 2. If an authorized insurer is considering underwriting a
113 risk insured by the corporation, relevant underwriting files and
114 confidential claims files may be released to the insurer
115 provided the insurer agrees in writing, notarized and under
116 oath, to maintain the confidentiality of such files. If a file
117 is transferred to an insurer, that file is no longer a public
118 record because it is not held by an agency subject to the
119 provisions of the public records law. Underwriting files and
120 confidential claims files may also be released to staff and the
121 board of governors of the market assistance plan established
122 pursuant to s. 627.3515, who must retain the confidentiality of
123 such files, except such files may be released to authorized
124 insurers that are considering assuming the risks to which the
125 files apply, provided the insurer agrees in writing, notarized

126 and under oath, to maintain the confidentiality of such files.
127 Finally, the corporation or the board or staff of the market
128 assistance plan may make the following information obtained from
129 underwriting files and confidential claims files available to an
130 entity that has obtained a permit to become an authorized
131 insurer, a reinsurer that may provide reinsurance under s.
132 624.610, a licensed reinsurance broker, a licensed rating
133 organization, a modeling company, or a licensed general lines
134 insurance agent: name, address, and telephone number of the
135 residential property owner or insured; location of the risk;
136 rating information; loss history; and policy type. The receiving
137 person must retain the confidentiality of the information
138 received and may use the information only for the purposes of
139 developing a take-out plan or a rating plan to be submitted to
140 the office for approval or otherwise analyzing the underwriting
141 of a risk or risks insured by the corporation on behalf of the
142 private insurance market. A licensed general lines insurance
143 agent may not use such information for the direct solicitation
144 of policyholders.

145 3. A policyholder who has filed suit against the
146 corporation has the right to discover the contents of his or her
147 own claims file to the same extent that discovery of such
148 contents would be available from a private insurer in litigation
149 as provided by the Florida Rules of Civil Procedure, the Florida
150 Evidence Code, and other applicable law. Pursuant to subpoena, a

151 third party has the right to discover the contents of an
152 insured's or applicant's underwriting or claims file to the same
153 extent that discovery of such contents would be available from a
154 private insurer by subpoena as provided by the Florida Rules of
155 Civil Procedure, the Florida Evidence Code, and other applicable
156 law, and subject to any confidentiality protections requested by
157 the corporation and agreed to by the seeking party or ordered by
158 the court. The corporation may release confidential underwriting
159 and claims file contents and information as it deems necessary
160 and appropriate to underwrite or service insurance policies and
161 claims, subject to any confidentiality protections deemed
162 necessary and appropriate by the corporation.

163 4. Portions of meetings of the corporation are exempt from
164 the provisions of s. 286.011 and s. 24(b), Art. I of the State
165 Constitution wherein confidential underwriting files or
166 confidential open claims files are discussed. All portions of
167 corporation meetings which are closed to the public shall be
168 recorded by a court reporter. The court reporter shall record
169 the times of commencement and termination of the meeting, all
170 discussion and proceedings, the names of all persons present at
171 any time, and the names of all persons speaking. No portion of
172 any closed meeting shall be off the record. Subject to the
173 provisions hereof and s. 119.07(1)(e)-(g) ~~119.07(1)(d)-(f)~~, the
174 court reporter's notes of any closed meeting shall be retained
175 by the corporation for a minimum of 5 years. A copy of the

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176 | transcript, less any exempt matters, of any closed meeting
177 | wherein claims are discussed shall become public as to
178 | individual claims after settlement of the claim.

179 | Section 5. This act shall take effect July 1, 2017.