

By the Committee on Insurance and Representative Gannon

1                                   A bill to be entitled  
2           An act relating to public records; providing an  
3           exemption from public records requirements for  
4           records of insurers subject to delinquency  
5           proceedings; providing for future review and  
6           repeal; providing a finding of public  
7           necessity; providing a contingent effective  
8           date.

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

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12           Section 1. (1) The following records, in whatever  
13 form, of an insurer subject to delinquency proceedings  
14 pursuant to chapter 631, Florida Statutes, made or received by  
15 the Department of Insurance, acting as receiver pursuant to  
16 chapter 631, Florida Statutes, or by a guaranty association  
17 established pursuant to chapter 631, Florida Statutes, are  
18 exempt from the provisions of s. 119.07(1), Florida Statutes,  
19 and Section 24(a), Article I of the State Constitution:

20           (a) Underwriting files of a type customarily  
21 maintained by an insurer transacting lines of insurance  
22 similar to those lines transacted by the insurer subject to  
23 delinquency proceedings.

24           (b) Records of the receiver, or a guaranty  
25 association, of, or with respect to, the insurer that would be  
26 privileged against discovery in the hands of the insurer under  
27 Rule 1.280(b), Florida Rules of Civil Procedure, or other  
28 applicable rule or law, but for the appointment of the  
29 receiver.

30           (c) All medical records.  
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1       (d) Nonmanagerial personnel and payroll records of the  
2 insurer.

3       (e) Claims information that identifies an insured or a  
4 claimant.

5       (2) This section is subject to the Open Government  
6 Sunset Review Act of 1995 in accordance with s. 119.15,  
7 Florida Statutes, and shall stand repealed on October 2, 2006,  
8 unless reviewed and saved from repeal through reenactment by  
9 the Legislature.

10       (3) The Legislature finds that it is a public  
11 necessity to protect certain records of an insurer subject to  
12 delinquency proceedings from public disclosure, which  
13 justifies exempting such records from the constitutional and  
14 statutory provisions of this state favoring public disclosure.  
15 These records include customary underwriting files, claims  
16 files, and medical files of the insurer which contain  
17 sensitive personal information regarding insured persons and  
18 claimants. The records contain attorney work product and  
19 information privileged under other applicable law. Disclosure  
20 of information not otherwise available pursuant to the  
21 applicable rules of civil procedure or privileged under other  
22 applicable law puts the receiver and guaranty associations at  
23 a disadvantage in legal proceedings which are intended to  
24 maximize the value of the estate of a delinquent insurer and  
25 thereby afford insured persons and creditors of the insurer  
26 greater recoveries through delinquency proceedings. The  
27 Legislature finds that making otherwise undiscoverable records  
28 available to the public would prejudice claimants with legal  
29 entitlement to proceeds of the receivership estate by  
30 undermining the legitimate receivership function of maximizing  
31 the value of the estate for the benefit of such claimants.

1 Personnel and payroll records of nonmanagerial personnel of  
2 the insurer contain sensitive personal information that should  
3 be exempt from public disclosure.

4           Section 2. This act shall take effect October 1, 2001,  
5 if HB 1101 or similar legislation is adopted in the same  
6 legislative session or an extension thereof and becomes law.

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