

By the Committee on Insurance and Representatives Gannon  
and Kallinger

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 or protected against discovery in the hands of the  
27 insurer under Rule 1.280(b), Florida Rules of Civil Procedure,  
28 or other applicable rule or law, but for the appointment of  
29 the receiver.

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

3       (e) Information in claims files that identifies an  
4 insured or a 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7 Florida Statutes, and shall stand repealed on October 2, 2007,  
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 exempt certain records of an insurer subject to  
12 delinquency proceedings from public disclosure. These records  
13 include customary underwriting files, claims files, and  
14 medical files of the insurer which contain sensitive personal  
15 information regarding insured persons and claimants. The  
16 records contain attorney work product and information  
17 privileged under other applicable law. Disclosure of  
18 information not otherwise available pursuant to the applicable  
19 rules of civil procedure or privileged under other applicable  
20 law puts the receiver and guaranty associations at a  
21 disadvantage in legal proceedings which are intended to  
22 maximize the value of the estate of a delinquent insurer and  
23 thereby afford insured persons and creditors of the insurer  
24 greater recoveries through delinquency proceedings. The  
25 Legislature finds that making otherwise undiscoverable records  
26 available to the public would prejudice claimants with legal  
27 entitlement to proceeds of the receivership estate by  
28 undermining the legitimate receivership function of maximizing  
29 the value of the estate for the benefit of such claimants.  
30 Personnel and payroll records of nonmanagerial personnel of  
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1 the insurer contain sensitive personal information that should  
2 be exempt from public disclosure.

3           Section 2. This act shall take effect October 1, 2002,  
4 if HB 193 or similar legislation is adopted in the same  
5 legislative session or an extension thereof and becomes law.

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8                           HOUSE SUMMARY

9  
10 Provides an exemption from public records requirements  
11 for records that come into the possession of the  
Department of Insurance during insurer receivership  
proceedings. Provides for future review and repeal.

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