

By Senator Klein

28-529-02

See HB 195

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A bill to be entitled

An act relating to public records; providing an exemption from public records requirements for records of insurers subject to delinquency proceedings; providing for future review and repeal; providing a finding of public necessity; providing a contingent effective date.

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

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

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

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

(c) All medical records.

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 section 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7 Florida Statutes, and shall stand repealed on October 2, 2007,  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 SB           or similar legislation is adopted in the same  
5 legislative session or an extension thereof and becomes law.

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8                           LEGISLATIVE SUMMARY

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

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