

By the Committee on Banking and Insurance; and Senator Klein

311-1063-02

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 section 119.07(1), Florida
19 Statutes, and Section 24(a), Article I of the State
20 Constitution:

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

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

31 (c) All medical records.

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 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7 Florida Statutes, and shall stand repealed on October 2, 2007,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 Committee Substitute for Senate Bill 432 or similar
5 legislation is adopted in the same legislative session or an
6 extension thereof and becomes law.

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8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 SB 430

11 Expands the exemption relating to information that is not
12 otherwise subject to discovery from "privileged" information
to "privileged or protected" information.

13 Revises the language that creates an exemption for personally
14 identifying claims.

15 Inserts the bill number (CS/SB 432) to which this bill is
16 linked for purposes of the contingent effective date already
contained in the bill.

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