

By Senator Atwater

25-1654-04

See HB 565

1                                   A bill to be entitled  
 2           An act relating to public records and meetings  
 3           exemptions; creating s. 624.465, F.S.;  
 4           exempting from public records and public  
 5           meetings requirements certain records of the  
 6           Florida Self-Insurers Guaranty Association,  
 7           Incorporated, and meetings of the board of  
 8           directors of the association; providing for  
 9           future legislative review and repeal; providing  
 10          findings of public necessity; providing an  
 11          effective date.

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

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 15           Section 1. Section 624.465, Florida Statutes, is  
 16          created to read:

17           624.465 Public records and meetings exemptions.--

18           (1) The following records of the Florida Self-Insurers  
 19          Guaranty Association, Incorporated, are confidential and  
 20          exempt from the provisions of s. 119.07(1) and s. 24(a), Art.  
 21          I of the State Constitution:

22           (a) Claims files, until termination of all litigation  
 23          and settlement of all claims arising out of the same incident,  
 24          although portions of the claims files may remain exempt, as  
 25          otherwise provided by law. Confidential and exempt claims file  
 26          records may be released to other governmental agencies upon  
 27          written request and demonstration of need; such records held  
 28          by the receiving agency remain confidential and exempt as  
 29          provided for herein.

30           (b) Minutes of closed meetings regarding a  
 31          confidential and exempt claims file until termination of all

1 litigation and settlement of all claims with regard to that  
2 claim, except that information otherwise confidential or  
3 exempt by law will be redacted.

4 (2) Portions of meetings of the board of directors of  
5 the association are exempt from the provisions of s. 286.011  
6 and s. 24(b), Art. I of the State Constitution wherein  
7 confidential and exempt claims files are discussed. All  
8 portions of meetings which are closed to the public shall be  
9 recorded and transcribed. The board shall record the times of  
10 commencement and termination of the meeting, all discussion  
11 and proceedings, the names of all persons present at any time,  
12 and the names of all persons speaking. No portion of any  
13 closed meeting shall be off the record. Subject to the  
14 provisions hereof and s. 119.07(2)(a), the court reporter's  
15 notes of any closed meeting shall be retained by the  
16 corporation for a minimum of 5 years. A copy of the  
17 transcript, less any exempt matters, of any closed meeting  
18 wherein claims are discussed shall become public as to  
19 individual claims after settlement of the claim.

20 Section 2. Section 624.465, Florida Statutes, is  
21 subject to the Open Government Sunset Review Act of 1995 in  
22 accordance with section 119.15, Florida Statutes, and shall  
23 stand repealed on October 2, 2009, unless reviewed and saved  
24 from repeal through reenactment by the Legislature.

25 Section 3. (1) The Legislature finds that it is a  
26 public necessity that claims files of the Florida  
27 Self-Insurers Guaranty Association, Incorporated, be held  
28 confidential and exempt from public disclosure and that  
29 portions of meetings of the board of directors of the  
30 association, or meetings of any subcommittee of the board,  
31 wherein these claims files are reviewed and evaluated be

1 closed. The Legislature finds that the association was created  
2 to stand in the place of private businesses that are self  
3 insured for workers' compensation claims if any of such  
4 businesses becomes insolvent. The Legislature finds that the  
5 exemption of the open compensation files of the association is  
6 necessary for the effective and efficient administration of a  
7 government program created to insure workers with claims  
8 against insolvent businesses which can otherwise seek  
9 compensation from the funds collected by the association from  
10 its member businesses. Claims files are created by the  
11 association after a claim against one of its insolvent members  
12 is made, contain detailed information about the claim, medical  
13 information, and other personal information about the  
14 claimant, and also contain information detailing the  
15 evaluation of the legitimacy of the claim, the extent of  
16 incapacity and a valuation of the award, if any, that should  
17 be made. When a claim is contested, the work product of legal  
18 counsel may also be included in the file in the form of  
19 direction to claims professionals or other attorney-client  
20 privileged communications. Allowing the claimant or their  
21 lawyer's access to the files, which could be used for purposes  
22 of negotiation, claim evaluation, and settlement  
23 considerations, would weaken the legal position of the  
24 association and could result in higher awards and settlements  
25 paid out by the guaranty fund and ultimately the membership of  
26 the association. Additionally, information in claims files  
27 that reasonably encompass privileged attorney-client  
28 communications should be held confidential and exempt because  
29 the release of such information could jeopardize ongoing or  
30 pending litigation. The Legislature further finds that the  
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1 exempt records contain confidential medical information of a  
2 personal, sensitive nature about the claimant.  
3 (2) The Legislature further finds that closing access  
4 to meetings of the board of directors of the association or  
5 meetings of a subcommittee of the board, wherein claims files  
6 are reviewed and evaluated, is necessary for the effective and  
7 efficient administration of the claims evaluation work of the  
8 association. The directors of the fund act in a trustee  
9 capacity and must take care that the assets of the fund are  
10 managed wisely. Their efforts to meet as a collegial body to  
11 closely review individual files in an open and frank setting  
12 that includes staff are thwarted by the current requirement  
13 that such meetings be noticed and open. Furthermore,  
14 discussion of individual files in an open and public setting  
15 might reveal private, sensitive medical information that is  
16 otherwise confidential.

17 Section 4. This act shall take effect upon becoming a  
18 law.

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