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

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

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13 Section 1. Section 624.465, Florida Statutes, is created
 14 to read:

15 624.465 Public records and meetings exemptions.--

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

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

28 (b) Minutes of closed meetings regarding a confidential
 29 and exempt claims file until termination of all litigation and

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30 settlement of all claims with regard to that claim, except that
 31 information otherwise confidential or exempt by law will be
 32 redacted.

33 (2) Portions of meetings of the board of directors of the
 34 association are exempt from the provisions of s. 286.011 and s.
 35 24(b), Art. I of the State Constitution wherein confidential and
 36 exempt claims files are discussed. All portions of meetings
 37 which are closed to the public shall be recorded and
 38 transcribed. The board shall record the times of commencement
 39 and termination of the meeting, all discussion and proceedings,
 40 the names of all persons present at any time, and the names of
 41 all persons speaking. No portion of any closed meeting shall be
 42 off the record. Subject to the provisions hereof and s.
 43 119.07(2)(a), the court reporter's notes of any closed meeting
 44 shall be retained by the corporation for a minimum of 5 years. A
 45 copy of the transcript, less any exempt matters, of any closed
 46 meeting wherein claims are discussed shall become public as to
 47 individual claims after settlement of the claim.

48 Section 2. Section 624.465, Florida Statutes, is subject
 49 to the Open Government Sunset Review Act of 1995 in accordance
 50 with s. 119.15, Florida Statutes, and shall stand repealed on
 51 October 2, 2009, unless reviewed and saved from repeal through
 52 reenactment by the Legislature.

53 Section 3. (1) The Legislature finds that it is a public
 54 necessity that claims files of the Florida Self-Insurers
 55 Guaranty Association, Incorporated, be held confidential and
 56 exempt from public disclosure and that portions of meetings of
 57 the board of directors of the association, or meetings of any
 58 subcommittee of the board, wherein these claims files are

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59 reviewed and evaluated be closed. The Legislature finds that the
60 association was created to stand in the place of private
61 businesses that are self insured for workers' compensation
62 claims if any of such businesses becomes insolvent. The
63 Legislature finds that the exemption of the open compensation
64 files of the association is necessary for the effective and
65 efficient administration of a government program created to
66 insure workers with claims against insolvent businesses which
67 can otherwise seek compensation from the funds collected by the
68 association from its member businesses. Claims files are created
69 by the association after a claim against one of its insolvent
70 members is made, contain detailed information about the claim,
71 medical information, and other personal information about the
72 claimant, and also contain information detailing the evaluation
73 of the legitimacy of the claim, the extent of incapacity and a
74 valuation of the award, if any, that should be made. When a
75 claim is contested, the work product of legal counsel may also
76 be included in the file in the form of direction to claims
77 professionals or other attorney-client privileged
78 communications. Allowing the claimant or their lawyer's access
79 to the files, which could be used for purposes of negotiation,
80 claim evaluation, and settlement considerations, would weaken
81 the legal position of the association and could result in higher
82 awards and settlements paid out by the guaranty fund and
83 ultimately the membership of the association. Additionally,
84 information in claims files that reasonably encompass privileged
85 attorney-client communications should be held confidential and
86 exempt because the release of such information could jeopardize
87 ongoing or pending litigation. The Legislature further finds

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88 that the exempt records contain confidential medical information
89 of a personal, sensitive nature about the claimant.

90 (2) The Legislature further finds that closing access to
91 meetings of the board of directors of the association or
92 meetings of a subcommittee of the board, wherein claims files
93 are reviewed and evaluated, is necessary for the effective and
94 efficient administration of the claims evaluation work of the
95 association. The directors of the fund act in a trustee capacity
96 and must take care that the assets of the fund are managed
97 wisely. Their efforts to meet as a collegial body to closely
98 review individual files in an open and frank setting that
99 includes staff are thwarted by the current requirement that such
100 meetings be noticed and open. Furthermore, discussion of
101 individual files in an open and public setting might reveal
102 private, sensitive medical information that is otherwise
103 confidential.

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