

CHAMBER ACTION

1 The Committee on Insurance recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

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

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

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17 Section 1. Section 624.465, Florida Statutes, is created
18 to read:

19 624.465 Public records and meetings exemptions.--

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

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

32 (b) Minutes of closed meetings regarding a confidential
33 and exempt claims file until termination of all litigation and
34 settlement of all claims with regard to that claim, except that
35 information otherwise confidential or exempt by law will be
36 redacted.

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

51 claims are discussed shall become public as to individual claims
 52 after settlement of the claim and termination of all litigation.

53 Section 2. Section 624.465, Florida Statutes, is subject
 54 to the Open Government Sunset Review Act of 1995 in accordance
 55 with s. 119.15, Florida Statutes, and shall stand repealed on
 56 October 2, 2009, unless reviewed and saved from repeal through
 57 reenactment by the Legislature.

58 Section 3. (1) The Legislature finds that it is a public
 59 necessity that claims files of the Florida Self-Insurers
 60 Guaranty Association, Incorporated, be held confidential and
 61 exempt from public disclosure and that portions of meetings of
 62 the board of directors of the association, or meetings of any
 63 subcommittee of the board, wherein these claims files are
 64 reviewed and evaluated be closed. The Legislature finds that the
 65 association was created to stand in the place of private
 66 businesses that are self-insured for workers' compensation
 67 claims if any of such businesses becomes insolvent. The
 68 Legislature finds that the exemption of the open compensation
 69 files of the association is necessary for the effective and
 70 efficient administration of a government program created to
 71 insure workers with claims against insolvent businesses which
 72 can otherwise seek compensation from the funds collected by the
 73 association from its member businesses. Claims files are created
 74 by the association after a claim against one of its insolvent
 75 members is made, contain detailed information about the claim,
 76 medical information, and other personal information about the
 77 claimant, and also contain information detailing the evaluation
 78 of the legitimacy of the claim, the extent of incapacity and a

79 | valuation of the award, if any, that should be made. When a
80 | claim is contested, the work product of legal counsel may also
81 | be included in the file in the form of direction to claims
82 | professionals or other attorney-client privileged
83 | communications. Allowing the claimant or claimant's lawyers
84 | access to the files, which could be used for purposes of
85 | negotiation, claim evaluation, and settlement considerations,
86 | would weaken the legal position of the association and could
87 | result in higher awards and settlements paid out by the guaranty
88 | fund and ultimately the membership of the association.
89 | Additionally, information in claims files that reasonably
90 | encompass privileged attorney-client communications should be
91 | held confidential and exempt because the release of such
92 | information could jeopardize ongoing or pending litigation. The
93 | Legislature further finds that the exempt records contain
94 | confidential medical information of a personal, sensitive nature
95 | about the claimant.

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

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107 | individual files in an open and public setting might reveal
108 | private, sensitive medical information that is otherwise
109 | confidential.

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