

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 certain meetings of the board of directors of the  
 7           association or any subcommittee of the board; providing  
 8           for future legislative review and repeal; providing  
 9           findings of public necessity; providing an 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

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

49 Section 2. Section 624.465, Florida Statutes, is subject  
50 to the Open Government Sunset Review Act of 1995 in accordance  
51 with s. 119.15, Florida Statutes, and shall stand repealed on  
52 October 2, 2010, unless reviewed and saved from repeal through  
53 reenactment by the Legislature.

54 Section 3. (1) The Legislature finds that it is a public  
55 necessity that claims files of the Florida Self-Insurers  
56 Guaranty Association, Incorporated, be held confidential and

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

85 Additionally, information in claims files that reasonably  
86 encompass privileged attorney-client communications should be  
87 held confidential and exempt because the release of such  
88 information could jeopardize ongoing or pending litigation. The  
89 Legislature further finds that the exempt records contain  
90 confidential medical information of a personal, sensitive nature  
91 about the claimant.

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

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