

A bill to be entitled

An act relating to public records; amending s. 119.07, F.S.; providing that a custodian of a public record or an agency head may designate another officer or employee of the agency to permit the inspection and copying of public records; providing that the identity of the designee must be disclosed to the public; requiring custodians of public records and their designees to respond to requests to inspect and copy public records promptly and in good faith; amending ss. 497.140, 627.311, and 627.351, F.S.; correcting cross-references; providing an effective date.

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

Section 1. Subsection (1) of section 119.07, Florida Statutes, is amended to read:

119.07 Inspection and copying of records; photographing public records; fees; exemptions.--

(1) (a) Every person who has custody of a public record shall permit the record to be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public records.

(b) A person who has custody of a public record or an agency head may designate another officer or employee of the agency to permit the inspection and copying of public records but must disclose to the public the identity of the designee who has been assigned to respond to public records requests.

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29 (c) Custodians of public records and their designees must
30 respond to requests to inspect and copy records promptly and in
31 good faith. A good faith response includes making reasonable
32 efforts to determine from other officers or employees whether
33 such a record exists and, if so, the location at which the
34 record can be accessed.

35 (d)~~(b)~~ A person who has custody of a public record who
36 asserts that an exemption applies to a part of such record shall
37 redact that portion of the record to which an exemption has been
38 asserted and validly applies, and such person shall produce the
39 remainder of such record for inspection and copying.

40 (e)~~(e)~~ If the person who has custody of a public record
41 contends that all or part of the record is exempt from
42 inspection and copying, he or she shall state the basis of the
43 exemption that he or she contends is applicable to the record,
44 including the statutory citation to an exemption created or
45 afforded by statute.

46 (f)~~(d)~~ If requested by the person seeking to inspect or
47 copy the record, the custodian of public records shall state in
48 writing and with particularity the reasons for the conclusion
49 that the record is exempt or confidential.

50 (g)~~(e)~~ In any civil action in which an exemption to this
51 section is asserted, if the exemption is alleged to exist under
52 or by virtue of s. 119.071(1)(d) or (f), (2)(d), (e), or (f), or
53 (4)(c), the public record or part thereof in question shall be
54 submitted to the court for an inspection in camera. If an
55 exemption is alleged to exist under or by virtue of s.
56 119.071(2)(c), an inspection in camera is discretionary with the

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57 court. If the court finds that the asserted exemption is not
58 applicable, it shall order the public record or part thereof in
59 question to be immediately produced for inspection or copying as
60 requested by the person seeking such access.

61 (h) ~~(f)~~ Even if an assertion is made by the custodian of
62 public records that a requested record is not a public record
63 subject to public inspection or copying under this subsection,
64 the requested record shall, nevertheless, not be disposed of for
65 a period of 30 days after the date on which a written request to
66 inspect or copy the record was served on or otherwise made to
67 the custodian of public records by the person seeking access to
68 the record. If a civil action is instituted within the 30-day
69 period to enforce the provisions of this section with respect to
70 the requested record, the custodian of public records may not
71 dispose of the record except by order of a court of competent
72 jurisdiction after notice to all affected parties.

73 (i) ~~(g)~~ The absence of a civil action instituted for the
74 purpose stated in paragraph (g) ~~(e)~~ does not relieve the
75 custodian of public records of the duty to maintain the record
76 as a public record if the record is in fact a public record
77 subject to public inspection and copying under this subsection
78 and does not otherwise excuse or exonerate the custodian of
79 public records from any unauthorized or unlawful disposition of
80 such record.

81 Section 2. Subsection (5) of section 497.140, Florida
82 Statutes, is amended to read:

83 497.140 Fees.--

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84 (5) The department shall charge a fee not to exceed \$25
85 for the certification of a public record. The fee shall be
86 determined by rule of the department. The department shall
87 assess a fee for duplication of a public record as provided in
88 s. 119.07(1)(a) and (d)~~(b)~~.

89 Section 3. Paragraph (b) of subsection (4) of section
90 627.311, Florida Statutes, is amended to read:

91 627.311 Joint underwriters and joint reinsurers; public
92 records and public meetings exemptions.--

93 (4) The Florida Automobile Joint Underwriting Association:

94 (b) Shall keep portions of association meetings during
95 which confidential and exempt underwriting files or confidential
96 and exempt claims files are discussed exempt from the provisions
97 of s. 286.011 and s. 24(b), Art. I of the State Constitution.
98 All closed portions of association meetings shall be recorded by
99 a court reporter. The court reporter shall record the times of
100 commencement and termination of the meeting, all discussion and
101 proceedings, the names of all persons present at any time, and
102 the names of all persons speaking. No portion of any closed
103 meeting shall be off the record. Subject to the provisions of
104 this paragraph and s. 119.07(1) (d) - (f) ~~(b)~~ - ~~(d)~~, the court
105 reporter's notes of any closed meeting shall be retained by the
106 association for a minimum of 5 years. A copy of the transcript,
107 less any confidential and exempt information, of any closed
108 meeting during which confidential and exempt claims files are
109 discussed shall become public as to individual claims files
110 after settlement of that claim.

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111 Section 4. Paragraph (n) of subsection (6) of section
112 627.351, Florida Statutes, is amended to read:

113 627.351 Insurance risk apportionment plans.--

114 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

115 (n)1. The following records of the corporation are
116 confidential and exempt from the provisions of s. 119.07(1) and
117 s. 24(a), Art. I of the State Constitution:

118 a. Underwriting files, except that a policyholder or an
119 applicant shall have access to his or her own underwriting
120 files.

121 b. Claims files, until termination of all litigation and
122 settlement of all claims arising out of the same incident,
123 although portions of the claims files may remain exempt, as
124 otherwise provided by law. Confidential and exempt claims file
125 records may be released to other governmental agencies upon
126 written request and demonstration of need; such records held by
127 the receiving agency remain confidential and exempt as provided
128 for herein.

129 c. Records obtained or generated by an internal auditor
130 pursuant to a routine audit, until the audit is completed, or if
131 the audit is conducted as part of an investigation, until the
132 investigation is closed or ceases to be active. An investigation
133 is considered "active" while the investigation is being
134 conducted with a reasonable, good faith belief that it could
135 lead to the filing of administrative, civil, or criminal
136 proceedings.

137 d. Matters reasonably encompassed in privileged attorney-
138 client communications.

139 e. Proprietary information licensed to the corporation
140 under contract and the contract provides for the confidentiality
141 of such proprietary information.

142 f. All information relating to the medical condition or
143 medical status of a corporation employee which is not relevant
144 to the employee's capacity to perform his or her duties, except
145 as otherwise provided in this paragraph. Information which is
146 exempt shall include, but is not limited to, information
147 relating to workers' compensation, insurance benefits, and
148 retirement or disability benefits.

149 g. Upon an employee's entrance into the employee
150 assistance program, a program to assist any employee who has a
151 behavioral or medical disorder, substance abuse problem, or
152 emotional difficulty which affects the employee's job
153 performance, all records relative to that participation shall be
154 confidential and exempt from the provisions of s. 119.07(1) and
155 s. 24(a), Art. I of the State Constitution, except as otherwise
156 provided in s. 112.0455(11).

157 h. Information relating to negotiations for financing,
158 reinsurance, depopulation, or contractual services, until the
159 conclusion of the negotiations.

160 i. Minutes of closed meetings regarding underwriting
161 files, and minutes of closed meetings regarding an open claims
162 file until termination of all litigation and settlement of all
163 claims with regard to that claim, except that information
164 otherwise confidential or exempt by law will be redacted.

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166 When an authorized insurer is considering underwriting a risk
167 insured by the corporation, relevant underwriting files and
168 confidential claims files may be released to the insurer
169 provided the insurer agrees in writing, notarized and under
170 oath, to maintain the confidentiality of such files. When a file
171 is transferred to an insurer that file is no longer a public
172 record because it is not held by an agency subject to the
173 provisions of the public records law. Underwriting files and
174 confidential claims files may also be released to staff of and
175 the board of governors of the market assistance plan established
176 pursuant to s. 627.3515, who must retain the confidentiality of
177 such files, except such files may be released to authorized
178 insurers that are considering assuming the risks to which the
179 files apply, provided the insurer agrees in writing, notarized
180 and under oath, to maintain the confidentiality of such files.
181 Finally, the corporation or the board or staff of the market
182 assistance plan may make the following information obtained from
183 underwriting files and confidential claims files available to
184 licensed general lines insurance agents: name, address, and
185 telephone number of the residential property owner or insured;
186 location of the risk; rating information; loss history; and
187 policy type. The receiving licensed general lines insurance
188 agent must retain the confidentiality of the information
189 received.

190 2. Portions of meetings of the corporation are exempt from
191 the provisions of s. 286.011 and s. 24(b), Art. I of the State
192 Constitution wherein confidential underwriting files or
193 confidential open claims files are discussed. All portions of

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194 corporation meetings which are closed to the public shall be
195 recorded by a court reporter. The court reporter shall record
196 the times of commencement and termination of the meeting, all
197 discussion and proceedings, the names of all persons present at
198 any time, and the names of all persons speaking. No portion of
199 any closed meeting shall be off the record. Subject to the
200 provisions hereof and s. 119.07(1) (d) - (f) ~~(b) - (d)~~, the court
201 reporter's notes of any closed meeting shall be retained by the
202 corporation for a minimum of 5 years. A copy of the transcript,
203 less any exempt matters, of any closed meeting wherein claims
204 are discussed shall become public as to individual claims after
205 settlement of the claim.

206 Section 5. This act shall take effect July 1, 2006.