

1 A bill to be entitled
 2 An act relating to public records and public meetings
 3 exemptions; creating s. 641.2241, F.S.; providing for
 4 confidentiality of certain documents and information of a
 5 health maintenance organization relating to risk-based
 6 capital; providing an exemption from certain disclosure
 7 requirements; exempting from certain public meetings
 8 requirements certain hearings conducted by the Office of
 9 Insurance Regulation relating to a health maintenance
 10 organization's risk-based capital reports and plans;
 11 providing hearing requirements; providing exceptions;
 12 providing for termination of the exemptions; providing for
 13 future review and repeal under the Open Government Sunset
 14 Review Act; providing a finding of public necessity;
 15 providing a contingent effective date.

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

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 19 Section 1. Section 641.2241, Florida Statutes, is created
 20 to read:

21 641.2241 Confidentiality of risk-based capital
 22 information.--

23 (1) All risk-based capital reports, adjusted risk-based
 24 capital reports, risk-based capital plans, and revised risk-
 25 based capital plans, and the working papers and reports of
 26 examination or analysis of a health maintenance organization
 27 performed pursuant to a plan, corrective order, or regulatory
 28 action level event, with respect to any health maintenance

29 organization, held by the office pursuant to s. 641.224, and
 30 transcripts of hearings made as required by this section, are
 31 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 32 of the State Constitution.

33 (2) Hearings conducted pursuant to s. 641.224 relating to
 34 the office's actions regarding any health maintenance
 35 organization's risk-based capital plan, revised risk-based
 36 capital plan, risk-based capital report, or adjusted risk-based
 37 capital report are exempt from s. 286.011 and s. 24(b), Art. I
 38 of the State Constitution, except as otherwise provided in this
 39 section. Such hearings shall be recorded by a court reporter.
 40 The office shall open such hearings or provide to a department,
 41 agency, or instrumentality of this or another state or of the
 42 United States a copy of the transcript of such hearings or
 43 information otherwise made confidential and exempt pursuant to
 44 this section if the office determines the disclosure is
 45 necessary or proper for the enforcement of the laws of the
 46 United States or of this or another state.

47 (3) The exemptions provided by this section shall
 48 terminate:

49 (a) One year following the conclusion of any risk-based
 50 capital plan or revised risk-based capital plan; or

51 (b) On the date of entry of an order of seizure,
 52 rehabilitation, or liquidation pursuant to chapter 631.

53 (4) This section is subject to the Open Government Sunset
 54 Review Act in accordance with s. 119.15 and is repealed on
 55 October 2, 2012, unless reviewed and saved from repeal through
 56 reenactment by the Legislature.

57 Section 2. The Legislature finds that the public records
58 and meetings exemptions provided for in s. 641.2241, Florida
59 Statutes, are a public necessity because unrestricted public
60 access to information, proceedings, and hearings relating to a
61 health management organization's risk-based capital plan and
62 risk-based capital adjusted report, and documents and
63 examination reports related thereto, might damage the health
64 maintenance organization if made available to its competitors
65 and could substantially affect the solvency of a health
66 maintenance organization. Damage to a health maintenance
67 organization's solvency could have a substantial negative effect
68 on the public as well as on other health maintenance
69 organizations. Furthermore, public access to such information
70 would not serve a public interest in that such information can
71 be misleading as to a health maintenance organization's ranking
72 because risk-based data does not reflect all of the factors
73 involved in the assessment of a health maintenance
74 organization's financial strength. The Legislature also finds
75 that risk-based capital reports and plans reveal a health
76 maintenance organization's investment competitive advantage in
77 the private market. Public access to such information could
78 affect a health maintenance organization's ability to do
79 business in this state and the health maintenance organization's
80 solvency. Therefore, it is a public necessity to maintain the
81 confidentiality of this information and these proceedings and
82 hearings within the regulatory body responsible for the
83 oversight of health maintenance organization solvency. Finally,
84 the Legislature finds that public access, through other means,

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85 to information regarding the financial strength of a health
86 maintenance organization and its ranking with regards to other
87 health maintenance organizations is otherwise adequate.

88 Section 3. This act shall take effect January 1, 2007, if
89 House Bill 1277 or similar legislation is adopted in the same
90 legislative session or an extension thereof and becomes a law.