

By Senator Atwater

25-1267A-06

See HB

1                                   A bill to be entitled

2           An act relating to public records and public

3           meetings; creating s. 641.2241, F.S.; providing

4           for confidentiality of certain documents and

5           information of a health maintenance

6           organization relating to risk-based capital;

7           providing an exemption from certain disclosure

8           requirements; exempting from certain

9           public-meetings requirements certain hearings

10          conducted by the Office of Insurance Regulation

11          relating to a health maintenance organization's

12          risk-based capital reports and plans; providing

13          hearing requirements; providing exceptions;

14          providing for termination of the exemptions;

15          providing for future review and repeal under

16          the Open Government Sunset Review Act;

17          providing a finding of public necessity;

18          providing a contingent effective date.

19

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

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22           Section 1. Section 641.2241, Florida Statutes, is

23 created to read:

24           641.2241 Confidentiality of risk-based capital

25 information.--

26           (1) All risk-based capital reports, adjusted

27 risk-based capital reports, risk-based capital plans, and

28 revised risk-based capital plans, and the working papers and

29 reports of examination or analysis of a health maintenance

30 organization performed pursuant to a plan, corrective order,

31 or regulatory action level event, with respect to any health

1 maintenance organization, held by the office pursuant to s.  
2 641.224, and transcripts of hearings made as required by this  
3 section, are confidential and exempt from s. 119.07(1) and s.  
4 24(a), Art. I of the State Constitution.

5 (2) Hearings conducted pursuant to s. 641.224 relating  
6 to the office's actions regarding any health maintenance  
7 organization's risk-based capital plan, revised risk-based  
8 capital plan, risk-based capital report, or adjusted  
9 risk-based capital report are exempt from s. 286.011 and s.  
10 24(b), Art. I of the State Constitution, except as otherwise  
11 provided in this section. Such hearings shall be recorded by a  
12 court reporter. The office shall open such hearings or provide  
13 to a department, agency, or instrumentality of this or another  
14 state or of the United States a copy of the transcript of such  
15 hearings or information otherwise made confidential and exempt  
16 pursuant to this section if the office determines the  
17 disclosure is necessary or proper for the enforcement of the  
18 laws of the United States or of this or another state.

19 (3) The exemptions provided by this section shall  
20 terminate:

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

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

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

29 Section 2. The Legislature finds that the public  
30 records and meetings exemptions provided for in s. 641.2241,  
31 Florida Statutes, are a public necessity because unrestricted

1 public access to information, proceedings, and hearings  
2 relating to a health management organization's risk-based  
3 capital plan and risk-based capital adjusted report, and  
4 documents and examination reports related thereto, might  
5 damage the health maintenance organization if made available  
6 to its competitors and could substantially affect the solvency  
7 of a health maintenance organization. Damage to a health  
8 maintenance organization's solvency could have a substantial  
9 negative effect on the public as well as on other health  
10 maintenance organizations. Furthermore, public access to such  
11 information would not serve a public interest in that such  
12 information can be misleading as to a health maintenance  
13 organization's ranking because risk-based data does not  
14 reflect all of the factors involved in the assessment of a  
15 health maintenance organization's financial strength. The  
16 Legislature also finds that risk-based capital reports and  
17 plans reveal a health maintenance organization's investment  
18 competitive advantage in the private market. Public access to  
19 such information could affect a health maintenance  
20 organization's ability to do business in this state and the  
21 health maintenance organization's solvency. Therefore, it is a  
22 public necessity to maintain the confidentiality of this  
23 information and these proceedings and hearings within the  
24 regulatory body responsible for the oversight of health  
25 maintenance organization solvency. Finally, the Legislature  
26 finds that public access, through other means, to information  
27 regarding the financial strength of a health maintenance  
28 organization and its ranking with regards to other health  
29 maintenance organizations is otherwise adequate.

30           Section 3. This act shall take effect January 1, 2007,  
31 if Senate Bill \_\_\_\_ or similar legislation is adopted in the

1 same legislative session or an extension thereof and becomes  
2 law.  
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