

Bill No. SB 2714

Barcode 191056

CHAMBER ACTION

Senate

House

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The Committee on Governmental Oversight and Productivity
(Margolis) recommended the following amendment:

Senate Amendment (with title amendment)

On page 1, line 27, through
page 7, line 21, delete those lines

and insert:

(b) Each agency head who appoints a designee to act as a custodian of public records shall provide notice to the public of such designation. Such notice shall contain the name and title of the designee, and the designee's e-mail address, office telephone number, and office mailing address. At a minimum, the notice shall be prominently posted in those portions of agency offices which are accessible to the public and, if the agency maintains an agency website, the notice shall be prominently displayed on the home page of such website and shall be made available by any employee who responds to telephone calls from the public. A person who is not a custodian of public records or appointed as the designee may not deny the existence of a public record or mislead

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1 anyone as to the existence of a public record.

2 (c) A custodian of public records and his or her
3 designee must respond to requests to inspect or copy records
4 promptly and in good faith. A good-faith response includes
5 making reasonable efforts to determine from other officers or
6 employees whether such a record exists and, if so, the
7 location at which the record can be accessed.

8 (d) A custodian of public records or his or her
9 designee shall be available to respond to requests to inspect
10 and copy public records during regular business hours for the
11 office having public records.

12 (e)(b) A person who has custody of a public record who
13 asserts that an exemption applies to a part of such record
14 shall redact that portion of the record to which an exemption
15 has been asserted and validly applies, and such person shall
16 produce the remainder of such record for inspection and
17 copying.

18 (f)(c) If the person who has custody of a public
19 record contends that all or part of the record is exempt from
20 inspection and copying, he or she shall state the basis of the
21 exemption that he or she contends is applicable to the record,
22 including the statutory citation to an exemption created or
23 afforded by statute.

24 (g)(d) If requested by the person seeking to inspect
25 or copy the record, the custodian of public records shall
26 state in writing and with particularity the reasons for the
27 conclusion that the record is exempt or confidential.

28 (h)(e) In any civil action in which an exemption to
29 this section is asserted, if the exemption is alleged to exist
30 under or by virtue of s. 119.071(1)(d) or (f), (2)(d),(e), or
31 (f), or (4)(c), the public record or part thereof in question

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1 shall be submitted to the court for an inspection in camera.
2 If an exemption is alleged to exist under or by virtue of s.
3 119.071(2)(c), an inspection in camera is discretionary with
4 the court. If the court finds that the asserted exemption is
5 not applicable, it shall order the public record or part
6 thereof in question to be immediately produced for inspection
7 or copying as requested by the person seeking such access.

8 *(i)*~~(f)~~ Even if an assertion is made by the custodian
9 of public records that a requested record is not a public
10 record subject to public inspection or copying under this
11 subsection, the requested record shall, nevertheless, not be
12 disposed of for a period of 30 days after the date on which a
13 written request to inspect or copy the record was served on or
14 otherwise made to the custodian of public records by the
15 person seeking access to the record. If a civil action is
16 instituted within the 30-day period to enforce the provisions
17 of this section with respect to the requested record, the
18 custodian of public records may not dispose of the record
19 except by order of a court of competent jurisdiction after
20 notice to all affected parties.

21 *(j)*~~(g)~~ The absence of a civil action instituted for
22 the purpose stated in paragraph*(h)* ~~(e)~~ does not relieve the
23 custodian of public records of the duty to maintain the record
24 as a public record if the record is in fact a public record
25 subject to public inspection and copying under this subsection
26 and does not otherwise excuse or exonerate the custodian of
27 public records from any unauthorized or unlawful disposition
28 of such record.

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

31 497.140 Fees.--

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1 (5) The department shall charge a fee not to exceed
 2 \$25 for the certification of a public record. The fee shall be
 3 determined by rule of the department. The department shall
 4 assess a fee for duplication of a public record as provided in
 5 s. 119.07(1)(a) and ~~(e)(b)~~.

6 Section 3. Paragraph (b) of subsection (4) of section
 7 627.311, Florida Statutes, is amended to read:

8 627.311 Joint underwriters and joint reinsurers;
 9 public records and public meetings exemptions.--

10 (4) The Florida Automobile Joint Underwriting
 11 Association:

12 (b) Shall keep portions of association meetings during
 13 which confidential and exempt underwriting files or
 14 confidential and exempt claims files are discussed exempt from
 15 the provisions of s. 286.011 and s. 24(b), Art. I of the State
 16 Constitution. All closed portions of association meetings
 17 shall be recorded by a court reporter. The court reporter
 18 shall record the times of commencement and termination of the
 19 meeting, all discussion and proceedings, the names of all
 20 persons present at any time, and the names of all persons
 21 speaking. No portion of any closed meeting shall be off the
 22 record. Subject to the provisions of this paragraph and s.
 23 119.07(1)~~(e)-(g)(b)-(d)~~, the court reporter's notes of any
 24 closed meeting shall be retained by the association for a
 25 minimum of 5 years. A copy of the transcript, less any
 26 confidential and exempt information, of any closed meeting
 27 during which confidential and exempt claims files are
 28 discussed shall become public as to individual claims files
 29 after settlement of that claim.

30 Section 4. Paragraph (n) of subsection (6) of section
 31 627.351, Florida Statutes, is amended to read:

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1 627.351 Insurance risk apportionment plans.--

2 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

6 a. Underwriting files, except that a policyholder or
7 an applicant shall have access to his or her own underwriting
8 files.

9 b. Claims files, until termination of all litigation
10 and settlement of all claims arising out of the same incident,
11 although portions of the claims files may remain exempt, as
12 otherwise provided by law. Confidential and exempt claims file
13 records may be released to other governmental agencies upon
14 written request and demonstration of need; such records held
15 by the receiving agency remain confidential and exempt as
16 provided for herein.

17 c. Records obtained or generated by an internal
18 auditor pursuant to a routine audit, until the audit is
19 completed, or if the audit is conducted as part of an
20 investigation, until the investigation is closed or ceases to
21 be active. An investigation is considered "active" while the
22 investigation is being conducted with a reasonable, good faith
23 belief that it could lead to the filing of administrative,
24 civil, or criminal proceedings.

25 d. Matters reasonably encompassed in privileged
26 attorney-client communications.

27 e. Proprietary information licensed to the corporation
28 under contract and the contract provides for the
29 confidentiality of such proprietary information.

30 f. All information relating to the medical condition
31 or medical status of a corporation employee which is not

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1 relevant to the employee's capacity to perform his or her
2 duties, except as otherwise provided in this paragraph.

3 Information which is exempt shall include, but is not limited
4 to, information relating to workers' compensation, insurance
5 benefits, and retirement or disability benefits.

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

14 h. Information relating to negotiations for financing,
15 reinsurance, depopulation, or contractual services, until the
16 conclusion of the negotiations.

17 i. Minutes of closed meetings regarding underwriting
18 files, and minutes of closed meetings regarding an open claims
19 file until termination of all litigation and settlement of all
20 claims with regard to that claim, except that information
21 otherwise confidential or exempt by law will be redacted.

22
23 When an authorized insurer is considering underwriting a risk
24 insured by the corporation, relevant underwriting files and
25 confidential claims files may be released to the insurer
26 provided the insurer agrees in writing, notarized and under
27 oath, to maintain the confidentiality of such files. When a
28 file is transferred to an insurer that file is no longer a
29 public record because it is not held by an agency subject to
30 the provisions of the public records law. Underwriting files
31 and confidential claims files may also be released to staff of

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1 and the board of governors of the market assistance plan
 2 established pursuant to s. 627.3515, who must retain the
 3 confidentiality of such files, except such files may be
 4 released to authorized insurers that are considering assuming
 5 the risks to which the files apply, provided the insurer
 6 agrees in writing, notarized and under oath, to maintain the
 7 confidentiality of such files. Finally, the corporation or the
 8 board or staff of the market assistance plan may make the
 9 following information obtained from underwriting files and
 10 confidential claims files available to licensed general lines
 11 insurance agents: name, address, and telephone number of the
 12 residential property owner or insured; location of the risk;
 13 rating information; loss history; and policy type. The
 14 receiving licensed general lines insurance agent must retain
 15 the confidentiality of the information received.

16 2. Portions of meetings of the corporation are exempt
 17 from the provisions of s. 286.011 and s. 24(b), Art. I of the
 18 State Constitution wherein confidential underwriting files or
 19 confidential open claims files are discussed. All portions of
 20 corporation meetings which are closed to the public shall be
 21 recorded by a court reporter. The court reporter shall record
 22 the times of commencement and termination of the meeting, all
 23 discussion and proceedings, the names of all persons present
 24 at any time, and the names of all persons speaking. No portion
 25 of any closed meeting shall be off the record. Subject to the
 26 provisions hereof and s. 119.07(1)(e)-(g)~~(b)-(d)~~, the court

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29 ===== T I T L E A M E N D M E N T =====

30 And the title is amended as follows:

31 On page 1, lines 3-12, delete those lines

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1 and insert:

2 119.07, F.S.; requiring an agency head who
3 appoints a designee to act as a custodian of
4 public records to provide notice to the public;
5 requiring custodians of public records and
6 their designees to respond to requests to
7 inspect and copy public records promptly and in
8 good faith; requiring custodians of public
9 records and their designees to respond to
10 requests to inspect and copy public records
11 during regular business hours; amending ss.
12 497.140, 627.311, and

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