

1 minimum, the notice shall be prominently posted in those
2 portions of agency offices which are accessible to the public
3 and, if the agency maintains an agency website, the notice
4 shall be prominently displayed on the home page of such
5 website and shall be made available by any employee who
6 responds to telephone calls from the public. A person who is
7 not a custodian of public records or appointed as the designee
8 may not deny the existence of a public record or mislead
9 anyone as to the existence of a public record.

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

16 (d) A custodian of public records or his or her
17 designee shall be available to respond to requests to inspect
18 and copy public records during regular business hours for the
19 office having public records.

20 (e)(b) A person who has custody of a public record who
21 asserts that an exemption applies to a part of such record
22 shall redact that portion of the record to which an exemption
23 has been asserted and validly applies, and such person shall
24 produce the remainder of such record for inspection and
25 copying.

26 (f)(e) If the person who has custody of a public
27 record contends that all or part of the record is exempt from
28 inspection and copying, he or she shall state the basis of the
29 exemption that he or she contends is applicable to the record,
30 including the statutory citation to an exemption created or
31 afforded by statute.

1 ~~(g)(d)~~ If requested by the person seeking to inspect
2 or copy the record, the custodian of public records shall
3 state in writing and with particularity the reasons for the
4 conclusion that the record is exempt or confidential.

5 ~~(h)(e)~~ In any civil action in which an exemption to
6 this section is asserted, if the exemption is alleged to exist
7 under or by virtue of s. 119.071(1)(d) or (f), (2)(d),(e), or
8 (f), or (4)(c), the public record or part thereof in question
9 shall be submitted to the court for an inspection in camera.
10 If an exemption is alleged to exist under or by virtue of s.
11 119.071(2)(c), an inspection in camera is discretionary with
12 the court. If the court finds that the asserted exemption is
13 not applicable, it shall order the public record or part
14 thereof in question to be immediately produced for inspection
15 or copying as requested by the person seeking such access.

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

29 ~~(j)(g)~~ The absence of a civil action instituted for
30 the purpose stated in paragraph~~(h)(e)~~ does not relieve the
31 custodian of public records of the duty to maintain the record

1 as a public record if the record is in fact a public record
2 subject to public inspection and copying under this subsection
3 and does not otherwise excuse or exonerate the custodian of
4 public records from any unauthorized or unlawful disposition
5 of such record.

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

8 497.140 Fees.--

9 (5) The department shall charge a fee not to exceed
10 \$25 for the certification of a public record. The fee shall be
11 determined by rule of the department. The department shall
12 assess a fee for duplication of a public record as provided in
13 s. 119.07(1)(a) and ~~(e)(b)~~.

14 Section 3. Paragraph (b) of subsection (4) of section
15 627.311, Florida Statutes, is amended to read:

16 627.311 Joint underwriters and joint reinsurers;
17 public records and public meetings exemptions.--

18 (4) The Florida Automobile Joint Underwriting
19 Association:

20 (b) Shall keep portions of association meetings during
21 which confidential and exempt underwriting files or
22 confidential and exempt claims files are discussed exempt from
23 the provisions of s. 286.011 and s. 24(b), Art. I of the State
24 Constitution. All closed portions of association meetings
25 shall be recorded by a court reporter. The court reporter
26 shall record the times of commencement and termination of the
27 meeting, all discussion and proceedings, the names of all
28 persons present at any time, and the names of all persons
29 speaking. No portion of any closed meeting shall be off the
30 record. Subject to the provisions of this paragraph and s.
31 119.07(1)~~(e)-(g)(b)-(d)~~, the court reporter's notes of any

1 closed meeting shall be retained by the association for a
2 minimum of 5 years. A copy of the transcript, less any
3 confidential and exempt information, of any closed meeting
4 during which confidential and exempt claims files are
5 discussed shall become public as to individual claims files
6 after settlement of that claim.

7 Section 4. Paragraph (n) of subsection (6) of section
8 627.351, Florida Statutes, is amended to read:

9 627.351 Insurance risk apportionment plans.--

10 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

14 a. Underwriting files, except that a policyholder or
15 an applicant shall have access to his or her own underwriting
16 files.

17 b. Claims files, until termination of all litigation
18 and settlement of all claims arising out of the same incident,
19 although portions of the claims files may remain exempt, as
20 otherwise provided by law. Confidential and exempt claims file
21 records may be released to other governmental agencies upon
22 written request and demonstration of need; such records held
23 by the receiving agency remain confidential and exempt as
24 provided for herein.

25 c. Records obtained or generated by an internal
26 auditor pursuant to a routine audit, until the audit is
27 completed, or if the audit is conducted as part of an
28 investigation, until the investigation is closed or ceases to
29 be active. An investigation is considered "active" while the
30 investigation is being conducted with a reasonable, good faith
31

1 | belief that it could lead to the filing of administrative,
2 | civil, or criminal proceedings.

3 | d. Matters reasonably encompassed in privileged
4 | attorney-client communications.

5 | e. Proprietary information licensed to the corporation
6 | under contract and the contract provides for the
7 | confidentiality of such proprietary information.

8 | f. All information relating to the medical condition
9 | or medical status of a corporation employee which is not
10 | relevant to the employee's capacity to perform his or her
11 | duties, except as otherwise provided in this paragraph.
12 | Information which is exempt shall include, but is not limited
13 | to, information relating to workers' compensation, insurance
14 | benefits, and retirement or disability benefits.

15 | g. Upon an employee's entrance into the employee
16 | assistance program, a program to assist any employee who has a
17 | behavioral or medical disorder, substance abuse problem, or
18 | emotional difficulty which affects the employee's job
19 | performance, all records relative to that participation shall
20 | be confidential and exempt from the provisions of s. 119.07(1)
21 | and s. 24(a), Art. I of the State Constitution, except as
22 | otherwise provided in s. 112.0455(11).

23 | h. Information relating to negotiations for financing,
24 | reinsurance, depopulation, or contractual services, until the
25 | conclusion of the negotiations.

26 | i. Minutes of closed meetings regarding underwriting
27 | files, and minutes of closed meetings regarding an open claims
28 | file until termination of all litigation and settlement of all
29 | claims with regard to that claim, except that information
30 | otherwise confidential or exempt by law will be redacted.
31 |

1 | When an authorized insurer is considering underwriting a risk
2 | insured by the corporation, relevant underwriting files and
3 | confidential claims files may be released to the insurer
4 | provided the insurer agrees in writing, notarized and under
5 | oath, to maintain the confidentiality of such files. When a
6 | file is transferred to an insurer that file is no longer a
7 | public record because it is not held by an agency subject to
8 | the provisions of the public records law. Underwriting files
9 | and confidential claims files may also be released to staff of
10 | and the board of governors of the market assistance plan
11 | established pursuant to s. 627.3515, who must retain the
12 | confidentiality of such files, except such files may be
13 | released to authorized insurers that are considering assuming
14 | the risks to which the files apply, provided the insurer
15 | agrees in writing, notarized and under oath, to maintain the
16 | confidentiality of such files. Finally, the corporation or the
17 | board or staff of the market assistance plan may make the
18 | following information obtained from underwriting files and
19 | confidential claims files available to licensed general lines
20 | insurance agents: name, address, and telephone number of the
21 | residential property owner or insured; location of the risk;
22 | rating information; loss history; and policy type. The
23 | receiving licensed general lines insurance agent must retain
24 | the confidentiality of the information received.

25 | 2. Portions of meetings of the corporation are exempt
26 | from the provisions of s. 286.011 and s. 24(b), Art. I of the
27 | State Constitution wherein confidential underwriting files or
28 | confidential open claims files are discussed. All portions of
29 | corporation meetings which are closed to the public shall be
30 | recorded by a court reporter. The court reporter shall record
31 | the times of commencement and termination of the meeting, all

1 discussion and proceedings, the names of all persons present
2 at any time, and the names of all persons speaking. No portion
3 of any closed meeting shall be off the record. Subject to the
4 provisions hereof and s. 119.07(1)(~~e~~)-(g)(~~b~~)-(d), the court
5 reporter's notes of any closed meeting shall be retained by
6 the corporation for a minimum of 5 years. A copy of the
7 transcript, less any exempt matters, of any closed meeting
8 wherein claims are discussed shall become public as to
9 individual claims after settlement of the claim.

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

11
12 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
13 COMMITTEE SUBSTITUTE FOR
14 Senate Bill 2714

15 Requires each agency head who appoints a designee to act as a
16 custodian of public records to provide notice to the public of
17 such designation. Requires such notice to provide specific
18 contact information. Requires publication of such notice on
19 the Internet, if the agency maintains a web site, and also to
20 post such notice in areas of the agency open to the public.

21 Requires a custodian or designee to respond to requests to
22 inspect or copy public records promptly and in good faith.

23 Requires a custodian or designee to be available to respond to
24 requests to inspect or copy during regular business hours.
25
26
27
28
29
30
31