

1 A bill to be entitled
2 An act relating to public records; amending s.
3 119.07, F.S.; authorizing a custodian of public
4 records to designate another officer or
5 employee of the agency to permit the inspection
6 and copying of public records; requiring that
7 the designee be identified; requiring
8 custodians of public records and their
9 designees to respond to requests to inspect and
10 copy public records promptly and in good faith;
11 amending ss. 497.140, 627.311, and 627.351,
12 F.S.; conforming cross-references; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsection (1) of section 119.07, Florida
18 Statutes, is amended to read:

19 119.07 Inspection and copying of records;
20 photographing public records; fees; exemptions.--

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

26 (b) A custodian of public records or a person having
27 custody of public records may designate another officer or
28 employee of the agency to permit the inspection and copying of
29 public records, but must disclose the identity of the designee
30 to the person requesting to inspect or copy public records.

31

1 (c) A custodian of public records and his or her
2 designee must acknowledge requests to inspect or copy records
3 promptly and respond to such requests in good faith. A good
4 faith response includes making reasonable efforts to determine
5 from other officers or employees within the agency whether
6 such a record exists and, if so, the location at which the
7 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 the regular business hours of
11 the office at which public records are maintained.

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)(e)~~ 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

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.--

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) ~~s. 119.07(1)(b)-(d)~~, the court reporter's
24 notes of any closed meeting shall be retained by the
25 association for a minimum of 5 years. A copy of the
26 transcript, less any confidential and exempt information, of
27 any closed meeting during which confidential and exempt claims
28 files are discussed shall become public as to individual
29 claims files after settlement of that claim.

30
31

1 Section 4. Paragraph (w) of subsection (6) of section
2 627.351, Florida Statutes, as amended by section 21 of chapter
3 2007-1, Laws of Florida, is amended to read:

4 627.351 Insurance risk apportionment plans.--

5 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

6 (w)1. The following records of the corporation are
7 confidential and exempt from the provisions of s. 119.07(1)
8 and s. 24(a), Art. I of the State Constitution:

9 a. Underwriting files, except that a policyholder or
10 an applicant shall have access to his or her own underwriting
11 files.

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

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

28 d. Matters reasonably encompassed in privileged
29 attorney-client communications.

30

31

1 e. Proprietary information licensed to the corporation
2 under contract and the contract provides for the
3 confidentiality of such proprietary information.

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

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

19 h. Information relating to negotiations for financing,
20 reinsurance, depopulation, or contractual services, until the
21 conclusion of the negotiations.

22 i. Minutes of closed meetings regarding underwriting
23 files, and minutes of closed meetings regarding an open claims
24 file until termination of all litigation and settlement of all
25 claims with regard to that claim, except that information
26 otherwise confidential or exempt by law will be redacted.

27
28 When an authorized insurer is considering underwriting a risk
29 insured by the corporation, relevant underwriting files and
30 confidential claims files may be released to the insurer
31 provided the insurer agrees in writing, notarized and under

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

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

1 the court reporter's notes of any closed meeting shall be
2 retained by the corporation for a minimum of 5 years. A copy
3 of the transcript, less any exempt matters, of any closed
4 meeting wherein claims are discussed shall become public as to
5 individual claims after settlement of the claim.

6 Section 5. This act shall take effect July 1, 2007.
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31