

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:

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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.

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

14 ~~(e)(e)~~ If the person who has custody of a public
15 record contends that all or part of the record is exempt from
16 inspection and copying, he or she shall state the basis of the
17 exemption that he or she contends is applicable to the record,
18 including the statutory citation to an exemption created or
19 afforded by statute.

20 ~~(f)(d)~~ If requested by the person seeking to inspect
21 or copy the record, the custodian of public records shall
22 state in writing and with particularity the reasons for the
23 conclusion that the record is exempt or confidential.

24 ~~(g)(e)~~ In any civil action in which an exemption to
25 this section is asserted, if the exemption is alleged to exist
26 under or by virtue of s. 119.071(1)(d) or (f), (2)(d),(e), or
27 (f), or (4)(c), the public record or part thereof in question
28 shall be submitted to the court for an inspection in camera.
29 If an exemption is alleged to exist under or by virtue of s.
30 119.071(2)(c), an inspection in camera is discretionary with
31 the court. If the court finds that the asserted exemption is

1 not applicable, it shall order the public record or part
2 thereof in question to be immediately produced for inspection
3 or copying as requested by the person seeking such access.

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

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

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

27 497.140 Fees.--

28 (5) The department shall charge a fee not to exceed
29 \$25 for the certification of a public record. The fee shall be
30 determined by rule of the department. The department shall
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1 assess a fee for duplication of a public record as provided in
 2 s. 119.07(1)(a) and ~~(e)(b)~~.

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

5 627.311 Joint underwriters and joint reinsurers;
 6 public records and public meetings exemptions.--

7 (4) The Florida Automobile Joint Underwriting
 8 Association:

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

27 Section 4. Paragraph (w) of subsection (6) of section
 28 627.351, Florida Statutes, as amended by section 21 of chapter
 29 2007-1, Laws of Florida, is amended to read:

30 627.351 Insurance risk apportionment plans.--

31 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

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

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

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

23 d. Matters reasonably encompassed in privileged
24 attorney-client communications.

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

28 f. All information relating to the medical condition
29 or medical status of a corporation employee which is not
30 relevant to the employee's capacity to perform his or her
31 duties, except as otherwise provided in this paragraph.

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

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

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

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

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21 When an authorized insurer is considering underwriting a risk
22 insured by the corporation, relevant underwriting files and
23 confidential claims files may be released to the insurer
24 provided the insurer agrees in writing, notarized and under
25 oath, to maintain the confidentiality of such files. When a
26 file is transferred to an insurer that file is no longer a
27 public record because it is not held by an agency subject to
28 the provisions of the public records law. Underwriting files
29 and confidential claims files may also be released to staff of
30 and the board of governors of the market assistance plan
31 established pursuant to s. 627.3515, who must retain the

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

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

30 Section 5. This act shall take effect July 1, 2007.
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