

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

12  
 13 Be It Enacted by the Legislature of the State of Florida:

14  
 15           Section 1. Subsection (1) of section 119.07, Florida  
 16           Statutes, is amended to read:

17           119.07 Inspection and copying of records; photographing  
 18           public records; fees; exemptions.--

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

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

29        (c) A custodian of public records and his or her designee  
30 must acknowledge requests to inspect or copy records promptly  
31 and respond to such requests to inspect or copy records promptly  
32 and in good faith. A good faith response includes making  
33 reasonable efforts to determine from other officers or employees  
34 within the agency whether such a record exists and, if so, the  
35 location at which the record can be accessed.

36        (d) A custodian of public records or his or her designee  
37 shall be available to respond to requests to inspect and copy  
38 public records during the regular business hours of the office  
39 at which public records are maintained.

40        (e)~~(b)~~ A person who has custody of a public record who  
41 asserts that an exemption applies to a part of such record shall  
42 redact that portion of the record to which an exemption has been  
43 asserted and validly applies, and such person shall produce the  
44 remainder of such record for inspection and copying.

45        (f)~~(e)~~ If the person who has custody of a public record  
46 contends that all or part of the record is exempt from  
47 inspection and copying, he or she shall state the basis of the  
48 exemption that he or she contends is applicable to the record,  
49 including the statutory citation to an exemption created or  
50 afforded by statute.

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

55        (h)~~(e)~~ In any civil action in which an exemption to this  
56 section is asserted, if the exemption is alleged to exist under

57 or by virtue of s. 119.071(1)(d) or (f), (2)(d), (e), or (f), or  
58 (4)(c), the public record or part thereof in question shall be  
59 submitted to the court for an inspection in camera. If an  
60 exemption is alleged to exist under or by virtue of s.  
61 119.071(2)(c), an inspection in camera is discretionary with the  
62 court. If the court finds that the asserted exemption is not  
63 applicable, it shall order the public record or part thereof in  
64 question to be immediately produced for inspection or copying as  
65 requested by the person seeking such access.

66 (i)~~(f)~~ Even if an assertion is made by the custodian of  
67 public records that a requested record is not a public record  
68 subject to public inspection or copying under this subsection,  
69 the requested record shall, nevertheless, not be disposed of for  
70 a period of 30 days after the date on which a written request to  
71 inspect or copy the record was served on or otherwise made to  
72 the custodian of public records by the person seeking access to  
73 the record. If a civil action is instituted within the 30-day  
74 period to enforce the provisions of this section with respect to  
75 the requested record, the custodian of public records may not  
76 dispose of the record except by order of a court of competent  
77 jurisdiction after notice to all affected parties.

78 (j)~~(g)~~ The absence of a civil action instituted for the  
79 purpose stated in paragraph (h)~~(e)~~ does not relieve the  
80 custodian of public records of the duty to maintain the record  
81 as a public record if the record is in fact a public record  
82 subject to public inspection and copying under this subsection  
83 and does not otherwise excuse or exonerate the custodian of  
84 public records from any unauthorized or unlawful disposition of

85 such record.

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

88 497.140 Fees.--

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

94 Section 3. Paragraph (b) of subsection (4) of section  
95 627.311, Florida Statutes, is amended to read:

96 627.311 Joint underwriters and joint reinsurers; public  
97 records and public meetings exemptions.--

98 (4) The Florida Automobile Joint Underwriting Association:

99 (b) Shall keep portions of association meetings during  
100 which confidential and exempt underwriting files or confidential  
101 and exempt claims files are discussed exempt from the provisions  
102 of s. 286.011 and s. 24(b), Art. I of the State Constitution.  
103 All closed portions of association meetings shall be recorded by  
104 a court reporter. The court reporter shall record the times of  
105 commencement and termination of the meeting, all discussion and  
106 proceedings, the names of all persons present at any time, and  
107 the names of all persons speaking. No portion of any closed  
108 meeting shall be off the record. Subject to the provisions of  
109 this paragraph and s. 119.07(1)(e)-(g) ~~s. 119.07(1)(b)-(d)~~, the  
110 court reporter's notes of any closed meeting shall be retained  
111 by the association for a minimum of 5 years. A copy of the  
112 transcript, less any confidential and exempt information, of any

113 closed meeting during which confidential and exempt claims files  
 114 are discussed shall become public as to individual claims files  
 115 after settlement of that claim.

116 Section 4. Paragraph (w) of subsection (6) of section  
 117 627.351, Florida Statutes, as amended by section 21 of chapter  
 118 2007-1, Laws of Florida, is amended to read:

119 627.351 Insurance risk apportionment plans.--

120 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

124 a. Underwriting files, except that a policyholder or an  
 125 applicant shall have access to his or her own underwriting  
 126 files.

127 b. Claims files, until termination of all litigation and  
 128 settlement of all claims arising out of the same incident,  
 129 although portions of the claims files may remain exempt, as  
 130 otherwise provided by law. Confidential and exempt claims file  
 131 records may be released to other governmental agencies upon  
 132 written request and demonstration of need; such records held by  
 133 the receiving agency remain confidential and exempt as provided  
 134 for herein.

135 c. Records obtained or generated by an internal auditor  
 136 pursuant to a routine audit, until the audit is completed, or if  
 137 the audit is conducted as part of an investigation, until the  
 138 investigation is closed or ceases to be active. An investigation  
 139 is considered "active" while the investigation is being  
 140 conducted with a reasonable, good faith belief that it could

141 | lead to the filing of administrative, civil, or criminal  
142 | proceedings.

143 |       d. Matters reasonably encompassed in privileged attorney-  
144 | client communications.

145 |       e. Proprietary information licensed to the corporation  
146 | under contract and the contract provides for the confidentiality  
147 | of such proprietary information.

148 |       f. All information relating to the medical condition or  
149 | medical status of a corporation employee which is not relevant  
150 | to the employee's capacity to perform his or her duties, except  
151 | as otherwise provided in this paragraph. Information which is  
152 | exempt shall include, but is not limited to, information  
153 | relating to workers' compensation, insurance benefits, and  
154 | retirement or disability benefits.

155 |       g. Upon an employee's entrance into the employee  
156 | assistance program, a program to assist any employee who has a  
157 | behavioral or medical disorder, substance abuse problem, or  
158 | emotional difficulty which affects the employee's job  
159 | performance, all records relative to that participation shall be  
160 | confidential and exempt from the provisions of s. 119.07(1) and  
161 | s. 24(a), Art. I of the State Constitution, except as otherwise  
162 | provided in s. 112.0455(11).

163 |       h. Information relating to negotiations for financing,  
164 | reinsurance, depopulation, or contractual services, until the  
165 | conclusion of the negotiations.

166 |       i. Minutes of closed meetings regarding underwriting  
167 | files, and minutes of closed meetings regarding an open claims  
168 | file until termination of all litigation and settlement of all

CS/HB 541

2007

169 | claims with regard to that claim, except that information  
170 | otherwise confidential or exempt by law will be redacted.  
171 |  
172 | When an authorized insurer is considering underwriting a risk  
173 | insured by the corporation, relevant underwriting files and  
174 | confidential claims files may be released to the insurer  
175 | provided the insurer agrees in writing, notarized and under  
176 | oath, to maintain the confidentiality of such files. When a file  
177 | is transferred to an insurer that file is no longer a public  
178 | record because it is not held by an agency subject to the  
179 | provisions of the public records law. Underwriting files and  
180 | confidential claims files may also be released to staff of and  
181 | the board of governors of the market assistance plan established  
182 | pursuant to s. 627.3515, who must retain the confidentiality of  
183 | such files, except such files may be released to authorized  
184 | insurers that are considering assuming the risks to which the  
185 | files apply, provided the insurer agrees in writing, notarized  
186 | and under oath, to maintain the confidentiality of such files.  
187 | Finally, the corporation or the board or staff of the market  
188 | assistance plan may make the following information obtained from  
189 | underwriting files and confidential claims files available to  
190 | licensed general lines insurance agents: name, address, and  
191 | telephone number of the residential property owner or insured;  
192 | location of the risk; rating information; loss history; and  
193 | policy type. The receiving licensed general lines insurance  
194 | agent must retain the confidentiality of the information  
195 | received.

CS/HB 541

2007

196           2. Portions of meetings of the corporation are exempt from  
197 the provisions of s. 286.011 and s. 24(b), Art. I of the State  
198 Constitution wherein confidential underwriting files or  
199 confidential open claims files are discussed. All portions of  
200 corporation meetings which are closed to the public shall be  
201 recorded by a court reporter. The court reporter shall record  
202 the times of commencement and termination of the meeting, all  
203 discussion and proceedings, the names of all persons present at  
204 any time, and the names of all persons speaking. No portion of  
205 any closed meeting shall be off the record. Subject to the  
206 provisions hereof and s. 119.07(1)(e) - (g) ~~s. 119.07(1)(b) - (d)~~,  
207 the court reporter's notes of any closed meeting shall be  
208 retained by the corporation for a minimum of 5 years. A copy of  
209 the transcript, less any exempt matters, of any closed meeting  
210 wherein claims are discussed shall become public as to  
211 individual claims after settlement of the claim.

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