

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 acknowledge 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.

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

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 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 in good faith. A good faith
32 response includes making reasonable efforts to determine from
33 other officers or employees within the agency whether such a
34 record exists and, if so, the location at which the record can
35 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

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.

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.