

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 624.23, F.S., which
 4 provides an exemption from public records requirements for
 5 personal financial and health information held by the
 6 Department of Financial Services or the Office of
 7 Insurance Regulation relating to a consumer's complaint or
 8 inquiry regarding a matter or activity regulated under the
 9 Florida Insurance Code; revising the exemption; expanding
 10 the exemption to include personal financial and health
 11 information held by the department or the office relating
 12 to a consumer's complaint or inquiry regarding a matter or
 13 activity regulated by the Employee Assistance and
 14 Ombudsman Office within the Department of Financial
 15 Services; providing for future legislative review and
 16 repeal of the exemption; providing a statement of public
 17 necessity; providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Section 624.23, Florida Statutes, is amended to
 22 read:

23 624.23 Public records exemption.--

24 (1) As used in this section, the term:

25 (a) "Consumer" means:

26 1. A prospective purchaser, purchaser, or beneficiary of,
 27 or applicant for, any product or service regulated under the
 28 Florida Insurance Code, and a family member or dependent of a

29 consumer.

30 2. An employee seeking assistance from the Employee
 31 Assistance and Ombudsman Office under s. 440.191.

32 (b) "Personal financial and health information" means:

33 1. A consumer's personal health condition, disease, or
 34 injury;

35 2. The existence, nature, source, or amount of a
 36 consumer's personal income or expenses;

37 3. Records of or relating to a consumer's personal
 38 financial transactions of any kind;

39 4. The existence, identification, nature, or value of a
 40 consumer's assets, liabilities, or net worth;

41 5. A history of a consumer's personal medical diagnosis or
 42 treatment;

43 6. The existence or content of any individual coverage
 44 under, or status of a consumer's beneficial interest in, any
 45 insurance policy or annuity contract; or

46 7. The existence, identification, nature, or value of a
 47 consumer's interest in any insurance policy, annuity contract,
 48 or trust. ~~All bank account numbers and debit, charge, and credit~~
 49 ~~card numbers, and all other~~

50 (2) Personal financial and health information ~~of a~~
 51 ~~consumer~~ held by the department or office ~~or their service~~
 52 ~~providers or agents,~~ relating to a consumer's complaint or
 53 inquiry regarding a matter or activity regulated under the
 54 Florida Insurance Code or s. 440.191 is, ~~are~~ confidential and
 55 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 56 Constitution. ~~For the purpose of this section, the term~~

57 ~~"consumer" includes but is not limited to a prospective~~
 58 ~~purchaser, purchaser, or beneficiary of, or applicant for, any~~
 59 ~~product or service regulated under the Florida Insurance Code,~~
 60 ~~and a family member or dependent of a consumer, a subscriber~~
 61 ~~under a group policy, or a policyholder. This information shall~~
 62 ~~be redacted from records that contain nonexempt information~~
 63 ~~prior to disclosure. This exemption applies to personal~~
 64 ~~financial and health information ~~made confidential and exempt by~~~~
 65 ~~this section held by the department or office or their service~~
 66 ~~providers or agents before, on, or after the effective date of~~
 67 ~~this exemption.~~

68 (3) Such confidential and exempt information may be
 69 disclosed to:

70 (a) Another governmental entity, if disclosure is
 71 necessary for the receiving entity to perform its duties and
 72 responsibilities; ~~and may be disclosed to~~

73 (b) The National Association of Insurance Commissioners.
 74 ~~The receiving governmental entity and the association must~~
 75 ~~maintain the confidential and exempt status of such information.~~
 76 ~~The information made confidential and exempt by this section may~~
 77 ~~be used in a criminal, civil, or administrative proceeding so~~
 78 ~~long as the confidential and exempt status of such information~~
 79 ~~is maintained. This exemption does not include the name and~~
 80 ~~address of an inquirer or complainant to the department or~~
 81 ~~office or the name of an insurer or other regulated entity which~~
 82 ~~is the subject of the inquiry or complaint.~~

83 (4) This section is subject to the Open Government Sunset
 84 Review Act ~~of 1995~~ in accordance with s. 119.15 and shall stand

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85 repealed on October 2, 2012 ~~2007~~, unless reviewed and saved from
86 repeal through reenactment by the Legislature.

87 Section 2. The Legislature finds that the protection of a
88 person's sensitive financial and health information is a public
89 necessity and that every individual has an expectation of and a
90 right to privacy in all matters concerning his or her financial
91 interests. Disclosure of financial information can create the
92 opportunity for theft or fraud, thereby jeopardizing an
93 individual's financial security. It is the finding of the
94 Legislature that limiting the disclosure of personal financial
95 information should extend to personal financial information held
96 by the Department of Financial Services or the Office of
97 Insurance Regulation as a result of a consumer's complaint or
98 inquiry regarding a matter or activity regulated under the
99 Florida Insurance Code or by the Employee Assistance and
100 Ombudsman Office. It is the finding of the Legislature that
101 making such information confidential and exempt from public
102 records requirements is necessary in order to protect the
103 financial interests of the individuals to whom that information
104 pertains, since such information could be used for fraudulent or
105 other illegal purposes, including identity theft, and could
106 result in substantial financial harm. The Legislature further
107 finds that matters of personal health are traditionally private
108 and confidential concerns between the patient and health care
109 provider. The private and confidential nature of personal health
110 matters pervades both the public and private health care
111 sectors. Moreover, public disclosure of personal health
112 information could have a negative effect on a person's business

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113 and personal relationships and could also result in detrimental
114 financial consequences. It is the finding of the Legislature
115 that limiting the disclosure of personal health information
116 should extend to personal health information held by the
117 Department of Financial Services or the Office of Insurance
118 Regulation as a result of a consumer's complaint or inquiry
119 regarding a matter or activity regulated under the Florida
120 Insurance Code or by the Employee Assistance and Ombudsman
121 Office. It is the finding of the Legislature that making such
122 information confidential and exempt from public records
123 requirements is necessary in order to protect the personal and
124 financial interests and privacy rights of the individuals to
125 whom that information pertains. It is therefore the finding of
126 the Legislature that it is a public necessity that personal
127 financial and health information held by the Department of
128 Financial Services or the Office of Insurance Regulation
129 relating to a consumer's complaint or inquiry regarding a matter
130 or activity regulated under the Florida Insurance Code or by the
131 Employee Assistance and Ombudsman Office be held confidential
132 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
133 Art. I of the State Constitution.

134 Section 3. This act shall take effect October 1, 2007.