

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Schwartz offered the following:

2  
3 **Amendment (with title amendment)**

4 Between lines 20 and 21, insert:

5 Section 13. Paragraph (w) of subsection (6) of section  
6 627.351, Florida Statutes, is amended to read:

7 627.351 Insurance risk apportionment plans.--

8 (6) CITIZENS PROPERTY INSURANCE CORPORATION.--

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

12 a. Underwriting files, except that a policyholder or an  
13 applicant shall have access to his or her own underwriting  
14 files. Confidential and exempt underwriting file records may  
15 also be released to other governmental agencies upon written  
16 request and demonstration of need; such records held by the

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17 receiving agency remain confidential and exempt as provided  
18 herein.

19 b. Claims files, until termination of all litigation and  
20 settlement of all claims arising out of the same incident,  
21 although portions of the claims files may remain exempt, as  
22 otherwise provided by law. Confidential and exempt claims file  
23 records may be released to other governmental agencies upon  
24 written request and demonstration of need; such records held by  
25 the receiving agency remain confidential and exempt as provided  
26 ~~for~~ herein.

27 c. Records obtained or generated by an internal auditor  
28 pursuant to a routine audit, until the audit is completed, or if  
29 the audit is conducted as part of an investigation, until the  
30 investigation is closed or ceases to be active. An investigation  
31 is considered "active" while the investigation is being  
32 conducted with a reasonable, good faith belief that it could  
33 lead to the filing of administrative, civil, or criminal  
34 proceedings.

35 d. Matters reasonably encompassed in privileged attorney-  
36 client communications.

37 e. Proprietary information licensed to the corporation  
38 under contract and the contract provides for the confidentiality  
39 of such proprietary information.

40 f. All information relating to the medical condition or  
41 medical status of a corporation employee which is not relevant  
42 to the employee's capacity to perform his or her duties, except  
43 as otherwise provided in this paragraph. Information that ~~which~~  
44 is exempt shall include, but is not limited to, information

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45 relating to workers' compensation, insurance benefits, and  
46 retirement or disability benefits.

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

55 h. Information relating to negotiations for financing,  
56 reinsurance, depopulation, or contractual services, until the  
57 conclusion of the negotiations.

58 i. Minutes of closed meetings regarding underwriting  
59 files, and minutes of closed meetings regarding an open claims  
60 file until termination of all litigation and settlement of all  
61 claims with regard to that claim, except that information  
62 otherwise confidential or exempt by law shall ~~will~~ be redacted.

63 2. If ~~When~~ an authorized insurer is considering  
64 underwriting a risk insured by the corporation, relevant  
65 underwriting files and confidential claims files may be released  
66 to the insurer provided the insurer agrees in writing, notarized  
67 and under oath, to maintain the confidentiality of such files.

68 If ~~When~~ a file is transferred to an insurer that file is no  
69 longer a public record because it is not held by an agency  
70 subject to the provisions of the public records law.

71 Underwriting files and confidential claims files may also be  
72 released to staff ~~of~~ and the board of governors of the market

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73 assistance plan established pursuant to s. 627.3515, who must  
74 retain the confidentiality of such files, except such files may  
75 be released to authorized insurers that are considering assuming  
76 the risks to which the files apply, provided the insurer agrees  
77 in writing, notarized and under oath, to maintain the  
78 confidentiality of such files. Finally, the corporation or the  
79 board or staff of the market assistance plan may make the  
80 following information obtained from underwriting files and  
81 confidential claims files available to licensed general lines  
82 insurance agents: name, address, and telephone number of the  
83 residential property owner or insured; location of the risk;  
84 rating information; loss history; and policy type. The receiving  
85 licensed general lines insurance agent must retain the  
86 confidentiality of the information received.

87 3. A policyholder who has filed suit against the  
88 corporation has the right to discover the contents of his or her  
89 own claims file to the same extent that discovery of such  
90 contents would be available from a private insurer in litigation  
91 as provided by the Florida Rules of Civil Procedure, the Florida  
92 Evidence Code, and other applicable law. Pursuant to subpoena, a  
93 third party has the right to discover the contents of an  
94 insured's or applicant's underwriting or claims file to the same  
95 extent that discovery of such contents would be available from a  
96 private insurer by subpoena as provided by the Florida Rules of  
97 Civil Procedure, the Florida Evidence Code, and other applicable  
98 law, and subject to any confidentiality protections requested by  
99 the corporation and agreed to by the seeking party or ordered by  
100 the court. The corporation may release confidential underwriting

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101 and claims file contents and information as it deems necessary  
102 and appropriate to underwrite or service insurance policies and  
103 claims, subject to any confidentiality protections deemed  
104 necessary and appropriate by the corporation.

105 ~~4.2-~~ Portions of meetings of the corporation are exempt  
106 from the provisions of s. 286.011 and s. 24(b), Art. I of the  
107 State Constitution wherein confidential underwriting files or  
108 confidential open claims files are discussed. All portions of  
109 corporation meetings which are closed to the public shall be  
110 recorded by a court reporter. The court reporter shall record  
111 the times of commencement and termination of the meeting, all  
112 discussion and proceedings, the names of all persons present at  
113 any time, and the names of all persons speaking. No portion of  
114 any closed meeting shall be off the record. Subject to the  
115 provisions hereof and s. 119.07(1)(e)-(g), the court reporter's  
116 notes of any closed meeting shall be retained by the corporation  
117 for a minimum of 5 years. A copy of the transcript, less any  
118 exempt matters, of any closed meeting wherein claims are  
119 discussed shall become public as to individual claims after  
120 settlement of the claim.

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122  
123 **T I T L E A M E N D M E N T**

124 Between lines 2-3 insert:

125 627.351, F.S.; clarifying the right of certain  
126 parties to discover underwriting and claims file  
127 records; authorizing the corporation to release  
128 such records as it deems necessary; amending s.

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