

By the Committee on Governmental Oversight and Accountability;
and Senator Haridopolos

585-04499-09

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 631.582, F.S.; providing an exemption from public-
4 records requirements for specified claims files,
5 medical records that are part of a claims file,
6 information relating to the medical condition or
7 medical status of a claimant, and records pertaining
8 to matters reasonably encompassed in privileged
9 attorney-client communications of the Florida
10 Insurance Guaranty Association; providing for limited
11 duration of the exemption for claims files; providing
12 for release of records under specified conditions;
13 providing for future review and repeal of the
14 exemption; providing a statement of public necessity;
15 providing an effective date.

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

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19 Section 1. Section 631.582, Florida Statutes, is created to
20 read:

21 631.582 Public-records exemption.-

22 (1) The following records of the Florida Insurance Guaranty
23 Association are confidential and exempt from s. 119.07(1) and s.
24 24(a), Art. I of the State Constitution:

25 (a) Claims files, until termination of all litigation,
26 settlement, and final closing of all claims arising out of the
27 same incident, although portions of the claims files may remain
28 exempt, as otherwise provided by law.

29 (b) Medical records that are part of a claims file and

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30 other information relating to the medical condition or medical
31 status of a claimant.

32 (c) Records pertaining to matters reasonably encompassed in
33 privileged attorney-client communications.

34 (2) Records or portions of records made confidential and
35 exempt by this section may be released, upon written request, to
36 any state agency in the performance of that agency's official
37 duties and responsibilities. The receiving agency shall maintain
38 the confidential and exempt status of such record or portion of
39 such record.

40 (3) This section is subject to the Open Government Sunset
41 Review Act in accordance with s. 119.15 and shall stand repealed
42 on October 2, 2014, unless reviewed and saved from repeal
43 through reenactment by the Legislature.

44 Section 2. It is the finding of the Legislature that it is
45 a public necessity that specified claims files, medical records
46 that are part of a claims file, information relating to the
47 medical condition or medical status of a claimant, and records
48 pertaining to matters reasonably encompassed in privileged
49 attorney-client communications of the Florida Insurance Guaranty
50 Association be held confidential and exempt from public-records
51 requirements. The Legislature finds that the Florida Insurance
52 Guaranty Association was created to stand in the place of
53 private property and casualty insurers if any such insurers
54 become insolvent. The Legislature finds that the exemption from
55 public-records requirements for open claims files of the
56 association is necessary for the effective and efficient
57 administration of a government program created to insure
58 policyholders with claims against insolvent insurers. Claims

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59 files are created by the insurer or the association after a
60 claim against one of the insolvent insurers is made. Claims
61 files contain detailed information about the claim, personal
62 information about the policyholder or claimant, information
63 detailing the evaluation of the legitimacy of the claim, and a
64 valuation of the award, if any, that should be made. Personal
65 information in a claims file may include information as to a
66 policyholder's personal finances, the value and nature of the
67 policyholder's assets, the architectural plans of a residential
68 or commercial structure, medical records and other information
69 related to the medical condition or medical status of a
70 claimant, and other information of a sensitive nature. The
71 Legislature finds that policyholders of a private market insurer
72 have an expectation that sensitive personal information
73 pertaining to them will be kept confidential and that this
74 privacy should not be abrogated due to the fact that the insurer
75 is later rendered insolvent. Additionally, medical records of a
76 claimant or personal identifying information concerning a
77 claimant would violate the privacy of the individual and could
78 cause unwarranted damage to his or her name and reputation. When
79 a claim is contested, the work product of legal counsel may also
80 be included in the file in the form of direction to claims
81 professionals. Allowing the claimant or the claimant's attorneys
82 access to the files, which could be used for purposes of
83 negotiation, claim evaluation, and settlement considerations,
84 would weaken the legal position of the association and could
85 result in higher awards and settlements paid out by the
86 association, which would ultimately be passed on to Floridians
87 through increased assessments on their insurance policies.

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Section 3. This act shall take effect July 1, 2009.