

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

15
 16 Be It Enacted by the Legislature of the State of Florida:

17
 18 Section 1. Section 631.582, Florida Statutes, is created
 19 to read:

20 631.582 Public records exemption.--

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

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

HB 961

2009

28 (b) Medical records that are part of a claims file and
29 other information relating to the medical condition or medical
30 status of a claimant.

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

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

39 (3) This section is subject to the Open Government Sunset
40 Review Act in accordance with s. 119.15 and shall stand repealed
41 on October 1, 2014, unless reviewed and saved from repeal
42 through reenactment by the Legislature.

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

HB 961

2009

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

HB 961

2009

84 result in higher awards and settlements paid out by the
85 association, which would ultimately be passed on to Floridians
86 through increased assessments on their insurance policies.

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