



184416

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/05/2011	.	
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The Committee on Children, Families, and Elder Affairs (Hays) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause and insert:

Section 1. Subsection (14) is added to section 408.910, Florida Statutes, to read:

408.910 Florida Health Choices Program.—

(14) EXEMPTIONS.—

(a) As used in this subsection, the term:

1. "Buyer's representative" means a participating health insurance agent as described in paragraph (4) (g).

2. "Enrollee" means an employer who is eligible to enroll



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13 in the program pursuant to paragraph (4) (a) .

14 3. "Participant" means an individual who is eligible to  
15 participate in the program pursuant to paragraph (4) (b) .

16 4. "Proprietary confidential business information" means  
17 information, regardless of its form or characteristics, which  
18 relates to business plans, internal auditing controls, reports  
19 of internal auditors, reports of external auditors of privately  
20 held companies, potentially patentable material, or trade  
21 secrets as defined in s. 688.002, and such information:

22 a. Is owned or controlled by a vendor requesting  
23 confidentiality under this subsection;

24 b. Is intended to be and is treated by the vendor as  
25 private in that the disclosure of the information would cause  
26 harm to the business operations of the vendor; and

27 c. Has not been disclosed unless disclosed pursuant to a  
28 statutory provision, an order of a court or administrative body,  
29 or a private agreement that provides that the information may be  
30 released to the public.

31 5. "Vendor" means a participating insurer or other provider  
32 of services as described in paragraph (4) (d) .

33 (b)1. Personal identifying information of an enrollee or  
34 participant who has applied for or participates in the Florida  
35 Health Choices Program is confidential and exempt from s.  
36 119.07(1) and s. 24(a), Art. I of the State Constitution.

37 2. Client and customer lists of a buyer's representative  
38 which is held by the corporation is confidential and exempt from  
39 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

40 3. Proprietary confidential business information of a  
41 vendor which is held by the corporation is confidential and



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42 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
43 Constitution.

44 (c) The public-record exemptions in paragraph (b) apply to  
45 information held by the corporation before, on, or after October  
46 1, 2011.

47 (d)1. Upon request, information made confidential and  
48 exempt pursuant to this subsection shall be disclosed to:

49 a. Another governmental entity in the performance of its  
50 official duties and responsibilities.

51 b. Any person who has the written consent of the program's  
52 applicant.

53 c. The Florida Kidcare program for the purpose of  
54 administering the program authorized in ss. 409.810-409.821.

55 2. Paragraph (b) does not prohibit a participant's legal  
56 guardian from obtaining confirmation of coverage, dates of  
57 coverage, the name of the participant's health plan, and the  
58 amount of premium being paid.

59 (e) A person who knowingly and willfully violates this  
60 subsection commits a misdemeanor of the second degree,  
61 punishable as provided in s. 775.082 or s. 775.083.

62 (f) This subsection is subject to the Open Government  
63 Sunset Review Act in accordance with s. 119.15, and shall stand  
64 repealed on October 2, 2016, unless reviewed and saved from  
65 repeal through reenactment by the Legislature.

66 Section 2. (1) The Legislature finds that it is a public  
67 necessity that any information identifying an enrollee or  
68 participant in the Florida Health Choices Program, including  
69 such information received during the application process, be  
70 held confidential and exempt from public-records requirements.



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71 The harm caused by releasing such personal and sensitive  
72 information outweighs any public benefit from releasing it. If  
73 such information is not held confidential, the administration of  
74 the program could be significantly impaired because businesses  
75 and individuals would be less inclined to apply, participate, or  
76 enroll in the Florida Health Choices Program. This lack of  
77 participation would significantly decrease the number of the  
78 program's participants or enrollees. Therefore, it is a public  
79 necessity that any information identifying a participant or  
80 enrollee in the Florida Health Choices Program, including such  
81 information received during the application process, be held  
82 confidential and exempt from public-records requirements.

83 (2) The Legislature finds that it is a public necessity  
84 that proprietary confidential business information of a vendor  
85 and the customer and client lists of a buyer's representative be  
86 made confidential and exempt from public-records requirements.  
87 The disclosure of a vendor's proprietary confidential business  
88 information or a customer and client list of a buyer's  
89 representative could cause injury in the marketplace by  
90 providing competitors with detailed insights into confidential  
91 business information, strategies, methodologies, plans, or  
92 client lists which would diminish the advantage that the vendor  
93 or the buyer's representative maintains over those that do not  
94 possess such information. Without these exemptions, private-  
95 sector vendors or buyer's representatives, whose business  
96 records generally are not required to be open to the public,  
97 might refrain from participating in the Florida Health Choices  
98 Program and not offer affordable, quality health insurance,  
99 health services, and benefits' products through the program. The



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100 harm to the vendors or the buyer's representatives in the  
101 marketplace and harm to the effective administration of the  
102 Florida Health Choices Program caused by the public disclosure  
103 of such information far outweighs the public benefits derived  
104 from the release of the information. Therefore, it is a public  
105 necessity that proprietary confidential business information of  
106 the vendors and customer and client lists of the buyer's  
107 representatives be held confidential and exempt from public-  
108 records requirements.

109 Section 3. This act shall take effect October 1, 2011.

110  
111 ===== T I T L E A M E N D M E N T =====

112 And the title is amended as follows:

113 Delete everything before the enacting clause  
114 and insert:

115 A bill to be entitled  
116 An act relating to public records; amending s.  
117 408.910, F.S.; providing definitions; providing  
118 exemptions from public-records requirements for  
119 personal identifying information of an enrollee or  
120 participant in the Florida Health Choices Program,  
121 client and customer lists of buyers' representatives  
122 which are held by Florida Health Choices, Inc., and  
123 proprietary confidential business information of  
124 vendors which is held by Florida Health Choices, Inc.;  
125 providing for disclosure of such confidential and  
126 exempt information to certain persons and entities  
127 upon written request; providing that the guardian of a  
128 participant in the program is not prohibited from



129       obtaining certain information; providing a criminal  
130       penalty; providing for future legislative review and  
131       repeal of the exemptions; providing findings of public  
132       necessity; providing an effective date.