

HB 7105

2012

1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act; amending s. 627.3121, F.S., which
 4 provides an exemption from public records requirements
 5 for certain records held by the Florida Workers'
 6 Compensation Joint Underwriting Association, Inc., and
 7 an exemption from public meetings requirements for
 8 certain meetings of the association's board of
 9 governors, or a subcommittee of the association's
 10 board; clarifying that the public record exemption
 11 applies to medical information relating to the medical
 12 condition or medical status of an individual; removing
 13 the scheduled repeal of the exemption; providing an
 14 effective date.

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

17
 18 Section 1. Section 627.3121, Florida Statutes, is amended
 19 to read:

20 627.3121 Public records and public meetings exemptions.—

21 (1) The following records held by the Florida Workers'
 22 Compensation Joint Underwriting Association, Inc., are
 23 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 24 of the State Constitution:

25 (a) Underwriting files, except that a policyholder or an
 26 applicant shall be provided access to his or her own
 27 underwriting files.

28 (b) Claims files until termination of all litigation and

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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29 | the settlement of all claims arising out of the same accident,
30 | except that portions of the claims files may remain confidential
31 | or exempt if otherwise provided by law.

32 | (c) Records obtained or generated by an auditor pursuant
33 | to a routine audit until the audit is completed or, if the audit
34 | is conducted as part of an investigation, until the
35 | investigation is closed or ceases to be active. An investigation
36 | is considered "active" while the investigation is being
37 | conducted with a reasonable, good faith belief that it could
38 | lead to the filing of administrative, civil, or criminal
39 | proceedings.

40 | (d) Proprietary information licensed to the association
41 | under contract if the contract requires the association to
42 | maintain the confidentiality of such information.

43 | (e) Medical ~~records, which include~~ information relating to
44 | the medical condition or medical status of an individual.

45 | (f) All records relative to an employee's participation in
46 | an employee assistance program upon the entrance of the employee
47 | into the program, except as otherwise provided in s. 440.102(8).

48 | (g) Information relating to negotiations for financing,
49 | reinsurance, reinsurance commutation agreements, depopulation,
50 | or contractual services until the conclusion of the
51 | negotiations.

52 | (h) Reports provided to or submitted by the association
53 | regarding suspected fraud or other criminal activity and
54 | producer appeals and related reporting regarding suspected
55 | misconduct until such investigation is closed or ceases to be
56 | active.

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57 (i) Information received from the Department of Revenue
58 regarding payroll information and client lists of employee
59 leasing companies obtained pursuant to ss. 440.381 and 468.529.

60 (j) A public record prepared by an attorney retained by
61 the association to protect or represent the interests of the
62 association, or prepared at the attorney's express direction,
63 that reflects a mental impression, conclusion, litigation
64 strategy, or legal theory of the attorney or the association.
65 This protection is not waived by the release of such public
66 record to another employee or officer of the same association or
67 any person consulted by the association attorney.

68 (2) (a) The association may release confidential and exempt
69 underwriting files and claims files to:

70 1. A carrier that is considering underwriting a risk
71 insured by the association;

72 2. A producer seeking to place such a risk with such a
73 carrier; or

74 3. Another entity seeking to arrange voluntary market
75 coverage for association risks.

76 (b) Prior to the release authorized in paragraph (a), the
77 carrier, producer, or other entity must agree in writing,
78 notarized and under oath, to maintain the confidential and
79 exempt status of such file until that carrier, producer, or
80 other entity agrees to underwrite the risk or provide voluntary
81 market coverage.

82 (3) Records made confidential and exempt by this section
83 may be released, upon written request, to another agency in the
84 performance of that agency's official duties and

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85 responsibilities.

86 (4) (a) That portion of a meeting of the association's
87 board of governors, or any subcommittee of the association's
88 board, at which records made confidential and exempt by this
89 section are discussed is exempt from s. 286.011 and s. 24(b),
90 Art. I of the State Constitution.

91 (b) All exempt portions of meetings shall be recorded and
92 transcribed. The board shall record the times of commencement
93 and termination of the meeting, all discussion and proceedings,
94 the names of all persons present at any time, and the names of
95 all persons speaking. An exempt portion of any meeting may not
96 be off the record.

97 (c) Subject to this section and s. 119.021(2), the court
98 reporter's notes of any exempt portion of a meeting shall be
99 retained by the association for a minimum of 5 years.

100 (d)1. A transcript and minutes of exempt portions of
101 meetings are confidential and exempt from s. 119.07(1) and s.
102 24(a), Art. I of the State Constitution.

103 2. Those portions of the transcript or the minutes
104 pertaining to a confidential and exempt claims file are no
105 longer confidential and exempt upon termination of all
106 litigation with regard to that claim.

107 ~~(5) This section is subject to the Open Government Sunset~~
108 ~~Review Act in accordance with s. 119.15 and shall stand repealed~~
109 ~~on October 2, 2012, unless reviewed and saved from repeal~~
110 ~~through reenactment by the Legislature.~~

111 Section 2. This act shall take effect October 1, 2012.