

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Regulatory Affairs
 2 Committee

3 Representative Bileca offered the following:

4
 5 **Amendment (with directory and title amendments)**

6 Between lines 562 and 563, insert:

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

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

Amendment No. 2

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

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

33 d. Matters reasonably encompassed in privileged attorney-
34 client communications.

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

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

Amendment No. 2

43 relating to workers' compensation, insurance benefits, and
44 retirement or disability benefits.

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

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

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

61 2. If an authorized insurer is considering underwriting a
62 risk insured by the corporation, relevant underwriting files and
63 confidential claims files may be released to the insurer
64 provided the insurer agrees in writing, notarized and under
65 oath, to maintain the confidentiality of such files. If a file
66 is transferred to an insurer, that file is no longer a public
67 record because it is not held by an agency subject to the
68 provisions of the public records law. Underwriting files and

Amendment No. 2

69 confidential claims files may also be released to staff and the
70 board of governors of the market assistance plan established
71 pursuant to s. 627.3515, who must retain the confidentiality of
72 such files, except such files may be released to authorized
73 insurers that are considering assuming the risks to which the
74 files apply, provided the insurer agrees in writing, notarized
75 and under oath, to maintain the confidentiality of such files.
76 Finally, the corporation or the board or staff of the market
77 assistance plan may make the following information obtained from
78 underwriting files and confidential claims files available to
79 licensed general lines insurance agents: name, address, and
80 telephone number of the residential property owner or insured;
81 location of the risk; rating information; loss history; and
82 policy type. The receiving licensed general lines insurance
83 agent must retain the confidentiality of the information
84 received and may use the information only for the purposes of
85 developing a take-out plan to be submitted to the office for
86 approval or otherwise analyzing the underwriting of a risk or
87 risks insured by Citizens on behalf of the private insurance
88 market. The licensed general lines agent and any insurer
89 receiving information under this subparagraph shall not use the
90 information for the direct solicitation of policyholders. An
91 entity which has obtained a permit to become an authorized
92 insurer, a reinsurer, reinsurance broker or modeling company may
93 receive the information available to a licensed general lines
94 agent for the sole purpose of analyzing risks for underwriting

Amendment No. 2

95 in the private insurance market and must retain the
96 confidentiality of the information received. Such entities
97 shall not use the information for direct solicitation of
98 policyholders.

99 3. A policyholder who has filed suit against the
100 corporation has the right to discover the contents of his or her
101 own claims file to the same extent that discovery of such
102 contents would be available from a private insurer in litigation
103 as provided by the Florida Rules of Civil Procedure, the Florida
104 Evidence Code, and other applicable law. Pursuant to subpoena, a
105 third party has the right to discover the contents of an
106 insured's or applicant's underwriting or claims file to the same
107 extent that discovery of such contents would be available from a
108 private insurer by subpoena as provided by the Florida Rules of
109 Civil Procedure, the Florida Evidence Code, and other applicable
110 law, and subject to any confidentiality protections requested by
111 the corporation and agreed to by the seeking party or ordered by
112 the court. The corporation may release confidential underwriting
113 and claims file contents and information as it deems necessary
114 and appropriate to underwrite or service insurance policies and
115 claims, subject to any confidentiality protections deemed
116 necessary and appropriate by the corporation.

117 4. Portions of meetings of the corporation are exempt from
118 the provisions of s. 286.011 and s. 24(b), Art. I of the State
119 Constitution wherein confidential underwriting files or
120 confidential open claims files are discussed. All portions of

Amendment No. 2

121 corporation meetings which are closed to the public shall be
122 recorded by a court reporter. The court reporter shall record
123 the times of commencement and termination of the meeting, all
124 discussion and proceedings, the names of all persons present at
125 any time, and the names of all persons speaking. No portion of
126 any closed meeting shall be off the record. Subject to the
127 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
128 notes of any closed meeting shall be retained by the corporation
129 for a minimum of 5 years. A copy of the transcript, less any
130 exempt matters, of any closed meeting wherein claims are
131 discussed shall become public as to individual claims after
132 settlement of the claim.

133
134 -----
135 **D I R E C T O R Y A M E N D M E N T**

136 Remove line 24 and insert:

137 Section 1. Paragraphs (c) and (x) of subsection (6) of
138 section

139
140 -----
141 **T I T L E A M E N D M E N T**

142 Remove line 8 and insert:

143 permitted by law or ordinance; authorizing the additional use of
144 certain information for analyzing risks and prohibiting its use
145 for direct solicitation of policyholders; prohibiting a policy,