

By the Committees on Appropriations; and Banking and Insurance;
and Senator Benacquisto

576-02884-15

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 1009.987, F.S.; providing an exemption from public
4 records requirements for certain personal financial
5 and health information held by the Florida Prepaid
6 College Board, the Florida ABLE, Inc., or the Florida
7 ABLE program, or an agent or service provider thereof;
8 authorizing the release of such information under
9 specified circumstances; providing for future
10 legislative review and repeal of the exemption;
11 providing a statement of public necessity; providing a
12 contingent effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Section 1009.987, Florida Statutes, is created
17 to read:

18 1009.987 Public records exemption.—

19 (1) As used in this section, the term:

20 (a) "Consumer" means a party to a participation agreement.

21 (b) "Personal financial and health information" means:

22 1. A consumer's personal health condition, disease, injury,
23 or medical diagnosis or treatment;

24 2. The existence, nature, source, or amount of a consumer's
25 personal income or expenses;

26 3. Records of or relating to a consumer's personal
27 financial transactions of any kind; or

28 4. The existence, identification, nature, or value of a
29 consumer's assets, liabilities, or net worth.

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30 (2) The personal financial and health information of a
31 consumer held by the Florida Prepaid College Board, the Florida
32 ABLE, Inc., or the Florida ABLE program, or an agent or service
33 provider thereof, relating to an ABLE account or a participation
34 agreement or any information that would identify a consumer is
35 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
36 of the State Constitution.

37 (3) The Florida Prepaid College Board or the Florida ABLE,
38 Inc., may authorize the disclosure of information made
39 confidential and exempt under subsection (2) to another state or
40 federal government entity if disclosure is necessary for the
41 receiving entity to perform its duties or responsibilities or to
42 verify the eligibility of an eligible individual or authorize
43 the use of an ABLE account.

44 (4) This section is subject to the Open Government Sunset
45 Review Act in accordance with s. 119.15 and shall stand repealed
46 on October 2, 2020, unless reviewed and saved from repeal
47 through reenactment by the Legislature.

48 Section 2. The Legislature finds that it is a public
49 necessity that the personal financial and health information of
50 a consumer held by the Florida Prepaid College Board, the
51 Florida ABLE, Inc., or the Florida ABLE program, or an agent or
52 service provider thereof, relating to an ABLE account or a
53 participation agreement, or any information that would identify
54 a consumer, be made confidential and exempt from s. 119.07(1),
55 Florida Statutes, and s. 24(a), Article I of the State
56 Constitution. The Florida ABLE program allows eligible
57 individuals with disabilities, their family members, and others
58 to contribute funds to an ABLE account without affecting the

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59 individual's eligibility for state and federal benefits. It
60 allows the individual to use those funds for qualified
61 disability expenses, such as education, housing, transportation,
62 or other expenses authorized through federal regulations. The
63 public record exemption for information that would identify a
64 consumer ensures that information of a sensitive personal nature
65 concerning a party to a participation agreement is protected.
66 Without such protection, an individual may be less likely to
67 take advantage of the program, thus hindering the effective and
68 efficient administration of the Florida ABLE program. It may
69 also make the individual vulnerable to abuse and exploitation.
70 Disclosure of sensitive financial information regarding a
71 consumer under the Florida ABLE program could create the
72 opportunity for theft, identity theft, fraud, and other illegal
73 activity, thereby jeopardizing the financial security of the
74 consumer and placing him or her at risk for substantial
75 financial harm. Further, each individual has a reasonable
76 expectation of and a right to privacy in all matters concerning
77 personal financial interests. The Legislature further finds that
78 it is a public necessity to protect a consumer's personal health
79 information because such information is traditionally a private
80 and confidential matter between the patient and health care
81 provider. The private and confidential nature of personal health
82 matters pervades both the public and private health care
83 sectors, and public disclosure of such personal health
84 information relating to a consumer under the Florida ABLE
85 program could negatively affect an individual's business and
86 personal relationships and cause detrimental financial
87 consequences.

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88 Section 3. This act shall take effect on the same date that
89 SB 642 or similar legislation takes effect, if such legislation
90 is adopted in the same legislative session or an extension
91 thereof and becomes a law.