

1                                   A bill to be entitled  
 2           An act relating to operations of the Citizens Property  
 3           Insurance Corporation; amending s. 627.351, F.S.;  
 4           authorizing the use of specified information by  
 5           certain entities in analyzing risks or developing  
 6           rating plans; prohibiting the use of such information  
 7           for the direct solicitation of policyholders;  
 8           providing an effective date.

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 10   Be It Enacted by the Legislature of the State of Florida:

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 12           Section 1. Paragraph (x) of subsection (6) of section  
 13   627.351, Florida Statutes, is amended to read:

14           627.351 Insurance risk apportionment plans.—

15           (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

19           a. Underwriting files, except that a policyholder or an  
 20   applicant shall have access to his or her own underwriting  
 21   files. Confidential and exempt underwriting file records may  
 22   also be released to other governmental agencies upon written  
 23   request and demonstration of need; such records held by the  
 24   receiving agency remain confidential and exempt as provided  
 25   herein.

26           b. Claims files, until termination of all litigation and

27 settlement of all claims arising out of the same incident,  
28 although portions of the claims files may remain exempt, as  
29 otherwise provided by law. Confidential and exempt claims file  
30 records may be released to other governmental agencies upon  
31 written request and demonstration of need; such records held by  
32 the receiving agency remain confidential and exempt as provided  
33 herein.

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

42 d. Matters reasonably encompassed in privileged attorney-  
43 client communications.

44 e. Proprietary information licensed to the corporation  
45 under contract and the contract provides for the confidentiality  
46 of such proprietary information.

47 f. All information relating to the medical condition or  
48 medical status of a corporation employee which is not relevant  
49 to the employee's capacity to perform his or her duties, except  
50 as otherwise provided in this paragraph. Information that is  
51 exempt shall include, but is not limited to, information  
52 relating to workers' compensation, insurance benefits, and

53 retirement or disability benefits.

54 g. Upon an employee's entrance into the employee  
55 assistance program, a program to assist any employee who has a  
56 behavioral or medical disorder, substance abuse problem, or  
57 emotional difficulty which affects the employee's job  
58 performance, all records relative to that participation shall be  
59 confidential and exempt from the provisions of s. 119.07(1) and  
60 s. 24(a), Art. I of the State Constitution, except as otherwise  
61 provided in s. 112.0455(11).

62 h. Information relating to negotiations for financing,  
63 reinsurance, depopulation, or contractual services, until the  
64 conclusion of the negotiations.

65 i. Minutes of closed meetings regarding underwriting  
66 files, and minutes of closed meetings regarding an open claims  
67 file until termination of all litigation and settlement of all  
68 claims with regard to that claim, except that information  
69 otherwise confidential or exempt by law shall be redacted.

70 2. If an authorized insurer is considering underwriting a  
71 risk insured by the corporation, relevant underwriting files and  
72 confidential claims files may be released to the insurer  
73 provided the insurer agrees in writing, notarized and under  
74 oath, to maintain the confidentiality of such files. If a file  
75 is transferred to an insurer, that file is no longer a public  
76 record because it is not held by an agency subject to the  
77 provisions of the public records law. Underwriting files and  
78 confidential claims files may also be released to staff and the

79 board of governors of the market assistance plan established  
80 pursuant to s. 627.3515, who must retain the confidentiality of  
81 such files, except such files may be released to authorized  
82 insurers that are considering assuming the risks to which the  
83 files apply, provided the insurer agrees in writing, notarized  
84 and under oath, to maintain the confidentiality of such files.  
85 Finally, the corporation or the board or staff of the market  
86 assistance plan may make the following information obtained from  
87 underwriting files and confidential claims files available to  
88 licensed general lines insurance agents: name, address, and  
89 telephone number of the residential property owner or insured;  
90 location of the risk; rating information; loss history; and  
91 policy type. The receiving licensed general lines insurance  
92 agent must retain the confidentiality of the information  
93 received and may use the information only for the purposes of  
94 developing a take-out plan to be submitted to the office for  
95 approval or otherwise analyzing the underwriting of a risk or  
96 risks insured by the corporation on behalf of the private  
97 insurance market. The licensed general lines agent and an  
98 insurer receiving information under this subparagraph may not  
99 use the information for the direct solicitation of  
100 policyholders. An entity that has obtained a permit to become an  
101 authorized insurer, a reinsurer that may provide reinsurance  
102 under s. 624.610, a licensed reinsurance broker, a licensed  
103 rating organization, or a modeling company may receive the  
104 information available to a licensed general lines agent for the

105 sole purpose of analyzing risks for underwriting or developing  
106 rating plans in the private insurance market and must retain the  
107 confidentiality of the information received. Such entities may  
108 not use the information for the direct solicitation of  
109 policyholders.

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

128 4. Portions of meetings of the corporation are exempt from  
129 the provisions of s. 286.011 and s. 24(b), Art. I of the State  
130 Constitution wherein confidential underwriting files or

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131 confidential open claims files are discussed. All portions of  
132 corporation meetings which are closed to the public shall be  
133 recorded by a court reporter. The court reporter shall record  
134 the times of commencement and termination of the meeting, all  
135 discussion and proceedings, the names of all persons present at  
136 any time, and the names of all persons speaking. No portion of  
137 any closed meeting shall be off the record. Subject to the  
138 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's  
139 notes of any closed meeting shall be retained by the corporation  
140 for a minimum of 5 years. A copy of the transcript, less any  
141 exempt matters, of any closed meeting wherein claims are  
142 discussed shall become public as to individual claims after  
143 settlement of the claim.

144 Section 2. This act shall take effect July 1, 2016.