

By Senator Baxley

12-01447-17

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1 A bill to be entitled
2 An act relating to public records; amending s. 119.07,
3 F.S.; requiring that requests to inspect or copy
4 records in the custody of a law enforcement agency be
5 made to a certain individual; conforming a cross-
6 reference; amending s. 497.140, F.S.; correcting a
7 cross-reference; amending ss. 627.311 and 627.351,
8 F.S.; conforming cross-references; providing an
9 effective date.

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

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13 Section 1. Present paragraphs (c) through (i) of subsection
14 (1) of section 119.07, Florida Statutes, are redesignated as
15 paragraphs (d) through (j), respectively, a new paragraph (c) is
16 added to that subsection, and present paragraph (i) is amended,
17 to read:

18 119.07 Inspection and copying of records; photographing
19 public records; fees; exemptions.—

20 (1)

21 (c) A request to inspect or copy public records in the
22 custody of a law enforcement agency must be made directly to the
23 head of the agency or, if the head of the agency has designated
24 another individual to permit the inspection or copying of public
25 records, to his or her designee.

26 (j)~~(i)~~ The absence of a civil action instituted for the
27 purpose stated in paragraph (h) ~~(g)~~ does not relieve the
28 custodian of public records of the duty to maintain the record
29 as a public record if the record is in fact a public record
30 subject to public inspection and copying under this subsection
31 and does not otherwise excuse or exonerate the custodian of
32 public records from any unauthorized or unlawful disposition of

12-01447-17

2017864__

33 such record.

34 Section 2. Subsection (5) of section 497.140, Florida
35 Statutes, is amended to read:

36 497.140 Fees.—

37 (5) The department shall charge a fee not to exceed \$25 for
38 the certification of a public record. The fee shall be
39 determined by rule of the department. The department shall
40 assess a fee for duplication of a public record as provided in
41 s. 119.07(4) ~~119.07(1)(a) and (e)~~.

42 Section 3. Paragraph (b) of subsection (4) of section
43 627.311, Florida Statutes, is amended to read:

44 627.311 Joint underwriters and joint reinsurers; public
45 records and public meetings exemptions.—

46 (4) The Florida Automobile Joint Underwriting Association:

47 (b) Shall keep portions of association meetings during
48 which confidential and exempt underwriting files or confidential
49 and exempt claims files are discussed exempt from the provisions
50 of s. 286.011 and s. 24(b), Art. I of the State Constitution.
51 All closed portions of association meetings shall be recorded by
52 a court reporter. The court reporter shall record the times of
53 commencement and termination of the meeting, all discussion and
54 proceedings, the names of all persons present at any time, and
55 the names of all persons speaking. No portion of any closed
56 meeting shall be off the record. Subject to the provisions of
57 this paragraph and s. 119.07(1)(e)-(g) ~~119.07(1)(d)-(f)~~, the
58 court reporter's notes of any closed meeting shall be retained
59 by the association for a minimum of 5 years. A copy of the
60 transcript, less any confidential and exempt information, of any
61 closed meeting during which confidential and exempt claims files

12-01447-17

2017864__

62 are discussed shall become public as to individual claims files
63 after settlement of that claim.

64 Section 4. Paragraph (x) of subsection (6) of section
65 627.351, Florida Statutes, is amended to read:

66 627.351 Insurance risk apportionment plans.—

67 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

71 a. Underwriting files, except that a policyholder or an
72 applicant shall have access to his or her own underwriting
73 files. Confidential and exempt underwriting file records may
74 also be released to other governmental agencies upon written
75 request and demonstration of need; such records held by the
76 receiving agency remain confidential and exempt as provided
77 herein.

78 b. Claims files, until termination of all litigation and
79 settlement of all claims arising out of the same incident,
80 although portions of the claims files may remain exempt, as
81 otherwise provided by law. Confidential and exempt claims file
82 records may be released to other governmental agencies upon
83 written request and demonstration of need; such records held by
84 the receiving agency remain confidential and exempt as provided
85 herein.

86 c. Records obtained or generated by an internal auditor
87 pursuant to a routine audit, until the audit is completed, or if
88 the audit is conducted as part of an investigation, until the
89 investigation is closed or ceases to be active. An investigation
90 is considered "active" while the investigation is being

12-01447-17

2017864__

91 conducted with a reasonable, good faith belief that it could
92 lead to the filing of administrative, civil, or criminal
93 proceedings.

94 d. Matters reasonably encompassed in privileged attorney-
95 client communications.

96 e. Proprietary information licensed to the corporation
97 under contract and the contract provides for the confidentiality
98 of such proprietary information.

99 f. All information relating to the medical condition or
100 medical status of a corporation employee which is not relevant
101 to the employee's capacity to perform his or her duties, except
102 as otherwise provided in this paragraph. Information that is
103 exempt shall include, but is not limited to, information
104 relating to workers' compensation, insurance benefits, and
105 retirement or disability benefits.

106 g. Upon an employee's entrance into the employee assistance
107 program, a program to assist any employee who has a behavioral
108 or medical disorder, substance abuse problem, or emotional
109 difficulty that affects the employee's job performance, all
110 records relative to that participation shall be confidential and
111 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
112 of the State Constitution, except as otherwise provided in s.
113 112.0455(11).

114 h. Information relating to negotiations for financing,
115 reinsurance, depopulation, or contractual services, until the
116 conclusion of the negotiations.

117 i. Minutes of closed meetings regarding underwriting files,
118 and minutes of closed meetings regarding an open claims file
119 until termination of all litigation and settlement of all claims

12-01447-17

2017864__

120 with regard to that claim, except that information otherwise
121 confidential or exempt by law shall be redacted.

122 2. If an authorized insurer is considering underwriting a
123 risk insured by the corporation, relevant underwriting files and
124 confidential claims files may be released to the insurer
125 provided the insurer agrees in writing, notarized and under
126 oath, to maintain the confidentiality of such files. If a file
127 is transferred to an insurer, that file is no longer a public
128 record because it is not held by an agency subject to the
129 provisions of the public records law. Underwriting files and
130 confidential claims files may also be released to staff and the
131 board of governors of the market assistance plan established
132 pursuant to s. 627.3515, who must retain the confidentiality of
133 such files, except such files may be released to authorized
134 insurers that are considering assuming the risks to which the
135 files apply, provided the insurer agrees in writing, notarized
136 and under oath, to maintain the confidentiality of such files.
137 Finally, the corporation or the board or staff of the market
138 assistance plan may make the following information obtained from
139 underwriting files and confidential claims files available to an
140 entity that has obtained a permit to become an authorized
141 insurer, a reinsurer that may provide reinsurance under s.
142 624.610, a licensed reinsurance broker, a licensed rating
143 organization, a modeling company, or a licensed general lines
144 insurance agent: name, address, and telephone number of the
145 residential property owner or insured; location of the risk;
146 rating information; loss history; and policy type. The receiving
147 person must retain the confidentiality of the information
148 received and may use the information only for the purposes of

12-01447-17

2017864__

149 developing a take-out plan or a rating plan to be submitted to
150 the office for approval or otherwise analyzing the underwriting
151 of a risk or risks insured by the corporation on behalf of the
152 private insurance market. A licensed general lines insurance
153 agent may not use such information for the direct solicitation
154 of policyholders.

155 3. A policyholder who has filed suit against the
156 corporation has the right to discover the contents of his or her
157 own claims file to the same extent that discovery of such
158 contents would be available from a private insurer in litigation
159 as provided by the Florida Rules of Civil Procedure, the Florida
160 Evidence Code, and other applicable law. Pursuant to subpoena, a
161 third party has the right to discover the contents of an
162 insured's or applicant's underwriting or claims file to the same
163 extent that discovery of such contents would be available from a
164 private insurer by subpoena as provided by the Florida Rules of
165 Civil Procedure, the Florida Evidence Code, and other applicable
166 law, and subject to any confidentiality protections requested by
167 the corporation and agreed to by the seeking party or ordered by
168 the court. The corporation may release confidential underwriting
169 and claims file contents and information as it deems necessary
170 and appropriate to underwrite or service insurance policies and
171 claims, subject to any confidentiality protections deemed
172 necessary and appropriate by the corporation.

173 4. Portions of meetings of the corporation are exempt from
174 the provisions of s. 286.011 and s. 24(b), Art. I of the State
175 Constitution wherein confidential underwriting files or
176 confidential open claims files are discussed. All portions of
177 corporation meetings which are closed to the public shall be

12-01447-17

2017864__

178 recorded by a court reporter. The court reporter shall record
179 the times of commencement and termination of the meeting, all
180 discussion and proceedings, the names of all persons present at
181 any time, and the names of all persons speaking. No portion of
182 any closed meeting shall be off the record. Subject to the
183 provisions hereof and s. 119.07(1)(e)-(g) ~~119.07(1)(d)-(f)~~, the
184 court reporter's notes of any closed meeting shall be retained
185 by the corporation for a minimum of 5 years. A copy of the
186 transcript, less any exempt matters, of any closed meeting
187 wherein claims are discussed shall become public as to
188 individual claims after settlement of the claim.

189 Section 5. This act shall take effect July 1, 2017.