

Amendment No.

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 WITHDRAWN _____ (Y/N)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: State Affairs Committee
 2 Representative Gaetz offered the following:

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Paragraphs (b), (c), (d), (e), (f), (g), (h),
 and (i) of subsection (1) of section 119.07, Florida Statutes,
 are renumbered as paragraphs (d), (e), (f), (g), (h), (i), (j),
 and (k), respectively, and new paragraphs (b) and (c) are added
 to that subsection to read:

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

(1)

(b) Each agency head shall designate a custodian of public
 records and shall display the contact information for the
 custodian of public records on the home page of the agency
 website, if the agency has a website.

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18 (c) A request to inspect or copy public records must be
19 made directly to the custodian of public records, a member of
20 the agency's governing body, or the head of the agency in order
21 for the requestor to be eligible for attorney fees under s.
22 119.12.

23 Section 2. Section 119.0701, Florida Statutes, is amended
24 to read:

25 119.0701 Contracts; public records.—

26 (1) For purposes of this section, the term:

27 (a) "Contractor" means an individual, partnership,
28 corporation, or business entity that enters into a contract for
29 services with a public agency and is acting on behalf of the
30 public agency as provided under s. 119.011(2).

31 (b) "Public agency" means a state, county, district,
32 authority, or municipal officer, or department, division, board,
33 bureau, commission, or other separate unit of government created
34 or established by law.

35 (2) In addition to other contract requirements provided by
36 law, each public agency contract for services entered into or
37 amended on or after July 1, 2015, must include:

38 (a) The following statement, in substantially the
39 following form, identifying the contact information of the
40 public agency's custodian of public records in at least 14-point
41 boldfaced type:

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43 IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICABILITY
44 OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY
45 TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT,
46 CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT ... (telephone
47 number, e-mail address, and mailing address)....

48
49 (b) A provision that requires the contractor to comply
50 with public records laws, specifically to:

51 1.(a) Keep and maintain public records that ordinarily and
52 necessarily would be required by the public agency in order to
53 perform the service.

54 2.(b) Provide the public with access to public records on
55 the same terms and conditions that the public agency would
56 provide the records and at a cost that does not exceed the cost
57 provided in this chapter or as otherwise provided by law.

58 3.(c) Ensure that public records that are exempt or
59 confidential and exempt from public records disclosure
60 requirements are not disclosed except as authorized by law for
61 the duration of the contract term and following completion of
62 the contract if the contractor does not transfer the records to
63 the public agency.

64 4.(d) Upon completion of the contract, ~~Meet all~~
65 ~~requirements for retaining public records and~~ transfer, at no
66 cost, to the public agency all public records in possession of
67 the contractor or keep and maintain public records that
68 ordinarily and necessarily would be required by the public

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69 agency in order to perform the service. If the contractor
70 transfers all public records to the public agency upon
71 completion of the contract, the contractor shall ~~upon~~
72 ~~termination of the contract and~~ destroy any duplicate public
73 records that are exempt or confidential and exempt from public
74 records disclosure requirements. If the contractor keeps and
75 maintains public records upon completion of the contract, the
76 contractor shall meet all applicable requirements for retaining
77 public records and provide requested records to a public agency
78 pursuant to the requirements of this section. Upon request from
79 the public agency's custodian of public records, all records
80 stored electronically must be provided to the public agency in a
81 format that is compatible with the information technology
82 systems of the public agency.

83 (3) If a contractor does not comply with a public records
84 request, the public agency shall enforce the contract provisions
85 in accordance with the contract. If a contractor fails to comply
86 with subparagraph (2)(b)1., the contractor shall be liable for
87 treble the attorney fees under s. 119.12.

88 Section 3. Subsection (5) of section 497.140, Florida
89 Statutes, is amended to read:

90 497.140 Fees.—

91 (5) The department shall charge a fee not to exceed \$25
92 for the certification of a public record. The fee shall be
93 determined by rule of the department. The department shall

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94 assess a fee for duplication of a public record as provided in
95 s. 119.07(1)(a) and (g)~~(e)~~.

96 Section 4. Paragraph (b) of subsection (4) of section
97 627.311, Florida Statutes, is amended to read:

98 627.311 Joint underwriters and joint reinsurers; public
99 records and public meetings exemptions.—

100 (4) The Florida Automobile Joint Underwriting Association:

101 (b) Shall keep portions of association meetings during
102 which confidential and exempt underwriting files or confidential
103 and exempt claims files are discussed exempt from the provisions
104 of s. 286.011 and s. 24(b), Art. I of the State Constitution.

105 All closed portions of association meetings shall be recorded by
106 a court reporter. The court reporter shall record the times of
107 commencement and termination of the meeting, all discussion and
108 proceedings, the names of all persons present at any time, and
109 the names of all persons speaking. No portion of any closed
110 meeting shall be off the record. Subject to the provisions of
111 this paragraph and s. 119.07(1) (f)~~(h)~~~~(d)~~~~(f)~~, the court
112 reporter's notes of any closed meeting shall be retained by the
113 association for a minimum of 5 years. A copy of the transcript,
114 less any confidential and exempt information, of any closed
115 meeting during which confidential and exempt claims files are
116 discussed shall become public as to individual claims files
117 after settlement of that claim.

118 Section 5. Paragraph (x) of subsection (6) of section
119 627.351, Florida Statutes, is amended to read:

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120 627.351 Insurance risk apportionment plans.—

121 (6) CITIZENS PROPERTY INSURANCE CORPORATION.—

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

125 a. Underwriting files, except that a policyholder or an
126 applicant shall have access to his or her own underwriting
127 files. Confidential and exempt underwriting file records may
128 also be released to other governmental agencies upon written
129 request and demonstration of need; such records held by the
130 receiving agency remain confidential and exempt as provided
131 herein.

132 b. Claims files, until termination of all litigation and
133 settlement of all claims arising out of the same incident,
134 although portions of the claims files may remain exempt, as
135 otherwise provided by law. Confidential and exempt claims file
136 records may be released to other governmental agencies upon
137 written request and demonstration of need; such records held by
138 the receiving agency remain confidential and exempt as provided
139 herein.

140 c. Records obtained or generated by an internal auditor
141 pursuant to a routine audit, until the audit is completed, or if
142 the audit is conducted as part of an investigation, until the
143 investigation is closed or ceases to be active. An investigation
144 is considered "active" while the investigation is being
145 conducted with a reasonable, good faith belief that it could

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146 lead to the filing of administrative, civil, or criminal
147 proceedings.

148 d. Matters reasonably encompassed in privileged attorney-
149 client communications.

150 e. Proprietary information licensed to the corporation
151 under contract and the contract provides for the confidentiality
152 of such proprietary information.

153 f. All information relating to the medical condition or
154 medical status of a corporation employee which is not relevant
155 to the employee's capacity to perform his or her duties, except
156 as otherwise provided in this paragraph. Information that is
157 exempt shall include, but is not limited to, information
158 relating to workers' compensation, insurance benefits, and
159 retirement or disability benefits.

160 g. Upon an employee's entrance into the employee
161 assistance program, a program to assist any employee who has a
162 behavioral or medical disorder, substance abuse problem, or
163 emotional difficulty which affects the employee's job
164 performance, all records relative to that participation shall be
165 confidential and exempt from the provisions of s. 119.07(1) and
166 s. 24(a), Art. I of the State Constitution, except as otherwise
167 provided in s. 112.0455(11).

168 h. Information relating to negotiations for financing,
169 reinsurance, depopulation, or contractual services, until the
170 conclusion of the negotiations.

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171 i. Minutes of closed meetings regarding underwriting
172 files, and minutes of closed meetings regarding an open claims
173 file until termination of all litigation and settlement of all
174 claims with regard to that claim, except that information
175 otherwise confidential or exempt by law shall be redacted.

176 2. If an authorized insurer is considering underwriting a
177 risk insured by the corporation, relevant underwriting files and
178 confidential claims files may be released to the insurer
179 provided the insurer agrees in writing, notarized and under
180 oath, to maintain the confidentiality of such files. If a file
181 is transferred to an insurer, that file is no longer a public
182 record because it is not held by an agency subject to the
183 provisions of the public records law. Underwriting files and
184 confidential claims files may also be released to staff and the
185 board of governors of the market assistance plan established
186 pursuant to s. 627.3515, who must retain the confidentiality of
187 such files, except such files may be released to authorized
188 insurers that are considering assuming the risks to which the
189 files apply, provided the insurer agrees in writing, notarized
190 and under oath, to maintain the confidentiality of such files.
191 Finally, the corporation or the board or staff of the market
192 assistance plan may make the following information obtained from
193 underwriting files and confidential claims files available to
194 licensed general lines insurance agents: name, address, and
195 telephone number of the residential property owner or insured;
196 location of the risk; rating information; loss history; and

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197 policy type. The receiving licensed general lines insurance
198 agent must retain the confidentiality of the information
199 received.

200 3. A policyholder who has filed suit against the
201 corporation has the right to discover the contents of his or her
202 own claims file to the same extent that discovery of such
203 contents would be available from a private insurer in litigation
204 as provided by the Florida Rules of Civil Procedure, the Florida
205 Evidence Code, and other applicable law. Pursuant to subpoena, a
206 third party has the right to discover the contents of an
207 insured's or applicant's underwriting or claims file to the same
208 extent that discovery of such contents would be available from a
209 private insurer by subpoena as provided by the Florida Rules of
210 Civil Procedure, the Florida Evidence Code, and other applicable
211 law, and subject to any confidentiality protections requested by
212 the corporation and agreed to by the seeking party or ordered by
213 the court. The corporation may release confidential underwriting
214 and claims file contents and information as it deems necessary
215 and appropriate to underwrite or service insurance policies and
216 claims, subject to any confidentiality protections deemed
217 necessary and appropriate by the corporation.

218 4. Portions of meetings of the corporation are exempt from
219 the provisions of s. 286.011 and s. 24(b), Art. I of the State
220 Constitution wherein confidential underwriting files or
221 confidential open claims files are discussed. All portions of
222 corporation meetings which are closed to the public shall be

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223 recorded by a court reporter. The court reporter shall record
224 the times of commencement and termination of the meeting, all
225 discussion and proceedings, the names of all persons present at
226 any time, and the names of all persons speaking. No portion of
227 any closed meeting shall be off the record. Subject to the
228 provisions hereof and s. 119.07(1) (f)-(h) ~~(d)-(f)~~, the court
229 reporter's notes of any closed meeting shall be retained by the
230 corporation for a minimum of 5 years. A copy of the transcript,
231 less any exempt matters, of any closed meeting wherein claims
232 are discussed shall become public as to individual claims after
233 settlement of the claim.

234 Section 6. This act shall take effect July 1, 2015.

235
236 -----
237 **T I T L E A M E N D M E N T**

238 Remove everything before the enacting clause and insert:
239 An act relating to public records; amending s. 119.07, F.S.;
240 requiring each agency head to designate a custodian of public
241 records and to display the contact information for the
242 custodian; requiring a public records request to be made to the
243 custodian of public records in order to be eligible for attorney
244 fees in a civil action to enforce chapter 119, F.S.; amending s.
245 119.0701, F.S.; requiring that a public agency contract for
246 services signed or amended on or after a specified date include
247 a statement providing the contact information of the public
248 agency's custodian of public records; prescribing the form of

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Bill No. CS/CS/HB 163 (2015)

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249 | the statement; revising required provisions in a public agency
250 | contract for services regarding a contractor's compliance with
251 | public records laws; specifying applicable penalties for a
252 | contractor who fails to comply with certain provisions; amending
253 | ss. 497.140, 627.311, and 627.351, F.S.; conforming cross-
254 | references; providing an effective date.