

By Senator Benacquisto

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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

30-00641B-16

2016958__

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 assistance
55 program, a program to assist any employee who has a behavioral
56 or medical disorder, substance abuse problem, or emotional
57 difficulty which affects the employee's job performance, all
58 records relative to that participation shall be confidential and

30-00641B-16

2016958__

59 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
60 of the State Constitution, except as otherwise provided in s.
61 112.0455(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 files,
66 and minutes of closed meetings regarding an open claims file
67 until termination of all litigation and settlement of all claims
68 with regard to that claim, except that information otherwise
69 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

30-00641B-16

2016958__

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 authorized insurer, a reinsurer that may
101 provide reinsurance under s. 624.610, a licensed reinsurance
102 broker, a licensed rating organization, or a modeling company
103 may receive the information available to a licensed general
104 lines agent for the sole purpose of analyzing risks for
105 underwriting or developing rating plans in the private insurance
106 market and must retain the confidentiality of the information
107 received. Such entities may not use the information for the
108 direct solicitation of policyholders.

109 3. A policyholder who has filed suit against the
110 corporation has the right to discover the contents of his or her
111 own claims file to the same extent that discovery of such
112 contents would be available from a private insurer in litigation
113 as provided by the Florida Rules of Civil Procedure, the Florida
114 Evidence Code, and other applicable law. Pursuant to subpoena, a
115 third party has the right to discover the contents of an
116 insured's or applicant's underwriting or claims file to the same

30-00641B-16

2016958__

117 extent that discovery of such contents would be available from a
118 private insurer by subpoena as provided by the Florida Rules of
119 Civil Procedure, the Florida Evidence Code, and other applicable
120 law, and subject to any confidentiality protections requested by
121 the corporation and agreed to by the seeking party or ordered by
122 the court. The corporation may release confidential underwriting
123 and claims file contents and information as it deems necessary
124 and appropriate to underwrite or service insurance policies and
125 claims, subject to any confidentiality protections deemed
126 necessary and appropriate by the corporation.

127 4. Portions of meetings of the corporation are exempt from
128 the provisions of s. 286.011 and s. 24(b), Art. I of the State
129 Constitution wherein confidential underwriting files or
130 confidential open claims files are discussed. All portions of
131 corporation meetings which are closed to the public shall be
132 recorded by a court reporter. The court reporter shall record
133 the times of commencement and termination of the meeting, all
134 discussion and proceedings, the names of all persons present at
135 any time, and the names of all persons speaking. No portion of
136 any closed meeting shall be off the record. Subject to the
137 provisions hereof and s. 119.07(1)(d)-(f), the court reporter's
138 notes of any closed meeting shall be retained by the corporation
139 for a minimum of 5 years. A copy of the transcript, less any
140 exempt matters, of any closed meeting wherein claims are
141 discussed shall become public as to individual claims after
142 settlement of the claim.

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