

## Council Substitute for House Bill No. 1767

An act relating to public records; creating s. 627.3111, F.S.; creating a public records exemption for bank account numbers, debit, charge, and credit card numbers and personal financial and health information held by the Department of Insurance; providing for exceptions to the exemption; providing for retroactive application; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

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

Section 1. Section 627.3111, Florida Statutes, is created to read:

627.3111 Public records exemption.—All bank account numbers and debit, charge, and credit card numbers; and all other personal financial and health information of a consumer held by the Department of Insurance or its service providers or agents, relating to a consumer's complaint or inquiry regarding a matter or activity regulated under the Florida Insurance Code, are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For the purpose of this section, the term "consumer" includes but is not limited to a prospective purchaser, purchaser, or beneficiary of, or applicant for, any product or service regulated under the Florida Insurance Code, and a family member or dependent of a consumer, a subscriber under a group policy, or a policyholder. This information shall be redacted from records that contain non-exempt information prior to disclosure. This exemption applies to information made confidential and exempt by this section held by the Department of Insurance or its service providers or agents before, on, or after the effective date of this exemption. Such confidential and exempt information may be disclosed to another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities, and may be disclosed to the National Association of Insurance Commissioners. The receiving governmental entity and the association must maintain the confidential and exempt status of such information. The information made confidential and exempt by this section may be used in a criminal, civil, or administrative proceeding so long as the confidential and exempt status of such information is maintained. This exemption does not include the name and address of an inquirer or complainant to the department or the name of an insurer or other regulated entity which is the subject of the inquiry of complaint. This section is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that the public records exemption created by this act is a public necessity in order to protect an individual's sensitive financial and health information. Disclosure of bank account numbers and debit, charge, and credit card numbers would create the opportunity for theft or fraud thereby jeopardizing the financial security of an individual. Limiting disclosure of personal financial information held by the

Department of Insurance or its service providers is also necessary in order to protect the financial interests of those persons to whom that information pertains. Such numbers and information could be used for fraudulent and other illegal purposes, including identity theft, and could result in substantial financial harm. Furthermore, every person has an expectation of and a right to privacy in all matters concerning his or her personal financial matters. The Legislature further finds that it is a public necessity that health information held by the department be made confidential and exempt because matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal health matters pervades both the public and private health care sectors. Moreover, public disclosure of health information could have a negative effect upon a person's business and personal relationships, and could also have detrimental financial consequences.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor April 24, 2002.

Filed in Office Secretary of State April 24, 2002.