

Senate Bill No. 1852

An act relating to a review under the Open Government Sunset Review Act; amending s. 624.23, F.S., relating to consumer complaints and inquiries handled by the Department of Financial Services and the Office of Insurance Regulation; revising the exemption from public-records requirements which is provided for personal financial and health information of consumers; creating an exemption from public-records requirements for information concerning employees seeking assistance from the Employee Assistance and Ombudsman Office; providing for future legislative review and repeal of the exemptions; providing a statement of public necessity; providing an effective date.

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

Section 1. Section 624.23, Florida Statutes, is amended to read:

624.23 Public records exemption.—

(1) As used in this section, the term:

(a) “Consumer” means:

1. 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.

2. An employee seeking assistance from the Employee Assistance and Ombudsman Office under s. 440.191.

(b) “Personal financial and health information” means:

1. A consumer’s personal health condition, disease, or injury;

2. The existence, nature, source, or amount of a consumer’s personal income or expenses;

3. Records of or relating to a consumer’s personal financial transactions of any kind;

4. The existence, identification, nature, or value of a consumer’s assets, liabilities, or net worth;

5. A history of a consumer’s personal medical diagnosis or treatment;

6. The existence or content or any individual coverage or status under a consumer’s beneficial interest in any insurance policy or annuity contract; or

7. The existence, identification, nature, or value of a consumer’s interest in any insurance policy, annuity contract, or trust. ~~All bank account numbers and debit, charge, and credit card numbers, and all other~~

~~(2) Personal financial and health information of a consumer held by the department or office or their service providers or agents, relating to a consumer's complaint or inquiry regarding a matter or activity regulated under the Florida Insurance Code or s. 440.191, 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 nonexempt information prior to disclosure. This exemption applies to personal financial and health information made confidential and exempt by this section held by the department or office or their service providers or agents before, on, or after the effective date of this exemption.~~

(3) Such confidential and exempt information may be disclosed to:

(a) Another governmental entity, if disclosure is necessary for the receiving entity to perform its duties and responsibilities; and ~~may be disclosed to~~

(b) 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 office or the name of an insurer or other regulated entity which is the subject of the inquiry or complaint.

(4) 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, 2012 2007, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity to protect a person's sensitive financial and health information. Disclosure of financial information would create the opportunity for theft or fraud thereby jeopardizing the financial security of a person. Limiting disclosure of personal financial information held by the Department of Financial Services or the Office of Insurance Regulation is also necessary in order to protect the financial interests of the persons to whom that information pertains. Such information could be used for fraudulent or 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 financial interests. The Legislature further finds that it is a public necessity that health information held by the department or office and information provided by employees seeking assistance from the Employee Assistance and Ombudsman Office be made confidential and exempt because matters of personal health are traditionally private and confidential concerns between the patient and 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 October 1, 2007.

Approved by the Governor May 24, 2007.

Filed in Office Secretary of State May 24, 2007.