

CHAPTER 2015-58

Committee Substitute for Committee Substitute for Senate Bill No. 646

An act relating to public records; creating s. 1009.987, F.S.; providing an exemption from public records requirements for certain personal financial and health information held by the Florida Prepaid College Board, the Florida ABLE, Inc., or the Florida ABLE program, or an agent or service provider thereof; authorizing the release of such information under specified circumstances; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 1009.987, Florida Statutes, is created to read:

1009.987 Public records exemption.—

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

(a) “Consumer” means a party to a participation agreement.

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

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

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; or

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

(2) The personal financial and health information of a consumer held by the Florida Prepaid College Board, the Florida ABLE, Inc., or the Florida ABLE program, or an agent or service provider thereof, relating to an ABLE account or a participation agreement or any information that would identify a consumer is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(3) The Florida Prepaid College Board or the Florida ABLE, Inc., may authorize the disclosure of information made confidential and exempt under subsection (2) to another state or federal government entity if disclosure is necessary for the receiving entity to perform its duties or responsibilities or

to verify the eligibility of an eligible individual or authorize the use of an ABLE account.

(4) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2020, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that the personal financial and health information of a consumer held by the Florida Prepaid College Board, the Florida ABLE, Inc., or the Florida ABLE program, or an agent or service provider thereof, relating to an ABLE account or a participation agreement, or any information that would identify a consumer, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The Florida ABLE program allows eligible individuals with disabilities, their family members, and others to contribute funds to an ABLE account without affecting the individual's eligibility for state and federal benefits. It allows the individual to use those funds for qualified disability expenses, such as education, housing, transportation, or other expenses authorized through federal regulations. The public record exemption for information that would identify a consumer ensures that information of a sensitive personal nature concerning a party to a participation agreement is protected. Without such protection, an individual may be less likely to take advantage of the program, thus hindering the effective and efficient administration of the Florida ABLE program. It may also make the individual vulnerable to abuse and exploitation. Disclosure of sensitive financial information regarding a consumer under the Florida ABLE program could create the opportunity for theft, identity theft, fraud, and other illegal activity, thereby jeopardizing the financial security of the consumer and placing him or her at risk for substantial financial harm. Further, each individual has a reasonable expectation of and a right to privacy in all matters concerning personal financial interests. The Legislature further finds that it is a public necessity to protect a consumer's personal health information because such information is traditionally a private and confidential matter 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, and public disclosure of such personal health information relating to a consumer under the Florida ABLE program could negatively affect an individual's business and personal relationships and cause detrimental financial consequences.

Section 3. This act shall take effect on the same date that SB 642 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Approved by the Governor May 21, 2015.

Filed in Office Secretary of State May 21, 2015.