

ENROLLED  
CS/HB 1473

2011 Legislature

A bill to be entitled  
An act relating to public records; amending s. 408.910,  
F.S.; providing definitions; creating an exemption from  
public records requirements for personal identifying  
information of an enrollee or participant in the Florida  
Health Choices Program; creating an exemption from public  
records requirements for proprietary confidential business  
information of a vendor; creating an exemption from public  
records requirements for client and customer lists of a  
program buyer's representative; providing exceptions;  
authorizing an enrollee's legal guardian to obtain  
confirmation of certain information about the enrollee's  
health plan; providing for retroactive application;  
providing a penalty for unlawful disclosure of  
confidential and exempt information; providing for future  
legislative review and repeal of the exemption under the  
Open Government Sunset Review Act; providing a statement  
of public necessity; providing an effective date.

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

Section 1. Subsection (14) is added to section 408.910,  
Florida Statutes, to read:

408.910 Florida Health Choices Program.—

(14) EXEMPTION FROM PUBLIC RECORDS REQUIREMENTS.—

(a) Definitions.—For purposes of this subsection, the  
term:

1. "Buyer's representative" means a participating

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insurance agent as described in paragraph (4) (g).

2. "Enrollee" means an employer who is eligible to enroll in the program pursuant to paragraph (4) (a).

3. "Participant" means an individual who is eligible to participate in the program pursuant to paragraph (4) (b).

4. "Proprietary confidential business information" means information, regardless of form or characteristics, that is owned or controlled by a vendor requesting confidentiality under this section; that is intended to be and is treated by the vendor as private in that the disclosure of the information would cause harm to the business operations of the vendor; that has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or a private agreement providing that the information may be released to the public; and that is information concerning:

a. Business plans.

b. Internal auditing controls and reports of internal auditors.

c. Reports of external auditors for privately held companies.

d. Client and customer lists.

e. Potentially patentable material.

f. A trade secret as defined in s. 688.002.

5. "Vendor" means a participating insurer or other provider of services as described in paragraph (4) (d).

(b) Public record exemptions.—

1. Personal identifying information of an enrollee or participant who has applied for or participates in the Florida

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57 Health Choices Program is confidential and exempt from s.  
58 119.07(1) and s. 24(a), Art. I of the State Constitution.

59 2. Client and customer lists of a buyer's representative  
60 held by the corporation are confidential and exempt from s.  
61 119.07(1) and s. 24(a), Art. I of the State Constitution.

62 3. Proprietary confidential business information held by  
63 the corporation is confidential and exempt from s. 119.07(1) and  
64 s. 24(a), Art. I of the State Constitution.

65 (c) Retroactive application.—The public record exemptions  
66 provided for in paragraph (b) apply to information held by the  
67 corporation before, on, or after the effective date of this  
68 exemption.

69 (d) Authorized release.—

70 1. Upon request, information made confidential and exempt  
71 pursuant to this subsection shall be disclosed to:

72 a. Another governmental entity in the performance of its  
73 official duties and responsibilities.

74 b. Any person who has the written consent of the program  
75 applicant.

76 c. The Florida Kidcare program for the purpose of  
77 administering the program authorized in ss. 409.810-409.821.

78 2. Paragraph (b) does not prohibit a participant's legal  
79 guardian from obtaining confirmation of coverage, dates of  
80 coverage, the name of the participant's health plan, and the  
81 amount of premium being paid.

82 (e) Penalty.—A person who knowingly and willfully violates  
83 this subsection commits a misdemeanor of the second degree,  
84 punishable as provided in s. 775.082 or s. 775.083.

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85        (f) Review and repeal.—This subsection is subject to the  
86 Open Government Sunset Review Act in accordance with s. 119.15,  
87 and shall stand repealed on October 2, 2016, unless reviewed and  
88 saved from repeal through reenactment by the Legislature.

89        Section 2. (1) The Legislature finds that it is a public  
90 necessity that any information identifying an enrollee or  
91 participant in the Florida Health Choices Program, including  
92 information received during the program application process, be  
93 held confidential and exempt from public records requirements.  
94 The harm caused by releasing such personal and sensitive  
95 information outweighs any public benefit from releasing that  
96 information. If such information is not held confidential, the  
97 administration of the program could be significantly impaired  
98 because businesses and individuals would be less inclined to  
99 apply, participate, or enroll in the program, thereby  
100 significantly decreasing the number of program participants or  
101 enrollees. Therefore, it is a public necessity that any  
102 information identifying a participant or enrollee in the Florida  
103 Health Choices Program, including such information received  
104 during the program application process, be held confidential and  
105 exempt from public records requirements.

106        (2) The Legislature finds that it is a public necessity  
107 that proprietary confidential business information of a vendor  
108 and the customer and client lists of a buyer's representative be  
109 made confidential and exempt from public records requirements.  
110 The disclosure of a vendor's proprietary confidential business  
111 information or a customer and client list of a program buyer's  
112 representative could cause injury in the marketplace by

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providing competitors with detailed insights into confidential  
business information, strategies, methodologies, plans, or  
client lists, thereby diminishing the advantage that the program  
vendor or program buyer's representative maintains over those  
that do not possess such information. Without these exemptions,  
private-sector vendors or buyer's representatives whose business  
records generally are not required to be open to the public  
might refrain from participating in Florida Health Choices  
Program and not offer affordable, quality health insurance,  
health services, and benefits products through the program. The  
harm to program vendors or program buyer's representatives in  
the marketplace and harm to the effective administration of the  
Florida Health Choices Program caused by the public disclosure  
of such information far outweighs the public benefits derived  
from the release of the information. Therefore, it is a public  
necessity that proprietary confidential business information of  
program vendors and client lists of program buyer's  
representatives be held confidential and exempt from public  
records requirements.

Section 3. This act shall take effect October 1, 2011.