

1                                   A bill to be entitled  
 2           An act relating to public records; creating s.  
 3           559.5558, F.S.; providing an exemption from public  
 4           records requirements for information collected in  
 5           connection with investigations and examinations by the  
 6           Office of Financial Regulation of the Financial  
 7           Services Commission; providing a definition; providing  
 8           for future legislative review and repeal of the  
 9           exemption; providing a statement of public necessity;  
 10          providing a contingent effective date.

11  
 12   Be It Enacted by the Legislature of the State of Florida:

13  
 14          Section 1.   Section 559.5558, Florida Statutes, is created  
 15   to read:

16          559.5558 Public records exemption; investigations and  
 17   examinations.—

18          (1) As used in this section, the term "personal financial  
 19   and health information" means:

20          (a) Information relating to the existence, nature, source,  
 21   or amount of a consumer's personal income, expenses, and debt;

22          (b) Information relating to a consumer's financial  
 23   transactions of any kind;

24          (c) Information relating to the existence, identification,  
 25   nature, or value of a consumer's assets, liabilities, or net  
 26   worth;

27 (d) A consumer's personal health condition, disease, or  
 28 injury; or

29 (e) A history of a consumer's personal medical diagnosis  
 30 or treatment.

31 (2) (a) Except as otherwise provided by this section,  
 32 information held by the office pursuant to an investigation or  
 33 examination of a violation of this part is confidential and  
 34 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 35 Constitution. However, information made confidential and exempt  
 36 pursuant to this section may be disclosed by the office to a law  
 37 enforcement agency or another administrative agency in the  
 38 performance of its official duties and responsibilities.

39 (b) Information made confidential and exempt pursuant to  
 40 this section is no longer confidential and exempt once the  
 41 investigation or examination is completed or ceases to be active  
 42 unless disclosure of the information would:

43 1. Jeopardize the integrity of another active  
 44 investigation or examination.

45 2. Reveal the personal identifying information of a  
 46 consumer, unless the consumer is also the complainant. A  
 47 complainant's personal identifying information is subject to  
 48 disclosure after the investigation or examination is completed  
 49 or ceases to be active. However, a complainant's personal  
 50 financial and health information remains confidential and  
 51 exempt.

52 3. Reveal the identity of a confidential source.

53 4. Reveal investigative or examination techniques or  
 54 procedures.

55 5. Reveal trade secrets, as defined in s. 688.002.

56 (c) For purposes of this subsection, an investigation or  
 57 examination is considered active if the investigation or  
 58 examination is proceeding with reasonable dispatch and the  
 59 office has a reasonable good faith belief that the investigation  
 60 or examination may lead to the filing of an administrative,  
 61 civil, or criminal proceeding or to the denial or conditional  
 62 grant of an application for registration or other approval  
 63 required under this part.

64 (3) This section is subject to the Open Government Sunset  
 65 Review Act in accordance with s. 119.15 and shall stand repealed  
 66 on October 2, 2019, unless reviewed and saved from repeal  
 67 through reenactment by the Legislature.

68 Section 2. The Legislature finds that it is a public  
 69 necessity that information held by the Office of Financial  
 70 Regulation of the Financial Services Commission pursuant to an  
 71 investigation or examination conducted under part VI of chapter  
 72 559, Florida Statutes, be confidential and exempt from s.  
 73 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
 74 State Constitution for the following reasons:

75 (1) An investigation or examination conducted by the  
 76 Office of Financial Regulation may lead to the filing of an  
 77 administrative, civil, or criminal proceeding or to the denial  
 78 or conditional granting of a registration. The premature release

79 of such information could frustrate or thwart the investigation  
80 or examination and impair the ability of the office to  
81 effectively and efficiently administer part VI of chapter 559,  
82 Florida Statutes.

83 (2) Information held by the Office of Financial Regulation  
84 that is provided to a law enforcement agency or another  
85 administrative agency for further investigation or examination  
86 should remain confidential and exempt until the investigation or  
87 examination is completed or ceases to be active. The release of  
88 this information before completion of the investigation or  
89 examination could jeopardize the integrity of the investigation  
90 and impair the ability of other agencies to carry out their  
91 statutory duties.

92 (3) Investigations and examinations of consumer collection  
93 agencies frequently involve the gathering of sensitive personal  
94 information, including personal financial information concerning  
95 complainants and consumers. The Office of Financial Regulation  
96 may not otherwise have access to this sensitive personal  
97 information but for the investigation or examination. If the  
98 individuals who are the subject of the information are  
99 identifiable, the disclosure of the information to the public  
100 could cause unwarranted damage to the good name or reputation of  
101 the individuals, especially if the information associated with  
102 the individual is inaccurate. Furthermore, if the individuals  
103 who are the subject of such information are identifiable, public  
104 access to such information could jeopardize the financial safety

105 of such individuals by placing them at risk of becoming victims  
106 of identity theft.

107 (4) Investigations and examinations of consumer collection  
108 agencies frequently involve the gathering of sensitive personal  
109 information, including personal health information concerning  
110 complainants and consumers. Matters of personal health are  
111 traditionally private and confidential concerns between the  
112 patient and the health care provider. The private and  
113 confidential nature of personal health matters pervades both the  
114 public and private health care sectors. Moreover, public  
115 disclosure of personal health information could have a negative  
116 effect upon a person's business and personal relationships and a  
117 person's financial well-being.

118 (5) Releasing information identifying a confidential  
119 source could jeopardize both the integrity of a current and  
120 future investigation or examination and the safety of the  
121 confidential source.

122 (6) Revealing investigative or examination techniques and  
123 procedures could allow a person to hide or conceal violations of  
124 law that otherwise would have been discovered during an  
125 investigation or examination. This exemption is necessary to  
126 enable the Office of Financial Regulation, law enforcement  
127 agencies, and other administrative agencies to effectively and  
128 efficiently carry out their statutory duties, which would be  
129 significantly impaired without this exemption.

130 (7) A trade secret derives independent, economic value,

131 actual or potential, from being generally unknown to, and not  
132 readily ascertainable by, other persons who might obtain  
133 economic value from its disclosure or use. Allowing public  
134 access to a trade secret through a public records request could  
135 destroy the value of the trade secret and cause a financial loss  
136 to the person or entity submitting the trade secret. Release of  
137 such information could give business competitors an unfair  
138 advantage and weaken the position of the person or entity  
139 supplying the trade secret in the marketplace.

140 Section 3. This act shall take effect on the same date  
141 that HB 413 or similar legislation takes effect, if such  
142 legislation is adopted in the same legislative session or an  
143 extension thereof and becomes law.