

1 A bill to be entitled

2 An act relating to public records; amending s.  
3 655.057, F.S.; providing an exemption from public  
4 records requirements for certain working papers held  
5 by the Office of Financial Regulation relating to the  
6 supervision, regulation, or investigation or  
7 examination of financial institutions, to which  
8 penalties apply for willful disclosure of such  
9 confidential information; providing for future  
10 legislative review and repeal of the exemption;  
11 providing an exemption from public records  
12 requirements for examination reports and working  
13 papers held by the office relating to investigations  
14 or examinations of subsidiaries, affiliates, or  
15 service corporations of state financial institutions,  
16 to which penalties apply for willful disclosure of  
17 such confidential information; providing for release  
18 of such reports and papers in certain circumstances;  
19 providing definitions; providing a statement of public  
20 necessity; providing a contingent effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24 Section 1. Subsections (3) through (9) and subsection (10)  
25 of section 655.057, Florida Statutes, are renumbered as  
26 subsections (5) through (11) and subsection (13), respectively,

27 and new subsections (3), (4), and (12) are added to that section  
 28 to read:

29 655.057 Records; limited restrictions upon public access.—

30 (3) (a) Except as otherwise provided in this section and  
 31 except for such portions thereof which are otherwise public  
 32 record, working papers or portions thereof submitted to or  
 33 prepared by the office relating to the supervision, regulation,  
 34 or investigation or examination of a financial institution and  
 35 containing:

36 1. Personal financial information from the books and  
 37 records of a financial institution, which must be kept  
 38 confidential as provided in s. 655.059(1);

39 2. Personal identifying information from the books and  
 40 records pertaining to the deposit accounts and loans of  
 41 depositors, bondholders, members, borrowers, and stockholders of  
 42 a financial institution, which must be kept confidential as  
 43 provided in s. 655.059(2); or

44 3. Proprietary business information that is a trade  
 45 secret, as defined in s. 688.002,  
 46  
 47 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
 48 I of the State Constitution.

49 (b) This subsection is subject to the Open Government  
 50 Sunset Review Act in accordance with s. 119.15 and shall stand  
 51 repealed on October 2, 2019, unless reviewed and saved from  
 52 repeal through reenactment by the Legislature.

53        (4) (a) Except as otherwise provided in this section and  
54 except for such portions thereof which are otherwise public  
55 record, examination reports, including working papers or  
56 portions thereof submitted to or prepared by the office,  
57 relating to an investigation or examination of a subsidiary,  
58 affiliate, or service corporation of a state financial  
59 institution are confidential and exempt from s. 119.07(1) and s.  
60 24(a), Art. I of the State Constitution. However, such reports  
61 or papers or portions thereof may be released to:

62        1. The subsidiary, affiliate, or service corporation under  
63 examination;

64        2. Any holding company or financial institution of which  
65 the examined entity is a subsidiary, affiliate, or service  
66 corporation;

67        3. Any other state, federal, or foreign agency responsible  
68 for the supervision or regulation of financial institutions,  
69 including the Financial Crimes Enforcement Network and the  
70 Office of Foreign Assets Control of the United States Department  
71 of the Treasury; or

72        4. Entities to which the office may release reports and  
73 working papers in accordance with other provisions of this  
74 section.

75        (b) This subsection is subject to the Open Government  
76 Sunset Review Act in accordance with s. 119.15 and shall stand  
77 repealed on October 2, 2019, unless reviewed and saved from  
78 repeal through reenactment by the Legislature.

79 (12) For purposes of this section, the term:

80 (a) "Examination report" means records submitted to or  
 81 prepared by the office as part of the office's duties performed  
 82 pursuant to s. 655.012 or s. 655.045(1).

83 (b) "Informal enforcement action" means a board  
 84 resolution, a document of resolution, or an agreement in writing  
 85 between the office and a financial institution that:

86 1. The office imposes on an institution when the office  
 87 considers the administrative enforcement guidelines in s.  
 88 655.031 and determines that a formal enforcement action is not  
 89 an appropriate administrative remedy.

90 2. Sets forth a program of corrective action to address  
 91 one or more safety and soundness deficiencies and violations of  
 92 law or rule at the institution.

93 3. Is not subject to enforcement by imposition of an  
 94 administrative fine pursuant to s. 655.041.

95 (c) "Personal financial information" means:

96 1. Information relating to the existence, nature, source,  
 97 or amount of a person's personal income, expenses, or debt.

98 2. Information relating to a person's financial  
 99 transactions of any kind.

100 3. Information relating to the existence, identification,  
 101 nature, or value of a person's assets, liabilities, or net  
 102 worth.

103 (d) "Personal identifying information" includes, but is  
 104 not limited to, a person's name, signature, social security

105 number, date of birth, residence address, and telephone number.

106 (e) "Working papers" means correspondence, informal  
 107 enforcement actions, electronic communications, supervisory  
 108 reports, and other documents submitted to or prepared by the  
 109 office in the supervision and regulation of a financial  
 110 institution.

111 Section 2. (1) The Legislature finds that it is a public  
 112 necessity that working papers or portions thereof submitted to  
 113 or prepared by the Office of Financial Regulation relating to  
 114 the supervision, regulation, or investigation or examination of  
 115 a financial institution and containing personal financial  
 116 information from the books and records of a financial  
 117 institution; personal identifying information from the books and  
 118 records pertaining to the deposit accounts and loans of  
 119 depositors, bondholders, members, borrowers, and stockholders of  
 120 a financial institution; or proprietary business information of  
 121 a financial institution that is a trade secret must be kept  
 122 confidential and exempt from s. 119.07(1), Florida Statutes, and  
 123 s. 24(a), Article I of the State Constitution.

124 (2) The Legislature finds that it is a public necessity  
 125 that examination reports, including working papers or portions  
 126 thereof submitted to or prepared by the Office of Financial  
 127 Regulation, relating to an investigation or examination of a  
 128 subsidiary, affiliate, or service corporation of a state  
 129 financial institution must be kept confidential and exempt from  
 130 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the

131 State Constitution.

132 (3) The books and records of financial institutions are  
133 confidential and may only be released pursuant to s. 655.059,  
134 Florida Statutes. Records submitted to or prepared by the Office  
135 of Financial Regulation may contain information that is derived  
136 directly or indirectly from the books and records of financial  
137 institutions. A financial institution's books and records, and  
138 the Office Financial Regulations' records relating to financial  
139 institutions, may contain the personal financial information and  
140 personal identifying information of depositors, bondholders,  
141 members, borrowers, and stockholders that is otherwise protected  
142 from disclosure pursuant to ss. 655.057 and 655.059, Florida  
143 Statutes, and applicable federal law. To the extent that the  
144 Office of Financial Regulations' records contain information  
145 that would identify depositors, bondholders, members, borrowers,  
146 and stockholders, or reveal their personal financial  
147 information, those individuals have not knowingly or directly  
148 submitted their personal information to the Office of Financial  
149 Regulation or otherwise voluntarily subjected themselves to the  
150 office's jurisdiction. Disclosure of this information in  
151 response to a public records request would violate the  
152 individual's right of privacy as provided in s. 23, Art. I of  
153 the State Constitution.

154 (4) Although a person may have otherwise taken legitimate  
155 measures to protect his or her personal and financial  
156 information and limit the information's public disclosure in

157 accordance with applicable law to prevent identity theft and  
158 protect his or her financial and personal safety, the Office of  
159 Financial Regulation obtains personal financial information and  
160 personal identifying information during investigations and  
161 examinations that may not otherwise be public record. This  
162 information includes signatures; social security numbers; dates  
163 of birth; residence addresses; telephone numbers; credit card,  
164 loan, and other bank account numbers; and ownership and  
165 membership percentages. To the extent that this information is  
166 not otherwise public record, the disclosure of this information  
167 in response to a public records request submitted to the Office  
168 of Financial Regulation would unnecessarily increase a person's  
169 risk of becoming a victim of various criminal activities. The  
170 disclosure of this information in response to a public records  
171 request would also not otherwise further public policy if other  
172 applicable laws permit an applicant to limit its disclosure.  
173 Disclosure of this information in response to a public records  
174 request is also contrary to the purposes of the financial  
175 institutions codes as provided in s. 655.001, Florida Statutes.

176 (5) Public disclosure of the existence of an informal  
177 enforcement action could further impair the safety and soundness  
178 of a financial institution that is subject to the action.  
179 Furthermore, the public disclosure of this information could  
180 erode public confidence in financial institutions and the  
181 financial institution system of this state and may lead to a  
182 reduced level of protection of the interests of the depositors

183 and creditors of financial institutions. Maintaining informal  
184 enforcement actions as confidential and exempt from s.  
185 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
186 State Constitution will provide the same protections for  
187 financial institutions chartered by this state as are available  
188 to financial institutions chartered under federal law or by  
189 other states, maintain public confidence in financial  
190 institutions subject to the financial institutions codes,  
191 protect the safety and soundness of the financial institution  
192 system of this state, protect the interests of the depositors  
193 and creditors of financial institutions, promote the opportunity  
194 for state-chartered financial institutions to be and remain  
195 competitive with financial institutions chartered under federal  
196 law or by other states, and otherwise provide for and promote  
197 the purposes of the financial institutions codes as provided in  
198 s. 655.001, Florida Statutes.

199 (6) A trade secret derives independent economic value,  
200 actual or potential, from not being generally known to, and not  
201 readily ascertainable by, other persons who can obtain economic  
202 value from its disclosure or use. Without an exemption for a  
203 trade secret held by the Office of Financial Regulation, the  
204 trade secret becomes public record when received and must be  
205 disclosed upon request. Disclosing a trade secret under the  
206 public records law would destroy the value of that property,  
207 causing a financial loss to the person or entity submitting the  
208 trade secret. Release of that information would give business



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209 competitors an unfair advantage and weaken the position of the  
210 person or entity supplying the trade secret in the marketplace.

211 Section 3. This act shall take effect on the same date  
212 that HB 673 or similar legislation takes effect, if such  
213 legislation is adopted in the same legislative session or an  
214 extension thereof and becomes law.