

By Representative Crow

1                                   A bill to be entitled  
2           An act relating to public records; amending s.  
3           288.99, F.S.; providing exemptions from public  
4           records requirements for information obtained  
5           from a certified capital company during  
6           investigation or review by the Department of  
7           Banking and Finance, certain reports related  
8           thereto, and for personal financial information  
9           relating to a principal of such a company or an  
10          applicant for certification; providing for  
11          release to certain entities; providing for  
12          future review and repeal; providing a finding  
13          of public necessity; providing an effective  
14          date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Subsections (15) and (16) are added to  
19          section 288.99, Florida Statutes, to read:

20           288.99 Certified Capital Company Act.--

21           (15) CONFIDENTIALITY OF INVESTIGATION AND REVIEW  
22          INFORMATION.--Except as otherwise provided in this section,  
23          information submitted by a certified capital company or  
24          collected from a certified capital company during an  
25          investigation or department review, and any reports prepared  
26          by, or for the use of, the department or any other  
27          governmental agency as a result of an investigation or  
28          department review of a certified capital company, including  
29          working papers or portions thereof, are confidential and  
30          exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
31          Constitution unless such information is released by the

1 certified capital company. Such information or reports may be  
2 released by the department to a principal of the certified  
3 capital company, an administrative agency responsible for  
4 administration of this section, or a law enforcement agency.  
5 Any law enforcement or administrative agency receiving  
6 confidential information shall maintain the confidentiality of  
7 the information. This subsection shall not be construed to  
8 prohibit disclosure of information which is specifically  
9 required by law to be filed with the department and which, but  
10 for the investigation or department review, would otherwise be  
11 subject to public disclosure. This subsection is subject to  
12 the Open Government Sunset Review Act of 1995 in accordance  
13 with s. 119.15, and shall stand repealed on October 2, 2005,  
14 unless reviewed and saved from repeal through reenactment by  
15 the Legislature.

16 (16) CONFIDENTIALITY OF FINANCIAL  
17 INFORMATION.--Information submitted to the department by an  
18 applicant for certification, or by a certified capital  
19 company, that is related to personal financial matters of a  
20 principal of the applicant or certified capital company is  
21 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
22 of the State Constitution unless such information is released  
23 by the applicant or certified capital company. Nothing in this  
24 subsection shall be construed to prohibit the department from  
25 providing such information to a law enforcement agency or  
26 administrative agency responsible for administering this  
27 section. Any law enforcement or administrative agency  
28 receiving such information shall maintain the confidentiality  
29 of the information. This subsection is subject to the Open  
30 Government Sunset Review Act of 1995 in accordance with s.  
31 119.15, and shall stand repealed on October 2, 2005, unless

1 reviewed and saved from repeal through reenactment by the  
2 Legislature.  
3       Section 2. The Legislature finds that the citizens of  
4 Florida will benefit from the operation of certified capital  
5 companies in this state by virtue of potential job creation, a  
6 potentially expanded tax base, and overall economic  
7 improvement resulting from investment of certified capital in  
8 emerging small businesses in Florida. The Legislature further  
9 finds that it is a public necessity to exempt from public  
10 records requirements information obtained during an  
11 investigation or annual review of a certified capital company,  
12 any report prepared as a result of an investigation or review,  
13 and any personal financial information related to the  
14 principals of applicants or certified capital companies. These  
15 exemptions are essential to protect the integrity of contract  
16 negotiations inherent to this industry, which include complex  
17 financial transactions and negotiations between certified  
18 capital companies and insurance companies which invest capital  
19 in the certified capital companies. Additionally, the  
20 exemptions protect the privacy of personal financial  
21 information of the individual principals of applicants and  
22 certified capital companies. If information collected during  
23 investigations or reviews of certified capital companies is  
24 not protected, critical proprietary information regarding  
25 investment contracts and the structuring of investments in  
26 certified capital companies will be revealed. Disclosure of  
27 this information would place those certified capital companies  
28 at a competitive disadvantage in all states in which the  
29 companies currently operate or intend to operate.  
30 Consequently, companies whose financial records are not  
31 otherwise open to public inspection may refrain from seeking

1 certification as certified capital companies in Florida, or  
2 expanding their current presence in Florida. As a result,  
3 Florida would lose a significant source of venture capital for  
4 small early-stage businesses, economic growth resulting from  
5 the establishment of new businesses funded by certified  
6 capital, tax revenue generated by new jobs and businesses, and  
7 employment opportunities for the citizens of this state. In  
8 addition, required disclosure of personal financial  
9 information of principals of applicants and certified capital  
10 companies would have a negative impact on growth of the  
11 certified capital company industry in Florida by unnecessarily  
12 exposing those individuals to an invasive scrutiny of personal  
13 information. Accordingly, the harm that would result from  
14 requiring public disclosure of proprietary information of the  
15 certified capital companies or personal information of the  
16 principals of the companies far outweighs any public benefit  
17 derived from the release of such information.

18 Section 3. This act shall take effect October 1, 2000.

19  
20 \*\*\*\*\*

21 HOUSE SUMMARY

22 Provides exemptions from public records requirements for  
23 information obtained from a certified capital company  
24 during investigation or review by the Department of  
25 Banking and Finance, certain reports related thereto, and  
26 for personal financial information relating to a  
27 principal of such a company or an applicant for  
28 certification, unless such information is released by the  
29 company or applicant. Provides for future review and  
30 repeal.  
31