

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 relating
5 to an investigation or review by the Department
6 of Banking and Finance of a certified capital
7 company, including consumer complaints, for
8 certain personal information relating to
9 department investigative personnel and their
10 families, and for information obtained by the
11 department on a confidential basis; providing a
12 privilege against civil liability; providing an
13 exemption from public records requirements for
14 social security numbers of customers of a
15 certified capital company, complainants, or
16 persons associated with a certified capital
17 company or qualified business; providing for
18 future review and repeal; providing a finding
19 of public necessity; providing an effective
20 date.

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

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24 Section 1. Subsections (15) and (16) are added to
25 section 288.99, Florida Statutes, to read:

26 288.99 Certified Capital Company Act.--

27 (15)(a) CONFIDENTIALITY OF INVESTIGATION AND REVIEW
28 INFORMATION.--Except as otherwise provided by this section,
29 any information relating to an investigation or department
30 review of a certified capital company, including any consumer
31 complaint, is confidential and exempt from the provisions of

1 s. 119.07(1) and s. 24(a), Art. I of the State Constitution
 2 until the investigation or review is complete or ceases to be
 3 active. Such information shall remain confidential and exempt
 4 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
 5 the State Constitution after the investigation or review is
 6 complete or ceases to be active if the information is
 7 submitted to any law enforcement or administrative agency for
 8 further investigation, and shall remain confidential and
 9 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
 10 I of the State Constitution until that agency's investigation
 11 is complete or ceases to be active. For purposes of this
 12 subsection, an investigation or review shall be considered
 13 "active" so long as the department, a law enforcement agency,
 14 or an administrative agency is proceeding with reasonable
 15 dispatch and has a reasonable good faith belief that the
 16 investigation may lead to the filing of an administrative,
 17 civil, or criminal proceeding. This section shall not be
 18 construed to prohibit disclosure of information which is
 19 required by law to be filed with the department and which, but
 20 for the investigation, would otherwise be subject to s.
 21 119.07(1).

22 (b) Except as necessary to enforce the provisions of
 23 this chapter, a consumer complaint or information relating to
 24 an investigation or review shall remain confidential and
 25 exempt from s. 119.07(1) after an investigation or review is
 26 complete or ceases to be active to the extent disclosure
 27 would:

28 1. Reveal a trade secret as defined in s. 688.002 or
 29 s. 812.081.

30 2. Jeopardize the integrity of another active
 31 investigation or review.

1 3. Disclose the identity of a confidential source or
2 investigative techniques or procedures.

3 (c) Nothing in this section shall be construed to
4 prohibit the department from providing information to any law
5 enforcement or administrative agency. Any law enforcement or
6 administrative agency receiving confidential information in
7 connection with its official duties shall maintain the
8 confidentiality of the information so long as it would
9 otherwise be confidential.

10 (d) In the event department personnel are or have been
11 involved in an investigation or review of such nature as to
12 endanger their lives or physical safety or that of their
13 families, the home addresses, telephone numbers, places of
14 employment, and photographs of such personnel, together with
15 the home addresses, telephone numbers, photographs, and places
16 of employment of spouses and children of such personnel and
17 the names and locations of schools and day care facilities
18 attended by the children of such personnel are confidential
19 and exempt from s. 119.07(1).

20 (e) All information obtained by the department from
21 any person which is only made available to the department on a
22 confidential or similarly restricted basis shall be
23 confidential and exempt from s. 119.07(1). This exemption
24 shall not be construed to prohibit disclosure of information
25 which is specifically required by law to be filed with the
26 department or which is otherwise subject to s. 119.07(1).

27 (f) If information subject to this subsection is
28 offered in evidence in any administrative, civil, or criminal
29 proceeding, the presiding officer may, in his or her
30 discretion, prevent the disclosure of information which would
31 be confidential pursuant to paragraph (b).

1 (g) A privilege against civil liability is granted to
2 a person with regard to information or evidence furnished to
3 the department, unless such person acts in bad faith or with
4 malice in providing such information or evidence.

5 (h) This subsection is subject to the Open Government
6 Sunset Review Act of 1995 in accordance with s. 119.15, and
7 shall stand repealed on October 2, 2005, unless reviewed and
8 saved from repeal through reenactment by the Legislature.

9 (16) CONFIDENTIALITY OF SOCIAL SECURITY NUMBERS.--The
10 social security number of any customer of a certified capital
11 company, complainant, or person associated with a certified
12 capital company or qualified business, is exempt from s.
13 119.07(1). This subsection is subject to the Open Government
14 Sunset Review Act of 1995 in accordance with s. 119.15, and
15 shall stand repealed on October 2, 2005, unless reviewed and
16 saved from repeal through reenactment by the Legislature.

17 Section 2. The Legislature finds that the citizens of
18 Florida will benefit from the operation of certified capital
19 companies in this state by virtue of potential job creation, a
20 potentially expanded tax base, and overall economic
21 improvement resulting from investment of certified capital in
22 emerging small businesses in Florida. The Legislature further
23 finds that it is a public necessity to exempt from public
24 records requirements certain information obtained during an
25 investigation or annual review of a certified capital company,
26 and certain personal information related to customers of a
27 certified capital company, complainants, or persons associated
28 with a certified capital company or qualified business. These
29 exemptions are essential to protect the integrity of contract
30 negotiations inherent to this industry, which include complex
31 financial transactions and negotiations between certified

1 capital companies and insurance companies which invest capital
2 in the certified capital companies, and to protect the privacy
3 of customers of a certified capital company, complainants, or
4 persons associated with a certified capital company or
5 qualified business. If information collected during
6 investigations or reviews of certified capital companies is
7 not protected, critical proprietary information regarding
8 investment contracts and the structuring of investments in
9 certified capital companies will be revealed. Disclosure of
10 this information would place those certified capital companies
11 at a competitive disadvantage in all states in which the
12 companies currently operate or intend to operate.
13 Consequently, companies whose records are not otherwise open
14 to public inspection may refrain from seeking certification as
15 certified capital companies in Florida, or expanding their
16 current presence in Florida. As a result, Florida would lose a
17 significant source of venture capital for small early-stage
18 businesses, economic growth resulting from the establishment
19 of new businesses funded by certified capital, tax revenue
20 generated by new jobs and businesses, and employment
21 opportunities for the citizens of this state. In addition,
22 required disclosure of personal information of customers of a
23 certified capital company, complainants, or persons associated
24 with a certified capital company or qualified business would
25 have a negative impact on growth of the certified capital
26 company industry in Florida by unnecessarily exposing those
27 individuals to an invasive scrutiny of personal information.
28 Accordingly, the harm that would result from requiring public
29 disclosure of proprietary information of the certified capital
30 companies or personal information of customers of a certified
31 capital company, complainants, or persons associated with a

1 certified capital company or qualified business far outweighs
2 any public benefit derived from the release of such
3 information. The Legislature also finds that it is a public
4 necessity to exempt information which is only made available
5 to the department on a confidential basis. Maintaining the
6 confidentiality of such information protects the concerns of
7 the persons regarding privacy, trade secrets, physical safety,
8 or other such reason. The public benefit of maintaining the
9 confidentiality outweighs the public benefit derived from
10 release of such information, since such information would
11 otherwise not be available to the department to carry out its
12 regulatory or investigatory duties. Furthermore, the
13 Legislature finds that the exemption of the personal
14 information relating to investigatory personnel and their
15 families from public records requirements is a public
16 necessity because release of this information would jeopardize
17 the safety and welfare of departmental investigatory personnel
18 and their families. The release of this personal information
19 would not benefit the public or aid it in monitoring the
20 effective and efficient operation of government. The
21 exemption of this personal information would minimize the
22 possibility that those persons under investigation might use
23 the information to threaten, intimidate, harass, or cause
24 physical harm or other injury to these persons or members of
25 their family.

26 Section 3. This act shall take effect upon becoming a
27 law.

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