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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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