

HB 1715

2004

1 A bill to be entitled
 2 An act relating to public records; creating s. 559.5472,
 3 F.S.; creating an exemption from public-records
 4 requirements for documents produced during an
 5 investigation or examination of a commercial collection
 6 agency conducted by the Office of Financial Regulation;
 7 creating s. 559.7261, F.S.; creating an exemption from
 8 public-records requirements for documents produced during
 9 an investigation or examination of a consumer collection
 10 agency conducted by the office; providing for future
 11 legislative review and repeal; providing findings of
 12 public necessity; providing a contingent effective date.

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

16 Section 1. Section 559.5472, Florida Statutes, is created
 17 to read:

18 559.5472 Confidentiality of information relating to
 19 investigations and examinations.--

20 (1)(a) Except as otherwise provided in this section,
 21 documents made or produced in the course of an investigation or
 22 examination of a commercial collection agency by the office
 23 under this chapter are confidential and exempt from s. 119.07(1)
 24 and s. 24(a), Art. I of the State Constitution until the
 25 investigation or examination is completed or ceases to be
 26 active. The documents shall remain confidential and exempt from
 27 disclosure after the investigation or examination is complete or
 28 ceases to be active if the office submits the documents to a law
 29 enforcement agency or an administrative agency for further

HB 1715

2004

30 investigation. The documents shall remain confidential and
 31 exempt from disclosure until that agency's investigation is
 32 complete or ceases to be active.

33 (b) For purposes of this section, an investigation or
 34 examination is considered active so long as the office, a law
 35 enforcement agency, or an administrative agency is proceeding
 36 with reasonable dispatch and has a good faith belief that the
 37 investigation or examination may lead to the filing of an
 38 administrative, civil, or criminal proceeding or to the denial
 39 or conditional grant of registration. This subsection does not
 40 prohibit the disclosure of information that is required by law
 41 to be filed with the office and that, but for the investigation
 42 or examination, would be subject to public disclosure.

43 (c) Documents made or compiled during an investigation or
 44 examination shall remain confidential and exempt from s.
 45 119.07(1) and s. 24(a), Art. I of the State Constitution after
 46 the investigation or examination is completed or ceases to be
 47 active if disclosure of the document would:

- 48 1. Jeopardize the integrity of another active
 49 investigation or examination;
- 50 2. Reveal the name, address, telephone number, social
 51 security number, or any other identifying number or information
 52 of any complainant, customer, or account holder;
- 53 3. Disclose the identity of a confidential source;
- 54 4. Disclose investigative or examination techniques or
 55 procedures; or
- 56 5. Reveal a trade secret as defined in s. 688.002.

57 (d) If an employee of the office has been involved in an
 58 investigation or examination that might endanger the employee's

HB 1715

2004

59 life or physical safety or that of the employee's family, the
60 home address, telephone number, and photograph of the employee,
61 together with the home address, telephone number, photographs,
62 and places of employment of the spouse and children of the
63 employee and the names and locations of schools and day care
64 facilities attended by the children of the employee are
65 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
66 of the State Constitution.

67 (e) This exemption does not prohibit the office from
68 providing documents to a law enforcement agency or
69 administrative agency. A law enforcement or administrative
70 agency receiving confidential information in connection with its
71 official duties shall maintain the confidentiality of the
72 information so long as that information would otherwise be
73 confidential.

74 (f) All information obtained by the office from any source
75 which is only made available to the office on a confidential or
76 similarly restricted basis shall be confidential and exempt from
77 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
78 This exemption does not prohibit disclosure of information that
79 is required by law to be filed with the office or is otherwise
80 subject to public disclosure.

81 (2) If information subject to subsection (1) is offered in
82 evidence in any administrative, civil, or criminal proceeding,
83 the presiding officer may prevent the disclosure of information
84 that would be confidential under paragraph (1)(c).

85 (3) A person who furnishes information or evidence to the
86 office is immune from civil liability unless the person acts in

HB 1715

2004

87 bad faith or with malice in providing the information or
 88 evidence.

89 (4) The office may enter into an agreement with any law
 90 enforcement or administrative agency to keep confidential and
 91 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 92 Constitution any information furnished to the office under the
 93 agreement.

94 Section 2. Section 559.7261, Florida Statutes, is created
 95 to read:

96 559.7261 Confidentiality of information relating to
 97 investigations and examinations.--

98 (1)(a) Except as otherwise provided in this section,
 99 documents made or produced in the course of an investigation or
 100 examination of a consumer collection agency by the office under
 101 this chapter are confidential and exempt from s. 119.07(1) and
 102 s. 24(a), Art. I of the State Constitution until the
 103 investigation or examination is completed or ceases to be
 104 active. The documents shall remain confidential and exempt from
 105 disclosure after the investigation or examination is complete or
 106 ceases to be active if the office submits the documents to a law
 107 enforcement agency or administrative agency for further
 108 investigation. The documents shall remain confidential and
 109 exempt from disclosure until that agency's investigation is
 110 complete or ceases to be active.

111 (b) For purposes of this section, an investigation or
 112 examination is considered active so long as the office, a law
 113 enforcement agency, or an administrative agency is proceeding
 114 with reasonable dispatch and has a good faith belief that the
 115 investigation or examination may lead to the filing of an

HB 1715

2004

116 administrative, civil, or criminal proceeding or to the denial
 117 or conditional grant of registration. This subsection does not
 118 prohibit the disclosure of information that is required by law
 119 to be filed with the office and that, but for the investigation
 120 or examination, would be subject to public disclosure.

121 (c) Documents made or compiled during an investigation or
 122 examination shall remain confidential and exempt from s.
 123 119.07(1) and s. 24(a), Art. I of the State Constitution after
 124 the investigation or examination is completed or ceases to be
 125 active if disclosure of the document would:

- 126 1. Jeopardize the integrity of another active
 127 investigation or examination;
- 128 2. Reveal the name, address, telephone number, social
 129 security number, or any other identifying number or information
 130 of any complainant, customer, or account holder;
- 131 3. Disclose the identity of a confidential source;
- 132 4. Disclose investigative or examination techniques or
 133 procedures; or
- 134 5. Reveal a trade secret as defined in s. 688.002.

135 (d) If an employee of the office has been involved in an
 136 investigation or examination that might endanger the employee's
 137 life or physical safety or that of the employee's family, the
 138 home address, telephone number, and photograph of the employee,
 139 together with the home address, telephone number, photographs,
 140 and places of employment of the spouse and children of the
 141 employee and the names and locations of schools and day care
 142 facilities attended by the children of the employee are
 143 confidential and exempt.

HB 1715

2004

144 (e) This subsection does not prohibit the office from
145 providing documents to a law enforcement agency or
146 administrative agency. A law enforcement or administrative
147 agency receiving confidential information in connection with its
148 official duties shall maintain the confidentiality of the
149 information so long as that information would otherwise be
150 confidential.

151 (f) All information obtained by the office from any source
152 which is only made available to the office on a confidential or
153 similarly restricted basis shall be confidential and exempt from
154 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
155 This exemption does not prohibit disclosure of information that
156 is required by law to be filed with the office or is otherwise
157 subject to public disclosure.

158 (2) If information subject to subsection (1) is offered in
159 evidence in any administrative, civil, or criminal proceeding,
160 the presiding officer may prevent the disclosure of information
161 that would be confidential under paragraph (1)(c).

162 (3) A person who furnishes information or evidence to the
163 office is immune from civil liability unless the person acts in
164 bad faith or with malice in providing the information or
165 evidence.

166 (4) The office may enter into an agreement with any law
167 enforcement or administrative agency to keep confidential and
168 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
169 Constitution any information furnished to the office under the
170 agreement.

171 Section 3. Sections 559.5472 and 559.7261, Florida
172 Statutes, are subject to the Open Government Sunset Review Act

HB 1715

2004

173 of 1995 in accordance with section 119.15, Florida Statutes, and
174 shall stand repealed on October 2, 2009, unless reviewed and
175 saved from repeal through reenactment by the Legislature.

176 Section 4. The Legislature finds that it is a public
177 necessity that information relating to an active investigation
178 or examination of a consumer or commercial collection agency by
179 the Office of Financial Regulation be made exempt from public
180 disclosure if the information could jeopardize the integrity of
181 an active investigation. The Legislature further finds that
182 certain information relating to an investigation should remain
183 confidential even after the investigation or examination ceases
184 to be active. If the release of the document or information
185 would jeopardize the integrity of another active investigation;
186 reveal personal identifying information of a complainant,
187 customer, or account holder; disclose the identity of a
188 confidential source; or disclose investigative or examination
189 techniques or procedures, this information should continue to be
190 confidential and exempt from disclosure. This exemption will
191 preserve the integrity of the office's ongoing investigations
192 and examinations and protect the privacy of persons providing
193 information to the office. Otherwise, release of this
194 information could effectively prevent the office from performing
195 effective investigations or examinations. The Legislature also
196 finds that personal identifying information of office employees
197 should be confidential if, as a result of the investigation or
198 examination, the life or physical safety of the employee, and
199 the employee's family, would be endangered. The Legislature
200 finds that the exemption sought is narrow in that, unless
201 specified otherwise within the exemption, the information

HB 1715

2004

202 resulting from an investigation or examination will become
203 public once the investigation or examination ceases to be
204 active. Moreover, the exemption applies only to information
205 arising from an investigation or examination and does not apply
206 to other information or documents received by the Office of
207 Financial Regulation.

208 Section 5. This act shall take effect on the same date
209 that HB 1371 or similar legislation takes effect, if such
210 legislation is adopted in the same legislative session or an
211 extension thereof and becomes law.