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CHAMBER ACTION

1 The Committee on Commerce recommends the following:

2  
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to public records; creating s. 559.5472,  
7 F.S.; creating an exemption from public records  
8 requirements for documents produced during an  
9 investigation or examination of a commercial collection  
10 agency conducted by the Office of Financial Regulation;  
11 providing for future legislative review and repeal;  
12 providing legislative findings of public necessity;  
13 providing a contingent effective date.

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

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

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

21 (1) Except as otherwise provided in this section,  
22 information received or created during an investigation or  
23 examination by the Office of Financial Regulation of the

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24 Financial Services Commission pursuant to part V or part VI of  
25 this chapter, including any consumer complaint, is confidential  
26 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
27 Constitution until the investigation or examination is completed  
28 or ceases to be active.

29 (2) The office may provide such confidential and exempt  
30 information to a law enforcement agency, administrative agency,  
31 or regulatory organization in the furtherance of its duties and  
32 responsibilities. The law enforcement agency, administrative  
33 agency, or regulatory organization must maintain the  
34 confidential and exempt status of the information so long as it  
35 would otherwise be confidential and exempt from disclosure.

36 (3) If such confidential and exempt information is offered  
37 into evidence in any administrative, civil, or criminal  
38 proceeding, the presiding officer may, in her or his discretion,  
39 prevent the disclosure of such information.

40 (4) Such information shall remain confidential and exempt  
41 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
42 until after the office completes its investigation or  
43 examination or the investigation or examination ceases to be  
44 active if disclosure of the document would:

45 (a) Jeopardize the integrity of another active  
46 investigation;

47 (b) Reveal the name, address, telephone number, social  
48 security number, or any other identifying information of a  
49 complainant, customer, or account holder;

50 (c) Reveal the identity of a confidential source;

51 (d) Reveal investigative techniques or procedures;

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52 (e) Reveal a trade secret as defined in s. 688.002; or

53 (f) Reveal proprietary business information obtained by  
54 the office from any person which is only made available to the  
55 office on a confidential or similarly restricted basis.

56  
57 For purposes of this section, an investigation or examination  
58 shall be considered active so long as the office or any law  
59 enforcement or administrative agency or regulatory organization  
60 is proceeding with reasonable dispatch and has a reasonable good  
61 faith belief that the investigation or examination may lead to  
62 the filing of an administrative, civil, or criminal proceeding  
63 or to the denial or conditional grant of a license,  
64 registration, or permit.

65 (5) This exemption does not prohibit disclosure of  
66 information that is required by law to be filed with the office  
67 or is otherwise subject to s. 119.07(1) and s. 24(a), Art. I of  
68 the State Constitution.

69 (6) This section is subject to the Open Government Sunset  
70 Review Act of 1995 in accordance with s. 119.15, and shall stand  
71 repealed on October 2, 2009, unless reviewed and saved from  
72 repeal through reenactment by the Legislature.

73 Section 2. The Legislature finds that:

74 (1) It is a public necessity that information received or  
75 created during an investigation or examination conducted by the  
76 Office of Financial Regulation of the Financial Services  
77 Commission pursuant to part V or part VI of chapter 559, Florida  
78 Statutes, including any consumer complaint, be confidential and  
79 exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I

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80 of the State Constitution until the investigation or examination  
81 is completed or ceases to be active or if the office submits the  
82 information to any law enforcement or administrative agency or  
83 regulatory organization for further investigation and that  
84 agency's or organization's investigation is completed or ceases  
85 to be active, in order to protect the integrity of such  
86 investigations or examinations. An investigation or examination  
87 may lead to filing an administrative, civil, or criminal  
88 proceeding or to denying or conditionally granting a license,  
89 registration, or permit. The public necessity exists to the  
90 extent disclosure might jeopardize the integrity of another  
91 active investigation or examination; reveal the name, address,  
92 telephone number, social security number, or any other  
93 identifying information of any complainant, customer, or account  
94 holder; disclose the identity of a confidential source; disclose  
95 investigative techniques or procedures; reveal a trade secret as  
96 defined in s. 688.002, Florida Statutes; or reveal proprietary  
97 business information.

98 (2) Examinations and investigations by the office  
99 frequently involve the gathering of personal, sensitive  
100 information concerning individuals, such as complainants,  
101 customers, account holders, or other confidential sources. The  
102 office may not otherwise have this information in its possession  
103 but for the examination or investigation. Because of the  
104 sensitive nature of the information gathered, the information  
105 should not be made available to the public. If disclosed, this  
106 information may cause unwarranted damage to such persons by

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107 | facilitating identity theft or jeopardizing the safety of such  
108 | individuals.

109 | (3) Revealing investigative techniques or procedures may  
110 | inhibit the effective and efficient administration of the office  
111 | to conduct investigations. Revelation of such techniques or  
112 | procedures could allow a person to hide or conceal violations of  
113 | law that would have otherwise been discovered during an  
114 | examination or investigation. As such, the office's ability to  
115 | perform an effective investigation or examination may be  
116 | hindered.

117 | (4) Proprietary information or trade secrets are sometimes  
118 | necessary for the office to review as part of an ongoing  
119 | examination or investigation. Disclosure of such information to  
120 | the public may cause injury to the affected entity in the  
121 | marketplace if revealed. Providing the confidentiality will  
122 | provide the office with the necessary tool to perform its  
123 | function while maintaining adequate protection for the affected  
124 | business.

125 | Section 3. This act shall take effect on the same date  
126 | that HB 1371 or similar legislation takes effect, if such  
127 | legislation is adopted in the same legislative session or an  
128 | extension thereof and becomes law.