CHAMBER ACTION

The Committee on State Administration recommends the following:

Committee Substitute

Remove the entire bill and insert:

A bill to be entitled

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

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

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

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

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

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

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

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

(a) Jeopardize the integrity of another active investigation;

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

(c) Reveal the identity of a confidential source;

(d) Reveal investigative techniques or procedures;

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

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

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

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

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

Section 2. The Legislature finds that:

(1) It is a public necessity that information received or created during an investigation or examination conducted by the Office of Financial Regulation of the Financial Services Commission pursuant to part V or part VI of chapter 559, Florida Statutes, including any consumer complaint, be confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution until the investigation or examination is completed or ceases to be active or if the office submits the information to any law enforcement or administrative agency or regulatory organization for further investigation and that

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agency's or organization's investigation is completed or ceases to be active, in order to protect the integrity of such investigations or examinations. An investigation or examination may lead to filing an administrative, civil, or criminal proceeding or to denying or conditionally granting a license, registration, or permit. The public necessity exists to the extent disclosure might jeopardize the integrity of another active investigation or examination; reveal the name, address, telephone number, social security number, or any other identifying information of any complainant, customer, or account holder; disclose the identity of a confidential source; disclose investigative techniques or procedures; reveal a trade secret as defined in s. 688.002, Florida Statutes; or reveal proprietary business information.

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

(3) Revealing investigative techniques or procedures may inhibit the effective and efficient administration of the office to conduct investigations. Revelation of such techniques or

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procedures could allow a person to hide or conceal violations of law that would have otherwise been discovered during an examination or investigation. As such, the office's ability to perform an effective investigation or examination may be hindered.

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

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

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