

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 providing for future legislative review and repeal;
 8 providing legislative findings of public necessity;
 9 providing a contingent effective date.

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

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

15 559.5472 Confidentiality of information relating to
 16 investigations and examinations.--

17 (1) Except as otherwise provided in this section,
 18 information received or created during an investigation or
 19 examination by the Office of Financial Regulation of the
 20 Financial Services Commission pursuant to part V or part VI of
 21 this chapter, including any consumer complaint, is confidential
 22 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 23 Constitution until the investigation or examination is completed
 24 or ceases to be active.

25 (2) The office may provide such confidential and exempt
 26 information to a law enforcement agency, administrative agency,
 27 or regulatory organization in the furtherance of its duties and
 28 responsibilities. The law enforcement agency, administrative

29 agency, or regulatory organization must maintain the
30 confidential and exempt status of the information so long as it
31 would otherwise be confidential and exempt from disclosure.

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

37 (a) Jeopardize the integrity of another active
38 investigation;

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

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

43 (d) Reveal investigative techniques or procedures;

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

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

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

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

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

65 | Section 2. The Legislature finds that:

66 | (1) It is a public necessity that information received or
67 | created during an investigation or examination conducted by the
68 | Office of Financial Regulation of the Financial Services
69 | Commission pursuant to part V or part VI of chapter 559, Florida
70 | Statutes, including any consumer complaint, be confidential and
71 | exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I
72 | of the State Constitution until the investigation or examination
73 | is completed or ceases to be active or if the office submits the
74 | information to any law enforcement or administrative agency or
75 | regulatory organization for further investigation and that
76 | agency's or organization's investigation is completed or ceases
77 | to be active, in order to protect the integrity of such
78 | investigations or examinations. An investigation or examination
79 | may lead to filing an administrative, civil, or criminal
80 | proceeding or to denying or conditionally granting a license,
81 | registration, or permit. The public necessity exists to the
82 | extent disclosure might jeopardize the integrity of another
83 | active investigation or examination; reveal the name, address,
84 | telephone number, social security number, or any other

85 identifying information of any complainant, customer, or account
86 holder; disclose the identity of a confidential source; disclose
87 investigative techniques or procedures; reveal a trade secret as
88 defined in s. 688.002, Florida Statutes; or reveal proprietary
89 business information.

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

101 (3) Revealing investigative techniques or procedures may
102 inhibit the effective and efficient administration of the office
103 to conduct investigations. Revelation of such techniques or
104 procedures could allow a person to hide or conceal violations of
105 law that would have otherwise been discovered during an
106 examination or investigation. As such, the office's ability to
107 perform an effective investigation or examination may be
108 hindered.

109 (4) Proprietary information or trade secrets are sometimes
110 necessary for the office to review as part of an ongoing
111 examination or investigation. Disclosure of such information to
112 the public may cause injury to the affected entity in the

113 | marketplace if revealed. Providing the confidentiality will
114 | provide the office with the necessary tool to perform its
115 | function while maintaining adequate protection for the affected
116 | business.

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