

By Senator Sebesta

16-1567-04

See HB 621

1                                   A bill to be entitled  
2           An act relating to a public records exemption;  
3           creating s. 516.115, F.S.; creating an  
4           exemption from public records requirements for  
5           information obtained by the Office of Financial  
6           Regulation of the Financial Services Commission  
7           in connection with investigations and  
8           examinations under the Florida Consumer Finance  
9           Act; providing a privilege against civil  
10          liability for persons who furnish information  
11          or evidence to the office; providing a  
12          statement of public necessity; providing a  
13          contingent effective date.

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

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17           Section 1. Section 516.115, Florida Statutes, is  
18 created to read:

19           516.115 Confidentiality of information relating to  
20 investigations and examinations.--

21           (1)(a) Except as otherwise provided by this section,  
22 information relative to an investigation or examination by the  
23 office pursuant to this chapter, including any consumer  
24 complaint, is confidential and exempt from section 119.07(1)  
25 until the investigation or examination is completed or ceases  
26 to be active. The information compiled by the office in such  
27 an investigation or examination shall remain confidential and  
28 exempt from section 119.07(1) after the office's investigation  
29 or examination is completed or ceases to be active if the  
30 office submits the information to any law enforcement or  
31 administrative agency or regulatory organization for further

1 investigation. Such information shall remain confidential and  
2 exempt from section 119.07(1) until that agency's or  
3 organization's investigation is completed or ceases to be  
4 active. For purposes of this section, an investigation or  
5 examination shall be considered "active" so long as the office  
6 or any law enforcement or administrative agency or regulatory  
7 organization is proceeding with reasonable dispatch and has a  
8 reasonable good faith belief that the investigation or  
9 examination may lead to the filing of an administrative,  
10 civil, or criminal proceeding or to the denial or conditional  
11 grant of a license, registration, or permit. This section  
12 shall not be construed to prohibit disclosure of information  
13 which is required by law to be filed with the office and  
14 which, but for the investigation or examination, would be  
15 subject to s. 119.07(1).

16 (b) Except as necessary for the office to enforce the  
17 provisions of this chapter, a consumer complaint and other  
18 information relative to an investigation or examination shall  
19 remain confidential and exempt from s. 119.07(1) after the  
20 investigation or examination is completed or ceases to be  
21 active to the extent disclosure would:

- 22 1. Jeopardize the integrity of another active  
23 investigation or examination.
- 24 2. Reveal the name, address, telephone number, social  
25 security number, or any other identifying number or  
26 information of any complainant, customer, or account holder.
- 27 3. Disclose the identity of a confidential source.
- 28 4. Disclose investigative techniques or procedures.
- 29 5. Reveal a trade secret as defined in s. 688.002.

30 (c) In the event that office personnel are or have  
31 been involved in an investigation or examination of such

1 nature as to endanger their lives or physical safety or that  
2 of their families, the home addresses, telephone numbers,  
3 places of employment, and photographs of such personnel,  
4 together with the home addresses, telephone numbers,  
5 photographs, and places of employment of spouses and children  
6 of such personnel and the names and locations of schools and  
7 day care facilities attended by the children of such personnel  
8 are confidential and exempt from s. 119.07(1).

9 (d) Nothing in this section shall be construed to  
10 prohibit the office from providing information to any law  
11 enforcement or administrative agency or regulatory  
12 organization. Any law enforcement or administrative agency or  
13 regulatory organization receiving confidential information in  
14 connection with its official duties shall maintain the  
15 confidentiality of the information so long as it would  
16 otherwise be confidential.

17 (e) All information obtained by the office from any  
18 person which is only made available to the office on a  
19 confidential or similarly restricted basis shall be  
20 confidential and exempt from s. 119.07(1). This exemption  
21 shall not be construed to prohibit disclosure of information  
22 which is required by law to be filed with the office or which  
23 is otherwise subject to s. 119.07(1).

24 (2) If information subject to subsection (1) is  
25 offered in evidence in any administrative, civil, or criminal  
26 proceeding, the presiding officer may, in her or his  
27 discretion, prevent the disclosure of information which would  
28 be confidential pursuant to paragraph (1)(b).

29 (3) A privilege against civil liability is granted to  
30 a person who furnishes information or evidence to the office,  
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1 unless such person acts in bad faith or with malice in  
2 providing such information or evidence.

3       Section 2. The Legislature finds that it is a public  
4 necessity that information relative to an investigation or  
5 examination conducted by the Office of Financial Regulation of  
6 the Financial Services Commission pursuant to chapter 516,  
7 Florida Statutes, including any consumer complaint, be  
8 confidential and exempt from section 119.07(1), Florida  
9 Statutes, until the investigation or examination is completed  
10 or ceases to be active or if the office submits the  
11 information to any law enforcement or administrative agency or  
12 regulatory organization for further investigation and that  
13 agency's or organization's investigation is completed or  
14 ceases to be active. An investigation or examination may lead  
15 to filing an administrative, civil, or criminal proceeding or  
16 to denying or conditionally granting a license, registration,  
17 or permit. The public necessity exists to the extent  
18 disclosure might jeopardize the integrity of another active  
19 investigation or examination; reveal the name, address,  
20 telephone number, social security number, or any other  
21 identifying number or information of any complainant,  
22 customer, or account holder; disclose the identity of a  
23 confidential source; disclose investigative techniques or  
24 procedures; reveal a trade secret as defined in section  
25 688.002, Florida Statutes; or endanger the lives or physical  
26 safety of personnel of the office, or that of their families,  
27 who are or have been involved in the investigation or  
28 examination.

29       Section 3. This act shall take effect July 1, 2004, if  
30 HB 357 or substantially similar legislation is adopted in the  
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1 same legislative session or an extension thereof and becomes a  
2 law.  
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