

By Senator Crist

12-1403-04

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

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

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

21 559.5472 Confidentiality of information relating to
 22 investigations and examinations.--

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

1 documents to a law enforcement agency or an administrative
2 agency for further investigation. The documents shall remain
3 confidential and exempt from disclosure until that agency's
4 investigation is complete or ceases to be active.

5 (b) For purposes of this section, an investigation or
6 examination is considered active so long as the office, a law
7 enforcement agency, or an administrative agency is proceeding
8 with reasonable dispatch and has a good faith belief that the
9 investigation or examination may lead to the filing of an
10 administrative, civil, or criminal proceeding or to the denial
11 or conditional grant of registration. This subsection does not
12 prohibit the disclosure of information that is required by law
13 to be filed with the office and that, but for the
14 investigation or examination, would be subject to public
15 disclosure.

16 (c) Documents made or compiled during an investigation
17 or examination shall remain confidential and exempt from s.
18 119.07(1) and s. 24(a), Art. I of the State Constitution after
19 the investigation or examination is completed or ceases to be
20 active if disclosure of the document would:

21 1. Jeopardize the integrity of another active
22 investigation or examination;

23 2. Reveal the name, address, telephone number, social
24 security number, or any other identifying number or
25 information of any complainant, customer, or account holder;

26 3. Disclose the identity of a confidential source;

27 4. Disclose investigative or examination techniques or
28 procedures; or

29 5. Reveal a trade secret as defined in s. 688.002.

30 (d) If an employee of the office has been involved in
31 an investigation or examination that might endanger the

1 employee's life or physical safety or that of the employee's
2 family, the home address, telephone number, and photograph of
3 the employee, together with the home address, telephone
4 number, photographs, and places of employment of the spouse
5 and children of the employee and the names and locations of
6 schools and day care facilities attended by the children of
7 the employee are confidential and exempt from s. 119.07(1) and
8 s. 24(a), Art. I of the State Constitution.

9 (e) This exemption does not prohibit the office from
10 providing documents to a law enforcement agency or
11 administrative agency. A law enforcement or administrative
12 agency receiving confidential information in connection with
13 its official duties shall maintain the confidentiality of the
14 information so long as that information would otherwise be
15 confidential.

16 (f) All information obtained by the office from any
17 source which is only made available to the office on a
18 confidential or similarly restricted basis shall be
19 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
20 of the State Constitution. This exemption does not prohibit
21 disclosure of information that is required by law to be filed
22 with the office or is otherwise subject to public disclosure.

23 (2) If information subject to subsection (1) is
24 offered in evidence in any administrative, civil, or criminal
25 proceeding, the presiding officer may prevent the disclosure
26 of information that would be confidential under paragraph
27 (1)(c).

28 (3) A person who furnishes information or evidence to
29 the office is immune from civil liability unless the person
30 acts in bad faith or with malice in providing the information
31 or evidence.

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

6 Section 2. Section 559.7261, Florida Statutes, is
7 created to read:

8 559.7261 Confidentiality of information relating to
9 investigations and examinations.--

10 (1)(a) Except as otherwise provided in this section,
11 documents made or produced in the course of an investigation
12 or examination of a consumer collection agency by the office
13 under this chapter are confidential and exempt from s.
14 119.07(1) and s. 24(a), Art. I of the State Constitution until
15 the investigation or examination is completed or ceases to be
16 active. The documents shall remain confidential and exempt
17 from disclosure after the investigation or examination is
18 complete or ceases to be active if the office submits the
19 documents to a law enforcement agency or administrative agency
20 for further investigation. The documents shall remain
21 confidential and exempt from disclosure until that agency's
22 investigation is complete or ceases to be active.

23 (b) For purposes of this section, an investigation or
24 examination is considered active so long as the office, a law
25 enforcement agency, or an administrative agency is proceeding
26 with reasonable dispatch and has a good faith belief that the
27 investigation or examination may lead to the filing of an
28 administrative, civil, or criminal proceeding or to the denial
29 or conditional grant of registration. This subsection does not
30 prohibit the disclosure of information that is required by law
31 to be filed with the office and that, but for the

1 investigation or examination, would be subject to public
2 disclosure.

3 (c) Documents made or compiled during an investigation
4 or examination shall remain confidential and exempt from s.
5 119.07(1) and s. 24(a), Art. I of the State Constitution after
6 the investigation or examination is completed or ceases to be
7 active if disclosure of the document would:

8 1. Jeopardize the integrity of another active
9 investigation or examination;

10 2. Reveal the name, address, telephone number, social
11 security number, or any other identifying number or
12 information of any complainant, customer, or account holder;

13 3. Disclose the identity of a confidential source;

14 4. Disclose investigative or examination techniques or
15 procedures; or

16 5. Reveal a trade secret as defined in s. 688.002.

17 (d) If an employee of the office has been involved in
18 an investigation or examination that might endanger the
19 employee's life or physical safety or that of the employee's
20 family, the home address, telephone number, and photograph of
21 the employee, together with the home address, telephone
22 number, photographs, and places of employment of the spouse
23 and children of the employee and the names and locations of
24 schools and day care facilities attended by the children of
25 the employee are confidential and exempt.

26 (e) This subsection does not prohibit the office from
27 providing documents to a law enforcement agency or
28 administrative agency. A law enforcement or administrative
29 agency receiving confidential information in connection with
30 its official duties shall maintain the confidentiality of the

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1 information so long as that information would otherwise be
2 confidential.

3 (f) All information obtained by the office from any
4 source which is only made available to the office on a
5 confidential or similarly restricted basis shall be
6 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
7 of the State Constitution. This exemption does not prohibit
8 disclosure of information that is required by law to be filed
9 with the office or is otherwise subject to public disclosure.

10 (2) If information subject to subsection (1) is
11 offered in evidence in any administrative, civil, or criminal
12 proceeding, the presiding officer may prevent the disclosure
13 of information that would be confidential under paragraph
14 (1)(c).

15 (3) A person who furnishes information or evidence to
16 the office is immune from civil liability unless the person
17 acts in bad faith or with malice in providing the information
18 or evidence.

19 (4) The office may enter into an agreement with any
20 law enforcement or administrative agency to keep confidential
21 and exempt from s. 119.07(1) and Art. I, s. 24(a) of the State
22 Constitution any information furnished to the office under the
23 agreement.

24 Section 3. Sections 559.5472 and 559.7261, Florida
25 Statutes, are subject to the Open Government Sunset Review Act
26 of 1995 in accordance with section 119.15, Florida Statutes,
27 and shall stand repealed on October 2, 2009, unless reviewed
28 and saved from repeal through reenactment by the Legislature.

29 Section 4. The Legislature finds that it is a public
30 necessity that information relating to an active investigation
31 or examination of a consumer or commercial collection agency

1 by the Office of Financial Regulation be made exempt from
2 public disclosure if the information could jeopardize the
3 integrity of an active investigation. The Legislature further
4 finds that certain information relating to an investigation
5 should remain confidential even after the investigation or
6 examination ceases to be active. If the release of the
7 document or information would jeopardize the integrity of
8 another active investigation; reveal personal identifying
9 information of a complainant, customer, or account holder;
10 disclose the identity of a confidential source; or disclose
11 investigative or examination techniques or procedures, this
12 information should continue to be confidential and exempt from
13 disclosure. This exemption will preserve the integrity of the
14 office's ongoing investigations and examinations and protect
15 the privacy of persons providing information to the office.
16 Otherwise, release of this information could effectively
17 prevent the office from performing effective investigations or
18 examinations. The Legislature also finds that personal
19 identifying information of office employees should be
20 confidential if, as a result of the investigation or
21 examination, the life or physical safety of the employee, and
22 the employee's family, would be endangered. The Legislature
23 finds that the exemption sought is narrow in that, unless
24 specified otherwise within the exemption, the information
25 resulting from an investigation or examination will become
26 public once the investigation or examination ceases to be
27 active. Moreover, the exemption applies only to information
28 arising from an investigation or examination and does not
29 apply to other information or documents received by the Office
30 of Financial Regulation.
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