

By the Committee on Banking and Insurance; and Senator Crist

311-2249-04

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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 or consumer
collection agency conducted by the Office of
Financial Regulation; providing for future
legislative review and repeal; providing a
statement 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 by this section,
information received or created during an investigation or
examination by the Office of Financial Regulation of the
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

1 maintain the confidential and exempt status of the information
2 so long as it would otherwise be confidential and exempt from
3 disclosure.

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

8 (4) Such information shall remain confidential and
9 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
10 Constitution until after the office completes its
11 investigation or examination or the investigation or
12 examination ceases to be active to the extent disclosure
13 would:

14 (a) Jeopardize the integrity of another active
15 investigation.

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

19 (c) Reveal the identity of a confidential source.

20 (d) Reveal investigative techniques or procedures.

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

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

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26 For purposes of this section, an investigation or examination
27 shall be considered "active" so long as the office or any law
28 enforcement or administrative agency or regulatory
29 organization is proceeding with reasonable dispatch and has a
30 reasonable good faith belief that the investigation or
31 examination may lead to the filing of an administrative,

1 civil, or criminal proceeding or to the denial or conditional
2 grant of a license, registration, or permit.

3 (5) This exemption does not prohibit disclosure of
4 information that is required by law to be filed with the
5 office or that is otherwise subject to s. 119.07(1) and s.
6 24(a), Art. I of the State Constitution.

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

11 Section 2. (1) The Legislature finds that it is a
12 public necessity that information received or created during
13 an investigation or examination conducted by the Office of
14 Financial Regulation of the Financial Services Commission
15 pursuant to part V or part VI of chapter 559, Florida
16 Statutes, including any consumer complaint, be confidential
17 and exempt from section 119.07(1), Florida Statutes, and
18 Section 24(a) of Article I of the State Constitution until the
19 investigation or examination is completed or ceases to be
20 active or if the office submits the information to any law
21 enforcement or administrative agency or regulatory
22 organization for further investigation and that agency's or
23 organization's investigation is completed or ceases to be
24 active, in order to protect the integrity of such
25 investigations or examinations. An investigation or
26 examination may lead to filing an administrative, civil, or
27 criminal proceeding or to denying or conditionally granting a
28 license, registration, or permit. The public necessity exists
29 to the extent disclosure might jeopardize the integrity of
30 another active investigation or examination; reveal the name,
31 address, telephone number, social security number, or any

1 other identifying information of any complainant, customer, or
2 account holder; disclose the identity of a confidential
3 source; disclose investigative techniques or procedures;
4 reveal a trade secret as defined in section 688.002, Florida
5 Statutes; or reveal proprietary business information.

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

17 (3) Revealing investigative techniques or procedures
18 may inhibit the effective and efficient administration of the
19 office to conduct investigations. Revelation of such
20 techniques or procedures could allow a person to hide or
21 conceal violations of law that would have otherwise been
22 discovered during and examination or investigation. As such,
23 the office's ability to perform an effective investigation or
24 examination may be hindered.

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

3 Section 3. This act shall take effect July 1, 2004, if
4 SB 2430, or substantially similar legislation, is adopted in
5 the same legislative session or an extension thereof and
6 becomes law.

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8 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
9 COMMITTEE SUBSTITUTE FOR
10 Senate Bill 2428

11 Eliminates a provision which would have authorized the Office
12 of Financial Regulation (OFR) to make certain information
13 identifying OFR personnel involved in an investigation or
14 examination exempt and confidential from s. 119.07(1), F.S.,
and s.24(a), Art. I of the State Constitution, if the OFR
determines that such involvement would endanger the lives or
physical safety of the personnel or their families.

15 Eliminates an immunity from civil liability to a person who
16 furnishes information to the OFR, unless such person act in
bad faith or with malice in providing such information.

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