

HB 0621

2004

A bill to be entitled

An act relating to a public records exemption; creating s. 516.115, F.S.; creating an exemption from public records requirements for information obtained by the Office of Financial Regulation of the Financial Services Commission in connection with investigations and examinations under the Florida Consumer Finance Act; providing a privilege against civil liability for persons who furnish information or evidence to the office; 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 516.115, Florida Statutes, is created to read:

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

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

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30 Such information shall remain confidential and exempt from s.
 31 119.07(1) until that agency's or organization's investigation is
 32 completed or ceases to be active. For purposes of this section,
 33 an investigation or examination shall be considered "active" so
 34 long as the office or any law enforcement or administrative
 35 agency or regulatory organization is proceeding with reasonable
 36 dispatch and has a reasonable good faith belief that the
 37 investigation or examination may lead to the filing of an
 38 administrative, civil, or criminal proceeding or to the denial
 39 or conditional grant of a license, registration, or permit. This
 40 section shall not be construed to prohibit disclosure of
 41 information which is required by law to be filed with the office
 42 and which, but for the investigation or examination, would be
 43 subject to s. 119.07(1).

44 (b) Except as necessary for the office to enforce the
 45 provisions of this chapter, a consumer complaint and other
 46 information relative to an investigation or examination shall
 47 remain confidential and exempt from s. 119.07(1) after the
 48 investigation or examination is completed or ceases to be active
 49 to the extent disclosure would:

50 1. Jeopardize the integrity of another active
 51 investigation or examination.

52 2. Reveal the name, address, telephone number, social
 53 security number, or any other identifying number or information
 54 of any complainant, customer, or account holder.

55 3. Disclose the identity of a confidential source.

56 4. Disclose investigative techniques or procedures.

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

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58 (c) In the event that office personnel are or have been
59 involved in an investigation or examination of such nature as to
60 endanger their lives or physical safety or that of their
61 families, the home addresses, telephone numbers, places of
62 employment, and photographs of such personnel, together with the
63 home addresses, telephone numbers, photographs, and places of
64 employment of spouses and children of such personnel and the
65 names and locations of schools and day care facilities attended
66 by the children of such personnel are confidential and exempt
67 from s. 119.07(1).

68 (d) Nothing in this section shall be construed to prohibit
69 the office from providing information to any law enforcement or
70 administrative agency or regulatory organization. Any law
71 enforcement or administrative agency or regulatory organization
72 receiving confidential information in connection with its
73 official duties shall maintain the confidentiality of the
74 information so long as it would otherwise be confidential.

75 (e) All information obtained by the office from any person
76 which is only made available to the office on a confidential or
77 similarly restricted basis shall be confidential and exempt from
78 s. 119.07(1). This exemption shall not be construed to prohibit
79 disclosure of information which is required by law to be filed
80 with the office or which is otherwise subject to s. 119.07(1).

81 (2) If information subject to subsection (1) is offered in
82 evidence in any administrative, civil, or criminal proceeding,
83 the presiding officer may, in her or his discretion, prevent the
84 disclosure of information which would be confidential pursuant
85 to paragraph (1)(b).

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86 (3) A privilege against civil liability is granted to a
87 person who furnishes information or evidence to the office,
88 unless such person acts in bad faith or with malice in providing
89 such information or evidence.

90 Section 2. The Legislature finds that it is a public
91 necessity that information relative to an investigation or
92 examination conducted by the Office of Financial Regulation of
93 the Financial Services Commission pursuant to chapter 516,
94 Florida Statutes, including any consumer complaint, be
95 confidential and exempt from s. 119.07(1), Florida Statutes,
96 until the investigation or examination is completed or ceases to
97 be active or if the office submits the information to any law
98 enforcement or administrative agency or regulatory organization
99 for further investigation and that agency's or organization's
100 investigation is completed or ceases to be active. An
101 investigation or examination may lead to filing an
102 administrative, civil, or criminal proceeding or to denying or
103 conditionally granting a license, registration, or permit. The
104 public necessity exists to the extent disclosure might
105 jeopardize the integrity of another active investigation or
106 examination; reveal the name, address, telephone number, social
107 security number, or any other identifying number or information
108 of any complainant, customer, or account holder; disclose the
109 identity of a confidential source; disclose investigative
110 techniques or procedures; reveal a trade secret as defined in s.
111 688.002, Florida Statutes; or endanger the lives or physical
112 safety of personnel of the office, or that of their families,
113 who are or have been involved in the investigation or
114 examination.

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115 Section 3. This act shall take effect July 1, 2004, if HB
116 357 or substantially similar legislation is adopted in the same
117 legislative session or an extension thereof and becomes a law.