

1 A bill to be entitled
 2 An act relating to public records exemptions; creating s.
 3 559.5472, F.S.; exempting from public records disclosure
 4 requirements certain information relating to
 5 investigations and examinations by the Office of Financial
 6 Regulation of the Financial Services Commission; providing
 7 exceptions; providing for continuing the exemption under
 8 certain circumstances; providing for repeal and review of
 9 such exemption; providing a statement of public necessity;
 10 providing a contingent effective date.

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

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

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

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

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

29 responsibilities. The law enforcement agency, administrative
30 agency, or regulatory organization shall maintain the exempt and
31 confidential status of the information so long as such
32 information would otherwise be confidential and exempt from
33 provisions requiring public disclosure.

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

39 (a) Jeopardize the integrity of another active
40 investigation;

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

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

45 (d) Reveal investigative techniques or procedures;

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

47 (f) Reveal proprietary business information.

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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. If the office receives a request for

57 information that is confidential and exempt under this section,
58 the office shall communicate to the person or entity requesting
59 the information which paragraph of this subsection prohibits
60 disclosure.

61 (4) 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, 2010, 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. Revealing 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 business information or trade secrets are
 110 sometimes necessary for the office to review as part of an
 111 ongoing examination or investigation. Disclosure of such
 112 information to the public may cause injury to the affected

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

117 Section 2. This act shall take effect July 1, 2005, only
118 if HB 1133 or similar legislation is enacted during the 2005
119 Regular Session or an extension thereof and becomes a law.