

HB 1135

2005  
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CHAMBER ACTION

1 The Economic Development, Trade & Banking Committee recommends  
2 the following:

3  
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to public records exemptions; creating s.  
8 559.5472, F.S.; creating an exemption from public records  
9 requirements for certain information relating to  
10 investigations and examinations by the Office of Financial  
11 Regulation of the Financial Services Commission; providing  
12 exceptions; providing construction; providing for future  
13 legislative review and repeal of such exemption; providing  
14 a statement of public necessity; providing a contingent  
15 effective date.

16  
17 Be It Enacted by the Legislature of the State of Florida:

18  
19 Section 1. Section 559.5472, Florida Statutes, is created  
20 to read:

21 559.5472 Public records exemption for investigation and  
22 examination information.--

23       (1) Except as otherwise provided by this section,  
 24 information held by the Office of Financial Regulation of the  
 25 Financial Services Commission pursuant to an investigation or  
 26 examination conducted under part V or part VI of this chapter,  
 27 including any consumer complaint, is confidential and exempt  
 28 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
 29 until the investigation or examination is completed or ceases to  
 30 be active.

31       (2) Such information shall remain confidential and exempt  
 32 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
 33 after the office's investigation or examination is completed or  
 34 ceases to be active if the office submits the information to a  
 35 law enforcement agency, administrative agency, or regulatory  
 36 organization for further investigation or examination. Such  
 37 information shall remain confidential and exempt from s.  
 38 119.07(1) and s. 24(a), Art. I of the State Constitution until  
 39 that agency's investigation or examination is completed or  
 40 ceases to be active.

41       (3) Such information shall remain confidential and exempt  
 42 from s. 119.07(1) and s. 24(a), Art. I of the State Constitution  
 43 after the office completes its investigation or examination or  
 44 the investigation or examination ceases to be active if  
 45 disclosure would:

46             (a) Jeopardize the integrity of another active  
 47 investigation or examination;

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

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- 51        (c) Reveal the identity of a confidential source;  
52        (d) Reveal investigative techniques or procedures; or  
53        (e) Reveal a trade secret as defined in s. 688.002.

54  
55        For purposes of this section, an investigation or examination is  
56        active so long as the office or any law enforcement agency,  
57        administrative agency, or regulatory organization is proceeding  
58        with reasonable dispatch and has a reasonable good faith belief  
59        that the investigation or examination may lead to the filing of  
60        an administrative, civil, or criminal proceeding or to the  
61        denial or conditional grant of a license, registration, or  
62        permit.

63        (4) This section is subject to the Open Government Sunset  
64        Review Act of 1995 in accordance with s. 119.15 and shall stand  
65        repealed on October 2, 2010, unless reviewed and saved from  
66        repeal through reenactment by the Legislature.

67        Section 2. (1) The Legislature finds that it is a public  
68        necessity that information held by the Office of Financial  
69        Regulation of the Financial Services Commission pursuant to an  
70        investigation or examination conducted under part V or part VI  
71        of chapter 559, Florida Statutes, be made confidential and  
72        exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I  
73        of the State Constitution until the investigation or examination  
74        is completed or ceases to be active or, if the office submits  
75        the information to any law enforcement agency, administrative  
76        agency, or regulatory organization for further investigation,  
77        that agency's or organization's investigation is completed or  
78        ceases to be active. The Legislature further finds that it is a

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79 | public necessity that the information which, if released, would  
 80 | jeopardize the integrity of another active investigation or  
 81 | examination; reveal the name, address, telephone number, social  
 82 | security number, or any other identifying information of any  
 83 | complainant, customer, or account holder; disclose the identity  
 84 | of a confidential source; disclose investigative techniques or  
 85 | procedures; or reveal a trade secret as defined in s. 688.002,  
 86 | Florida Statutes, remain confidential and exempt once an  
 87 | investigation or examination is completed or ceases to be  
 88 | active.

89 |       (2) An investigation or examination conducted by the  
 90 | office may lead to filing an administrative, civil, or criminal  
 91 | proceeding or to denying or conditionally granting a license,  
 92 | registration, or permit. The release of investigative or  
 93 | examination information before the investigation or examination  
 94 | is completed or ceases to be active could jeopardize the  
 95 | integrity of such active investigation or examination or could  
 96 | jeopardize the integrity of an active investigation or  
 97 | examination conducted by a law enforcement agency,  
 98 | administrative agency, or regulatory organization at the request  
 99 | of the office.

100 |       (3) Investigations and examinations conducted by the  
 101 | office frequently involve the gathering of personal, sensitive  
 102 | information concerning complainants, customers, account holders,  
 103 | and confidential sources. The office may not otherwise have this  
 104 | identifying information, including the name, address, telephone  
 105 | number, and social security number of such persons, in its  
 106 | possession but for the investigation or examination. Because of

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107 the sensitive nature of the information gathered, the disclosure  
108 of such information could cause unwarranted damage to such  
109 persons by facilitating identity theft or by jeopardizing their  
110 safety.

111 (4) Revealing investigative techniques or procedures may  
112 inhibit the effective and efficient administration of the office  
113 in conducting investigations or examinations. Revealing such  
114 techniques or procedures could allow a person to hide or conceal  
115 violations of law that would have otherwise been discovered  
116 during an investigation or examination. As such, the office's  
117 ability to perform an effective and efficient investigation or  
118 examination may be hindered.

119 (5) It is sometimes necessary for the office to review  
120 trade secrets as part of an ongoing investigation or  
121 examination. Public disclosure of trade secrets may cause injury  
122 to the affected entity in the marketplace. The release of trade  
123 secrets could create an unfair competitive advantage for persons  
124 receiving such information, which would adversely impact the  
125 business under investigation or examination. The public records  
126 exemption for trade secrets will provide the office with the  
127 necessary tools to perform its function while maintaining  
128 adequate protection for the affected business.

129 Section 2. This act shall take effect October 1, 2005,  
130 only if HB 1133 or substantially similar legislation is adopted  
131 in the same legislative session or an extension thereof and  
132 becomes a law.