

By the Committee on Banking and Insurance; and Senator Crist

597-2144-05

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

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

16 Section 1. Section 559.5472, Florida Statutes, is
17 created to read:

18 559.5472 Public records exemption for investigation
19 and examination information.--

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

28 (2) Such information shall remain confidential and
29 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
30 Constitution after the office's investigation or examination
31 is completed or ceases to be active if the office submits the

1 information to a law enforcement agency, administrative
2 agency, or regulatory organization for further investigation
3 or examination. Such information shall remain confidential and
4 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
5 Constitution until that agency's investigation or examination
6 is completed or ceases to be active.

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

12 (a) Jeopardize the integrity of another active
13 investigation or examination;

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

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

18 (d) Reveal investigative techniques or procedures; or

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

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21 For purposes of this section, an investigation or examination
22 is active so long as the office or any law enforcement agency,
23 administrative agency, or regulatory organization is
24 proceeding with reasonable dispatch and has a reasonable good
25 faith belief that the investigation or examination may lead to
26 the filing of an administrative, civil, or criminal proceeding
27 or to the denial or conditional grant of a license,
28 registration, or permit.

29 (4) This section is subject to the Open Government
30 Sunset Review Act of 1995 in accordance with s. 119.15 and

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1 shall stand repealed on October 2, 2010, unless reviewed and
2 saved from repeal through reenactment by the Legislature.

3 Section 2. (1) The Legislature finds that it is a
4 public necessity that information held by the Office of
5 Financial Regulation of the Financial Services Commission
6 pursuant to an investigation or examination conducted under
7 part V or part VI of chapter 559, Florida Statutes, be made
8 confidential and exempt from section 119.07(1), Florida
9 Statutes, and Section 24(a), Article I of the State
10 Constitution until the investigation or examination is
11 completed or ceases to be active or, if the office submits the
12 information to any law enforcement agency, administrative
13 agency, or regulatory organization for further investigation,
14 that agency's or organization's investigation is completed or
15 ceases to be active. The Legislature further finds that it is
16 a public necessity that the information that, if released,
17 would jeopardize the integrity of another active investigation
18 or examination; reveal the name, address, telephone number,
19 social security number, or any other identifying information
20 of any complainant, customer, or account holder; disclose the
21 identity of a confidential source; disclose investigative
22 techniques or procedures; or reveal a trade secret as defined
23 in section 688.002, Florida Statutes, remain confidential and
24 exempt once an investigation or examination is completed or
25 ceases to be active.

26 (2) An investigation or examination conducted by the
27 office may lead to filing an administrative, civil, or
28 criminal proceeding or to denying or conditionally granting a
29 license, registration, or permit. The release of investigative
30 or examination information before the investigation or
31 examination is completed or ceases to be active could

1 jeopardize the integrity of an active investigation or
2 examination or could jeopardize the integrity of an active
3 investigation or examination conducted by a law enforcement
4 agency, administrative agency, or regulatory organization at
5 the request of the office.

6 (3) Investigations and examinations conducted by the
7 office frequently involve the gathering of personal, sensitive
8 information concerning complainants, customers, account
9 holders, and confidential sources. The office may not
10 otherwise have this identifying information, including the
11 name, address, telephone number, and social security number of
12 such persons, in its possession but for the investigation or
13 examination. Because of the sensitive nature of the
14 information gathered, the disclosure of such information could
15 cause unwarranted damage to such persons by facilitating
16 identity theft or by jeopardizing their safety.

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

25 (5) It is sometimes necessary for the office to review
26 trade secrets as part of an ongoing investigation or
27 examination. Public disclosure of trade secrets may cause
28 injury to the affected entity in the marketplace. The release
29 of trade secrets could create an unfair competitive advantage
30 for persons receiving such information, which would adversely
31 impact the business under investigation or examination. The

1 public records exemption for trade secrets will provide the
2 office with the necessary tools to perform its function while
3 maintaining adequate protection for the affected business.

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

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9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 Senate Bill 1982

12 The committee substitute provides the following changes:

- 13 o Removes proprietary business information from the list of
14 records that would remain confidential and exempt after
15 the investigation or examination ceases or is no longer
16 active.
17 o Revises other provisions in the bill, including the
18 public necessity statement, for clarity.
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