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HB 0627

2005 Legislature

A bill to be entitled

An act relating to public records; 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 active investigations and examinations under the Florida Consumer Finance Act; providing an exception; providing a definition; 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 516.115, Florida Statutes, is created to read:

516.115 Public records exemption for investigation and examination information.--

(1) Except as otherwise provided by this section, information held by the Office of Financial Regulation of the Financial Services Commission pursuant to an investigation or examination conducted under this chapter 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) Such information shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution after the office's investigation or examination is completed or ceases to be active if the office submits the information to a law enforcement agency, administrative agency, or regulatory

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30 organization for further investigation or examination. Such
31 information shall remain confidential and exempt from s.
32 119.07(1) and s. 24(a), Art. I of the State Constitution until
33 that agency's investigation or examination is completed or
34 ceases to be active.

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

40 (a) Jeopardize the integrity of another active
41 investigation or examination;

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

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

46 (d) Reveal investigative techniques or procedures; or

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

48
49 For purposes of this section, an investigation or examination is
50 active so long as the office or any law enforcement agency,
51 administrative agency, or regulatory organization is proceeding
52 with reasonable dispatch and has a reasonable good faith belief
53 that the investigation or examination may lead to the filing of
54 an administrative, civil, or criminal proceeding or to the
55 denial or conditional grant of a license, registration, or
56 permit.

57 (4) This section is subject to the Open Government Sunset
58 Review Act of 1995 in accordance with s. 119.15 and shall stand

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59 repealed on October 2, 2010, unless reviewed and saved from
60 repeal through reenactment by the Legislature.

61 Section 2. (1) The Legislature finds that it is a public
62 necessity that information held by the Office of Financial
63 Regulation of the Financial Services Commission pursuant to an
64 investigation or examination conducted under chapter 516,
65 Florida Statutes, be made confidential and exempt from s.
66 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State
67 Constitution until the investigation or examination is completed
68 or ceases to be active or, if the office submits the information
69 to any law enforcement agency, administrative agency, or
70 regulatory organization for further investigation, that agency's
71 or organization's investigation is completed or ceases to be
72 active. The Legislature further finds that it is a public
73 necessity that information which, if released, would jeopardize
74 the integrity of another active investigation or examination;
75 reveal the name, address, telephone number, social security
76 number, or any other identifying information of any complainant,
77 customer, or account holder; disclose the identity of a
78 confidential source; disclose investigative techniques or
79 procedures; or reveal a trade secret as defined in s. 688.002,
80 Florida Statutes, remain exempt and confidential once an
81 investigation or examination is completed or ceases to be
82 active.

83 (2) An investigation or examination conducted by the
84 office may lead to filing an administrative, civil, or criminal
85 proceeding or to denying or conditionally granting a license,
86 registration, or permit. The release of investigative or
87 examination information before the investigation or examination

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88 is completed or ceases to be active could jeopardize the
89 integrity of such active investigation or examination or could
90 jeopardize the integrity of an active investigation or
91 examination conducted by a law enforcement agency,
92 administrative agency, or regulatory organization at the request
93 of the office.

94 (3) Investigations and examinations conducted by the
95 office frequently involve the gathering of personal, sensitive
96 information concerning complainants, customers, account holders,
97 and confidential sources. The office may not otherwise have this
98 identifying information, including the name, address, telephone
99 number, and social security number of such persons in its
100 possession but for the investigation or examination. Because of
101 the sensitive nature of the information gathered, the disclosure
102 of such information could cause unwarranted damage to such
103 persons by facilitating identity theft or by jeopardizing their
104 safety.

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

113 (5) It is sometimes necessary for the office to review
114 trade secrets as part of an ongoing investigation or
115 examination. Public disclosure of trade secrets may cause injury
116 to the affected entity in the marketplace. The release of trade

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117 secrets could create an unfair competitive advantage for persons
118 receiving such information, which would adversely impact the
119 business under investigation or examination. The public records
120 exemption for trade secrets will provide the office with the
121 necessary tools to perform its function while maintaining
122 adequate protection for the affected business.

123 Section 3. This act shall take effect October 1, 2005, if
124 HB 381 or substantially similar legislation is adopted in the
125 same legislative session or an extension thereof and becomes a
126 law.