

Bill No. CS for SB 698

Barcode 193266

	CHAMBER ACTION	
<u>Senate</u>		<u>House</u>

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The Committee on Governmental Oversight and Productivity
(Sebesta) recommended the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

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

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

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

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

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

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

19 (d) Reveal investigative techniques or procedures; or

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

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

30 (4) This section is subject to the Open Government
 31 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 chapter 516, Florida Statutes, be made confidential and exempt
8 from section 119.07(1), Florida Statutes, and Section 24(a),
9 Article I of the State Constitution until the investigation or
10 examination is completed or ceases to be active or, if the
11 office submits the information to any law enforcement agency,
12 administrative agency, or regulatory organization for further
13 investigation, until that agency's or organization's
14 investigation is completed or ceases to be active. The
15 Legislature further finds that it is a public necessity that
16 information that, if released, would jeopardize the integrity
17 of another active investigation or examination; reveal the
18 name, address, telephone number, social security number, or
19 any other identifying information of any complainant,
20 customer, or account holder; disclose the identity of a
21 confidential source; disclose investigative techniques or
22 procedures; or reveal a trade secret as defined in section
23 688.002, Florida Statutes, remain exempt and confidential once
24 an investigation or examination is completed or ceases to be
25 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

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1 jeopardize the integrity of such 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.
20 Revelation of such techniques or procedures could allow a
21 person to hide or conceal violations of law which would have
22 otherwise been discovered during an investigation or
23 examination. As such, the office's ability to perform an
24 effective and efficient investigation or examination may be
25 hindered.

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

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1 impact the business under investigation or examination. The
 2 public-records exemption for trade secrets will provide the
 3 office with the necessary tools to perform its function while
 4 maintaining adequate protection for the affected business.

5 Section 3. This act shall take effect October 1, 2005,
 6 if SB 304 or substantially similar legislation is adopted in
 7 the same legislative session or an extension thereof and
 8 becomes law.

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11 ===== T I T L E A M E N D M E N T =====

12 And the title is amended as follows:

13 Delete everything before the enacting clause

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15 and insert:

16 A bill to be entitled
 17 An act relating to public records; creating s.
 18 516.115, F.S.; creating an exemption from
 19 public-records requirements for information
 20 obtained by the Office of Financial Regulation
 21 of the Financial Services Commission in
 22 connection with active investigations and
 23 examinations under the Florida Consumer Finance
 24 Act; providing an exception; providing a
 25 definition; providing for future legislative
 26 review and repeal under the Open Government
 27 Sunset Review Act; providing a statement of
 28 public necessity; providing a contingent
 29 effective date.

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