

By Senator Saunders

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1 A bill to be entitled
2 An act relating to public records; amending s. 633.111,
3 F.S; providing an exemption from public records
4 requirements for papers, documents, reports, or
5 evidence relative to the subject of investigations
6 conducted by the State Fire Marshal; providing for
7 future legislative review and repeal; providing a
8 statement of public necessity; providing an effective
9 date.

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

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13 Section 1. Section 633.111, Florida Statutes, is amended to
14 read:

15 (Substantial rewording of section. See
16 s. 633.111, F.S., for current text.)

17 633.111 State Fire Marshal records of investigations;
18 public records exemption.--

19 (1) The State Fire Marshal's papers, documents, reports, or
20 evidence relative to the subject of an investigation under this
21 section are confidential and exempt from the provisions of s.
22 119.07(1) and s. 24(a), Art. I of the State Constitution until
23 such investigation is completed or ceases to be active. For
24 purposes of this subsection, an investigation is considered
25 "active" while the investigation is being conducted by the office
26 or department with a reasonable, good faith belief that it could
27 lead to the filing of administrative, civil, or criminal
28 proceedings. An investigation does not cease to be active if the
29 office or department is proceeding with reasonable dispatch and

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30 has a good faith belief that action could be initiated by the
31 department or other administrative or law enforcement agency.
32 After an investigation is completed or ceases to be active,
33 portions of records relating to the investigation shall remain
34 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
35 of the State Constitution if disclosure would:

36 (a) Jeopardize the integrity of another active
37 investigation;

38 (b) Impair the safety and soundness of an insurer;

39 (c) Reveal personal financial information;

40 (d) Reveal the identity of a confidential source;

41 (e) Defame or cause unwarranted damage to the good name or
42 reputation of an individual or jeopardize the safety of an
43 individual; or

44 (f) Reveal investigative techniques or procedures.

45 (2) This section is subject to the Open Government Sunset
46 Review Act in accordance with s. 119.15 and shall stand repealed
47 on October 2, 2013, unless reviewed and saved from repeal through
48 reenactment by the Legislature.

49 Section 2. (1) The Legislature finds that it is a public
50 necessity that information received or created during an
51 investigation conducted by the Department of Financial Services
52 pursuant to chapter 633, Florida Statutes, be made confidential
53 and exempt from disclosure until the investigation is completed
54 or ceases to be active or, if the department submits the
55 information to any law enforcement, administrative agency, or
56 regulatory organization for further investigation, until that
57 agency's or organization's investigation, inspection, or
58 examination is completed or ceases to be active, in order to

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59 protect the integrity of such investigations. An investigation
60 may lead to filing an administrative, civil, or criminal
61 proceeding or to denying or conditionally granting a license,
62 registration, or permit. The public necessity exists to the
63 extent disclosure might jeopardize the integrity of another
64 active investigation, reveal the name, address, telephone number,
65 social security number, or any other identifying information of
66 any complainant, consumer, or confidential source; disclose
67 investigative techniques or procedures; reveal a trade secret as
68 defined in s. 688.002, Florida Statutes; or reveal proprietary
69 business information.

70 (2) The Legislature further finds that it is a public
71 necessity that information received during an investigation
72 conducted by the department pursuant to chapter 633, Florida
73 Statutes, that would jeopardize the integrity of another active
74 investigation, be made confidential and exempt from disclosure at
75 all times.

76 (3) The Legislature finds that it is a public necessity
77 that information received from an insurer during an investigation
78 conducted by the department pursuant to chapter 633, Florida
79 Statutes, that would impair the safety and soundness of the
80 insurer be made confidential and exempt from disclosure at all
81 times.

82 (4) Investigations by the department frequently involve the
83 gathering of personal, sensitive information concerning
84 individuals, such as complainants, consumers, or other
85 confidential sources. The department may not otherwise have this
86 information in its possession but for the investigation. The
87 Legislature finds that due to the sensitive nature of such

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88 information, it is a public necessity that the information not be
89 made available to the public. If disclosed, such information may
90 cause unwarranted damage to such persons by facilitating identity
91 theft or jeopardizing the safety of such individuals.

92 (5) The Legislature further finds that it is a public
93 necessity that the identity of a confidential informant received
94 during an investigation conducted by the department pursuant to
95 chapter 633, Florida Statutes, be made confidential and exempt
96 from disclosure at all times.

97 (6) The Legislature further finds that it is a public
98 necessity that information received during an investigation
99 conducted by the department pursuant to chapter 633, Florida
100 Statutes, that would defame or cause unwarranted damage to the
101 good name or reputation of an individual, or jeopardize the
102 safety of an individual, be made confidential and exempt from
103 disclosure at all times.

104 (7) The Legislature further finds that it is a public
105 necessity that the department's investigative techniques or
106 procedures be made confidential and exempt from disclosure at all
107 times. Revelation of such techniques or procedures may inhibit
108 the effective and efficient administration of the department to
109 conduct investigations and allow a person to hide or conceal
110 violations of law that would have otherwise been discovered
111 during an investigation. As such, the department's ability to
112 perform an effective investigation may be hindered.

113 Section 3. This act shall take effect on the same date that
114 House Bill 1041 or similar legislation takes effect, if such
115 legislation is adopted in the same legislative session or an
116 extension thereof and becomes law.