

By Senator Fasano

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1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 494.00125, F.S.; providing a public-records exemption
 4 for information obtained by the Office of Financial
 5 Regulation from the Nationwide Mortgage Licensing
 6 System and Registry which is confidential under
 7 federal or other state law; providing an exemption for
 8 credit reports obtained by the office for licensing
 9 purposes; providing for future legislative review and
 10 repeal of the exemption under the Open Government
 11 Sunset Review Act; repealing s. 494.0021, F.S.,
 12 relating to financial statements, to conform to
 13 changes made by the act; providing a statement of
 14 public necessity; providing a contingent effective
 15 date.

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

18
 19 Section 1. Section 494.00125, Florida Statutes, is amended
 20 to read:

21 494.00125 Confidentiality of public records held by the
 22 office ~~information relating to investigations and examinations.-~~

23 (1) INVESTIGATIONS OR EXAMINATIONS.-

24 (a) Except as otherwise provided by this subsection
 25 ~~section~~, information relative to an investigation or examination
 26 by the office pursuant to this chapter, including any consumer
 27 complaint received by the office or the commission ~~Department of~~
 28 ~~Financial Services~~, is confidential and exempt from s. 119.07(1)
 29 until the investigation or examination is completed or ceases to

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30 be active. However, the information compiled by the office in
31 such an investigation or examination shall remain confidential
32 and exempt ~~from s. 119.07(1) after the office's investigation or~~
33 ~~examination is completed or ceases to be active~~ if the office
34 submits the information to any law enforcement or administrative
35 agency for further investigation. Such information shall remain
36 confidential and exempt from s. 119.07(1) until that agency's
37 investigation is completed or ceases to be active. For purposes
38 of this subsection ~~section~~, an investigation or examination is
39 ~~shall be~~ considered "active" if so long as the office or any law
40 enforcement or administrative agency is proceeding with
41 reasonable dispatch and has a reasonable good faith belief that
42 the investigation or examination may lead to the filing of an
43 administrative, civil, or criminal proceeding or to the denial
44 or conditional grant of a license. This subsection does ~~section~~
45 ~~shall not be construed to prohibit~~ the disclosure of information
46 which is required by law to be filed with the office and which,
47 but for the investigation or examination, would be subject to s.
48 119.07(1).

49 (b) Except as necessary for the office to enforce the
50 provisions of this chapter, a consumer complaint and other
51 information relative to an investigation or examination remains
52 ~~shall remain~~ confidential and exempt from s. 119.07(1) after the
53 investigation or examination is completed or ceases to be active
54 to the extent disclosure would:

55 1. Jeopardize the integrity of another active investigation
56 or examination.

57 2. Reveal the name, address, telephone number, social
58 security number, or any other identifying number or information

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59 of any complainant, customer, or account holder.

60 3. Disclose the identity of a confidential source.

61 4. Disclose investigative techniques or procedures.

62 5. Reveal a trade secret as defined in s. 688.002.

63 (c) If ~~In the event that~~ office personnel are or have been
64 involved in an investigation or examination of such nature as to
65 endanger their lives or physical safety or that of their
66 families, ~~then~~ the home addresses, telephone numbers, places of
67 employment, and photographs of such personnel, together with the
68 home addresses, telephone numbers, photographs, and places of
69 employment of spouses and children of such personnel and the
70 names and locations of schools and day care facilities attended
71 by the children of such personnel are confidential and exempt
72 from s. 119.07(1).

73 (d) ~~Nothing in~~ This subsection does not ~~section shall be~~
74 ~~construed to~~ prohibit the office from providing information to
75 any law enforcement or administrative agency. Any law
76 enforcement or administrative agency receiving confidential
77 information in connection with its official duties shall
78 maintain the confidentiality of the information if ~~so long as~~ it
79 would otherwise be confidential.

80 (e) All information obtained by the office from any person
81 which is only made available to the office on a confidential or
82 similarly restricted basis shall be confidential and exempt from
83 s. 119.07(1). This exemption does not ~~shall not be construed to~~
84 prohibit disclosure of information which is required by law to
85 be filed with the office or which is otherwise subject to s.
86 119.07(1).

87 (f) ~~(2)~~ If information subject to this subsection ~~(1)~~ is

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88 offered in evidence in any administrative, civil, or criminal
89 proceeding, the presiding officer may, ~~in her or his discretion,~~
90 prevent the disclosure of information that ~~which~~ would be
91 confidential pursuant to paragraph ~~(1)~~(b).

92 (g) ~~(3)~~ A privilege against civil liability is granted to a
93 person who furnishes information or evidence to the office,
94 unless such person acts in bad faith or with malice in providing
95 such information or evidence.

96 (2) FINANCIAL STATEMENTS.—All audited financial statements
97 submitted pursuant to ss. 494.001-494.0077 are confidential and
98 exempt from the requirements of s. 119.07(1), except that office
99 employees may have access to information in the administration
100 and enforcement of ss. 494.001-494.0077 which may be used by the
101 office for the prosecution of violations under ss. 494.001-
102 494.0077.

103 (3) REGISTRY.—

104 (a) The following materials are confidential and exempt
105 from s. 119.07(1) and s. 24(a), Art. I of the State
106 Constitution:

107 1. Information and material that have been placed in the
108 registry pursuant to the requirements of other state or federal
109 laws and not the requirements of this chapter, that are
110 privileged or confidential under other state or federal law, and
111 that have been obtained by the office.

112 a. The information and material may, however, be shared by
113 the office with any state or federal entity having oversight,
114 regulatory, or law enforcement authority without the loss of
115 privilege or confidentiality protections provided by federal and
116 state laws.

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117 b. This subparagraph does not apply to information or
118 material relating to the employment history of, and publicly
119 adjudicated disciplinary and enforcement actions against, loan
120 originators which is included in the registry for access by the
121 public.

122 2. Credit reports obtained by the office for licensing
123 purposes.

124 (b) This subsection is subject to the Open Government
125 Sunset Review Act in accordance with s. 119.15, and shall stand
126 repealed on October 2, 2014, unless reviewed and saved from
127 repeal through reenactment by the Legislature.

128 Section 2. Section 494.0021, Florida Statutes, is repealed.

129 Section 3. (1) The Legislature finds that it is a public
130 necessity that information contained in the registry which has
131 been submitted pursuant to other state or federal laws be made
132 confidential and exempt from public-records requirements. This
133 exemption is necessary to ensure compliance with the
134 confidentiality requirements of the S.A.F.E. Mortgage Licensing
135 Act of 2008 and to ensure that other state or federal laws
136 governing confidentiality are not compromised.

137 (2) The Legislature finds that it is a public necessity
138 that credit reports obtained pursuant to the licensing
139 provisions of this chapter be made confidential and exempt from
140 public-records requirements. Credit reports contain sensitive
141 financial information. Disclosure of these reports could cause
142 harm to the persons who are the subjects of the credit reports
143 by facilitating identity theft and other crimes.

144 Section 4. This act shall take effect on the same date that
145 SB 2226 or similar legislation takes effect, if such legislation

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146 is enacted in the same legislative session, or an extension
147 thereof, and becomes law.