

ENROLLED  
CS/HB 1059

2010 Legislature

1                                   A bill to be entitled  
2       An act relating to public records; creating s. 517.2016,  
3       F.S.; providing an exemption from public records  
4       requirements for information that would reveal examination  
5       techniques and procedures used by the Office of Financial  
6       Regulation pursuant to the Florida Securities and Investor  
7       Protection Act; providing a definition; providing for  
8       retroactive application of the public record exemption;  
9       providing an exception to the exemption for other  
10      governmental entities having oversight or regulatory or  
11      law enforcement authority; providing for future review and  
12      repeal of the exemption; providing a statement of public  
13      necessity; providing an effective date.

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

16  
17       Section 1. Section 517.2016, Florida Statutes, is created  
18 to read:

19       517.2016 Public record exemption; examination techniques  
20 and procedures.—

21       (1) For purposes of this section, "examination techniques  
22 and procedures" are the methods, processes, and guidelines used  
23 to evaluate regulatory compliance and to collect and analyze  
24 data, records, and testimony for the purpose of documenting  
25 violations of this chapter and the rules promulgated thereunder.

26       (2) Information that would reveal examination techniques  
27 or procedures used by the office pursuant to this chapter is  
28 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

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29 of the State Constitution. This exemption applies to such  
30 information held by the office before, on, or after the  
31 effective date of this exemption.

32 (3) Confidential and exempt information that would reveal  
33 examination techniques or procedures may be provided by the  
34 office to another governmental entity having oversight or  
35 regulatory or law enforcement authority.

36 (4) This section is subject to the Open Government Sunset  
37 Review Act in accordance with s. 119.15 and shall stand repealed  
38 on October 2, 2015, unless reviewed and saved from repeal  
39 through reenactment by the Legislature.

40 Section 2. (1) It is the finding of the Legislature that  
41 it is a public necessity that information that would reveal  
42 examination techniques or procedures used by the Office of  
43 Financial Regulation pursuant to chapter 517, Florida Statutes,  
44 the Florida Securities and Investor Protection Act, be made  
45 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
46 of the State Constitution. This exemption is necessary to ensure  
47 the Office of Financial Regulation's ability to effectively and  
48 efficiently administer the examination program under chapter  
49 517, Florida Statutes, which would be significantly impaired  
50 without the exemption.

51 (2) Examinations are an essential component of securities  
52 regulation. The mere existence of an examination program fosters  
53 regulatory compliance and deters fraud and abuse by industry  
54 participants. Examinations often detect violations in their  
55 early stages. This early detection allows corrective action to  
56 be taken before significant harm can be done to investors. Due

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57 to the importance of such examinations, state regulators devote  
58 extensive resources to devising effective examination techniques  
59 and procedures.

60 (3) Allowing access to information revealing examination  
61 techniques or procedures would undermine the examination process  
62 and facilitate evasion of the law. Any advance notice of the  
63 areas of inquiry to be explored during an examination might  
64 prompt a person to conceal evidence of deficiencies or fabricate  
65 evidence of compliance. Without the exemption, the Office of  
66 Financial Regulation's ability to uncover misconduct and  
67 evaluate policies and procedures through the examination process  
68 would be significantly impaired.

69 (4) Additionally, without such an exemption the Office of  
70 Financial Regulation's ability to participate in joint  
71 examinations with other securities regulators would be impaired  
72 as release of this information would compromise the integrity of  
73 such joint examinations. The office also would not be able to  
74 accept or use confidential examination techniques and procedures  
75 developed by other regulators. Thus, the absence of an exemption  
76 would create a situation that reduces the office's ability to  
77 leverage its limited resources.

78 Section 3. This act shall take effect upon becoming a law.