

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., and transferring, renumbering, and  
 4           amending s. 494.0021, F.S.; creating an exemption from  
 5           public-records requirements for credit history  
 6           information and credit scores held by the Office of  
 7           Financial Regulation within the Department of  
 8           Financial Services for purposes of licensing mortgage  
 9           brokers and mortgage lenders; providing an exception  
 10          to the exemption for other governmental entities  
 11          having oversight, regulatory, or law enforcement  
 12          authority; providing for future legislative review and  
 13          repeal of the exemption; reorganizing provisions;  
 14          transferring to the section the exemption from public-  
 15          records requirements for audited financial statements  
 16          submitted pursuant to parts I, II, and III of ch. 494,  
 17          F.S.; making editorial changes and removing  
 18          superfluous language; providing a statement of public  
 19          necessity; providing an effective date.

20  
 21 Be It Enacted by the Legislature of the State of Florida:

22  
 23           Section 1. Section 494.00125, Florida Statutes, is amended,  
 24           and section 494.0021, Florida Statutes, is transferred and  
 25           renumbered as subsection (2) of that section, and amended, to  
 26           read:

27           494.00125 Public-record exemptions ~~Confidentiality of~~  
 28           ~~information relating to investigations and examinations.-~~

29           (1) INVESTIGATIONS OR EXAMINATIONS.-

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30 (a) Except as otherwise provided by this subsection  
31 ~~section~~, information relative to an investigation or examination  
32 by the office pursuant to this chapter, including any consumer  
33 complaint received by the office or the Department of Financial  
34 Services, is confidential and exempt from s. 119.07(1) until the  
35 investigation or examination is completed or ceases to be  
36 active. ~~The information compiled by the office in such an~~  
37 ~~investigation or examination shall remain confidential and~~  
38 ~~exempt from s. 119.07(1) after the office's investigation or~~  
39 ~~examination is completed or ceases to be active if the office~~  
40 ~~submits the information to any law enforcement or administrative~~  
41 ~~agency for further investigation. Such information shall remain~~  
42 ~~confidential and exempt from s. 119.07(1) until that agency's~~  
43 ~~investigation is completed or ceases to be active.~~ For purposes  
44 of this subsection ~~section~~, an investigation or examination is  
45 ~~shall be~~ considered "active" if so long as the office or any law  
46 enforcement or administrative agency is proceeding with  
47 reasonable dispatch and has a reasonable good faith belief that  
48 the investigation or examination may lead to the filing of an  
49 administrative, civil, or criminal proceeding or to the denial  
50 or conditional grant of a license.

51 (b) This subsection ~~does section~~ shall not be construed to  
52 prohibit the disclosure of information that ~~which~~ is ~~required by~~  
53 ~~law to be~~ filed with the office as a normal condition of  
54 licensure and which, but for the investigation or examination,  
55 would be subject to s. 119.07(1).

56 (c) ~~(b)~~ Except as necessary for the office to enforce the  
57 provisions of this chapter, a consumer complaint and other  
58 information relative to an investigation or examination shall

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59 remain confidential and exempt from s. 119.07(1) after the  
60 investigation or examination is completed or ceases to be active  
61 to the extent disclosure would:

62 1. Jeopardize the integrity of another active investigation  
63 or examination.

64 2. Reveal the name, address, telephone number, social  
65 security number, or any other identifying number or information  
66 of any complainant, customer, or account holder.

67 3. Disclose the identity of a confidential source.

68 4. Disclose investigative techniques or procedures.

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

70 (d)~~(e)~~ If ~~In the event that~~ office personnel are or have  
71 been involved in an investigation or examination of such nature  
72 as to endanger their lives or physical safety or that of their  
73 families, ~~then~~ the home addresses, telephone numbers, places of  
74 employment, and photographs of such personnel, together with the  
75 home addresses, telephone numbers, photographs, and places of  
76 employment of spouses and children of such personnel and the  
77 names and locations of schools and day care facilities attended  
78 by the children of such personnel are confidential and exempt  
79 from s. 119.07(1).

80 (e)~~(d)~~ Nothing in This subsection does not ~~section shall be~~  
81 ~~construed to~~ prohibit the office from providing confidential and  
82 exempt information to any law enforcement or administrative  
83 agency. Any law enforcement or administrative agency receiving  
84 confidential and exempt information in connection with its  
85 official duties shall maintain the confidentiality of the  
86 information if ~~so long as~~ it would otherwise be confidential.

87 (f)~~(e)~~ All information obtained by the office from any

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88 person which is only made available to the office on a  
89 confidential or similarly restricted basis shall be confidential  
90 and exempt from s. 119.07(1). ~~This exemption shall not be~~  
91 ~~construed to prohibit disclosure of information which is~~  
92 ~~required by law to be filed with the office or which is~~  
93 ~~otherwise subject to s. 119.07(1).~~

94 (g)(2) If information subject to this subsection ~~(1)~~ is  
95 offered in evidence in any administrative, civil, or criminal  
96 proceeding, the presiding officer may, ~~in her or his discretion,~~  
97 prevent the disclosure of information that ~~which~~ would be  
98 confidential pursuant to paragraph (c) ~~(1)(b)~~.

99 (h)(3) A privilege against civil liability is granted to a  
100 person who furnishes information or evidence to the office,  
101 unless such person acts in bad faith or with malice in providing  
102 such information or evidence.

103 (2) FINANCIAL STATEMENTS ~~494.0021 Public records.~~—All  
104 audited financial statements submitted pursuant to ss. 494.001-  
105 494.0077 are confidential and exempt from the requirements of s.  
106 119.07(1), except that office employees may have access to such  
107 information in the administration and enforcement of ss.  
108 494.001-494.0077 and such information may be used by office  
109 personnel in the prosecution of violations under ss. 494.001-  
110 494.0077.

111 (3) CREDIT INFORMATION.—

112 (a) Credit history information and credit scores held by  
113 the office and related to licensing under ss. 494.001-494.0077  
114 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
115 I of the State Constitution.

116 (b) Credit history information and credit scores made

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117 confidential and exempt pursuant to paragraph (a) may be  
118 provided by the office to another governmental entity having  
119 oversight or regulatory or law enforcement authority.

120 (c) This subsection does not apply to information that is  
121 otherwise publicly available.

122 (d) This subsection is subject to the Open Government  
123 Sunset Review Act in accordance with s. 119.15 and shall stand  
124 repealed on October 2, 2015, unless reviewed and saved from  
125 repeal through reenactment by the Legislature.

126 Section 2. The Legislature finds that it is a public  
127 necessity that credit history information and credit scores held  
128 by the Office of Financial Regulation and related to the  
129 licensing of mortgage brokers and mortgage lenders under ss.  
130 494.001-494.0077, Florida Statutes, be made confidential and  
131 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
132 Constitution. Credit history information and credit scores are  
133 sensitive and personal information. Disclosure of such  
134 information and scores could cause harm to the person who is the  
135 subject of the information. Such information could be defamatory  
136 and could cause unwarranted damage to the name or reputation of  
137 the person who is the subject of the information, especially if  
138 such information is inaccurate. Furthermore, access to such  
139 information could jeopardize the financial safety of the  
140 individual who is the subject of that information by placing the  
141 person at risk of becoming the object of identity theft. For  
142 these reasons it is the finding of the Legislature that credit  
143 history information and credit scores held by the Office of  
144 Financial Regulation and related to the licensing of mortgage  
145 brokers and mortgage lenders should be made confidential and

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146 exempt from public-records requirements.

147 Section 3. This act shall take effect July 1, 2010.