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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/07/2010	.	
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The Committee on Banking and Insurance (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 497.172, Florida Statutes, is amended to
read:

497.172 Public records exemptions; public meetings
exemptions.—

(1) EXAMINATION DEVELOPMENT MEETINGS.—

(a) Those portions of meetings of the board at which
licensure examination questions or answers under this chapter
are discussed are exempt from s. 286.011 and s. 24(b), Art. I of



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13 the State Constitution. The closed meeting must be recorded and
14 no portion of the closed meeting may be off the record. The
15 recording shall be maintained by the board.

16 (b) The recording of a closed portion of a meeting is
17 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
18 Constitution.

19 (c) This subsection is subject to the Open Government
20 Sunset Review Act in accordance with s. 119.15 and shall stand
21 repealed on October 2, 2015, unless reviewed and saved from
22 repeal through reenactment by the Legislature.

23 (2) PROBABLE CAUSE PANEL.—

24 (a) Meetings of the probable cause panel of the board,
25 pursuant to s. 497.153, are exempt from s. 286.011 and s. 24(b),
26 Art. I of the State Constitution. The entire closed meeting must
27 be recorded and no portion of the closed meeting may be off the
28 record. The recording shall be maintained by the board.

29 (b) Records of exempt meetings of the probable cause panel
30 of the board are exempt from s. 119.07(1) and s. 24(a), Art. I
31 of the State Constitution, until 10 days after a determination
32 regarding probable cause is made pursuant to s. 497.153.

33 (3) EXAMINATIONS, INSPECTIONS, AND INVESTIGATIONS.—

34 (a) Except as otherwise provided in this subsection,
35 information held by the department pursuant to a financial
36 examination conducted under this chapter is confidential and
37 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
38 Constitution, until the examination is completed or ceases to be
39 active.

40 (b) Except as otherwise provided in this subsection,
41 information held by the department pursuant to an inspection



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42 conducted under this chapter is confidential and exempt from s.
43 119.07(1) and s. 24(a), Art. I of the State Constitution, until
44 the inspection is completed or ceases to be active.

45 (c) Except as otherwise provided in this subsection,
46 information held by the department pursuant to an investigation
47 of a violation of this chapter is confidential and exempt from
48 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
49 until the investigation is completed or ceases to be active or
50 until 10 days after a determination regarding probable cause is
51 made pursuant to s. 497.153.

52 (d) Information made confidential and exempt pursuant to
53 this subsection may be disclosed by the department as follows:

- 54 1. To the probable cause panel of the board, for the
55 purpose of probable cause proceedings pursuant to s. 497.153.
56 2. To any law enforcement agency or other government agency
57 in the performance of its official duties and responsibilities.
58 3. If the department uncovers information of immediate and
59 serious concern to the public health, safety, or welfare, it may
60 disseminate such information as it deems necessary for the
61 public health, safety, or welfare.

62 (e) Information made confidential and exempt pursuant to
63 this subsection shall remain confidential and exempt from s.
64 119.07(1) and s. 24(a), Art. I of the State Constitution after
65 the examination, inspection, or investigation is completed or
66 ceases to be active if:

- 67 1. The department submits the information to any law
68 enforcement agency or other administrative agency for further
69 examination or investigation. The information shall remain
70 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I



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71 of the State Constitution until that agency's examination or
72 investigation is completed or ceases to be active.

73 2. Disclosure of the information would:

74 a. Jeopardize the integrity of another active investigation
75 or examination;

76 b. Reveal the identity of a confidential source; or

77 c. Reveal investigative or examination techniques or
78 procedures.

79 (f) For purposes of this subsection, an examination,
80 inspection, or investigation shall be considered active so long
81 as the examination, inspection, or investigation is proceeding
82 with reasonable dispatch and the department has a reasonable
83 good faith belief that the examination, inspection, or
84 investigation may lead to the filing of an administrative,
85 civil, or criminal proceeding or to the denial or conditional
86 grant of an application for license or other approval required
87 under this chapter.

88 (4) TRADE SECRETS.—Trade secrets, as defined in s. 688.002,
89 held by the department or board, are confidential and exempt
90 from s. 119.07(1) and s. 24(a), Art. I of the State
91 Constitution.

92 ~~(5) REVIEW AND REPEAL. This section is subject to the Open~~
93 ~~Government Sunset Review Act in accordance with s. 119.15, and~~
94 ~~shall stand repealed on October 2, 2010, unless reviewed and~~
95 ~~saved from repeal through reenactment by the Legislature.~~

96 Section 2. The Legislature finds that it is a public
97 necessity to make exempt from public-records requirements the
98 recording generated during those portions of meetings of the
99 Board of Funeral, Cemetery, and Consumer Services at which



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100 licensure examination questions or answers are discussed. The
101 release of such recordings would compromise those discussions of
102 the board which took place during a closed meeting and would
103 negate the public-meeting exemption. Further, current law
104 already provides a public-record exemption for licensure
105 examination questions and answers. As such, release of the
106 recording generated during those closed portions of meetings
107 would compromise the current protections already afforded such
108 questions and answers. Thus, the effective and efficient
109 administration of the licensure examination process would be
110 compromised without this exemption.

111 Section 3. This act shall take effect October 1, 2010.

112
113 ===== T I T L E A M E N D M E N T =====

114 And the title is amended as follows:

115 Delete everything before the enacting clause
116 and insert:

117 A bill to be entitled

118 An act relating to a review under the Open Government
119 Sunset Review Act; amending s. 497.172, F.S., which
120 provides exemptions from public-meetings and public-
121 records requirements for the Board of Funeral,
122 Cemetery, and Consumer Services within the Department
123 of Financial Services and for certain information held
124 by the Department of Financial Services; requiring a
125 recording of a closed meeting of the board wherein
126 licensure examination questions or answers are
127 discussed; creating a public-record exemption for a
128 recording of the closed meeting; providing for future



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129 legislative review and repeal of the exemption;
130 requiring a recording of a closed meeting of a
131 probable cause panel of the board; removing the
132 scheduled repeal of exemptions within the section;
133 providing a statement of public necessity; providing
134 an effective date.