



150876

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/14/2010	.	
	.	
	.	
	.	

---

The Committee on Governmental Oversight and Accountability  
(Crist) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 559.5558, Florida Statutes, is created  
to read:

559.5558 Public-records exemption.—

(1) DEFINITIONS.—As used in this section, the term  
“personal financial information” means:

(a) Information relating to the existence, nature, source,  
or amount of a consumer’s personal income, expenses, and debt;

(b) Information relating to a consumer’s financial



150876

13 transactions of any kind; or

14 (c) Information relating to the existence, identification,  
15 nature, or value of a consumer's assets, liabilities, or net  
16 worth.

17 (2) INVESTIGATIONS.-

18 (a) Except as otherwise provided in this section,  
19 information held by the office pursuant to an investigation of a  
20 violation of this part is confidential and exempt from s.  
21 119.07(1) and s. 24(a), Art. I of the State Constitution.  
22 However, information made confidential and exempt pursuant to  
23 this section may be disclosed by the office to a law enforcement  
24 agency or another administrative agency in the performance of  
25 its official duties and responsibilities.

26 (b) Such information is no longer confidential and exempt  
27 once the investigation is completed or ceases to be active  
28 unless disclosure of the information would:

29 1. Jeopardize the integrity of another active  
30 investigation;

31 2. Reveal the personal identifying information of a  
32 consumer, unless the consumer is also the complainant. In the  
33 case of a complainant, the complainant's personal identifying  
34 information is subject to disclosure after the investigation is  
35 completed or ceases to be active; however, the complainant's  
36 personal financial information remains confidential and exempt;

37 3. Reveal the identity of a confidential source;

38 4. Reveal investigative techniques or procedures; or

39 5. Reveal trade secrets, as defined in s. 688.002.

40 (c) For purposes of this section, an investigation shall be  
41 considered active if the investigation is proceeding with



150876

42 reasonable dispatch and the office has a reasonable good faith  
43 belief that the investigation may lead to the filing of an  
44 administrative, civil, or criminal proceeding or the denial or  
45 conditional grant of an application for registration or other  
46 approval required under this part.

47 (3) REVIEW AND REPEAL.—This section is subject to the Open  
48 Government Sunset Review Act in accordance with s. 119.15 and  
49 shall stand repealed on October 2, 2015, unless reviewed and  
50 saved from repeal through reenactment by the Legislature.

51 Section 2. The Legislature finds that it is a public  
52 necessity that information held by the Office of Financial  
53 Regulation pursuant to an investigation conducted under part VI  
54 of chapter 559, Florida Statutes, be confidential and exempt  
55 from public-records requirements for the following reasons:

56 (1) An investigation conducted by the Office of Financial  
57 Regulation may lead to the filing of an administrative, civil,  
58 or criminal proceeding or to the denial or conditional granting  
59 of a registration. The premature release of such information  
60 could frustrate or thwart the investigation and impair the  
61 ability of the office to effectively and efficiently administer  
62 part VI of chapter 559, Florida Statutes.

63 (2) Information held by the Office of Financial Regulation  
64 which is provided to a law enforcement agency or another  
65 administration agency for further investigation needs to remain  
66 confidential and exempt until the investigation is completed or  
67 ceases to be active. Release of this information before the  
68 completion of that investigation would jeopardize the integrity  
69 of the investigation and impair the ability of other agencies to  
70 carry out their statutory duties.



150876

71           (3) Investigations frequently involve the gathering of  
72 sensitive personal information, including financial information,  
73 concerning complainants and consumers. The office may not  
74 otherwise have access to this sensitive personal information but  
75 for the investigation. Because of the sensitive personal nature  
76 of the information gathered, if the individuals who are the  
77 subject of such information are identifiable, the disclosure of  
78 this information to the public could cause unwarranted damage to  
79 the good name or reputation of the individuals, especially if  
80 information associated with the individual is inaccurate.

81 Furthermore, if the individuals who are the subject of such  
82 information are identifiable, public access to such information  
83 could jeopardize the financial safety of such individuals by  
84 placing them at risk of becoming the objects of identity theft.

85           (4) Releasing information identifying a confidential source  
86 could jeopardize both the integrity of a current and future  
87 investigation as well as the safety of the confidential source.

88           (5) Revealing investigative techniques and procedures could  
89 allow a person to hide or conceal violations of law that  
90 otherwise would have been discovered during an investigation.  
91 This exemption is necessary for the office, as well as law  
92 enforcement and other administrative agencies, in order for such  
93 agencies to effectively and efficiently carry out their  
94 statutory duties, which would be significantly impaired without  
95 this exemption.

96           (6) A trade secret derives independent economic value,  
97 actual or potential, from not being generally known to, and not  
98 readily ascertainable by, other persons who can obtain economic  
99 value from its disclosure or use. Without an exemption for a



150876

100 trade secret held by the office, that trade secret becomes a  
101 public record when received and must be divulged upon request.  
102 Divulging a trade secret under the public-records law would  
103 destroy the value of that property, causing a financial loss to  
104 the person or entity submitting the trade secret. Release of  
105 that information would give business competitors an unfair  
106 advantage and weaken the position of the person or entity  
107 supplying the trade secret in the marketplace.

108 Section 3. This act shall take effect on the same date that  
109 CS for SB 1702 or similar legislation takes effect if such  
110 legislation is adopted in the same legislative session, or an  
111 extension thereof, and becomes law.

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 public records; creating s.  
119 559.5558, F.S.; providing a public-records exemption  
120 for information held by the Office of Financial  
121 Regulation pursuant to an investigation of consumer  
122 collection agencies; providing for future repeal and  
123 legislative review of the exemption under the Open  
124 Government Sunset Review Act; providing a statement of  
125 public necessity; providing a contingent effective  
126 date.