

By the Committees on Governmental Oversight and Accountability;
and Banking and Insurance; and Senator Richter

585-04924-10

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 559.1155, F.S.; providing a public-records exemption
4 for information held by the Office of Financial
5 Regulation pursuant to an investigation of debt relief
6 organizations; providing for future repeal and
7 legislative review of the exemption under the Open
8 Government Sunset Review Act; providing a statement of
9 public necessity; providing a contingent effective
10 date.

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12 Be It Enacted by the Legislature of the State of Florida:

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14 Section 1. Section 559.1155, Florida Statutes, is created
15 to read:

16 559.1155 Public-records exemption.—

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

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

21 (b) Information relating to a debtor’s financial
22 transactions of any kind; or

23 (c) Information relating to the existence, identification,
24 nature, or value of a debtor’s assets, liabilities, or net
25 worth.

26 (2) INVESTIGATIONS.—

27 (a) Except as otherwise provided in this section,
28 information held by the office pursuant to an investigation of a
29 violation of this part is confidential and exempt from s.

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30 119.07(1) and s. 24(a), Art. I of the State Constitution.

31 However, information made confidential and exempt pursuant to
32 this section may be disclosed by the office to a law enforcement
33 agency or another administrative agency in the performance of
34 its official duties and responsibilities.

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

38 1. Jeopardize the integrity of another active
39 investigation;

40 2. Reveal the personal identifying information of a debtor
41 unless the debtor is also the complainant. In the case of a
42 complainant, the complainant's personal identifying information
43 is subject to disclosure after the investigation is completed or
44 ceases to be active; however, the complainant's personal
45 financial information remains confidential and exempt;

46 3. Reveal the identity of a confidential source;

47 4. Reveal investigative techniques or procedures; or

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

49 (c) For purposes of this section, an investigation shall be
50 considered active if the investigation is proceeding with
51 reasonable dispatch and the office has a reasonable good faith
52 belief that the investigation may lead to the filing of an
53 administrative, civil, or criminal proceeding or the denial or
54 conditional grant of an application for registration or other
55 approval required under this part.

56 (3) REVIEW AND REPEAL.—This section is subject to the Open
57 Government Sunset Review Act in accordance with s. 119.15 and
58 shall stand repealed on October 2, 2015, unless reviewed and

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59 saved from repeal through reenactment by the Legislature.

60 Section 2. The Legislature finds that it is a public
61 necessity that information held by the Office of Financial
62 Regulation pursuant to an investigation conducted under part II
63 of chapter 559, Florida Statutes, be confidential and exempt
64 from public-records requirements for the following reasons:

65 (1) An investigation conducted by the Office of Financial
66 Regulation may lead to the filing of an administrative, civil,
67 or criminal proceeding or to the denial or conditional granting
68 of a registration. The premature release of such information
69 could frustrate or thwart the investigation and impair the
70 ability of the office to effectively and efficiently administer
71 part II of chapter 559, Florida Statutes.

72 (2) Information held by the Office of Financial Regulation
73 which is provided to a law enforcement agency or another
74 administration agency for further investigation needs to remain
75 confidential and exempt until the investigation is completed or
76 ceases to be active. Release of this information before the
77 completion of that investigation would jeopardize the integrity
78 of the investigation and impair the ability of other agencies to
79 carry out their statutory duties.

80 (3) Investigations frequently involve the gathering of
81 sensitive personal information, including financial information,
82 concerning complainants and debtors. The office may not
83 otherwise have access to this sensitive personal information but
84 for the investigation. Because of the sensitive personal nature
85 of the information gathered, if the individuals who are the
86 subject of such information are identifiable, the disclosure of
87 this information to the public could cause unwarranted damage to

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88 the good name or reputation of the individuals, especially if
89 information associated with the individual is inaccurate.
90 Furthermore, if the individuals who are the subject of such
91 information are identifiable, public access to such information
92 could jeopardize the financial safety of such individuals by
93 placing them at risk of becoming the objects of identity theft.

94 (4) Releasing information identifying a confidential source
95 could jeopardize both the integrity of a current and future
96 investigation as well as the safety of the confidential source.

97 (5) Revealing investigative techniques and procedures could
98 allow a person to hide or conceal violations of law that
99 otherwise would have been discovered during an investigation.
100 This exemption is necessary for the office, as well as law
101 enforcement and other administrative agencies, in order for such
102 agencies to effectively and efficiently carry out their
103 statutory duties, which would be significantly impaired without
104 this exemption.

105 (6) A trade secret derives independent economic value,
106 actual or potential, from not being generally known to, and not
107 readily ascertainable by, other persons who can obtain economic
108 value from its disclosure or use. Without an exemption for a
109 trade secret held by the office, that trade secret becomes a
110 public record when received and must be divulged upon request.
111 Divulging a trade secret under the public-records law would
112 destroy the value of that property, causing a financial loss to
113 the person or entity submitting the trade secret. Release of
114 that information would give business competitors an unfair
115 advantage and weaken the position of the person or entity
116 supplying the trade secret in the marketplace.

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