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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/24/2010	.	
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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 517.2016, Florida Statutes, is created
to read:

517.2016 Public record exemption; examination techniques
and procedures.—

(1) For purposes of this section the term, "examination
techniques and procedures" means the methods, processes, and
guidelines used to evaluate regulatory compliance and to collect



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13 and analyze data, records, and testimony for the purpose of
14 documenting violations of this chapter and the rules promulgated
15 thereunder.

16 (2) Information that would reveal examination techniques or
17 procedures used by the office pursuant to this chapter is
18 confidential and exempt from s. 119.07(1), and s. 24(a), Art. I
19 of the State Constitution. This exemption applies to such
20 information held by the office before, on, or after the
21 effective date of this exemption.

22 (3) Confidential and exempt information that would reveal
23 examination techniques or procedures may be provided by the
24 office to another governmental entity having oversight or
25 regulatory or law enforcement authority.

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27 Review Act in accordance with s. 119.15 and shall stand repealed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

30 Section 2. (1) It is the finding of the Legislature that it
31 is a public necessity that information that would reveal
32 examination techniques or procedures used by the Office of
33 Financial Regulation pursuant to chapter 517, Florida Statutes,
34 the Florida Securities and Investor Protection Act, be made
35 confidential and exempt from s. 119.07(1), Florida Statutes, and
36 s. 24(a), Art. I of the State Constitution. This exemption is
37 necessary to ensure the Office of Financial Regulation's ability
38 to effectively and efficiently administer the examination
39 program under chapter 517, Florida Statutes, which would be
40 significantly impaired without the exemption.

41 (2) Examinations are an essential component of securities



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42 regulation. The mere existence of an examination program fosters
43 regulatory compliance and deters fraud and abuse by industry
44 participants. Examinations often detect violations in their
45 early stages. This early detection allows corrective action to
46 be taken before significant harm can be done to investors. Due
47 to the importance of such examinations, state regulators devote
48 extensive resources to devising effective examination techniques
49 and procedures.

50 (3) Allowing access to information revealing examination
51 techniques or procedures would undermine the examination process
52 and facilitate evasion of the law. Any advance notice of the
53 areas of inquiry to be explored during an examination might
54 prompt a person to conceal evidence of deficiencies or fabricate
55 evidence of compliance. Without the exemption, the Office of
56 Financial Regulation's ability to uncover misconduct and
57 evaluate policies and procedures through the examination process
58 would be significantly impaired.

59 (4) Additionally, without such an exemption the Office of
60 Financial Regulation's ability to participate in joint
61 examinations with other securities regulators would be impaired
62 as release of this information would compromise the integrity of
63 such joint examinations. The office also would not be able to
64 accept or use confidential examination techniques and procedures
65 developed by other regulators. Thus, the absence of an exemption
66 would create a situation that reduces the office's ability to
67 leverage its limited resources.

68 Section 3. This act shall take effect upon becoming a law.
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71 ===== T I T L E A M E N D M E N T =====

72 And the title is amended as follows:

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74 Delete everything before the enacting clause

75 and insert:

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77 A bill to be entitled

78 An act relating to public records; creating s.

79 517.2016, F.S.; providing an exemption from public

80 records requirements for information that would reveal

81 examination techniques and procedures used by the

82 Office of Financial Regulation pursuant to the Florida

83 Securities and Investor Protection Act; providing a

84 definition; providing for retroactive application of

85 the public record exemption; providing an exception to

86 the exemption for other governmental entities having

87 oversight or regulatory or law enforcement authority;

88 providing for future review and repeal of the

89 exemption; providing a statement of public necessity;

90 providing an effective date.