

By Senator Richter

37-01205B-10

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 517.2015, F.S.; providing an exemption from public-
4 records requirements for examination techniques and
5 procedures used by the Office of Financial Regulation
6 pursuant to the Florida Securities and Investor
7 Protection Act; providing for future review and repeal
8 of the exemption; providing a statement of public
9 necessity; providing an effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Subsection (4) is added to section 517.2015,
14 Florida Statutes, to read:

15 517.2015 Confidentiality of information relating to
16 investigations and examinations.—

17 (4) (a) Examination techniques and procedures used by the
18 office pursuant to this chapter are confidential and exempt from
19 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
20 Examination techniques and procedures are the methods,
21 processes, and guidelines used to evaluate regulatory compliance
22 and to collect and analyze data, documents, and testimony for
23 the purpose of documenting violations of this chapter and the
24 rules promulgated thereunder.

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26 Review Act in accordance with s. 119.15 and shall stand repealed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

29 Section 2. (1) The Legislature finds that it is a public

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30 necessity that examination techniques and procedures used by the
31 Office of Financial Regulation pursuant to chapter 517, Florida
32 Statutes, the Florida Securities and Investor Protection Act, be
33 made confidential and exempt from s. 119.07(1) and s. 24(a),
34 Art. I of the State Constitution. This exemption is necessary to
35 ensure the effective and efficient administration of the
36 examination program administered by the Office of Financial
37 Regulation under chapter 517, Florida Statutes, which would be
38 significantly impaired without the exemption.

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

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

56 (4) Additionally, without such an exemption the Office of
57 Financial Regulation's ability to participate in joint
58 examinations with other securities regulators would be impaired

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59 as release of this information would compromise the integrity of
60 such joint examinations. The office also would not be able to
61 accept or use confidential examination techniques and procedures
62 developed by other regulators. Thus, the absence of an exemption
63 would create a situation that reduces the office's ability to
64 leverage its limited resources.

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