

By the Committee on Banking and Insurance; and Senator Richter

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 517.2016, F.S.; providing an exemption from public-
4 records requirements for information that would reveal
5 examination techniques and procedures used by the
6 Office of Financial Regulation pursuant to the Florida
7 Securities and Investor Protection Act; providing a
8 definition; providing for retroactive application of
9 the public-record exemption; providing an exception to
10 the exemption for other governmental entities having
11 oversight or regulatory or law enforcement authority;
12 providing for future review and repeal of the
13 exemption; providing a statement of public necessity;
14 providing an effective date.

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

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18 Section 1. Section 517.2016, Florida Statutes, is created
19 to read:

20 517.2016 Public-record exemption; examination techniques
21 and procedures.-

22 (1) For purposes of this section the term, "examination
23 techniques and procedures" means the methods, processes, and
24 guidelines used to evaluate regulatory compliance and to collect
25 and analyze data, records, and testimony for the purpose of
26 documenting violations of this chapter and the rules promulgated
27 thereunder.

28 (2) Information that would reveal examination techniques or
29 procedures used by the office pursuant to this chapter is

597-03650-10

20102230c1

30 confidential and exempt from s. 119.07(1), and s. 24(a), Art. I
31 of the State Constitution. This exemption applies to such
32 information held by the office before, on, or after the
33 effective date of this exemption.

34 (3) Confidential and exempt information that would reveal
35 examination techniques or procedures may be provided by the
36 office to another governmental entity having oversight or
37 regulatory or law enforcement authority.

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39 Review Act in accordance with s. 119.15 and shall stand repealed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

42 Section 2. (1) It is the finding of the Legislature that it
43 is a public necessity that information that would reveal
44 examination techniques or procedures used by the Office of
45 Financial Regulation pursuant to chapter 517, Florida Statutes,
46 the Florida Securities and Investor Protection Act, be made
47 confidential and exempt from s. 119.07(1), Florida Statutes, and
48 s. 24(a), Art. I of the State Constitution. This exemption is
49 necessary to ensure the Office of Financial Regulation's ability
50 to effectively and efficiently administer the examination
51 program under chapter 517, Florida Statutes, which would be
52 significantly impaired without the exemption.

53 (2) Examinations are an essential component of securities
54 regulation. The mere existence of an examination program fosters
55 regulatory compliance and deters fraud and abuse by industry
56 participants. Examinations often detect violations in their
57 early stages. This early detection allows corrective action to
58 be taken before significant harm can be done to investors. Due

597-03650-10

20102230c1

59 to the importance of such examinations, state regulators devote
60 extensive resources to devising effective examination techniques
61 and procedures.

62 (3) Allowing access to information revealing examination
63 techniques or procedures would undermine the examination process
64 and facilitate evasion of the law. Any advance notice of the
65 areas of inquiry to be explored during an examination might
66 prompt a person to conceal evidence of deficiencies or fabricate
67 evidence of compliance. Without the exemption, the Office of
68 Financial Regulation's ability to uncover misconduct and
69 evaluate policies and procedures through the examination process
70 would be significantly impaired.

71 (4) Additionally, without such an exemption the Office of
72 Financial Regulation's ability to participate in joint
73 examinations with other securities regulators would be impaired
74 as release of this information would compromise the integrity of
75 such joint examinations. The office also would not be able to
76 accept or use confidential examination techniques and procedures
77 developed by other regulators. Thus, the absence of an exemption
78 would create a situation that reduces the office's ability to
79 leverage its limited resources.

80 Section 3. This act shall take effect upon becoming a law.