

1 A bill to be entitled
 2 An act relating to public records; amending s. 494.00125,
 3 F.S., and transferring, renumbering, and amending s.
 4 494.0021, F.S.; creating an exemption from public records
 5 requirements for credit history information and credit
 6 scores held by the Office of Financial Regulation within
 7 the Department of Financial Services for purposes of
 8 licensing mortgage brokers and mortgage lenders; providing
 9 an exception to the exemption for other governmental
 10 entities having oversight, regulatory, or law enforcement
 11 authority; providing for future legislative review and
 12 repeal of the exemption; reorganizing provisions;
 13 transferring to the section the exemption from public
 14 records requirements for audited financial statements
 15 submitted pursuant to parts I, II, and III of ch. 494,
 16 F.S.; making editorial changes and removing superfluous
 17 language; providing a statement of public necessity;
 18 providing an effective date.

19
 20 Be It Enacted by the Legislature of the State of Florida:

21
 22 Section 1. Section 494.00125, Florida Statutes, is
 23 amended, and section 494.0021, Florida Statutes, is transferred
 24 and renumbered as subsection (2) of that section, and amended,
 25 to read:

26 494.00125 Public record exemptions ~~Confidentiality of~~
 27 ~~information relating to investigations and examinations.-~~

28 (1) INVESTIGATIONS OR EXAMINATIONS.-

29 (a) Except as otherwise provided by this subsection
 30 ~~section~~, information relative to an investigation or examination
 31 by the office pursuant to this chapter, including any consumer
 32 complaint received by the office or the Department of Financial
 33 Services, is confidential and exempt from s. 119.07(1) until the
 34 investigation or examination is completed or ceases to be
 35 active. ~~The information compiled by the office in such an~~
 36 ~~investigation or examination shall remain confidential and~~
 37 ~~exempt from s. 119.07(1) after the office's investigation or~~
 38 ~~examination is completed or ceases to be active if the office~~
 39 ~~submits the information to any law enforcement or administrative~~
 40 ~~agency for further investigation. Such information shall remain~~
 41 ~~confidential and exempt from s. 119.07(1) until that agency's~~
 42 ~~investigation is completed or ceases to be active.~~ For purposes
 43 of this subsection ~~section~~, an investigation or examination is
 44 ~~shall be~~ considered "active" if so long as the office or any law
 45 enforcement or administrative agency is proceeding with
 46 reasonable dispatch and has a reasonable good faith belief that
 47 the investigation or examination may lead to the filing of an
 48 administrative, civil, or criminal proceeding or to the denial
 49 or conditional grant of a license.

50 (b) This subsection ~~does section~~ shall not be construed to
 51 prohibit the disclosure of information that ~~which~~ is ~~required by~~
 52 ~~law to be~~ filed with the office as a normal condition of
 53 licensure and which, but for the investigation or examination,
 54 would be subject to s. 119.07(1).

55 (c) ~~(b)~~ Except as necessary for the office to enforce the
 56 provisions of this chapter, a consumer complaint and other

57 information relative to an investigation or examination shall
 58 remain confidential and exempt from s. 119.07(1) after the
 59 investigation or examination is completed or ceases to be active
 60 to the extent disclosure would:

61 1. Jeopardize the integrity of another active
 62 investigation or examination.

63 2. Reveal the name, address, telephone number, social
 64 security number, or any other identifying number or information
 65 of any complainant, customer, or account holder.

66 3. Disclose the identity of a confidential source.

67 4. Disclose investigative techniques or procedures.

68 5. Reveal a trade secret as defined in s. 688.002.

69 ~~(d)(e)~~ If in the event that office personnel are or have
 70 been involved in an investigation or examination of such nature
 71 as to endanger their lives or physical safety or that of their
 72 families, ~~then~~ the home addresses, telephone numbers, places of
 73 employment, and photographs of such personnel, together with the
 74 home addresses, telephone numbers, photographs, and places of
 75 employment of spouses and children of such personnel and the
 76 names and locations of schools and day care facilities attended
 77 by the children of such personnel are confidential and exempt
 78 from s. 119.07(1).

79 ~~(e)(d)~~ Nothing in This subsection does not section shall
 80 ~~be construed to~~ prohibit the office from providing confidential
 81 and exempt information to any law enforcement or administrative
 82 agency. Any law enforcement or administrative agency receiving
 83 confidential and exempt information in connection with its
 84 official duties shall maintain the confidentiality of the

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85 information if so long as it would otherwise be confidential.

86 (f)~~(e)~~ All information obtained by the office from any
 87 person which is only made available to the office on a
 88 confidential or similarly restricted basis shall be confidential
 89 and exempt from s. 119.07(1). ~~This exemption shall not be~~
 90 ~~construed to prohibit disclosure of information which is~~
 91 ~~required by law to be filed with the office or which is~~
 92 ~~otherwise subject to s. 119.07(1).~~

93 (g)~~(2)~~ If information subject to this subsection ~~(1)~~ is
 94 offered in evidence in any administrative, civil, or criminal
 95 proceeding, the presiding officer may, ~~in her or his discretion,~~
 96 prevent the disclosure of information that ~~which~~ would be
 97 confidential pursuant to paragraph (c) ~~(1)(b)~~.

98 (h)~~(3)~~ A privilege against civil liability is granted to a
 99 person who furnishes information or evidence to the office,
 100 unless such person acts in bad faith or with malice in providing
 101 such information or evidence.

102 (2) FINANCIAL STATEMENTS ~~494.0021 Public records.~~ All
 103 audited financial statements submitted pursuant to ss. 494.001-
 104 494.0077 are confidential and exempt from the requirements of s.
 105 119.07(1), except that office employees may have access to such
 106 information in the administration and enforcement of ss.
 107 494.001-494.0077 and such information may be used by office
 108 personnel in the prosecution of violations under ss. 494.001-
 109 494.0077.

110 (3) CREDIT INFORMATION.

111 (a) Credit history information and credit scores held by
 112 the office and related to licensing under ss. 494.001-494.0077

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113 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
114 I of the State Constitution.

115 (b) Credit history information and credit scores made
116 confidential and exempt pursuant to paragraph (a) may be
117 provided by the office to another governmental entity having
118 oversight or regulatory or law enforcement authority.

119 (c) This subsection does not apply to information that is
120 otherwise publicly available.

121 (d) This subsection is subject to the Open Government
122 Sunset Review Act in accordance with s. 119.15 and shall stand
123 repealed on October 2, 2015, unless reviewed and saved from
124 repeal through reenactment by the Legislature.

125 Section 2. The Legislature finds that it is a public
126 necessity that credit history information and credit scores held
127 by the Office of Financial Regulation and related to the
128 licensing of mortgage brokers and mortgage lenders under ss.
129 494.001-494.0077, Florida Statutes, be made confidential and
130 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
131 Constitution. Credit history information and credit scores are
132 sensitive and personal information. Disclosure of such
133 information and scores could cause harm to the person who is the
134 subject of the information. Such information could be defamatory
135 and could cause unwarranted damage to the name or reputation of
136 the person who is the subject of the information, especially if
137 such information is inaccurate. Furthermore, access to such
138 information could jeopardize the financial safety of the
139 individual who is the subject of that information by placing the
140 person at risk of becoming the object of identity theft. For

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141 these reasons it is the finding of the Legislature that credit
142 history information and credit scores held by the Office of
143 Financial Regulation and related to the licensing of mortgage
144 brokers and mortgage lenders should be made confidential and
145 exempt from public records requirements.

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