

ENROLLED  
 HB 7017, Engrossed 1

2010 Legislature

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 loan originators, mortgage brokers, and mortgage  
 9           lenders; providing an exception to the exemption for other  
 10          governmental entities having oversight, regulatory, or law  
 11          enforcement authority; providing for future legislative  
 12          review and repeal of the exemption; reorganizing  
 13          provisions; transferring to the section the exemption from  
 14          public records requirements for audited financial  
 15          statements submitted pursuant to parts I, II, and III of  
 16          ch. 494, F.S.; making editorial changes and removing  
 17          superfluous language; providing a statement of public  
 18          necessity; 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.-

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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

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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 loan originators, mortgage brokers, and mortgage  
 129 lenders under ss. 494.001-494.0077, Florida Statutes, be made  
 130 confidential and exempt from s. 119.07(1), Florida Statutes, and  
 131 s. 24(a), Art. I of the State Constitution. Credit history  
 132 information and credit scores are sensitive and personal  
 133 information. Disclosure of such information and scores could  
 134 cause harm to the person who is the subject of the information.  
 135 Such information could be defamatory and could cause unwarranted  
 136 damage to the name or reputation of the person who is the  
 137 subject of the information, especially if such information is  
 138 inaccurate. Furthermore, access to such information could  
 139 jeopardize the financial safety of the individual who is the  
 140 subject of that information by placing the person at risk of

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

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