

ENROLLED
HB 7117

2010 Legislature

1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 497.172, F.S., which
4 provides exemptions from public meetings and public
5 records requirements for the Board of Funeral, Cemetery,
6 and Consumer Services within the Department of Financial
7 Services and for certain information held by the
8 Department of Financial Services; requiring a recording of
9 a closed meeting of the board wherein licensure
10 examination questions or answers are discussed; creating a
11 public record exemption for a recording of the closed
12 meeting; providing for future legislative review and
13 repeal of the exemption; requiring a recording of a closed
14 meeting of a probable cause panel of the board; removing
15 the scheduled repeal of exemptions within the section;
16 providing a statement of public necessity; providing an
17 effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

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21 Section 1. Section 497.172, Florida Statutes, is amended
22 to read:

23 497.172 Public records exemptions; public meetings
24 exemptions.—

25 (1) EXAMINATION DEVELOPMENT MEETINGS.—

26 (a) Those portions of meetings of the board at which
27 licensure examination questions or answers under this chapter
28 are discussed are exempt from s. 286.011 and s. 24(b), Art. I of

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29 | the State Constitution. The closed meeting must be recorded and
30 | no portion of the closed meeting may be off the record. The
31 | recording shall be maintained by the board.

32 | **(b)** The recording of a closed portion of a meeting is
33 | exempt from s. 119.07(1) and s. 24(a), Art. I of the State
34 | Constitution.

35 | **(c)** This subsection is subject to the Open Government
36 | Sunset Review Act in accordance with s. 119.15 and shall stand
37 | repealed on October 2, 2015, unless reviewed and saved from
38 | repeal through reenactment by the Legislature.

39 | **(2) PROBABLE CAUSE PANEL.—**

40 | **(a)** Meetings of the probable cause panel of the board,
41 | pursuant to s. 497.153, are exempt from s. 286.011 and s. 24(b),
42 | Art. I of the State Constitution. The entire closed meeting must
43 | be recorded and no portion of the closed meeting may be off the
44 | record. The recording shall be maintained by the board.

45 | **(b)** Records of exempt meetings of the probable cause panel
46 | of the board are exempt from s. 119.07(1) and s. 24(a), Art. I
47 | of the State Constitution, until 10 days after a determination
48 | regarding probable cause is made pursuant to s. 497.153.

49 | **(3) EXAMINATIONS, INSPECTIONS, AND INVESTIGATIONS.—**

50 | **(a)** Except as otherwise provided in this subsection,
51 | information held by the department pursuant to a financial
52 | examination conducted under this chapter is confidential and
53 | exempt from s. 119.07(1) and s. 24(a), Art. I of the State
54 | Constitution, until the examination is completed or ceases to be
55 | active.

56 | **(b)** Except as otherwise provided in this subsection,

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57 information held by the department pursuant to an inspection
58 conducted under this chapter is confidential and exempt from s.
59 119.07(1) and s. 24(a), Art. I of the State Constitution, until
60 the inspection is completed or ceases to be active.

61 (c) Except as otherwise provided in this subsection,
62 information held by the department pursuant to an investigation
63 of a violation of this chapter is confidential and exempt from
64 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
65 until the investigation is completed or ceases to be active or
66 until 10 days after a determination regarding probable cause is
67 made pursuant to s. 497.153.

68 (d) Information made confidential and exempt pursuant to
69 this subsection may be disclosed by the department as follows:

70 1. To the probable cause panel of the board, for the
71 purpose of probable cause proceedings pursuant to s. 497.153.

72 2. To any law enforcement agency or other government
73 agency in the performance of its official duties and
74 responsibilities.

75 3. If the department uncovers information of immediate and
76 serious concern to the public health, safety, or welfare, it may
77 disseminate such information as it deems necessary for the
78 public health, safety, or welfare.

79 (e) Information made confidential and exempt pursuant to
80 this subsection shall remain confidential and exempt from s.
81 119.07(1) and s. 24(a), Art. I of the State Constitution after
82 the examination, inspection, or investigation is completed or
83 ceases to be active if:

84 1. The department submits the information to any law

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85 enforcement agency or other administrative agency for further
86 examination or investigation. The information shall remain
87 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
88 of the State Constitution until that agency's examination or
89 investigation is completed or ceases to be active.

90 2. Disclosure of the information would:

91 a. Jeopardize the integrity of another active
92 investigation or examination;

93 b. Reveal the identity of a confidential source; or

94 c. Reveal investigative or examination techniques or
95 procedures.

96 (f) For purposes of this subsection, an examination,
97 inspection, or investigation shall be considered active so long
98 as the examination, inspection, or investigation is proceeding
99 with reasonable dispatch and the department has a reasonable
100 good faith belief that the examination, inspection, or
101 investigation may lead to the filing of an administrative,
102 civil, or criminal proceeding or to the denial or conditional
103 grant of an application for license or other approval required
104 under this chapter.

105 (4) TRADE SECRETS.—Trade secrets, as defined in s.
106 688.002, held by the department or board, are confidential and
107 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
108 Constitution.

109 ~~(5) REVIEW AND REPEAL.—This section is subject to the Open~~
110 ~~Government Sunset Review Act in accordance with s. 119.15, and~~
111 ~~shall stand repealed on October 2, 2010, unless reviewed and~~
112 ~~saved from repeal through reenactment by the Legislature.~~

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113 Section 2. The Legislature finds that it is a public
114 necessity to make exempt from public records requirements the
115 recording generated during those portions of meetings of the
116 Board of Funeral, Cemetery, and Consumer Services at which
117 licensure examination questions or answers are discussed. The
118 release of such recordings would compromise those discussions of
119 the board which took place during a closed meeting and would
120 negate the public meeting exemption. Further, current law
121 already provides a public record exemption for licensure
122 examination questions and answers. As such, release of the
123 recording generated during those closed portions of meetings
124 would compromise the current protections already afforded such
125 questions and answers. Thus, the effective and efficient
126 administration of the licensure examination process would be
127 compromised without this exemption.

128 Section 3. This act shall take effect October 1, 2010.