

By the Committee on Governmental Oversight and Accountability;
and Senator Bean

585-04493-13

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 560.312, F.S.; providing an exemption from public
4 records requirements for payment instrument
5 transaction information held by the Office of
6 Financial Regulation; providing for specified access
7 to such information; authorizing the office to enter
8 into information-sharing agreements and provide access
9 to information contained in the database to certain
10 governmental agencies; requiring a department or
11 agency that receives confidential information to
12 maintain the confidentiality of the information,
13 except as otherwise required by court order; providing
14 for future review and repeal of the exemption;
15 providing a statement of public necessity; providing
16 an effective date.

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

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20 Section 1. Section 560.312, Florida Statutes, is created to
21 read:

22 560.312 Database of payment instrument transactions;
23 confidentiality.-

24 (1) Payment instrument transaction information held by the
25 office pursuant to s. 560.310 which identifies a licensee,
26 payor, payee, or conductor is confidential and exempt from s.
27 119.07(1) and s. 24(a), Art. I of the State Constitution.

28 (2) (a) A licensee may access information that it submits to
29 the office for inclusion in the database.

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30 (b) The office, to the extent permitted by state and
31 federal law, may enter into information-sharing agreements with
32 the department, law enforcement agencies, and other governmental
33 agencies and, in accordance with such agreements, may provide
34 the department, law enforcement agencies, and other governmental
35 agencies with access to information contained in the database
36 for use in detecting and deterring financial crimes and workers'
37 compensation violations, pursuant to chapter 440. Any department
38 or agency that receives confidential information from the office
39 under this paragraph must maintain the confidentiality of the
40 information, unless, and only to the extent that, a court order
41 compels production of the information to a specific party or
42 parties.

43 (3) This section is subject to the Open Government Sunset
44 Review Act in accordance with s. 119.15 and shall stand repealed
45 on October 2, 2018, unless reviewed and saved from repeal
46 through reenactment by the Legislature.

47 Section 2. The Legislature finds that it is a public
48 necessity that payment instrument transaction information held
49 by the Office of Financial Regulation pursuant to s. 560.310,
50 Florida Statutes, which identifies a licensee, payor, payee, or
51 conductor be made confidential and exempt from s. 119.07(1),
52 Florida Statutes, and s. 24(a), Article I of the State
53 Constitution. Pursuant to s. 560.310, Florida Statutes, money
54 services businesses that cash a payment instrument exceeding
55 \$1,000 must submit information about the transaction to the
56 Office of Financial Regulation in order to deter money
57 laundering through these entities and in response to the
58 findings of the Money Service Business Facilitated Workers'

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59 Compensation Fraud Work Group that these entities are being used
60 to facilitate financial crimes, including fraud relating to
61 workers' compensation. The report issued by the group found that
62 this type of workers' compensation fraud could be costing the
63 state up to \$1 billion annually in unreported payroll taxes,
64 unreported premium taxes, and higher costs to insurance carriers
65 that must process workers' compensation claims from uninsured
66 workers. This type of fraud places tremendous pressure on law-
67 abiding businesses to absorb these costs. Submission of this
68 information to the office is intended to assist the office, the
69 Department of Financial Services, law enforcement agencies, and
70 other governmental agencies in detecting and deterring these
71 financial crimes and related fraudulent activities. The
72 availability of this information to these agencies will help to
73 increase premium collection, lower costs to insurance carriers,
74 and alleviate premium avoidance, as well as reduce the cost of
75 administering these public programs. However, the public
76 availability of payment instrument transaction information would
77 reveal sensitive, personal financial information about payees
78 and conductors who use check-cashing programs, including
79 paycheck amounts, salaries, and business activities, as well as
80 information regarding the financial stability of these persons.
81 Such information is traditionally private and sensitive.
82 Protecting the confidentiality of information that would
83 identify these payees and conductors would provide adequate
84 protection for these persons while still providing public
85 oversight of the program. The public release of payment
86 instrument transaction information would also identify licensees
87 or payors and reveal private business transaction information

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88 that is traditionally private and could be used by competitors
89 to harm other licensees or payors in the marketplace. If such
90 information were publicly available, competitors could determine
91 the amount of business conducted by other licensees or payors.
92 Therefore, the Legislature finds that it is a public necessity
93 that information that would identify the licensee, payor, payee,
94 or conductor in payment instrument transaction information be
95 made confidential and exempt from public records requirements.

96 Section 3. This act shall take effect on the same date that
97 SB 410 or similar legislation takes effect, if such legislation
98 is adopted in the same legislative session or an extension
99 thereof and becomes a law.