

**HOUSE OF REPRESENTATIVES  
FINAL BILL ANALYSIS**

<b>BILL #:</b>	CS/HB 7135	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	State Affairs Committee; Insurance & Banking Subcommittee; Nelson	113 Y's	0 N's
<b>COMPANION BILLS:</b>	(CS/SB 1868)	<b>GOVERNOR'S ACTION:</b>	Approved

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**SUMMARY ANALYSIS**

CS/HB 7135 was passed by the House on April 24, 2013, and was subsequently passed by the Senate on April 30, 2013.

CS/HB 7135 creates a public records exemption for certain information contained in the payment instrument transaction database created by CS/CS/HB 217. CS/CS/HB 217 authorizes the Office of Financial Regulation (OFR) to implement a centralized statewide database to gather transactional data from check cashers for checks exceeding \$1,000, corporate payment instruments, and third-party payment instruments. The centralization of the data will allow regulators and law enforcement to effectively target individuals who are engaging in criminal activity. In addition, the centralization of the data also will allow information to be compared on a statewide basis.

This exemption specifically provides that payment instrument transaction information held by OFR, which identifies a licensee, payor, payee, or conductor is confidential and exempt from public records requirements. The bill also authorizes OFR to enter into information-sharing agreements with the Department of Financial Services, law enforcement agencies, and other governmental agencies in certain circumstances, and requires those agencies to maintain the confidentiality of the information, except as otherwise required by court order.

The bill provides for repeal of the section on October 2, 2018, unless reviewed and saved from repeal by the Legislature pursuant to the Open Government Sunset Review Act. As this bill creates a new public records exemption, it also provides a statement of public necessity as required by the State Constitution.

The bill has no impact on state or local government. The bill may benefit the private sector. By making the identities of payees and customers confidential, personal financial information will be protected. Similarly, by making the identities of payors and licensees confidential, business information will be protected.

The bill was approved by the Governor on June 7, 2013, ch. 2013-155, L.O.F., and will become law on July 1, 2013.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### **CS/CS/HB 217: Payment Instrument Transaction Database**

CS/CS/HB 217 (2013) authorizes the Office of Financial Regulation (OFR) to issue a competitive solicitation to implement a statewide, real time, online database to gather transactional data from licensed check cashers for checks exceeding \$1,000.

Implementation of the database is aimed at targeting workers' compensation insurance fraud. In many scenarios, contractors and check cashiers have colluded on a scheme that allows contractors to hide their payroll and obtain workers' compensation coverage without purchasing such coverage. In addition to the workers' compensation fraud, these contractors are avoiding the payment of state and federal taxes. For their participation and risk, check cashers may receive a fee of seven percent of the value of the check or more for cashing the checks – which exceeds the statutory limit check cashers are allowed to charge.

The database will interface with the Secretary of State's database for verifying corporate registration records and with the Department of Financial Services' database for verifying workers' compensation coverage. The centralization of the data will allow regulators and law enforcement to effectively target individuals who are engaging in criminal activity or regulatory violations. In addition, the centralization of the data will also allow information to be compared on a statewide basis. With the creation of a statewide database, the database would also include personal financial information of those utilizing check cashing services and private business transaction information that is traditionally private.

CS/CS/HB 217 passed both chambers of the Florida Legislature during the 2013 General Session, and was approved by the Governor, becomes effective on July 1, 2013.

#### **Effect of the Bill**

This bill, which is linked to the passage of CS/CS/HB 217, creates a public record exemption for certain payment instrument transaction information held by OFR. Specifically, payment instrument transaction information held by OFR pursuant to the check cashing requirements of s. 560.310, F.S., which identifies a licensee, payor, payee, or conductor is confidential and exempt from public records requirements.

A licensee may access information that it submits to OFR for inclusion in the database. In addition, the bill authorizes OFR to enter into agreements with the Department of Financial Services, law enforcement agencies, and other governmental agencies in order to share confidential and exempt information contained in the database for purposes of detecting and deterring financial crimes and workers' compensation violations. Agencies receiving the confidential and exempt information must maintain the confidentiality of that information, unless a court order compels production of the information.

The bill provides that the section is subject to the Open Sunset Review Act and stands repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature. It also provides a statement of public necessity as required by the State Constitution.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may benefit the private sector. By making the identities of payees and customers confidential, personal financial information will be protected. Similarly, by making the identities of payors and licensees confidential, business information will be protected.

D. FISCAL COMMENTS:

The bill may create a minimal fiscal impact on OFR, because staff responsible for complying with public records requests could require training related to the public records exemption. In addition, OFR could incur costs associated with redacting the confidential and exempt information prior to releasing a record. However, the costs will be absorbed as part of the day-to-day responsibilities of the OFR.