



673018

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/26/2014	.	
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The Committee on Governmental Oversight and Accountability  
(Hays) recommended the following:

**Senate Amendment**

Delete lines 25 - 263  
and insert:  
119.07(1) until such investigation is completed or ceases to be  
active. For purposes of this subsection, an investigation is  
considered "active" while such investigation is being conducted  
by the office with a reasonable, good faith belief that it may  
lead to the filing of administrative, civil, or criminal  
proceedings. An investigation does not cease to be active if the



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11 office is proceeding with reasonable dispatch, and there is a  
12 good faith belief that action may be initiated by the office or  
13 other administrative or law enforcement agency. After an  
14 investigation is completed or ceases to be active, portions of  
15 ~~the such~~ records relating to the investigation are ~~shall be~~  
16 confidential and exempt from ~~the provisions of~~ s. 119.07(1) to  
17 the extent that disclosure would:

18 (a) Jeopardize the integrity of another active  
19 investigation;

20 (b) Impair the safety and soundness of the financial  
21 institution;

22 (c) Reveal personal financial information;

23 (d) Reveal the identity of a confidential source;

24 (e) Defame or cause unwarranted damage to the good name or  
25 reputation of an individual or jeopardize the safety of an  
26 individual; or

27 (f) Reveal investigative techniques or procedures.

28 (2) Except as otherwise provided in this section and except  
29 for such portions thereof which are public record, reports of  
30 examinations, operations, or condition, including working  
31 papers, or portions thereof, prepared by, or for the use of, the  
32 office or any state or federal agency responsible for the  
33 regulation or supervision of financial institutions in this  
34 state are confidential and exempt from ~~the provisions of~~ s.  
35 119.07(1). However, such reports or papers or portions thereof  
36 may be released to:

37 (a) The financial institution under examination;

38 (b) Any holding company of which the financial institution  
39 is a subsidiary;



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40 (c) Proposed purchasers if necessary to protect the  
41 continued financial viability of the financial institution, upon  
42 prior approval by the board of directors of such institution;

43 (d) Persons proposing in good faith to acquire a  
44 controlling interest in or to merge with the financial  
45 institution, upon prior approval by the board of directors of  
46 such financial institution;

47 (e) Any officer, director, committee member, employee,  
48 attorney, auditor, or independent auditor officially connected  
49 with the financial institution, holding company, proposed  
50 purchaser, or person seeking to acquire a controlling interest  
51 in or merge with the financial institution; or

52 (f) A fidelity insurance company, upon approval of the  
53 financial institution's board of directors. However, a fidelity  
54 insurance company may receive only that portion of an  
55 examination report relating to a claim or investigation being  
56 conducted by such fidelity insurance company.

57 (g) Examination, operation, or condition reports of a  
58 financial institution shall be released by the office within 1  
59 year after the appointment of a liquidator, receiver, or  
60 conservator to the ~~such~~ financial institution. However, any  
61 portion of such reports which discloses the identities of  
62 depositors, bondholders, members, borrowers, or stockholders,  
63 other than directors, officers, or controlling stockholders of  
64 the institution, shall remain confidential and exempt from ~~the~~  
65 ~~provisions of~~ s. 119.07(1).

66

67 Any confidential information or records obtained from the office  
68 pursuant to this paragraph shall be maintained as confidential



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69 and exempt from ~~the provisions of~~ s. 119.07(1).

70 (3) Except as otherwise provided in this section and except  
71 for those portions that are otherwise public record, after an  
72 investigation relating to an informal enforcement action is  
73 completed or ceases to be active, informal enforcement actions  
74 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
75 I of the State Constitution to the extent that disclosure would:

76 (a) Jeopardize the integrity of another active  
77 investigation.

78 (b) Impair the safety and soundness of the financial  
79 institution.

80 (c) Reveal personal financial information.

81 (d) Reveal the identity of a confidential source.

82 (e) Defame or cause unwarranted damage to the good name or  
83 reputation of an individual or jeopardize the safety of an  
84 individual.

85 (f) Reveal investigative techniques or procedures.

86 (4) Except as otherwise provided in this section and except  
87 for those portions that are otherwise public record, trade  
88 secrets as defined in s. 688.002 which comply with s. 655.0591  
89 and which are held by the office in accordance with its  
90 statutory duties with respect to the financial institutions  
91 codes are confidential and exempt from s. 119.07(1) and s.  
92 24(a), Art. I of the State Constitution.

93 (5) ~~(3)~~ The provisions of This section does ~~do~~ not prevent  
94 or restrict:

95 (a) Publishing reports required to be submitted to the  
96 office pursuant to s. 655.045(2) (a) or required by applicable  
97 federal statutes or regulations to be published.



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98 (b) Furnishing records or information to any other state,  
99 federal, or foreign agency responsible for the regulation or  
100 supervision of financial institutions, including Federal Home  
101 Loan Banks.

102 (c) Disclosing or publishing summaries of the condition of  
103 financial institutions and general economic and similar  
104 statistics and data, provided that the identity of a particular  
105 financial institution is not disclosed.

106 (d) Reporting any suspected criminal activity, with  
107 supporting documents and information, to appropriate law  
108 enforcement and prosecutorial agencies.

109 (e) Furnishing information upon request to the Chief  
110 Financial Officer or the Division of Treasury of the Department  
111 of Financial Services regarding the financial condition of any  
112 financial institution that is, or has applied to be, designated  
113 as a qualified public depository pursuant to chapter 280.

114  
115 Any confidential information or records obtained from the office  
116 pursuant to this subsection shall be maintained as confidential  
117 and exempt from ~~the provisions of~~ s. 119.07(1).

118 (6) (a) ~~(4) (a)~~ Orders of courts or of administrative law  
119 judges for the production of confidential records or information  
120 shall provide for inspection in camera by the court or the  
121 administrative law judge and, after the court or administrative  
122 law judge has made a determination that the documents requested  
123 are relevant or would likely lead to the discovery of admissible  
124 evidence, such ~~said~~ documents shall be subject to further orders  
125 by the court or the administrative law judge to protect the  
126 confidentiality thereof. An ~~Any~~ order directing the release of



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127 information is ~~shall be~~ immediately reviewable, and a petition  
128 by the office for review of such order shall automatically stays  
129 ~~stay~~ further proceedings in the trial court or the  
130 administrative hearing until the disposition of such petition by  
131 the reviewing court. If any other party files such a petition  
132 for review, it operates ~~will operate~~ as a stay of such  
133 proceedings only upon order of the reviewing court.

134 (b) Confidential records and information furnished pursuant  
135 to a legislative subpoena shall be kept confidential by the  
136 legislative body or committee that ~~which~~ received the records or  
137 information, except in a case involving investigation of charges  
138 against a public official subject to impeachment or removal. r  
139 ~~and then~~ Disclosure of such information shall be only to the  
140 extent determined necessary by the legislative body or committee  
141 ~~to be necessary~~.

142 (7) ~~(5)~~ Every credit union and mutual association shall  
143 maintain, in the principal office where its business is  
144 transacted, full and correct records of the names and residences  
145 of all the members of the credit union or mutual association.  
146 Such records are ~~shall be~~ subject to the inspection of all the  
147 members of the credit union or mutual association, and the  
148 officers authorized to assess taxes under state authority,  
149 during business hours of each business day. A current list of  
150 members shall be made available to the office's examiners for  
151 their inspection and, upon the request of the office, shall be  
152 submitted to the office. Except as otherwise provided in this  
153 subsection, the list of the members of the credit union or  
154 mutual association is confidential and exempt from ~~the~~  
155 ~~provisions of~~ s. 119.07(1).



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156        (8)~~(6)~~ Every bank, trust company, and stock association  
157 shall maintain, in the principal office where its business is  
158 transacted, full and complete records of the names and  
159 residences of all the shareholders of the bank, trust company,  
160 or stock association and the number of shares held by each. Such  
161 records are ~~shall be~~ subject to the inspection of all the  
162 shareholders of the bank, trust company, or stock association,  
163 and the officers authorized to assess taxes under state  
164 authority, during business hours of each banking day. A current  
165 list of shareholders shall be made available to the office's  
166 examiners for their inspection and, upon the request of the  
167 office, shall be submitted to the office. Except as otherwise  
168 provided in this subsection, any portion of this list which  
169 reveals the identities of the shareholders is confidential and  
170 exempt from ~~the provisions of~~ s. 119.07(1).

171        (9)~~(7)~~ Materials supplied to the office or to employees of  
172 any financial institution by other state or federal governmental  
173 agencies, ~~federal or state,~~ shall remain the property of the  
174 submitting agency or the corporation, and any document request  
175 must be made to the appropriate agency. Any confidential  
176 documents supplied to the office or to employees of any  
177 financial institution by other state or federal governmental  
178 agencies are, ~~federal or state,~~ shall be confidential and exempt  
179 from ~~the provisions of~~ s. 119.07(1). Such information shall be  
180 made public only with the consent of such agency or the  
181 corporation.

182        (10)~~(8)~~ Examination reports, investigatory records,  
183 applications, and related information compiled by the office, or  
184 photographic copies thereof, shall be retained by the office for



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185 ~~a period of~~ at least 10 years.

186 (11)(9) A copy of any document on file with the office  
187 which is certified by the office as being a true copy may be  
188 introduced in evidence as if it were the original. The  
189 commission shall establish a schedule of fees for preparing true  
190 copies of documents.

191 (12) For purposes of this section, the term:

192 (a) "Examination report" means records submitted to or  
193 prepared by the office as part of the office's duties performed  
194 pursuant to s. 655.012 or s. 655.045(1).

195 (b) "Informal enforcement action" means a board resolution,  
196 a document of resolution, or an agreement in writing between the  
197 office and a financial institution which:

198 1. The office imposes on an institution when the office  
199 considers the administrative enforcement guidelines in s.  
200 655.031 and determines that a formal enforcement action is not  
201 an appropriate administrative remedy;

202 2. Sets forth a program of corrective action to address one  
203 or more safety and soundness deficiencies and violations of law  
204 or rule at the institution; and

205 3. Is not subject to enforcement by imposition of an  
206 administrative fine pursuant to s. 655.041.

207 (c) "Personal financial information" means:

208 1. Information relating to the existence, nature, source,  
209 or amount of a person's personal income, expenses, or debt.

210 2. Information relating to a person's financial  
211 transactions of any kind.

212 3. Information relating to the existence, identification,  
213 nature, or value of a person's assets, liabilities, or net





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214 worth.

215 (d) "Working papers" means the records of the procedures  
216 followed, the tests performed, the information obtained, and the  
217 conclusions reached in an examination or investigation performed  
218 under s. 655.032 or s. 655.045. Working papers include planning  
219 documentation, work programs, analyses, memoranda, letters of  
220 confirmation and representation, abstracts of the books and  
221 records of a financial institution as defined in s. 655.005(1),  
222 and schedules or commentaries prepared or obtained in the course  
223 of such examination or investigation.

224 (13)-(10) A ~~Any~~ person who willfully discloses information  
225 made confidential by this section ~~commits is guilty of~~ a felony  
226 of the third degree, punishable as provided in s. 775.082, s.  
227 775.083, or s. 775.084.

228 (14) Subsections (3) and (4) are subject to the Open  
229 Government Sunset Review Act in accordance with s. 119.15 and  
230 are repealed on October 2, 2019, unless reviewed and saved from  
231 repeal through reenactment by the Legislature.

232 Section 2. (1) The Legislature finds that it is a public  
233 necessity that informal enforcement actions and trade secrets,  
234 as defined in s. 688.002, Florida Statutes, be kept confidential  
235 and exempt