

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
 ADOPTED AS AMENDED (Y/N)
 ADOPTED W/O OBJECTION (Y/N)
 FAILED TO ADOPT (Y/N)
 WITHDRAWN (Y/N)
 OTHER

1 Committee/Subcommittee hearing bill: Insurance & Banking
 2 Subcommittee
 3 Representative Santiago offered the following:
 4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 559.5558, Florida Statutes, is created
 8 to read:

9 559.5558 Public-records exemption.—

10 (1) DEFINITIONS.—As used in this section, the term
 11 "personal financial and health information" means:

12 (a) Information relating to the existence, nature, source,
 13 or amount of a consumer's personal income, expenses, and debt;

14 (b) Information relating to a consumer's financial
 15 transactions of any kind;

Amendment No. 1

16 (c) Information relating to the existence, identification,
17 nature, or value of a consumer's assets, liabilities, or net
18 worth;

19 (d) A consumer's personal health condition, disease, or
20 injury; or

21 (e) A history of a consumer's personal medical diagnosis
22 or treatment.

23 (2) INVESTIGATIONS AND EXAMINATIONS.—

24 (a) Except as otherwise provided in this section,
25 information held by the office pursuant to an investigation or
26 examination of a violation of this part is confidential and
27 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
28 Constitution. However, information made confidential and exempt
29 pursuant to this section may be disclosed by the office to a law
30 enforcement agency or another administrative agency in the
31 performance of its official duties and responsibilities.

32 (b) Such information is no longer confidential and exempt
33 once the investigation or examination is completed or ceases to
34 be active unless disclosure of the information would:

35 1. Jeopardize the integrity of another active
36 investigation or examination;

37 2. Reveal the personal identifying information of a
38 consumer, unless the consumer is also the complainant. In the
39 case of a complainant, the complainant's personal identifying
40 information is subject to disclosure after the investigation or
41 examination is completed or ceases to be active; however, the

Amendment No. 1

42 complainant's personal financial and health information remains
43 confidential and exempt;

44 3. Reveal the identity of a confidential source;

45 4. Reveal investigative or examination techniques or
46 procedures; or

47 5. Reveal trade secrets, as defined in s. 688.002.

48 (c) For purposes of this section, an investigation or
49 examination shall be considered active if the investigation or
50 examination is proceeding with reasonable dispatch and the
51 office has a reasonable good faith belief that the investigation
52 or examination may lead to the filing of an administrative,
53 civil, or criminal proceeding or the denial or conditional grant
54 of an application for registration or other approval required
55 under this part.

56 (3) REVIEW AND REPEAL.—This section is subject to the Open
57 Government Sunset Review Act in accordance with s. 119.15 and
58 shall stand repealed on October 2, 2019, unless reviewed and
59 saved from repeal through reenactment by the Legislature.

60 Section 2. The Legislature finds that it is a public
61 necessity that information held by the Office of Financial
62 Regulation pursuant to an investigation or examination conducted
63 under part VI of chapter 559, Florida Statutes, be confidential
64 and exempt from public-records requirements for the following
65 reasons:

66 (1) An investigation or examination conducted by the
67 Office of Financial Regulation may lead to the filing of an

Amendment No. 1

68 administrative, civil, or criminal proceeding or to the denial
69 or conditional granting of a registration. The premature release
70 of such information could frustrate or thwart the investigation
71 or examination and impair the ability of the office to
72 effectively and efficiently administer part VI of chapter 559,
73 Florida Statutes.

74 (2) Information held by the Office of Financial Regulation
75 which is provided to a law enforcement agency or another
76 administrative agency for further investigation or examination
77 needs to remain confidential and exempt until the investigation
78 or examination is completed or ceases to be active. Release of
79 this information before the completion of that investigation or
80 examination would jeopardize the integrity of the investigation
81 and impair the ability of other agencies to carry out their
82 statutory duties.

83 (3) Investigations and examinations of consumer collection
84 agencies frequently involve the gathering of sensitive personal
85 information, including financial and health information
86 concerning complainants and consumers. The office may not
87 otherwise have access to this sensitive personal information but
88 for the investigation or examination. Because of the sensitive
89 personal nature of the information gathered, if the individuals
90 who are the subject of such information are identifiable, the
91 disclosure of this information to the public could cause
92 unwarranted damage to the good name or reputation of the
93 individuals, especially if information associated with the

Amendment No. 1

94 individual is inaccurate. Furthermore, if the individuals who
95 are the subject of such information are identifiable, public
96 access to such information could jeopardize the financial safety
97 of such individuals by placing them at risk of becoming the
98 subjects of identity theft. The Legislature further finds that
99 it is a public necessity that health information held by the
100 office be made confidential and exempt because matters of
101 personal health are traditionally private and confidential
102 concerns between the patient and the health care provider. The
103 private and confidential nature of personal health matters
104 pervades both the public and private health care sectors.
105 Moreover, public disclosure of health information could have a
106 negative effect upon a person's business and personal
107 relationships, and could also have detrimental financial
108 consequences.

109 (4) Releasing information identifying a confidential
110 source could jeopardize both the integrity of a current and
111 future investigation or examination as well as the safety of the
112 confidential source.

113 (5) Revealing investigative or examination techniques and
114 procedures could allow a person to hide or conceal violations of
115 law that otherwise would have been discovered during an
116 investigation or examination. This exemption is necessary for
117 the office, as well as law enforcement and other administrative
118 agencies, in order for such agencies to effectively and

Amendment No. 1

119 efficiently carry out their statutory duties, which would be
120 significantly impaired without this exemption.

121 (6) A trade secret derives independent economic value,
122 actual or potential, from not being generally known to, and not
123 readily ascertainable by, other persons who can obtain economic
124 value from its disclosure or use. Without an exemption for a
125 trade secret held by the office, that trade secret becomes a
126 public record when received and must be divulged upon request.
127 Divulging a trade secret under the public-records law would
128 destroy the value of that property, causing a financial loss to
129 the person or entity submitting the trade secret. Release of
130 that information would give business competitors an unfair
131 advantage and weaken the position of the person or entity
132 supplying the trade secret in the marketplace.

133 Section 3. This act shall take effect on the same date
134 that HB 413 or similar legislation takes effect if such
135 legislation is adopted in the same legislative session, or an
136 extension thereof, and becomes law.

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140 **T I T L E A M E N D M E N T**

141 Remove line 5 and insert:

142 Regulation pursuant to an investigation or examination of
143 consumer

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