

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 559.5558, F.S.; providing an exemption from public
 4 records requirements for information collected in
 5 connection with investigations and examinations by the
 6 Office of Financial Regulation of the Financial
 7 Services Commission; providing a definition; providing
 8 for future legislative review and repeal of the
 9 exemption; providing a statement of public necessity;
 10 providing a contingent effective date.

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

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 14 Section 1. Section 559.5558, Florida Statutes, is created
 15 to read:

16 559.5558 Public records exemption; investigations and
 17 examinations.—

18 (1) As used in this section, the term "personal financial
 19 and health information" means:

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

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

24 (c) Information relating to the existence, identification,
 25 nature, or value of a consumer's assets, liabilities, or net
 26 worth;

27 (d) A consumer's personal health condition, disease, or
 28 injury; or

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

31 (2) (a) Except as otherwise provided by this section,
 32 information held by the office pursuant to an investigation or
 33 examination of a violation of this part is confidential and
 34 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 35 Constitution. However, information made confidential and exempt
 36 pursuant to this section may be disclosed by the office to a law
 37 enforcement agency or another administrative agency in the
 38 performance of its official duties and responsibilities.

39 (b) Information made confidential and exempt pursuant to
 40 this section is no longer confidential and exempt once the
 41 investigation or examination is completed or ceases to be active
 42 unless disclosure of the information would:

43 1. Jeopardize the integrity of another active
 44 investigation or examination.

45 2. Reveal the personal identifying information of a
 46 consumer, unless the consumer is also the complainant. A
 47 complainant's personal identifying information is subject to
 48 disclosure after the investigation or examination is completed
 49 or ceases to be active. However, a complainant's personal
 50 financial and health information remains confidential and
 51 exempt.

52 3. Reveal the identity of a confidential source.

53 4. Reveal investigative or examination techniques or
54 procedures.

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

56 (c) For purposes of this subsection, an investigation or
57 examination is considered active if the investigation or
58 examination is proceeding with reasonable dispatch and the
59 office has a reasonable good faith belief that the investigation
60 or examination may lead to the filing of an administrative,
61 civil, or criminal proceeding or to the denial or conditional
62 grant of an application for registration or other approval
63 required under this part.

64 (3) This section is subject to the Open Government Sunset
65 Review Act in accordance with s. 119.15 and shall stand repealed
66 on October 2, 2019, unless reviewed and saved from repeal
67 through reenactment by the Legislature.

68 Section 2. The Legislature finds that it is a public
69 necessity that information held by the Office of Financial
70 Regulation of the Financial Services Commission pursuant to an
71 investigation or examination conducted under part VI of chapter
72 559, Florida Statutes, be made confidential and exempt from s.
73 119.07(1), Florida Statutes, and s. 24(a), Article I of the
74 State Constitution for the following reasons:

75 (1) An investigation or examination conducted by the
76 Office of Financial Regulation may lead to the filing of an
77 administrative, civil, or criminal proceeding or to the denial
78 or conditional granting of a registration. The premature release

79 of such information could frustrate or thwart the investigation
80 or examination and impair the ability of the office to
81 effectively and efficiently administer part VI of chapter 559,
82 Florida Statutes.

83 (2) Information held by the Office of Financial Regulation
84 that is provided to a law enforcement agency or another
85 administrative agency for further investigation or examination
86 should remain confidential and exempt until the investigation or
87 examination is completed or ceases to be active. The release of
88 this information before completion of the investigation or
89 examination could jeopardize the integrity of the investigation
90 and impair the ability of other agencies to carry out their
91 statutory duties.

92 (3) Investigations and examinations of consumer collection
93 agencies frequently involve the gathering of sensitive personal
94 information, including personal financial information concerning
95 complainants and consumers. The Office of Financial Regulation
96 may not otherwise have access to this sensitive personal
97 information but for the investigation or examination. If the
98 individuals who are the subject of the information are
99 identifiable, the disclosure of the information to the public
100 could cause unwarranted damage to the good name or reputation of
101 the individuals, especially if the information associated with
102 the individual is inaccurate. Furthermore, if the individuals
103 who are the subject of such information are identifiable, public
104 access to such information could jeopardize the financial safety

105 of such individuals by placing them at risk of becoming victims
106 of identity theft.

107 (4) Investigations and examinations of consumer collection
108 agencies frequently involve the gathering of sensitive personal
109 information, including personal health information concerning
110 complainants and consumers. Matters of personal health are
111 traditionally private and confidential concerns between the
112 patient and the health care provider. The private and
113 confidential nature of personal health matters pervades both the
114 public and private health care sectors. Moreover, public
115 disclosure of personal health information could have a negative
116 effect upon a person's business and personal relationships and a
117 person's financial well-being.

118 (5) Releasing information identifying a confidential
119 source could jeopardize both the integrity of a current and
120 future investigation or examination and the safety of the
121 confidential source.

122 (6) Revealing investigative or examination techniques and
123 procedures could allow a person to hide or conceal violations of
124 law that otherwise would have been discovered during an
125 investigation or examination. This exemption is necessary to
126 enable the Office of Financial Regulation, law enforcement
127 agencies, and other administrative agencies to effectively and
128 efficiently carry out their statutory duties, which would be
129 significantly impaired without this exemption.

130 (7) A trade secret derives independent, economic value,

131 actual or potential, from being generally unknown to, and not
132 readily ascertainable by, other persons who might obtain
133 economic value from its disclosure or use. Allowing public
134 access to a trade secret through a public records request could
135 destroy the value of the trade secret and cause a financial loss
136 to the person or entity submitting the trade secret. Release of
137 such information could give business competitors an unfair
138 advantage and weaken the position of the person or entity
139 supplying the trade secret in the marketplace.

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