

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 WITHDRAWN _____ (Y/N)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 Broxson offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 655.057, Florida Statutes, is amended
 8 to read:

9 655.057 Records; limited restrictions upon public access.—

10 (1) Except as otherwise provided in this section and
 11 except for such portions thereof which are otherwise public
 12 record, all records and information relating to an investigation
 13 by the office are confidential and exempt from the provisions of
 14 s. 119.07(1) and s. 24(a), Art. I of the State Constitution
 15 until such investigation is completed or ceases to be active.

16 For purposes of this subsection, an investigation is considered
 17 "active" while such investigation is being conducted by the

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18 office with a reasonable, good faith belief that it may lead to
19 the filing of administrative, civil, or criminal proceedings. An
20 investigation does not cease to be active if the office is
21 proceeding with reasonable dispatch, and there is a good faith
22 belief that action may be initiated by the office or other
23 administrative or law enforcement agency. After an investigation
24 is completed or ceases to be active, portions of such records
25 relating to the investigation shall be confidential and exempt
26 from the provisions of s. 119.07(1) and s. 24(a), Art. I of the
27 State Constitution to the extent that disclosure would:

28 (a) Jeopardize the integrity of another active
29 investigation;

30 (b) Impair the safety and soundness of the financial
31 institution;

32 (c) Reveal personal financial information;

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

34 (e) Defame or cause unwarranted damage to the good name or
35 reputation of an individual or jeopardize the safety of an
36 individual; or

37 (f) Reveal investigative techniques or procedures.

38 (2) Except as otherwise provided in this section and
39 except for such portions thereof which are public record,
40 reports of examinations, operations, or condition, including
41 working papers, or portions thereof, prepared by, or for the use
42 of, the office or any state or federal agency responsible for
43 the regulation or supervision of financial institutions in this

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44 state are confidential and exempt from the provisions of s.
45 119.07(1) and s. 24(a), Art. I of the State Constitution.

46 However, such reports or papers or portions thereof may be
47 released to:

48 (a) The financial institution under examination;

49 (b) Any holding company of which the financial institution
50 is a subsidiary;

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

54 (d) Persons proposing in good faith to acquire a
55 controlling interest in or to merge with the financial
56 institution, upon prior approval by the board of directors of
57 such financial institution;

58 (e) Any officer, director, committee member, employee,
59 attorney, auditor, or independent auditor officially connected
60 with the financial institution, holding company, proposed
61 purchaser, or person seeking to acquire a controlling interest
62 in or merge with the financial institution; or

63 (f) A fidelity insurance company, upon approval of the
64 financial institution's board of directors. However, a fidelity
65 insurance company may receive only that portion of an
66 examination report relating to a claim or investigation being
67 conducted by such fidelity insurance company.

68 (g) Examination, operation, or condition reports of a
69 financial institution shall be released by the office within 1

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70 year after the appointment of a liquidator, receiver, or
71 conservator to such financial institution. However, any portion
72 of such reports which discloses the identities of depositors,
73 bondholders, members, borrowers, or stockholders, other than
74 directors, officers, or controlling stockholders of the
75 institution, shall remain confidential and exempt from the
76 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
77 Constitution.

78
79 Any confidential information or records obtained from the office
80 pursuant to this paragraph shall be maintained as confidential
81 and exempt from the provisions of s. 119.07(1) and s. 24(a),
82 Art. I of the State Constitution.

83 (3) Except as otherwise provided in this section and except
84 for such portions thereof which are otherwise public record,
85 after an investigation relating to an informal enforcement
86 action is completed or ceases to be active, informal enforcement
87 actions are confidential and exempt from s. 119.07(1) and s.
88 24(a), Art. I of the State Constitution, to the extent that
89 disclosure would:

90 (a) Jeopardize the integrity of another active
91 investigation;

92 (b) Impair the safety and soundness of the financial
93 institution;

94 (c) Reveal personal financial information;

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

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96 (e) Defame or cause unwarranted damage to the good name or
97 reputation of an individual or jeopardize the safety of an
98 individual; or

99 (f) Reveal investigative techniques or procedures.

100 (4) Except as otherwise provided in this section and except
101 for such portions thereof which are otherwise public record,
102 trade secrets, as defined in s. 688.002 and that comply with s.
103 655.0591, that are held by the Office of Financial Regulation in
104 accordance with its statutory duties with respect to the Codes,
105 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.
106 I of the State Constitution.

107 (5)-~~(3)~~ The provisions of this section do not prevent or
108 restrict:

109 (a) Publishing reports required to be submitted to the
110 office pursuant to s. 655.045(2)(a) or required by applicable
111 federal statutes or regulations to be published.

112 (b) Furnishing records or information to any other state,
113 federal, or foreign agency responsible for the regulation or
114 supervision of financial institutions, including Federal Home
115 Loan Banks.

116 (c) Disclosing or publishing summaries of the condition of
117 financial institutions and general economic and similar
118 statistics and data, provided that the identity of a particular
119 financial institution is not disclosed.

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120 (d) Reporting any suspected criminal activity, with
121 supporting documents and information, to appropriate law
122 enforcement and prosecutorial agencies.

123 (e) Furnishing information upon request to the Chief
124 Financial Officer or the Division of Treasury of the Department
125 of Financial Services regarding the financial condition of any
126 financial institution that is, or has applied to be, designated
127 as a qualified public depository pursuant to chapter 280.

128
129 Any confidential information or records obtained from the office
130 pursuant to this subsection shall be maintained as confidential
131 and exempt from the provisions of s. 119.07(1) and s. 24(a),
132 Art. I of the State Constitution.

133 ~~(6)~~(4)(a) Orders of courts or of administrative law judges
134 for the production of confidential records or information shall
135 provide for inspection in camera by the court or the
136 administrative law judge and, after the court or administrative
137 law judge has made a determination that the documents requested
138 are relevant or would likely lead to the discovery of admissible
139 evidence, said documents shall be subject to further orders by
140 the court or the administrative law judge to protect the
141 confidentiality thereof. Any order directing the release of
142 information shall be immediately reviewable, and a petition by
143 the office for review of such order shall automatically stay
144 further proceedings in the trial court or the administrative
145 hearing until the disposition of such petition by the reviewing

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146 court. If any other party files such a petition for review, it
147 will operate as a stay of such proceedings only upon order of
148 the reviewing court.

149 (b) Confidential records and information furnished
150 pursuant to a legislative subpoena shall be kept confidential by
151 the legislative body or committee which received the records or
152 information, except in a case involving investigation of charges
153 against a public official subject to impeachment or removal, and
154 then disclosure of such information shall be only to the extent
155 determined by the legislative body or committee to be necessary.

156 ~~(7)-(5)~~ Every credit union and mutual association shall
157 maintain, in the principal office where its business is
158 transacted, full and correct records of the names and residences
159 of all the members of the credit union or mutual association.
160 Such records shall be subject to the inspection of all the
161 members of the credit union or mutual association, and the
162 officers authorized to assess taxes under state authority,
163 during business hours of each business day. A current list of
164 members shall be made available to the office's examiners for
165 their inspection and, upon the request of the office, shall be
166 submitted to the office. Except as otherwise provided in this
167 subsection, the list of the members of the credit union or
168 mutual association is confidential and exempt from the
169 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
170 Constitution.

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171 ~~(8)(6)~~ Every bank, trust company, and stock association
172 shall maintain, in the principal office where its business is
173 transacted, full and complete records of the names and
174 residences of all the shareholders of the bank, trust company,
175 or stock association and the number of shares held by each. Such
176 records shall be subject to the inspection of all the
177 shareholders of the bank, trust company, or stock association,
178 and the officers authorized to assess taxes under state
179 authority, during business hours of each banking day. A current
180 list of shareholders shall be made available to the office's
181 examiners for their inspection and, upon the request of the
182 office, shall be submitted to the office. Except as otherwise
183 provided in this subsection, any portion of this list which
184 reveals the identities of the shareholders is confidential and
185 exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I
186 of the State Constitution.

187 ~~(9)(7)~~ Materials supplied to the office or to employees of
188 any financial institution by other governmental agencies,
189 federal or state, shall remain the property of the submitting
190 agency or the corporation, and any document request must be made
191 to the appropriate agency. Any confidential documents supplied
192 to the office or to employees of any financial institution by
193 other governmental agencies, federal or state, shall be
194 confidential and exempt from the provisions of s. 119.07(1) and
195 s. 24(a), Art. I of the State Constitution. Such information

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196 shall be made public only with the consent of such agency or the
197 corporation.

198 ~~(10)-(8)~~ Examination reports, investigatory records,
199 applications, and related information compiled by the office, or
200 photographic copies thereof, shall be retained by the office for
201 a period of at least 10 years.

202 ~~(11)-(9)~~ A copy of any document on file with the office
203 which is certified by the office as being a true copy may be
204 introduced in evidence as if it were the original. The
205 commission shall establish a schedule of fees for preparing true
206 copies of documents.

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

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

211 (b) "Informal enforcement action" means a board resolution,
212 document of resolution, or an agreement in writing between the
213 office and a financial institution that:

214 1. The office imposes on an institution when the office
215 considers the administrative enforcement guidelines in s.
216 655.031 and determines that a formal enforcement action is not
217 an appropriate administrative remedy.

218 2. Sets forth a program of corrective action to address one
219 or more safety and soundness deficiencies and violations of law
220 or rule at the institution.

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

223 (c) "Working papers" means the records of the procedures
224 followed, the tests performed, the information obtained and the
225 conclusions reached in an examination or investigation performed
226 under s. 655.032 and 655.045. Working papers include planning,
227 documentation, work programs, analyses, memoranda, letters of
228 confirmation and representation, abstracts of the books and
229 records of a financial institution as defined in s.
230 655.005(1)(i), and schedules or commentaries prepared or
231 obtained in the course of such examination or investigation.

232 (d) "Personal financial information" means:

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

235 2. Information relating to a person's financial
236 transactions of any kind.

237 3. Information relating to the existence, identification,
238 nature, or value of a person's assets, liabilities, or net
239 worth.

240 (13)~~(10)~~ Any person who willfully discloses information
241 made confidential by this section is guilty of a felony of the
242 third degree, punishable as provided in s. 775.082, s. 775.083,
243 or s. 775.084.

244 (14) This section is subject to the Open Government Sunset
245 Review Act in accordance with s. 119.15 and shall stand repealed

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246 on October 2, 2019, unless otherwise saved from repeal through
247 reenactment by the Legislature.

248 Section 2. (1) The Legislature finds it a public necessity
249 that informal enforcement actions and trade secrets, as defined
250 in s. 688.002, must be kept confidential and exempt from s.
251 119.07(1) and s. 24(a), Art. I of the State Constitution.

252 (2) Public disclosure of an informal enforcement action
253 could further impair the safety and soundness of a financial
254 institution that is subject to the action. Furthermore, the
255 public disclosure of this information could erode public
256 confidence in financial institutions and the financial
257 institution system in this State and may lead to a reduced level
258 of protection of the interests of the depositors and creditors
259 of financial institutions. Maintaining informal enforcement
260 actions as confidential and exempt from s. 119.07(1), Florida
261 Statutes, and s. 24(a), Art. I of the State Constitution will:
262 provide the same protections for financial institutions that are
263 chartered by this state that are available to financial
264 institutions chartered under federal law and by other states;
265 maintain public confidence in financial institutions subject to
266 the financial institutions codes; protect the safety and
267 soundness of the financial institution system in this State;
268 protect the interests of the depositors and creditors of
269 financial institutions; promote the opportunity for state-
270 chartered financial institutions to be and remain competitive
271 with financial institutions chartered by other states or the

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272 United States, and; otherwise provide for and promote the
273 purposes of the financial institutions codes as set forth in s.
274 655.001.

275 (3) A trade secret derives independent economic value,
276 actual or potential, from not being generally known to, and not
277 readily ascertainable by, other persons who can obtain economic
278 value from its disclosure or use. Without an exemption for a
279 trade secret held by the office, that trade secret becomes a
280 public record when received and must be divulged upon request.
281 Divulging a trade secret under the public-records law would
282 destroy the value of that property, causing a financial loss to
283 the person or entity submitting the trade secret. Release of
284 that information would give business competitors an unfair
285 advantage and weaken the position of the person or entity
286 supplying the trade secret in the marketplace.

287 Section 3. This act shall take effect on the same date
288 that HB 673 or similar legislation takes effect, if such
289 legislation is adopted in the same legislative session or an
290 extension thereof and becomes law.

291

292

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

294 Remove lines 4-20 and insert:

295 records requirements for certain informal enforcement actions by
296 the Office of Financial Regulation, to which penalties apply for
297 willful disclosure of such confidential information; providing

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298 an exemption from public records requirements for certain trade
299 secrets held by the office, to which penalties apply for willful
300 disclosure of such confidential information; providing for
301 release of trade secrets in circumstances; providing
302 definitions; providing for future legislative review and repeal
303 of the section; providing a statement of public necessity;
304 providing a contingent effective date.
305