

By the Committee on Transportation

596-01354-21

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1 A bill to be entitled
2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 339.55, F.S.; expanding
4 an existing exemption from public records requirements
5 for financial information of a private entity
6 applicant which the Department of Transportation
7 requires as part of a certain application process to
8 include the financial information of the private
9 entity applicant's guarantor; including a private
10 entity applicant's guarantor in an exception to the
11 exemption; amending the definition of the term
12 "financial information" to include the financial
13 information of the private entity applicant's
14 guarantor; providing for future legislative review and
15 repeal of the exemption; providing a statement of
16 public necessity; providing an effective date.

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

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20 Section 1. Subsection (10) of section 339.55, Florida
21 Statutes, is amended to read:

22 339.55 State-funded infrastructure bank.—

23 (10) (a) Financial information of a private entity
24 applicant, or of an applicant's guarantor, which the department
25 requires as part of the application process for loans or credit
26 enhancements from the state-funded infrastructure bank is exempt
27 from s. 119.07(1) and s. 24(a), Art. I of the State
28 Constitution. This exemption does not apply to records of an
29 applicant, or of an applicant's guarantor, who is in default of

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30 a loan issued under this section. As used in this subsection,
31 the term "financial information" means any business plan, pro
32 forma statement, account balance, operating income or revenue,
33 asset value, or debt of the applicant or the applicant's
34 guarantor.

35 (b) This subsection is subject to the Open Government
36 Sunset Review Act in accordance with s. 119.15 and shall stand
37 repealed on October 2, 2026 ~~2021~~, unless reviewed and saved from
38 repeal through reenactment by the Legislature.

39 Section 2. (1) The Legislature finds that it is a public
40 necessity that financial information of the guarantor of a
41 private entity applicant which the Department of Transportation
42 requires as part of the application process for a loan or credit
43 enhancement from the state-funded infrastructure bank be
44 protected from disclosure. The disclosure of such information
45 could harm a guarantor in the marketplace by giving the
46 guarantor's competitors insights into its financial status and
47 business plan, thereby putting the guarantor at a competitive
48 disadvantage. Additionally, the disclosure of sensitive
49 financial information regarding a guarantor could create the
50 opportunity for theft, fraud, and other illegal activity,
51 thereby jeopardizing the financial security of the guarantor and
52 placing it at risk for substantial financial harm.

53 (2) Without an exemption from public records requirements
54 under s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
55 the State Constitution, some guarantors might be unwilling to
56 provide guarantees for private entity applicants who submit an
57 application to the state-funded infrastructure bank. This
58 unwillingness to provide guarantees for private entity

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59 applicants could limit the ability of private entity applicants
60 to submit applications for assistance from the state-funded
61 infrastructure bank, which could, in turn, limit opportunities
62 the department might otherwise have for providing loans or
63 credit enhancements to private entities who could propose cost-
64 effective or strategic solutions for constructing and improving
65 transportation facilities. The Legislature finds that the
66 benefit to the public of increased opportunities for the
67 provision of such facilities facilitated by private entity
68 applicant guarantors outweighs any public benefit that may be
69 derived from the disclosure of the financial information of a
70 private entity applicant's guarantor. For this reason, the
71 Legislature declares that financial information that the
72 department requires of a guarantor as part of a private entity's
73 application process for loans or credit enhancements from the
74 state-funded infrastructure bank is exempt from s. 119.07(1),
75 Florida Statutes, and s. 24(a), Article I of the State
76 Constitution.

77 Section 3. This act shall take effect July 1, 2021.