

HB 7037

2021

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 the exemption from public records requirements for
5 financial information of a private entity applicant
6 for loans or credit enhancements from the state-funded
7 infrastructure bank to include the financial
8 information of the private entity applicant's
9 guarantor; providing for application of the exemption;
10 revising the definition of the term "financial
11 information" to include the financial information of
12 the private entity applicant's guarantor; providing
13 for future legislative review and repeal of the
14 exemption; providing a statement of public necessity;
15 providing an effective date.

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

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

21 339.55 State-funded infrastructure bank.—

22 (10) (a) Financial information of a private entity
23 applicant or an applicant's guarantor which the department
24 requires as part of the application process for loans or credit
25 enhancements from the state-funded infrastructure bank is exempt

26 | from s. 119.07(1) and s. 24(a), Art. I of the State
27 | Constitution. This exemption does not apply to records of an
28 | applicant or an applicant's guarantor who is in default of a
29 | loan issued under this section. As used in this subsection, the
30 | term "financial information" means any business plan, pro forma
31 | statement, account balance, operating income or revenue, asset
32 | value, or debt of the applicant or the applicant's guarantor.

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35 | repealed on October 2, 2026 ~~2021~~, unless reviewed and saved from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

37 | Section 2. The Legislature finds that it is a public
38 | necessity that financial information of the guarantor of a
39 | private entity applicant which the Department of Transportation
40 | requires as part of the application process for a loan or credit
41 | enhancement from the state-funded infrastructure bank be made
42 | exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
43 | Article I of the State Constitution. The disclosure of such
44 | information could harm a guarantor in the marketplace by giving
45 | the guarantor's competitors insights into its financial status
46 | and business plan, thereby putting the guarantor at a
47 | competitive disadvantage. Additionally, the disclosure of the
48 | guarantor's financial information could create the opportunity
49 | for theft, fraud, and other illegal activity, thereby
50 | jeopardizing the financial security of the guarantor and placing

51 it at risk for substantial financial harm. Without an exemption
52 from public records requirements, some guarantors might be
53 unwilling to provide guarantees for private entity applicants
54 who submit an application to the state-funded infrastructure
55 bank. This unwillingness to provide guarantees for private
56 entity applicants could limit the ability of private entity
57 applicants to submit applications for assistance from the state-
58 funded infrastructure bank, which could limit opportunities the
59 department might otherwise have for providing loans or credit
60 enhancements to private entities who could propose cost-
61 effective or strategic solutions for constructing and improving
62 transportation facilities. The Legislature finds that the
63 benefit to the public of increased opportunities for the
64 provision of such facilities facilitated by private entity
65 applicants' guarantors outweighs any public benefit that may be
66 derived from the disclosure of the financial information of a
67 private entity applicant's guarantor. For this reason, the
68 Legislature declares that financial information that the
69 department requires of a guarantor as part of a private entity's
70 application process for a loan or credit enhancement from the
71 state-funded infrastructure bank is exempt from s. 119.07(1),
72 Florida Statutes, and s. 24(a), Article I of the State
73 Constitution.

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