HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 587 Pub. Rec./Access to Financial Institution Customer Accounts
SPONSOR(S): Commerce Committee, Rommel and others
TIED BILLS: CS/CS/HB 585 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Insurance & Banking Subcommittee	18 Y, 0 N	Fletcher	Lloyd
2) Ethics, Elections & Open Government Subcommittee	14 Y, 0 N	Rando	Toliver
3) Commerce Committee	17 Y, 0 N, As CS	Fletcher	Hamon

SUMMARY ANALYSIS

The federal Bank Secrecy Act (BSA) establishes reporting, recordkeeping, and related requirements for federal and state-chartered financial institutions to help detect and prevent money laundering. Under the BSA, financial institutions are required to report suspicious activity that might signify money laundering, tax evasion, or other criminal activities. These types of reports are known as "suspicious activity reports" (SARs) and are filed with the Financial Crimes Enforcement Network, a bureau of the U.S. Department of the Treasury.

Florida's codification of the BSA is the Florida Control of Money-Laundering and Terrorist Financing in Financial Institutions Act (Act). The Act requires financial institutions to submit to the Office of Financial Regulation (OFR) certain reports and maintain certain records of customers, accounts, and transactions involving currency or monetary instruments or suspicious activities in accordance with the policies of the BSA.

CS/CS/HB 585, to which this bill is linked, allows a customer or member of a financial institution who reasonably believes a financial institution has terminated, suspended, or taken similar action restricting access to the customer's or member's account in bad faith to file a complaint with OFR. CS/CS/HB 585 also requires OFR to investigate the termination-of-access report to determine whether the financial institution's action was made in bad faith, and report a bad faith determination to the Chief Financial Officer, the Attorney General, and the customer or member.

The bill, which is linked to the passage of CS/CS/HB 585, creates a public record exemption for certain information received by OFR in complaints filed by customers and members, termination-of-access reports filed by financial institutions, and determinations of bad faith issued by OFR, including information received by OFR as part of its investigations or examinations of such reports.

The bill provides that the public record exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2029, unless reviewed and saved from repeal by the Legislature. It also provides a statement of public necessity as required by the Florida Constitution.

The bill is effective upon the same date that CS/CS/HB 585 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Public Records

The Florida Constitution sets forth the state's public policy regarding access to government records, guaranteeing every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government.[1] The Legislature, however, may provide by general law an exemption[2] from public record requirements provided that the exemption passes by a two-thirds vote of each chamber, states with specificity the public necessity justifying the exemption, and is no broader than necessary to meet its public purpose.[3]

Current law also addresses the public policy regarding access to government records by guaranteeing every person a right to inspect and copy any state, county, or municipal record, unless the record is exempt.[4] Furthermore, the Open Government Sunset Review (OGSR) Act[5] provides that a public record exemption may be created, revised, or maintained only if it serves an identifiable public purpose and the "Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption."[6] An identifiable public purpose is served if the exemption meets one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision; or
- Protect trade or business secrets.[7]

Pursuant to the OGSR Act, a new public record exemption, or the substantial amendment of an existing public record exemption, is repealed on October 2nd of the fifth year following enactment, unless the Legislature reenacts the exemption.[8]

Financial Institutions Codes

Florida's Financial Institutions Codes are codified under Title XXXVIII of the Florida Statutes.[9] The Financial Institutions Codes apply to all state-authorized and state-chartered financial institutions and to the enforcement of all laws relating to state-authorized and state-chartered financial institutions.[10] The Financial Institutions Codes define the term "financial institution" as a state or federal savings or thrift association, bank, savings bank, trust company, international bank agency, international banking corporation, international branch, international representative office, international administrative office, international trust entity, international trust company representative office, qualified limited service

[1] Art. I, s. 24(a), FLA. CONST.
[2] A "public record exemption" means a provision of general law which provides that a specified record, or portion thereof, is not subject to the access requirements of s. 119.07(1), F.S., or s. 24, Art. I of the Florida Constitution. *See* s. 119.011(8), F.S.
[3] Art. I, s. 24(c), FLA. CONST.
[4] *See* s. 119.01, F.S.
[5] S. 119.15, F.S.
[6] S. 119.15(6)(b), F.S.
[7] *Id.*
[8] S. 119.15(3), F.S.
[9] S. 655.005(1)(k), F.S.
[10] S. 655.001(1), F.S.

affiliate, credit union, or an agreement corporation operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.[11]

A primary purpose of the Financial Institutions Codes is to provide for and promote the safe and sound conduct of the financial services industry in Florida.[12] The specific chapters under the Financial Institutions Codes are:

- Ch. 655, F.S. – Financial Institutions Generally
- Ch. 657, F.S. – Credit Unions
- Ch. 658, F.S. – Banks and Trust Companies
- Ch. 660, F.S. – Trust Business
- Ch. 662, F.S. – Family Trust Companies
- Ch. 663, F.S. – International Banking
- Ch. 665, F.S. – Capital Stock Associations
- Ch. 667, F.S. – Savings Banks

Office of Financial Regulation

The Office of Financial Regulation (OFR) is the regulatory authority for Florida's financial services industry.[13] OFR reports to the Financial Services Commission (Commission), which is made up of the Governor and the members of the Florida Cabinet: the Chief Financial Officer (CFO), Attorney General (AG), and Agriculture Commissioner.[14] OFR enforces and administers the Financial Institutions Codes; is responsible for supervising banks, credit unions, savings associations, and international bank agencies; and licenses and regulates non-depository finance companies and the securities industry.[15]

Bank Secrecy Act

The federal Bank Secrecy Act (BSA)[16] establishes reporting, recordkeeping, and related requirements for federal and state-chartered[17] financial institutions to help detect and prevent money laundering.[18] Specifically, the BSA and other anti-money laundering regulations (BSA/AML) require financial institutions to, among other things, keep records of cash purchases of negotiable instruments and file reports of cash transactions exceeding $10,000 (daily aggregate amount).[19]

Under the BSA/AML laws, financial institutions must also:

- Establish effective BSA compliance programs;
- Establish effective customer due diligence systems and monitoring programs;
- Screen against Office of Foreign Assets Control lists and other government lists;
- Establish an effective suspicious activity monitoring and reporting process; and
- Develop risk-based anti-money laundering programs.[20]

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[11] S. 655.005(i), F.S.
[12] S. 655.001(2), F.S.
[13] Florida Office of Financial Regulation, *About Our Agency*, https://flofr.gov/sitePages/AboutOFR.htm (last visited Jan. 20, 2024).
[14] *Id.*
[15] Florida Department of Financial Services, *Financial Services Commission*, https://www.myfloridacfo.com/about/about-dfs/commission (last visited Jan. 20, 2024). *See also*, s. 655.012, F.S.
[16] 31 U.S.C. § 5311 et seq.
[17] *See*, 12 C.F.R. § 326.8 (sets forth requirements for state-chartered banks to establish and maintain procedures to ensure and monitor their compliance with the BSA). *See also*, 12 C.F.R. § 353 (establishes requirements for state-chartered banks to file a suspicious activity report under certain circumstances).
[18] U.S. Treasury Financial Crimes Enforcement Network, *FinCEN's Legal Authorities*, https://www.fincen.gov/resources/fincens-legal-authorities (last visited Jan 20, 2024).
[19] *Id.*
[20] U.S. Office of the Comptroller of the Currency, *Bank Secrecy Act*, https://www.occ.treas.gov/topics/supervision-and-examination/bsa/index-bsa.html (last visited Jan 20, 2024).

The U.S. Office of the Comptroller of Currency regularly conducts examinations of national banks, federal branches, federal savings associations, and agencies of foreign banks in the U.S. to determine compliance with BSA/AML laws.[21]

SUSPICIOUS ACTIVITY REPORTS

In addition to the other requirements under the BSA/AML laws, financial institutions are also required to report suspicious activity that might signify money laundering, tax evasion, or other criminal activities.[22] These types of reports are known as "suspicious activity reports" (SAR) and are filed with the Financial Crimes Enforcement Network (FinCEN), a bureau of the U.S. Department of the Treasury, using FinCEN's BSA E-filing system.[23]

Under this requirement, a financial institution is required to file an SAR no later than 30 calendar days after the date of initial detection of facts that may constitute a basis for filing an SAR.[24] For instances where no suspect was identified on the date of the incident requiring the filing, a financial institution may delay filing an SAR for an additional 30 calendar days to identify a suspect.[25] However, in no case shall reporting be delayed more than 60 calendar days after the date of initial detection of a reportable transaction.[26]

Federal Trade Commission Act

Section 5 of the Federal Trade Commission Act (FTC Act), 15 U.S.C. § 45, prohibits "unfair or deceptive acts or practices in or affecting commerce."[27] The prohibition applies to all persons engaged in commerce, including state-chartered banks.[28] The Board of Governors of the Federal Reserve System have authority under federal law[29] to take appropriate action when unfair or deceptive acts or practices are discovered, regardless of state authorities having primary responsibility for enforcing state statutes against unfair or deceptive acts or practices.[30]

Under the FTC Act, an act or practice is considered unfair if it:

- Causes or is likely to cause substantial injury to consumers;
- Cannot be reasonably avoided by consumers; and
- Is not outweighed by countervailing benefits to consumers or to competition.[31]

According to the Board of Governors of the Federal Reserve System, there may be circumstances in which an act or practice violates section 5 of the FTC Act even though the institution is in technical compliance with other applicable laws, such as the BSA/AML laws.[32] Moreover, the policies behind the BSA/AML laws could arguably outweigh a finding that a financial institution committed an unfair act under section 5 of the FTC Act.

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[21] *Id*.
[22] U.S. Treasury Financial Crimes Enforcement Network, *supra* note 18.
[23] U.S. Office of the Comptroller of the Currency, *Suspicious Activity Report Program*, https://www.occ.treas.gov/publications-and-resources/forms/sar-program/index-sar-program.html (last visited Jan. 20, 2024).
[24] *Id.*
[25] *Id.*
[26] *Id.*
[27] Board of Governors of the Federal Reserve System, Division of Consumer and Community Affairs, *Federal Trade Commission Act* (last updated Dec. 2016), p. 1, https://www.federalreserve.gov/boarddocs/supmanual/cch/ftca.pdf (last visited Feb. 6, 2024).
[28] *Id.*
[29] Section 8 of the Federal Deposit Insurance Act, 12 U.S.C.A. § 1811, et seq.
[30] Board of Governors of the Federal Reserve System, Division of Consumer and Community Affairs, *supra* note 27, p. 1.
[31] Board of Governors of the Federal Reserve System, Division of Consumer and Community Affairs, *supra* note 27, p. 1.
[32] Board of Governors of the Federal Reserve System, Division of Consumer and Community Affairs, *supra* note 27, p. 7.

Florida Control of Money-Laundering and Terrorist Financing in Financial Institutions Act

The purpose of the Florida Control of Money-Laundering and Terrorist Financing in Financial Institutions Act[33] (Act), s. 655.50, F.S., is to require submission to OFR of certain reports and the maintenance of certain records of customers, accounts, and transactions involving currency or monetary instruments or suspicious activities if:[34]

- such reports and records deter using financial institutions to conceal, move, or provide proceeds obtained from or intended for criminal or terrorist activities; or
- such reports and records have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings.

The Act requires financial institutions to designate and retain a BSA/AML compliance officer, which is defined as an officer that is responsible for the development and implementation of the financial institution's policies and procedures for complying with the requirements of the Act and BSA/AML laws.[35] Any change in a financial institution's BSA/AML compliance officer must be reported to OFR.[36] Additionally, the Act requires financial institutions to maintain:[37]

- full and complete records of all financial transactions, including all records required by the BSA/AML laws, for a minimum of 5 years;
- a copy of all reports filed with OFR as required under the Act for a minimum of 5 years after submission of the report;
- a copy of all records of exemption for each qualified business customer[38] for a minimum of 5 calendar years after termination of exempt status of such customer.

The Act also requires financial institutions to keep a record of each financial transaction which involves currency or other monetary instrument that has a value greater than $10,000, involves the proceeds of specified unlawful activity, or is designed to evade the reporting requirements of the Act or other state or federal laws, or which the financial institution reasonably believes is suspicious activity.[39]

A financial institution, or officer, employee, or agent thereof, which files a report in good faith pursuant to the Act is not liable to any person for loss or damage caused in whole or in part by the making, filing, or governmental use of the report, or any information contained therein.[40]

OFR ENFORCEMENT

In addition to any other powers conferred by the Financial Institutions Codes, OFR may bring an action in court to enforce or administer the Act, as well as issue and serve upon any person an order of removal if OFR determines such person is violating, has violated, or is about to violate any provisions of the Act or any similar state or federal law.[41]

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[33] S. 655.50, F.S.
[34] S. 655.50(2), F.S.
[35] S. 655.50(4), F.S.
[36] *Id.*
[37] S. 655.50(8), F.S.
[38] *See*, 31 U.S.C. § 5313(e), providing that the U.S. Secretary of Treasury (Secretary) may exempt a depository institution from BSA/AML reporting requirements for transactions between the institution and a "qualified business customer" (QBC) of the institution on the basis of information submitted to the Secretary. QBC is defined as a business that:

- maintains a transaction account at the depository institution;
- frequently engages in transactions with the institution which are subject to BSA/AML reporting requirements; and
- meets criteria which the Secretary determines is sufficient to ensure the purposes of the BSA/AML laws are carried out without requiring a report for such transactions.

[39] S. 655.50(5), F.S.
[40] S. 655.50(5)(c), F.S.
[41] Ss. 655.50(9)(a)-(c), F.S.

OFR may also impose and collect an administrative fine against any person found to have violated any provision of the Act or similar state or federal law in an amount up to $10,000 per day for each willful violation or $500 per day for each negligent violation.[42]

VIOLATIONS OF THE ACT

A person who willfully violates the Act commits a misdemeanor of the first degree,[43] unless the violation involves financial transactions of certain amounts, in which case the criminal penalties vary by first, second, and third-degree felonies depending on the amount and timing of such transactions.[44] In addition to the criminal penalties, a person who violates the Act may be subject to a fine of up to $250,000 or twice the value of the financial transaction, whichever is greater, and a subsequent violation could result in a fine up to $500,000 or quintuple the value of the financial transaction, whichever is greater.[45]

A person or financial institution who violates the Act may also be liable for a civil penalty of not more than the greater of the value of the financial transaction involved or $25,000.[46]

Effects of Banks' Termination of Account Access

In 2022, banks filed over 1.8 million SARs, which is a 50% increase in two years.[47] Multiple SARs often result in a financial institution terminating, suspending, or otherwise restricting a customer's account access.[48] A New York Times study of over 500 cases of financial institutions "dropping" their customers, including interviews with current and former bank industry staffers, revealed the negative effects of a bank's decision to remove a customer's account access:

> Individuals can't pay their bills on time. Banks often take weeks to send them their balances. While the institutions close their credit cards, their credit scores suffer. Upon cancellation, small businesses often struggle to make payroll – and must explain to vendors and partners that they don't have a bank account for the time being… [And] once customers have moved on, they don't know whether there is a black mark somewhere on their permanent records that will cause a repeat episode at another bank. If the bank has filed an SAR, it isn't legally allowed to tell you, and the federal government prosecutes only a small fraction of the people whom the banks document in their SARs.[49]

As a result, customers do not know why they were ever under suspicion.[50] Interviews with individuals who had lost access to their accounts revealed behaviors that may have caused their banks to "drop" them.[51] Specifically, a few of the interviews revealed the following:[52]

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[42] S. 655.50(9)(d), F.S.
[43] S. 655.50(10)(a), F.S.
[44] S. 655.50(10)(b), F.S. A person who willfully violates or knowingly causes another to violate the Act and the violation involves financial transactions of certain amounts:
- financial transactions totaling or exceeding $300 but less than $20,000 in any 12-month period, commits a felony of the third degree;
- financial transactions totaling or exceeding $20,000 but less than $100,000 in any 12-month period, commits a felony of the second degree; or
- financial transactions totaling or exceeding $100,000 in any 12-month period, commits a felony of the first degree.

[45] S. 655.50(10)(c), F.S.
[46] Ss. 655.50(10)(d)-(e), F.S.
[47] Ron Lieber and Tara Seigel Bernard, *Why Banks Are Suddenly Closing Down Customer Accounts*, Thomson Reuters (Nov. 5, 2023), https://www.nytimes.com/2023/11/05/business/banks-accounts-close-suddenly.html?unlocked_article_code=1.8Uw.udoQ.0cmUgCSuo6eS&smid=nytcore-android-share (last visited Jan 20. , 2024).
[48] *Id.*
[49] *Id.*
[50] *Id.*
[51] *Id.*
[52] *Id.*

- Unusual Cash Deposits: When a bar owner's weekly cash deposits fell just below the federal currency reporting thresholds, the bank closed the bar's account and the personal checking and credit card accounts of the owner and his spouse.
- A Marijuana Connection: A married couple's accounts at a bank were shut down after the husband started receiving direct deposits from a cannabis company that had recently acquired his employer.
- Criminal History: A man who had served 5 years in prison for stealing a car from a dealership and using a counterfeit bill (among other crimes) had his accounts shut down at three different banks. His personal banker from the third bank hinted it was because of his criminal record.

CS/CS/HB 585

COMPLAINTS BY CUSTOMERS OR MEMBERS OF A FINANCIAL INSTITUTION ALLEGING BAD FAITH

CS/CS/HB 585, to which this bill is linked, amends Florida's Financial Institutions Codes to allow a customer or member of a financial institution who reasonably believes that a financial institution has terminated, suspended, or taken similar action restricting access to the customer's or member's account in bad faith to file, within 30 calendar days of such action, a complaint with OFR alleging a violation of proposed s. 655.49, F.S.

Upon OFR's receipt of a complaint filed by a customer or member, within 30 calendar days, OFR must notify the financial institution that a complaint has been filed. Within 30 calendar days of the financial institution receiving notice from OFR, the financial institution must file with OFR a termination-of-access report containing such information as the commission requires by rule.

OFR INVESTIGATION AND DETERMINATION

CS/CS/HB 585 requires that, within 90 calendar days after receiving the termination-of-access report, OFR must investigate the financial institution's action and determine whether the action was taken in bad faith as substantiated by competent and substantial evidence that was known or should have been known to the financial institution at the time of the termination, suspension, or similar action.

Within 30 calendar days after making a bad faith determination, OFR must report to the AG and the CFO such bad faith termination, suspension, or similar action. The report to the AG must describe the findings of the investigation, provide a summary of the evidence, and state whether the financial institution violated the Financial Institutions Codes. Upon reporting to the AG, OFR must also send a copy of the report to the aggrieved customer or member by certified mail, return receipt requested. CS/CS/HB 585, among other things, also:

- provides that a financial institution's termination, suspension, or similar action restricting a customer's or member's account access in bad faith (as determined by OFR), or a financial institution's failure to timely file a termination-of-access report altogether, constitutes a violation of Florida's Financial Institutions Codes and subjects the financial institution to the applicable sanctions and penalties provided therein; and
- requires OFR to provide any filed termination-of-access report, and any information contained therein, to any federal, state, or local law enforcement or prosecutorial agency, and any federal or state agency responsible for the regulation or supervision of financial institutions, if the provision of such report is otherwise required by law.

Effect of the Bill

The bill, which is linked to the passage of CS/CS/HB 585, creates a public record exemption for personally identifying and personal financial information in complaints filed by customers or members or determinations issued by OFR and all information included in termination-of-access reports filed by financial institutions, including information received by OFR as part of its investigations or examinations

of such complaints and reports, and provides that such information is confidential and exempt from public record requirements.[53]

The bill contains a statement of public necessity, as required by Article I, Section 24(c) of the Florida Constitution. Specifically, the release of certain information contained in a complaint, termination-of-access report, or determination of bad faith, including information received by OFR in connection with its investigations and examinations of such reports, could injure a financial institution in the marketplace by providing its competitors with detailed insight into its business operations, thereby diminishing the advantage the institution maintains over its competitors that do not possess such information.

Additionally, OFR may receive sensitive personally identifying or personal financial information of customers or members in complaints, termination-of-access reports, and determinations of bad faith, the release of which could defame or jeopardize the personal and financial of such individuals and their family members. An exemption from public record requirements is necessary to ensure OFR's ability to administer its regulatory duties while preventing unwarranted damage to a financial institution or a customer or member thereof.

The bill provides that the public record exemption is subject to the Open Government Sunset Review Act and will repeal on October 2, 2029, unless reviewed and saved from repeal by the Legislature.

The bill is effective upon the same date that CS/CS/HB 585 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

B. SECTION DIRECTORY:

Section 1. Amends s. 655.49, F.S., as created by CS/CS/HB 585 (2024), relating to termination-of-access reports filed by financial institutions; investigations by the office.

Section 2. Provides a statement of public necessity.
Section 3. Provides a contingent effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a minimal fiscal impact on agencies because agency staff responsible for complying with public record requests may require training related to the creation of the public record exemption. Agencies could incur costs associated with redacting the confidential and exempt information prior to releasing a record. The costs, however, would likely be absorbed by existing resources, as they are part of the day-to-day responsibilities of agencies.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

[53] There is a difference between records the Legislature designates *exempt* from public record requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances. *See WFTV, Inc. v. Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), *review denied*, 892 So.2d 1015 (Fla. 2004); *State v. Wooten*, 260 So. 3d 1060, 1070 (Fla. 4th DCA 2018); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 683, 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released by the custodian of public records to anyone other than the persons or entities specifically designated in statute. *See* Op. Att'y Gen. Fla. 04-09 (2004).

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

   Vote Requirement
   Article I, s. 24(c) of the Florida Constitution requires a two-thirds vote of the members present and voting for final passage of a newly created or expanded public record exemption. The bill creates a public record exemption; thus, it requires a two-thirds vote for final passage.

   Public Necessity Statement
   Article I, s. 24(c) of the Florida Constitution requires a public necessity statement for a newly created or expanded public record exemption. The bill creates a public record exemption; therefore, it includes a public necessity statement. The public necessity statement provides that the Legislature finds, in part, that the release of information contained in a termination-of-access report, including information received by OFR in connection with its investigations and examinations of such reports, could injure a financial institution in the marketplace by providing its competitors with detailed insight into its business operations, thereby diminishing the advantage the institution maintains over its competitors that do not possess such information.

   Breadth of Exemption
   Article I, s. 24(c) of the Florida Constitution requires a newly created public record exemption to be no broader than necessary to accomplish the stated purpose of the law. The bill creates a public record exemption for certain information received by OFR pursuant to a termination-of-access report filed by a financial institution. The purpose of the exemption is to protect sensitive personal, financial, and business information that OFR receives in conjunction with its duties related to receiving a termination-of-access report and investigating and examination such reports. As such, the bill appears to be no broader than necessary to accomplish its purpose.

B. RULE-MAKING AUTHORITY:

None. The bill does not confer rulemaking authority nor require the promulgation of rules.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 8, 2024, the Commerce Committee considered the bill, adopted one amendment, and reported the bill favorably as a committee substitute. The amendment added clarifying language to the bill to conform to CS/CS/HB 585.

The analysis is drafted to the committee substitute as passed by the Commerce Committee.