

CHAPTER 2010-169

House Bill No. 7017

An act relating to public records; amending s. 494.00125, F.S., and transferring, renumbering, and amending s. 494.0021, F.S.; creating an exemption from public records requirements for credit history information and credit scores held by the Office of Financial Regulation within the Department of Financial Services for purposes of licensing loan originators, mortgage brokers, and mortgage lenders; providing an exception to the exemption for other governmental entities having oversight, regulatory, or law enforcement authority; providing for future legislative review and repeal of the exemption; reorganizing provisions; transferring to the section the exemption from public records requirements for audited financial statements submitted pursuant to parts I, II, and III of ch. 494, F.S.; making editorial changes and removing superfluous language; providing a statement of public necessity; providing an effective date.

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

Section 1. Section 494.00125, Florida Statutes, is amended, and section 494.0021, Florida Statutes, is transferred and renumbered as subsection (2) of that section, and amended, to read:

494.00125 Public record exemptions ~~Confidentiality of information relating to investigations and examinations.—~~

(1) INVESTIGATIONS OR EXAMINATIONS.—

(a) Except as otherwise provided by this subsection ~~section~~, information relative to an investigation or examination by the office pursuant to this chapter, including any consumer complaint received by the office or the Department of Financial Services, is confidential and exempt from s. 119.07(1) until the investigation or examination is completed or ceases to be active. ~~The information compiled by the office in such an investigation or examination shall remain confidential and exempt from s. 119.07(1) after the office's investigation or examination is completed or ceases to be active if the office submits the information to any law enforcement or administrative agency for further investigation. Such information shall remain confidential and exempt from s. 119.07(1) until that agency's investigation is completed or ceases to be active. For purposes of this subsection section, an investigation or examination is shall be considered "active" if so long as the office or any law enforcement or administrative agency is proceeding with reasonable dispatch and has a reasonable good faith belief that the investigation or examination may lead to the filing of an administrative, civil, or criminal proceeding or to the denial or conditional grant of a license.~~

(b) This subsection ~~does section~~ shall not be construed to prohibit the disclosure of information that ~~which~~ is required by law to be filed with the

office as a normal condition of licensure and which, but for the investigation or examination, would be subject to s. 119.07(1).

~~(c)(b)~~ Except as necessary for the office to enforce the provisions of this chapter, a consumer complaint and other information relative to an investigation or examination shall remain confidential and exempt from s. 119.07(1) after the investigation or examination is completed or ceases to be active to the extent disclosure would:

1. Jeopardize the integrity of another active investigation or examination.
2. Reveal the name, address, telephone number, social security number, or any other identifying number or information of any complainant, customer, or account holder.
3. Disclose the identity of a confidential source.
4. Disclose investigative techniques or procedures.
5. Reveal a trade secret as defined in s. 688.002.

~~(d)(e)~~ ~~If In the event that~~ office personnel are or have been involved in an investigation or examination of such nature as to endanger their lives or physical safety or that of their families, ~~then~~ the home addresses, telephone numbers, places of employment, and photographs of such personnel, together with the home addresses, telephone numbers, photographs, and places of employment of spouses and children of such personnel and the names and locations of schools and day care facilities attended by the children of such personnel are confidential and exempt from s. 119.07(1).

~~(e)(d)~~ ~~Nothing in This subsection does not~~ section shall be construed to prohibit the office from providing confidential and exempt information to any law enforcement or administrative agency. Any law enforcement or administrative agency receiving confidential and exempt information in connection with its official duties shall maintain the confidentiality of the information if so long as it would otherwise be confidential.

~~(f)(e)~~ All information obtained by the office from any person which is only made available to the office on a confidential or similarly restricted basis shall be confidential and exempt from s. 119.07(1). ~~This exemption shall not be construed to prohibit disclosure of information which is required by law to be filed with the office or which is otherwise subject to s. 119.07(1).~~

~~(g)(2)~~ If information subject to this subsection (1) is offered in evidence in any administrative, civil, or criminal proceeding, the presiding officer may, ~~in her or his discretion,~~ prevent the disclosure of information that which would be confidential pursuant to paragraph ~~(c)~~ (1)(b).

(h)(3) A privilege against civil liability is granted to a person who furnishes information or evidence to the office, unless such person acts in bad faith or with malice in providing such information or evidence.

(2) FINANCIAL STATEMENTS 494.0021—Public records.—All audited financial statements submitted pursuant to ss. 494.001-494.0077 are confidential and exempt from the requirements of s. 119.07(1), except that office employees may have access to such information in the administration and enforcement of ss. 494.001-494.0077 and such information may be used by office personnel in the prosecution of violations under ss. 494.001-494.0077.

(3) CREDIT INFORMATION.—

(a) Credit history information and credit scores held by the office and related to licensing under ss. 494.001-494.0077 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Credit history information and credit scores made confidential and exempt pursuant to paragraph (a) may be provided by the office to another governmental entity having oversight or regulatory or law enforcement authority.

(c) This subsection does not apply to information that is otherwise publicly available.

(d) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2015, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that credit history information and credit scores held by the Office of Financial Regulation and related to the licensing of loan originators, mortgage brokers, and mortgage lenders under ss. 494.001-494.0077, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution. Credit history information and credit scores are sensitive and personal information. Disclosure of such information and scores could cause harm to the person who is the subject of the information. Such information could be defamatory and could cause unwarranted damage to the name or reputation of the person who is the subject of the information, especially if such information is inaccurate. Furthermore, access to such information could jeopardize the financial safety of the individual who is the subject of that information by placing the person at risk of becoming the object of identity theft. For these reasons it is the finding of the Legislature that credit history information and credit scores held by the Office of Financial Regulation and related to the licensing of loan originators, mortgage brokers, and mortgage lenders should be made confidential and exempt from public records requirements.

Section 3. This act shall take effect July 1, 2010.

Approved by the Governor May 28, 2010.

Filed in Office Secretary of State May 28, 2010.