

## CHAPTER 2010-65

### Committee Substitute for House Bill No. 1059

An act relating to public records; creating s. 517.2016, F.S.; providing an exemption from public records requirements for information that would reveal examination techniques and procedures used by the Office of Financial Regulation pursuant to the Florida Securities and Investor Protection Act; providing a definition; providing for retroactive application of the public record exemption; providing an exception to the exemption for other governmental entities having oversight or regulatory or law enforcement authority; providing for future review and repeal of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Section 517.2016, Florida Statutes, is created to read:

517.2016 Public record exemption; examination techniques and procedures.—

(1) For purposes of this section, “examination techniques and procedures” are the methods, processes, and guidelines used to evaluate regulatory compliance and to collect and analyze data, records, and testimony for the purpose of documenting violations of this chapter and the rules promulgated thereunder.

(2) Information that would reveal examination techniques or procedures used by the office pursuant to this chapter is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption applies to such information held by the office before, on, or after the effective date of this exemption.

(3) Confidential and exempt information that would reveal examination techniques or procedures may be provided by the office to another governmental entity having oversight or regulatory or law enforcement authority.

(4) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2015, unless reviewed and saved from repeal through reenactment by the Legislature.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. (1) It is the finding of the Legislature that it is a public necessity that information that would reveal examination techniques or procedures used by the Office of Financial Regulation pursuant to chapter 517, Florida Statutes, the Florida Securities and Investor Protection Act, be made confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption is necessary to ensure the Office of Financial Regulation’s ability to effectively and efficiently administer the

examination program under chapter 517, Florida Statutes, which would be significantly impaired without the exemption.

(2) Examinations are an essential component of securities regulation. The mere existence of an examination program fosters regulatory compliance and deters fraud and abuse by industry participants. Examinations often detect violations in their early stages. This early detection allows corrective action to be taken before significant harm can be done to investors. Due to the importance of such examinations, state regulators devote extensive resources to devising effective examination techniques and procedures.

(3) Allowing access to information revealing examination techniques or procedures would undermine the examination process and facilitate evasion of the law. Any advance notice of the areas of inquiry to be explored during an examination might prompt a person to conceal evidence of deficiencies or fabricate evidence of compliance. Without the exemption, the Office of Financial Regulation's ability to uncover misconduct and evaluate policies and procedures through the examination process would be significantly impaired.

(4) Additionally, without such an exemption the Office of Financial Regulation's ability to participate in joint examinations with other securities regulators would be impaired as release of this information would compromise the integrity of such joint examinations. The office also would not be able to accept or use confidential examination techniques and procedures developed by other regulators. Thus, the absence of an exemption would create a situation that reduces the office's ability to leverage its limited resources.

Section 3. This act shall take effect upon becoming a law.

Approved by the Governor May 11, 2010.

Filed in Office Secretary of State May 11, 2010.