

CHAPTER 2013-155

Committee Substitute for House Bill No. 7135

An act relating to public records; creating s. 560.312, F.S.; providing an exemption from public records requirements for payment instrument transaction information held by the Office of Financial Regulation; providing for specified access to such information; authorizing the office to enter into information-sharing agreements and provide access to information contained in the database to certain governmental agencies; requiring a department or agency that receives confidential information to maintain the confidentiality of the information, except as otherwise required by court order; providing for future review and repeal of the exemption; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Section 560.312, Florida Statutes, is created to read:

560.312 Database of payment instrument transactions; confidentiality.

(1) Payment instrument transaction information held by the office pursuant to s. 560.310 which identifies a licensee, payor, payee, or conductor is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(2)(a) A licensee may access information that it submits to the office for inclusion in the database.

(b) The office, to the extent permitted by state and federal law, may enter into information-sharing agreements with the department, law enforcement agencies, and other governmental agencies and, in accordance with such agreements, may provide the department, law enforcement agencies, and other governmental agencies with access to information contained in the database for use in detecting and deterring financial crimes and workers' compensation violations, pursuant to chapter 440. Any department or agency that receives confidential information from the office under this paragraph must maintain the confidentiality of the information, unless, and only to the extent that, a court order compels production of the information to a specific party or parties.

(3) This section is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that payment instrument transaction information held by the Office of Financial Regulation pursuant to s. 560.310, Florida Statutes, which identifies a licensee, payor, payee, or conductor be made confidential and exempt from s.

119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Pursuant to s. 560.310, Florida Statutes, money services businesses that cash a payment instrument exceeding \$1,000 must submit information about the transaction to the Office of Financial Regulation in order to deter money laundering through these entities and in response to the findings of the Money Service Business Facilitated Workers' Compensation Fraud Work Group that these entities are being used to facilitate financial crimes, including fraud relating to workers' compensation. The report issued by the group found that this type of workers' compensation fraud could be costing the state up to \$1 billion dollars annually in unreported payroll taxes, unreported premium taxes, and higher costs to insurance carriers who must process workers' compensation claims from uninsured workers. This type of fraud places tremendous pressure on law-abiding businesses to absorb these costs. Submission of this information to the office is intended to assist the office, the Department of Financial Services, law enforcement agencies, and other governmental agencies in detecting and deterring these financial crimes and related fraudulent activities. The availability of this information to these agencies will help to increase premium collection, lower costs to insurance carries, and alleviate premium avoidance, as well as reduce the cost of administering these public programs. However, the public availability of payment instrument transaction information would reveal sensitive, personal financial information about payees and conductors who use check-cashing programs, including paycheck amounts, salaries, and business activities, as well as information regarding the financial stability of these persons. Such information is traditionally private and sensitive. Protecting the confidentiality of information that would identify these payees and conductors would provide adequate protection for these persons while still providing public oversight of the program. The public release of payment instrument transaction information would also identify licensees or payors and reveal private business transaction information that is traditionally private and could be used by competitors to harm other licensees or payors in the marketplace. If such information were publicly available, competitors could determine the amount of business conducted by other licensees or payors. Therefore, the Legislature finds that it is a public necessity that information that would identify the licensee, payor, payee, or conductor in payment instrument transaction information be made confidential and exempt from public records requirements.

Section 3. This act shall take effect on the same date that HB 217 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law.

Approved by the Governor June 7, 2013.

Filed in Office Secretary of State June 7, 2013.