

## CHAPTER 2014-117

### Committee Substitute for Committee Substitute for House Bill No. 415

An act relating to public records; creating s. 559.5558, F.S.; providing an exemption from public records requirements for information collected in connection with investigations and examinations by the Office of Financial Regulation of the Financial Services Commission; providing a definition; providing for future legislative 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 559.5558, Florida Statutes, is created to read:

559.5558 Public records exemption; investigations and examinations.—

(1) As used in this section, the term “personal financial and health information” means:

(a) Information relating to the existence, nature, source, or amount of a consumer’s personal income, expenses, and debt;

(b) Information relating to a consumer’s financial transactions of any kind;

(c) Information relating to the existence, identification, nature, or value of a consumer’s assets, liabilities, or net worth;

(d) A consumer’s personal health condition, disease, or injury; or

(e) A history of a consumer’s personal medical diagnosis or treatment.

(2)(a) Except as otherwise provided by this section, information held by the office pursuant to an investigation or examination of a violation of this part is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, information made confidential and exempt pursuant to this section may be disclosed by the office to a law enforcement agency or another administrative agency in the performance of its official duties and responsibilities.

(b) Information made confidential and exempt pursuant to this section is no longer confidential and exempt once the investigation or examination is completed or ceases to be active unless disclosure of the information would:

1. Jeopardize the integrity of another active investigation or examination.

2. Reveal the personal identifying information of a consumer, unless the consumer is also the complainant. A complainant's personal identifying information is subject to disclosure after the investigation or examination is completed or ceases to be active. However, a complainant's personal financial and health information remains confidential and exempt.

3. Reveal the identity of a confidential source.

4. Reveal investigative or examination techniques or procedures.

5. Reveal trade secrets, as defined in s. 688.002.

(c) For purposes of this subsection, an investigation or examination is considered active if the investigation or examination is proceeding with reasonable dispatch and the office 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 an application for registration or other approval required under this part.

(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, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that information held by the Office of Financial Regulation of the Financial Services Commission pursuant to an investigation or examination conducted under part VI of chapter 559, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution for the following reasons:

(1) An investigation or examination conducted by the Office of Financial Regulation may lead to the filing of an administrative, civil, or criminal proceeding or to the denial or conditional granting of a registration. The premature release of such information could frustrate or thwart the investigation or examination and impair the ability of the office to effectively and efficiently administer part VI of chapter 559, Florida Statutes.

(2) Information held by the Office of Financial Regulation that is provided to a law enforcement agency or another administrative agency for further investigation or examination should remain confidential and exempt until the investigation or examination is completed or ceases to be active. The release of this information before completion of the investigation or examination could jeopardize the integrity of the investigation and impair the ability of other agencies to carry out their statutory duties.

(3) Investigations and examinations of consumer collection agencies frequently involve the gathering of sensitive personal information, including personal financial information concerning complainants and consumers. The Office of Financial Regulation may not otherwise have access to this sensitive personal information but for the investigation or examination. If the individuals who are the subject of the information are identifiable, the

disclosure of the information to the public could cause unwarranted damage to the good name or reputation of the individuals, especially if the information associated with the individual is inaccurate. Furthermore, if the individuals who are the subject of such information are identifiable, public access to such information could jeopardize the financial safety of such individuals by placing them at risk of becoming victims of identity theft.

(4) Investigations and examinations of consumer collection agencies frequently involve the gathering of sensitive personal information, including personal health information concerning complainants and consumers. Matters of personal health are traditionally private and confidential concerns between the patient and the health care provider. The private and confidential nature of personal health matters pervades both the public and private health care sectors. Moreover, public disclosure of personal health information could have a negative effect upon a person's business and personal relationships and a person's financial well-being.

(5) Releasing information identifying a confidential source could jeopardize both the integrity of a current and future investigation or examination and the safety of the confidential source.

(6) Revealing investigative or examination techniques and procedures could allow a person to hide or conceal violations of law that otherwise would have been discovered during an investigation or examination. This exemption is necessary to enable the Office of Financial Regulation, law enforcement agencies, and other administrative agencies to effectively and efficiently carry out their statutory duties, which would be significantly impaired without this exemption.

(7) A trade secret derives independent, economic value, actual or potential, from being generally unknown to, and not readily ascertainable by, other persons who might obtain economic value from its disclosure or use. Allowing public access to a trade secret through a public records request could destroy the value of the trade secret and cause a financial loss to the person or entity submitting the trade secret. Release of such information could give business competitors an unfair advantage and weaken the position of the person or entity supplying the trade secret in the marketplace.

Section 3. This act shall take effect on the same date that HB 413 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

Approved by the Governor June 13, 2014.

Filed in Office Secretary of State June 13, 2014.