

CHAPTER 2016-38

Committee Substitute for Committee Substitute for Senate Bill No. 196

An act relating to public records; amending s. 339.55, F.S.; providing an exemption from public records requirements for financial information of a private entity applicant which the Department of Transportation requires as part of an application process for loans or credit enhancements from the state-funded infrastructure bank; providing an exception to the exemption; defining the term “financial information”; providing for future legislative 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. Subsection (10) is added to section 339.55, Florida Statutes, to read:

339.55 State-funded infrastructure bank.—

(10)(a) Financial information of a private entity applicant which the department requires as part of the application process for loans or credit enhancements from the state-funded infrastructure bank is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This exemption does not apply to records of an applicant who is in default of a loan issued under this section. As used in this subsection, the term “financial information” means any business plan, pro forma statement, account balance, operating income or revenue, asset value, or debt of the applicant.

(b) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2021, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public necessity that financial information of a private entity that the Department of Transportation requires as part of the application process for a loan or credit enhancement from the state-funded infrastructure bank be protected from disclosure. Financial information means any business plan, pro forma statement, account balance, operating income or revenue, asset value, or debt of the applicant.

(2) The disclosure of such information could harm a private entity in the marketplace by giving the private entity’s competitors insights into its financial status and business plan, thereby putting the private entity at a competitive disadvantage. Additionally, the disclosure of sensitive financial information regarding a private entity could create the opportunity for theft, fraud, and other illegal activity, thereby jeopardizing the financial security

of the private entity and placing it at risk for substantial financial harm. If an individual is required to provide his or her personal financial information to the department as part of the application process for his or her business, the individual could be subject to identity theft and other criminal activity. Without an exemption from public records requirements under s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution, some private entities might be unwilling to submit an application to the state-funded infrastructure bank. This unwillingness to submit applications could, in turn, limit opportunities the department might otherwise have for providing loans or credit enhancements to private entities who could propose cost-effective or strategic solutions for constructing and improving transportation facilities. The Legislature finds that the benefit to the public of more private entities applying for loans or credit enhancements outweighs any public benefit that may be derived from the disclosure of the financial information of a private entity. For this reason, the Legislature declares that financial information that the department requires as part of an application process for loans or credit enhancements from the state-funded infrastructure bank is exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution.

Section 3. This act shall take effect July 1, 2016.

Approved by the Governor March 10, 2016.

Filed in Office Secretary of State March 10, 2016.