

BILL PCB IBFA 10-01

ORIGINAL

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1                                   A bill to be entitled  
 2           An act relating to public records; amending s. 494.00125,  
 3           F.S., and transferring, renumbering, and amending s.  
 4           494.0021, F.S.; creating an exemption from public records  
 5           requirements for credit history information and credit  
 6           scores held by the Office of Financial Regulation within  
 7           the Department of Financial Services for purposes of  
 8           licensing mortgage brokers and mortgage lenders; providing  
 9           an exception to the exemption for other governmental  
 10          entities having oversight, regulatory, or law enforcement  
 11          authority; providing for future legislative review and  
 12          repeal of the exemption; reorganizing provisions;  
 13          transferring to the section the exemption from public  
 14          records requirements for audited financial statements  
 15          submitted pursuant to parts I, II, and III of ch. 494,  
 16          F.S.; making editorial changes and removing superfluous  
 17          language; providing a statement of public necessity;  
 18          providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22           Section 1. Section 494.00125, Florida Statutes, is  
 23           amended, and section 494.0021, Florida Statutes, is transferred  
 24           and renumbered as subsection (2) of that section, and amended,  
 25           to read:

26           494.00125   Public record exemptions ~~Confidentiality of~~  
 27           ~~information relating to investigations and examinations.-~~

28           (1)   INVESTIGATIONS OR EXAMINATIONS.-

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

50           (b) This subsection ~~does section~~ shall not be construed to  
 51 prohibit the disclosure of information that ~~which~~ is ~~required by~~  
 52 ~~law to be~~ filed with the office as a normal condition of  
 53 licensure and which, but for the investigation or examination,  
 54 would be subject to s. 119.07(1).

55           (c) ~~(b)~~ Except as necessary for the office to enforce the  
 56 provisions of this chapter, a consumer complaint and other

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57 information relative to an investigation or examination shall  
 58 remain confidential and exempt from s. 119.07(1) after the  
 59 investigation or examination is completed or ceases to be active  
 60 to the extent disclosure would:

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

63 2. Reveal the name, address, telephone number, social  
 64 security number, or any other identifying number or information  
 65 of any complainant, customer, or account holder.

66 3. Disclose the identity of a confidential source.

67 4. Disclose investigative techniques or procedures.

68 5. Reveal a trade secret as defined in s. 688.002.

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

79 ~~(e)(d)~~ ~~Nothing in~~ This subsection does not ~~section shall~~  
 80 ~~be construed to~~ prohibit the office from providing confidential  
 81 and exempt information to any law enforcement or administrative  
 82 agency. Any law enforcement or administrative agency receiving  
 83 confidential and exempt information in connection with its  
 84 official duties shall maintain the confidentiality of the

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85 information if so long as it would otherwise be confidential.

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

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

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

102 (2) FINANCIAL STATEMENTS 494.0021 ~~Public records.~~ All  
 103 audited financial statements submitted pursuant to ss. 494.001-  
 104 494.0077 are confidential and exempt from the requirements of s.  
 105 119.07(1), except that office employees may have access to such  
 106 information in the administration and enforcement of ss.  
 107 494.001-494.0077 and such information may be used by office  
 108 personnel in the prosecution of violations under ss. 494.001-  
 109 494.0077.

110 (3) CREDIT INFORMATION.-

111 (a) Credit history information and credit scores held by  
 112 the office and related to licensing under ss. 494.001-494.0077

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113 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
 114 I of the State Constitution.

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

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

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

125 Section 2. The Legislature finds that it is a public  
 126 necessity that credit history information and credit scores held  
 127 by the Office of Financial Regulation and related to the  
 128 licensing of mortgage brokers and mortgage lenders under ss.  
 129 494.001-494.0077, Florida Statutes, be made confidential and  
 130 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 131 Constitution. Credit history information and credit scores are  
 132 sensitive and personal information. Disclosure of such  
 133 information and scores could cause harm to the person who is the  
 134 subject of the information. Such information could be defamatory  
 135 and could cause unwarranted damage to the name or reputation of  
 136 the person who is the subject of the information, especially if  
 137 such information is inaccurate. Furthermore, access to such  
 138 information could jeopardize the financial safety of the  
 139 individual who is the subject of that information by placing the  
 140 person at risk of becoming the object of identity theft. For

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141 these reasons it is the finding of the Legislature that credit  
142 history information and credit scores held by the Office of  
143 Financial Regulation and related to the licensing of mortgage  
144 brokers and mortgage lenders should be made confidential and  
145 exempt from public records requirements.

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