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1 A bill to be entitled
 2 An act relating to public records; amending s. 494.00125,
 3 F.S.; providing a public records exemption for information
 4 obtained by the Office of Financial Regulation from the
 5 Nationwide Mortgage Licensing System and Registry which is
 6 confidential under federal or other state law; providing
 7 an exemption for credit reports obtained by the office for
 8 licensing purposes; providing for future legislative
 9 review and repeal of the exemption under the Open
 10 Government Sunset Review Act; repealing s. 494.0021, F.S.,
 11 relating to financial statements, to conform to changes
 12 made by the act; providing a statement of public
 13 necessity; providing a contingent effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Section 494.00125, Florida Statutes, is amended
 18 to read:

19 494.00125 Confidentiality of public records held by the
 20 office ~~information relating to investigations and~~
 21 ~~examinations.--~~

22 (1) INVESTIGATIONS OR EXAMINATIONS.--

23 (a) Except as otherwise provided by this subsection
 24 ~~section~~, information relative to an investigation or examination
 25 by the office pursuant to this chapter, including any consumer
 26 complaint received by the office or the commission ~~Department of~~
 27 ~~Financial Services~~, is confidential and exempt from s. 119.07(1)
 28 until the investigation or examination is completed or ceases to

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29 | be active. However, the information compiled by the office in
 30 | such an investigation or examination shall remain confidential
 31 | and exempt ~~from s. 119.07(1) after the office's investigation or~~
 32 | ~~examination is completed or ceases to be active~~ if the office
 33 | submits the information to any law enforcement or administrative
 34 | agency for further investigation. Such information shall remain
 35 | confidential and exempt from s. 119.07(1) until that agency's
 36 | investigation is completed or ceases to be active. For purposes
 37 | of this subsection ~~section,~~ an investigation or examination is
 38 | ~~shall be~~ considered "active" if so long as the office or any law
 39 | enforcement or administrative agency is proceeding with
 40 | reasonable dispatch and has a reasonable good faith belief that
 41 | the investigation or examination may lead to the filing of an
 42 | administrative, civil, or criminal proceeding or to the denial
 43 | or conditional grant of a license. This subsection does ~~section~~
 44 | ~~shall not be construed to prohibit~~ the disclosure of information
 45 | that ~~which~~ is required by law to be filed with the office and
 46 | which, but for the investigation or examination, would be
 47 | subject to s. 119.07(1).

48 | (b) Except as necessary for the office to enforce the
 49 | provisions of this chapter, a consumer complaint and other
 50 | information relative to an investigation or examination remains
 51 | ~~shall remain~~ confidential and exempt from s. 119.07(1) after the
 52 | investigation or examination is completed or ceases to be active
 53 | to the extent disclosure would:

- 54 | 1. Jeopardize the integrity of another active
- 55 | investigation or examination.
- 56 | 2. Reveal the name, address, telephone number, social

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57 security number, or any other identifying number or information
 58 of any complainant, customer, or account holder.

59 3. Disclose the identity of a confidential source.

60 4. Disclose investigative techniques or procedures.

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

62 (c) ~~If In the event that~~ office personnel are or have been
 63 involved in an investigation or examination of such nature as to
 64 endanger their lives or physical safety or that of their
 65 families, ~~then~~ the home addresses, telephone numbers, places of
 66 employment, and photographs of such personnel, together with the
 67 home addresses, telephone numbers, photographs, and places of
 68 employment of spouses and children of such personnel and the
 69 names and locations of schools and day care facilities attended
 70 by the children of such personnel are confidential and exempt
 71 from s. 119.07(1).

72 (d) ~~Nothing in This subsection does not~~ section shall be
 73 ~~construed to~~ prohibit the office from providing information to
 74 any law enforcement or administrative agency. Any law
 75 enforcement or administrative agency receiving confidential
 76 information in connection with its official duties shall
 77 maintain the confidentiality of the information if ~~so long as~~ it
 78 would otherwise be confidential.

79 (e) All information obtained by the office from any person
 80 which is only made available to the office on a confidential or
 81 similarly restricted basis shall be confidential and exempt from
 82 s. 119.07(1). This exemption does not ~~shall not be construed to~~
 83 prohibit disclosure of information which is required by law to
 84 be filed with the office or which is otherwise subject to s.

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85 119.07(1).

86 (f)(2) If information subject to this subsection ~~(1)~~ is
 87 offered in evidence in any administrative, civil, or criminal
 88 proceeding, the presiding officer may, ~~in her or his discretion,~~
 89 prevent the disclosure of information that ~~which~~ would be
 90 confidential pursuant to paragraph ~~(1)~~(b).

91 (g)(3) A privilege against civil liability is granted to a
 92 person who furnishes information or evidence to the office,
 93 unless such person acts in bad faith or with malice in providing
 94 such information or evidence.

95 (2) FINANCIAL STATEMENTS.--All audited financial
 96 statements submitted pursuant to ss. 494.001-494.0077 are
 97 confidential and exempt from the requirements of s. 119.07(1),
 98 except that office employees may have access to information in
 99 the administration and enforcement of ss. 494.001-494.0077 which
 100 may be used by the office for the prosecution of violations
 101 under ss. 494.001-494.0077.

102 (3) REGISTRY.--

103 (a) The following materials are confidential and exempt
 104 from s. 119.07(1) and s. 24(a), Art. I of the State
 105 Constitution:

106 1. Information and material that have been placed in the
 107 registry pursuant to the requirements of other state or federal
 108 laws and not the requirements of this chapter, that are
 109 privileged or confidential under other state or federal law, and
 110 that have been obtained by the office.

111 a. The information and material may, however, be shared by
 112 the office with any state or federal entity having oversight,

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113 regulatory, or law enforcement authority without the loss of
 114 privilege or confidentiality protections provided by federal and
 115 state laws.

116 b. This subparagraph does not apply to information or
 117 material relating to the employment history of, and publicly
 118 adjudicated disciplinary and enforcement actions against, loan
 119 originators which is included in the registry for access by the
 120 public.

121 2. Credit reports obtained by the office for licensing
 122 purposes.

123 (b) This subsection is subject to the Open Government
 124 Sunset Review Act in accordance with s. 119.15 and shall stand
 125 repealed on October 2, 2014, unless reviewed and saved from
 126 repeal through reenactment by the Legislature.

127 Section 2. Section 494.0021, Florida Statutes, is
 128 repealed.

129 Section 3. (1) The Legislature finds that it is a public
 130 necessity that information contained in the registry which has
 131 been submitted pursuant to other state or federal laws be made
 132 confidential and exempt from public records requirements. This
 133 exemption is necessary to ensure compliance with the
 134 confidentiality requirements of the S.A.F.E. Mortgage Licensing
 135 Act of 2008 and to ensure that other state or federal laws
 136 governing confidentiality are not compromised.

137 (2) The Legislature finds that it is a public necessity
 138 that credit reports obtained pursuant to the licensing
 139 provisions of this chapter be made confidential and exempt from
 140 public records requirements. Credit reports contain sensitive

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141 financial information. Disclosure of these reports could cause
142 harm to the persons who are the subjects of the credit reports
143 by facilitating identity theft and other crimes.

144 Section 4. This act shall take effect on the same date
145 that HB _____ or similar legislation takes effect, if such
146 legislation is enacted in the same legislative session or an
147 extension thereof and becomes law.