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1                                   A bill to be entitled  
 2           An act relating to a review under the Open Government  
 3           Sunset Review Act; amending s. 497.172, F.S., which  
 4           provides exemptions from public meetings and public  
 5           records requirements for the Board of Funeral, Cemetery,  
 6           and Consumer Services within the Department of Financial  
 7           Services and for the Department of Financial Services;  
 8           requiring a recording of closed meetings wherein licensure  
 9           examination questions or answers are discussed; creating a  
 10          public record exemption for recordings of the closed  
 11          meetings; providing for future legislative review and  
 12          repeal of the exemption; requiring a recording of closed  
 13          meetings of a probable cause panel of the board; removing  
 14          the scheduled repeal of the exemptions; providing a  
 15          statement of public necessity; providing an effective  
 16          date.

17  
 18   Be It Enacted by the Legislature of the State of Florida:

19  
 20           Section 1.   Section 497.172, Florida Statutes, is amended  
 21   to read:

22           497.172   Public records exemptions; public meetings  
 23   exemptions.—

24           (1)   EXAMINATION DEVELOPMENT MEETINGS.—

25           (a)   Those portions of meetings of the board at which  
 26   licensure examination questions or answers under this chapter  
 27   are discussed are exempt from s. 286.011 and s. 24(b), Art. I of  
 28   the State Constitution. The closed meeting must be recorded and

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29 no portion of the closed meeting may be off the record. The  
 30 recording shall be maintained by the board.

31 (b) The recording of a closed portion of a meeting is  
 32 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 33 Constitution.

34 (c) This subsection is subject to the Open Government  
 35 Sunset Review Act in accordance with s. 119.15, and shall stand  
 36 repealed on October 2, 2015, unless reviewed and saved from  
 37 repeal through reenactment by the Legislature.

38 (2) PROBABLE CAUSE PANEL.—

39 (a) Meetings of the probable cause panel of the board,  
 40 pursuant to s. 497.153, are exempt from s. 286.011 and s. 24(b),  
 41 Art. I of the State Constitution. The entire closed meeting must  
 42 be recorded and no portion of the closed meeting may be off the  
 43 record. The recording shall be maintained by the board.

44 (b) Records of exempt meetings of the probable cause panel  
 45 of the board are exempt from s. 119.07(1) and s. 24(a), Art. I  
 46 of the State Constitution, until 10 days after a determination  
 47 regarding probable cause is made pursuant to s. 497.153.

48 (3) EXAMINATIONS, INSPECTIONS, AND INVESTIGATIONS.—

49 (a) Except as otherwise provided in this subsection,  
 50 information held by the department pursuant to a financial  
 51 examination conducted under this chapter is confidential and  
 52 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 53 Constitution, until the examination is completed or ceases to be  
 54 active.

55 (b) Except as otherwise provided in this subsection,  
 56 information held by the department pursuant to an inspection

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57 | conducted under this chapter is confidential and exempt from s.  
 58 | 119.07(1) and s. 24(a), Art. I of the State Constitution, until  
 59 | the inspection is completed or ceases to be active.

60 |       (c) Except as otherwise provided in this subsection,  
 61 | information held by the department pursuant to an investigation  
 62 | of a violation of this chapter is confidential and exempt from  
 63 | s. 119.07(1) and s. 24(a), Art. I of the State Constitution,  
 64 | until the investigation is completed or ceases to be active or  
 65 | until 10 days after a determination regarding probable cause is  
 66 | made pursuant to s. 497.153.

67 |       (d) Information made confidential and exempt pursuant to  
 68 | this subsection may be disclosed by the department as follows:

69 |       1. To the probable cause panel of the board, for the  
 70 | purpose of probable cause proceedings pursuant to s. 497.153.

71 |       2. To any law enforcement agency or other government  
 72 | agency in the performance of its official duties and  
 73 | responsibilities.

74 |       3. If the department uncovers information of immediate and  
 75 | serious concern to the public health, safety, or welfare, it may  
 76 | disseminate such information as it deems necessary for the  
 77 | public health, safety, or welfare.

78 |       (e) Information made confidential and exempt pursuant to  
 79 | this subsection shall remain confidential and exempt from s.  
 80 | 119.07(1) and s. 24(a), Art. I of the State Constitution after  
 81 | the examination, inspection, or investigation is completed or  
 82 | ceases to be active if:

83 |       1. The department submits the information to any law  
 84 | enforcement agency or other administrative agency for further

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85 examination or investigation. The information shall remain  
 86 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 87 of the State Constitution until that agency's examination or  
 88 investigation is completed or ceases to be active.

89 2. Disclosure of the information would:

90 a. Jeopardize the integrity of another active  
 91 investigation or examination;

92 b. Reveal the identity of a confidential source; or

93 c. Reveal investigative or examination techniques or  
 94 procedures.

95 (f) For purposes of this subsection, an examination,  
 96 inspection, or investigation shall be considered active so long  
 97 as the examination, inspection, or investigation is proceeding  
 98 with reasonable dispatch and the department has a reasonable  
 99 good faith belief that the examination, inspection, or  
 100 investigation may lead to the filing of an administrative,  
 101 civil, or criminal proceeding or to the denial or conditional  
 102 grant of an application for license or other approval required  
 103 under this chapter.

104 (4) TRADE SECRETS.—Trade secrets, as defined in s.  
 105 688.002, held by the department or board, are confidential and  
 106 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 107 Constitution.

108 ~~(5) REVIEW AND REPEAL.—This section is subject to the Open~~  
 109 ~~Government Sunset Review Act in accordance with s. 119.15, and~~  
 110 ~~shall stand repealed on October 2, 2010, unless reviewed and~~  
 111 ~~saved from repeal through reenactment by the Legislature.~~

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112           Section 2. The Legislature finds that it is a public  
 113 necessity to make exempt from public records requirements the  
 114 recording generated during those portions of meetings of the  
 115 Funeral, Cemetery, and Consumer Services Board at which  
 116 licensure examination questions or answers are discussed.  
 117 Release of such recordings would compromise those discussions of  
 118 the Board, which took place during a closed meeting, and negates  
 119 the public meeting exemption. Further, current law already  
 120 provides a public record exemption for licensure examination  
 121 questions and answers. As such, release of the recording  
 122 generated during those closed portions of meetings compromises  
 123 the current protections already afforded such questions and  
 124 answers. Thus, the effective and efficient administration of the  
 125 licensure exam process would be compromised without this  
 126 exemption.

127           Section 3. This act shall take effect October 1, 2010.