

585-2520-07

Proposed Committee Substitute by the Committee on Governmental Operations

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A bill to be entitled
An act relating to a review under the Open Government Sunset Review Act; amending s. 624.319, F.S.; revising an exemption from the public-records law which is provided for work papers held by the Department of Financial Services or the Office of Insurance Regulation of the Financial Services Commission; defining the term "work papers"; saving the exemption from repeal under the Open Government Sunset Review Act; deleting provisions providing for repeal of the exemption; providing an effective date.

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

Section 1. Subsection (3) of section 624.319, Florida Statutes, is amended to read:

624.319 Examination and investigation reports.--

(3)(a)1. Examination reports, until filed, are confidential and exempt from ~~the provisions of~~ s. 119.07(1).

2. Investigation reports are confidential and exempt from ~~the provisions of~~ s. 119.07(1) until the investigation is completed or ceases to be active.

3. For purposes of this subsection, an investigation is active while it is being conducted by the department or office with a reasonable, good faith belief that it could lead to the filing of administrative, civil, or criminal proceedings. An investigation does not cease to be active if the department or office is proceeding with reasonable dispatch and has a good faith belief that action could be

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1 initiated by the department or office or other administrative
2 or law enforcement agency. After an investigation is completed
3 or ceases to be active, portions of the investigation report
4 relating to the investigation remain confidential and exempt
5 from ~~the provisions of~~ s. 119.07(1) if disclosure would:

6 ~~a.1.~~ Jeopardize the integrity of another active
7 investigation;

8 ~~b.2.~~ Impair the safety and financial soundness of the
9 licensee or affiliated party;

10 ~~c.3.~~ Reveal personal financial information;

11 ~~d.4.~~ Reveal the identity of a confidential source;

12 ~~e.5.~~ Defame or cause unwarranted damage to the good
13 name or reputation of an individual or jeopardize the safety
14 of an individual; or

15 ~~f.6.~~ Reveal investigative techniques or procedures.

16 (b)1. As used in this paragraph, the term "work
17 papers" means the records of the procedures followed, tests
18 performed, information obtained, and conclusions reached in an
19 examination or investigation performed under ss. 624.316,
20 624.3161, 624.317, and 624.318. Work papers include planning
21 documentation, work programs, analyses, memoranda, letters of
22 confirmation and representation, abstracts of company
23 documents, schedules or commentaries prepared or obtained in
24 the course of such examination or investigation, and
25 information based on civil and criminal complaints and
26 investigations.

27 2.a. Work papers ~~workpapers and other information~~ held
28 by the department or office are confidential and exempt from
29 s. 119.07(1) and s. 24(a), Art. I of the State Constitution
30 until the examination report is filed or until the
31 investigation is completed or ceases to be active., and

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1 ~~workpapers and other~~

2 **b.** Information received from another governmental
3 entity or the National Association of Insurance Commissioners,
4 ~~which is confidential or exempt when held by that entity, for~~
5 ~~use by the department or office department's or office's use~~
6 in the performance of its examination or investigation duties
7 pursuant to this section ~~or~~ ~~and~~ ss. 624.316, 624.3161,
8 624.317, and 624.318 ~~is~~ ~~are~~ confidential and exempt from ~~the~~
9 ~~provisions of~~ s. 119.07(1) and s. 24(a), Art. I of the State
10 Constitution.

11 **c.** This exemption applies to work papers ~~workpapers~~
12 ~~and other information~~ held by the department or office before,
13 on, or after the effective date of this exemption.

14 **3.** Such confidential and exempt work papers
15 ~~information~~ may be disclosed to:

16 **a.** Another governmental entity, if disclosure is
17 necessary for the receiving entity to perform its duties and
18 responsibilities; ~~or, and may be disclosed to~~

19 **b.** The National Association of Insurance
20 Commissioners. ~~The receiving governmental entity or the~~
21 ~~association must maintain the confidential and exempt status~~
22 ~~of the information. The information made confidential and~~
23 ~~exempt by this paragraph may be used in a criminal, civil, or~~
24 ~~administrative proceeding so long as the confidential and~~
25 ~~exempt status of such information is maintained. This~~
26 ~~paragraph is subject to the Open Government Sunset Review Act~~
27 ~~of 1995 in accordance with s. 119.15 and shall stand repealed~~
28 ~~on October 2, 2007, unless reviewed and saved from repeal~~
29 ~~through reenactment by the Legislature.~~

30 **4.** After an examination report is filed or an
31 investigation is completed or ceases to be active, portions of

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1 the work papers may remain confidential and exempt from s.
2 119.07(1) and s. 24(a), Art. I of the State Constitution if
3 disclosure would:

4 a. Jeopardize the integrity of another active
5 examination or investigation;

6 b. Impair the safety and financial soundness of the
7 licensee or affiliated party;

8 c. Reveal personal financial, medical, or health
9 information;

10 d. Reveal the identity of a confidential source;

11 e. Defame or cause unwarranted damage to the good name
12 or reputation of an individual or jeopardize the safety of an
13 individual;

14 f. Reveal examination techniques or procedures; or

15 g. Reveal information that is confidential or exempt
16 under sub-subparagraph 2.b.

17 (c) Lists of insurers or regulated companies are
18 confidential and exempt from ~~the provisions of s. 119.07(1)~~
19 if:

20 1. The financial solvency, condition, or soundness of
21 such insurers or regulated companies is being monitored by the
22 office;

23 2. The list is prepared to internally coordinate
24 regulation by the office of the financial solvency, condition,
25 or soundness of the insurers or regulated companies; and

26 3. The office determines that public inspection of
27 such list could impair the financial solvency, condition, or
28 soundness of such insurers or regulated companies.

29 Section 2. This act shall take effect October 1, 2007.

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