

By the Committees on Banking and Insurance; and Banking and Insurance

597-04368-10

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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,
6 Cemetery, and Consumer Services within the Department
7 of Financial Services and for certain information held
8 by the Department of Financial Services; requiring a
9 recording of a closed meeting of the board wherein
10 licensure examination questions or answers are
11 discussed; creating a public-record exemption for a
12 recording of the closed meeting; providing for future
13 legislative review and repeal of the exemption;
14 requiring a recording of a closed meeting of a
15 probable cause panel of the board; removing the
16 scheduled repeal of exemptions within the section;
17 providing a statement of public necessity; providing
18 an effective date.

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

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22 Section 1. Section 497.172, Florida Statutes, is amended to
23 read:

24 497.172 Public records exemptions; public meetings
25 exemptions.—

26 (1) EXAMINATION DEVELOPMENT MEETINGS.—

27 (a) Those portions of meetings of the board at which
28 licensure examination questions or answers under this chapter
29 are discussed are exempt from s. 286.011 and s. 24(b), Art. I of

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30 the State Constitution. The closed meeting must be recorded and
31 no portion of the closed meeting may be off the record. The
32 recording shall be maintained by the board.

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

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38 repealed on October 2, 2015, unless reviewed and saved from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

40 (2) PROBABLE CAUSE PANEL.—

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

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

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

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

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

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59 conducted under this chapter is confidential and exempt from s.
60 119.07(1) and s. 24(a), Art. I of the State Constitution, until
61 the inspection is completed or ceases to be active.

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

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

71 1. To the probable cause panel of the board, for the
72 purpose of probable cause proceedings pursuant to s. 497.153.

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

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

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

84 1. The department submits the information to any law
85 enforcement agency or other administrative agency for further
86 examination or investigation. The information shall remain
87 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I

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88 of the State Constitution until that agency's examination or
89 investigation is completed or ceases to be active.

90 2. Disclosure of the information would:

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

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

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

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

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

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

113 Section 2. The Legislature finds that it is a public
114 necessity to make exempt from public-records requirements the
115 recording generated during those portions of meetings of the
116 Board of Funeral, Cemetery, and Consumer Services at which

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117 licensure examination questions or answers are discussed. The
118 release of such recordings would compromise those discussions of
119 the board which took place during a closed meeting and would
120 negate the public-meeting exemption. Further, current law
121 already provides a public-record exemption for licensure
122 examination questions and answers. As such, release of the
123 recording generated during those closed portions of meetings
124 would compromise the current protections already afforded such
125 questions and answers. Thus, the effective and efficient
126 administration of the licensure examination process would be
127 compromised without this exemption.

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