

By the Committee on Banking and Insurance

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A bill to be entitled

An act relating to public records; reenacting and amending s. 560.129, F.S.; expanding a public records exemption for certain information obtained by the Office of Financial Regulation concerning or during the course of an investigation or examination conducted by the office, including customer and consumer complaints, to incorporate the inclusion of money transmitters acting as custodians of gold coin and silver coin as authorized by chapter 2025-100, Laws of Florida; providing for future legislative review and repeal of the exemption; reenacting and amending s. 560.312, F.S.; expanding a public records exemption for payment instrument transactions to incorporate the inclusion of money transmitters acting as custodians of gold coin and silver coin as authorized by chapter 2025-100, Laws of Florida; providing for future legislative review and repeal of the exemption; amending s. 560.4041, F.S.; expanding a public records exemption for deferred presentment transactions to incorporate the inclusion of money transmitters acting as custodians of gold coin and silver coin as authorized by chapter 2025-100, Laws of Florida; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; reenacting and amending s. 655.057, F.S.; expanding a public records exemption for certain information obtained by the office concerning an investigation or examination conducted by the office,

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including reports or papers of examinations, operations, or condition and trade secrets, to incorporate the inclusion of financial institutions acting as custodians of gold coin and silver coin as authorized by chapter 2025-100, Laws of Florida; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; reenacting and amending s. 655.50, F.S.; expanding a public records exemption for reports and records filed with the office to incorporate the inclusion of financial institutions acting as custodians of gold coin and silver coin as authorized by chapter 2025-100, Laws of Florida; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (8) is added to section 560.129, Florida Statutes, and subsections (1), (2), and (4) of that section are reenacted, to read:

560.129 Confidentiality.—

(1) Except as otherwise provided in this section, all information concerning an investigation or examination conducted by the office pursuant to this chapter, including any customer complaint received by the office or the Department of Financial Services, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until the investigation or examination ceases to be active. For purposes of this

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section, an investigation or examination is considered "active" so long as the office or any other administrative, regulatory, or law enforcement agency of any jurisdiction is proceeding with reasonable dispatch and has a reasonable good faith belief that action may be initiated by the office or other administrative, regulatory, or law enforcement agency.

(2) All information obtained by the office in the course of its investigation or examination which is a trade secret, as defined in s. 688.002, or which is personal financial information shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. If any administrative, civil, or criminal proceeding against a money services business, its authorized vendor, or an affiliated party is initiated and the office seeks to use matter that a licensee believes to be a trade secret or personal financial information, such records shall be subject to an in camera review by the administrative law judge, if the matter is before the Division of Administrative Hearings, or a judge of any court of this state, any other state, or the United States, as appropriate, for the purpose of determining if the matter is a trade secret or is personal financial information. If it is determined that the matter is a trade secret, the matter shall remain confidential. If it is determined that the matter is personal financial information, the matter shall remain confidential unless the administrative law judge or judge determines that, in the interests of justice, the matter should become public.

(4) Except as necessary for the office or any other administrative, regulatory, or law enforcement agency of any jurisdiction to enforce the provisions of this chapter or the

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law of any other state or the United States, a consumer complaint and other information concerning an investigation or examination shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution after the investigation or examination ceases to be active to the extent that disclosure would:

(a) Jeopardize the integrity of another active investigation;

(b) Reveal personal financial information;

(c) Reveal the identity of a confidential source; or

(d) Reveal investigative techniques or procedures.

(8) Subsections (1), (2), and (4) are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. Subsection (4) is added to section 560.312, Florida Statutes, and subsection (1) of that section is reenacted, to read:

560.312 Database of payment instrument transactions; confidentiality.—

(1) Payment instrument transaction information held by the office pursuant to s. 560.310 which identifies a licensee, payor, payee, or conductor is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(4) Subsection (1) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 3. Section 560.4041, Florida Statutes, is amended

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117 to read:

118 560.4041 Database for deferred presentment providers;
119 public records exemption.—

120 (1) Information that identifies a drawer or a deferred
121 presentment provider contained in the database authorized under
122 s. 560.404 is confidential and exempt from s. 119.07(1) and s.
123 24(a), Art. I of the State Constitution. A deferred presentment
124 provider may access information that it has entered into the
125 database and may obtain an eligibility determination for a
126 particular drawer based on information in the database.

127 (2) Subsection (1) is subject to the Open Government Sunset
128 Review Act in accordance with s. 119.15 and shall stand repealed
129 on October 2, 2031, unless reviewed and saved from repeal
130 through reenactment by the Legislature.

131 Section 4. (1) The Legislature finds all of the following:

132 (a) That it is a public necessity that all information
133 concerning an investigation or examination of a money services
134 business conducted by the Office of Financial Regulation
135 pursuant to chapter 560, Florida Statutes, including a consumer
136 complaint, be made confidential and exempt from s. 119.07(1),
137 Florida Statutes, and s. 24(a), Article I of the State
138 Constitution until the investigation or examination ceases to be
139 active. The Legislature further finds that such information
140 should remain confidential and exempt from s. 119.07(1), Florida
141 Statutes, and s. 24(a), Article I of the State Constitution
142 after the investigation or examination ceases to be active if
143 its disclosure would jeopardize the office's investigations by
144 revealing techniques or procedures or otherwise reveal
145 information that is being used in another investigation, or if

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disclosure would reveal personal financial information or a confidential source.

(b) That it is a public necessity that trade secrets or personal financial information obtained by the office in the course of an investigation or examination pursuant to chapter 560, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution, unless an administrative law judge or circuit judge determines that the release of personal financial information to the public is in the interest of justice.

(c) That it is a public necessity that payment instrument transaction information held by the office pursuant to s. 560.310, Florida Statutes, which identifies a licensee, payor, payee, or conductor be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution.

(d) That it is a public necessity that deferred presentment transaction information held by the office pursuant to s. 560.404, Florida Statutes, which identifies a drawer or a deferred presentment provider be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution.

(2) Information specified in paragraphs (1)(a) and (b) is held by the office in conjunction with its investigations and examinations of money services businesses, which include money transmitters, as defined in s. 560.103, Florida Statutes, as amended by chapter 2025-100, Laws of Florida, to include custodians of gold coin or silver coin. Custodians of gold coin or silver coin are thus subject to investigation or examination

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by the office. As a result, the office may receive sensitive personal and financial information relating to such entities in conjunction with its duties under chapter 560, Florida Statutes. An exemption from public records requirements provides the same protections to custodians of gold coin or silver coin as are afforded to other money services businesses, thereby preventing any disadvantage to these similarly regulated entities in comparison to other entities currently classified as money services businesses. An exemption from public records requirements for reports of examinations, operations, or condition, including working papers, is necessary to ensure the office's ability to effectively and efficiently administer its examination and investigation duties. Examination and investigation are essential components of financial institutions regulation. They deter fraud and ensure the safety and soundness of the financial system. Examinations also provide a means of early detection of violations, allowing for corrective action to be taken before any harm can be done. Release of such information could compromise the office's investigations and examinations, reveal investigative techniques, or result in the disclosure of an individual's personal financial information. Such disclosure could also result in the release of inaccurate information, which could harm the subject of the examination or investigation, or otherwise impair commerce relating to money services businesses. The Legislature finds that there is little public benefit derived from access to such information during the office's investigation or examination, and that the exemption is narrowly tailored to allow for release except where the public benefit is outweighed by harm to either the office's

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investigations or to individuals whose personal financial information may be disclosed.

(3) Information specified in paragraphs (1)(c) and (d) held by the office in its database of payment instrument transactions pursuant to s. 560.312, Florida Statutes, and deferred presentment transactions pursuant to s. 560.404, Florida Statutes, may include information that identifies money transmitters, as defined in s. 560.103, Florida Statutes, as amended by chapter 2025-100, Laws of Florida, to include custodians of gold coin or silver coin. As a result, the office may receive sensitive personal and financial information relating to custodians of gold coin or silver coin that cash a payment instrument exceeding \$1,000 or deferred presentment transactions for a particular person. An exemption from public records requirements for custodians of gold coin and silver coin provides the same protections to custodians of gold coin or silver coin as are afforded to other money services businesses, thereby preventing any disadvantage to these similarly regulated entities in comparison to other entities currently classified as money services businesses. An exemption from public records requirements for payment instrument transactions is necessary to deter money laundering and identity theft and related crimes through such custodians. The availability of this information to the office will help increase premium collection, lower costs to insurance carriers, and alleviate premium avoidance, as well as reduce the cost of administering these public programs. However, the public availability of payment instrument transaction or deferred presentment transaction information would reveal sensitive, personal financial information about payees and

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conductors who use check-cashing and deferred presentment programs, including paycheck amounts, salaries, and business activities, as well as information regarding the financial stability of these custodians. Such information is traditionally private and sensitive. Protecting the confidentiality of such information that would identify these payees and custodians would provide adequate protection for these persons while still providing public oversight of the check-cashing and deferred presentment programs. The public release of payment instrument transaction and deferred presentment transaction information would also identify licensees or payors and reveal business transaction information that is traditionally private and could be used by competitors to harm other licensees or payors in the marketplace. If such information were publicly available, competitors could determine the amount of business conducted by other licensees or payors.

Section 5. Subsection (15) is added to section 655.057, Florida Statutes, and subsections (1) through (4), (6), and (10) of that section are reenacted, to read:

655.057 Records; limited restrictions upon public access.—

(1) Except as otherwise provided in this section and except for such portions thereof which are otherwise public record, all records and information relating to an investigation by the office are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such investigation is completed or ceases to be active. For purposes of this subsection, an investigation is considered "active" while such investigation is being conducted by the office with a reasonable, good faith belief that it may lead to the filing of

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administrative, civil, or criminal proceedings. An investigation does not cease to be active if the office is proceeding with reasonable dispatch, and there is a good faith belief that action may be initiated by the office or other administrative or law enforcement agency. After an investigation is completed or ceases to be active, portions of the records relating to the investigation are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution to the extent that disclosure would:

(a) Jeopardize the integrity of another active investigation;

(b) Impair the safety and soundness of the financial institution;

(c) Reveal personal financial information;

(d) Reveal the identity of a confidential source;

(e) Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual; or

(f) Reveal investigative techniques or procedures.

(2) Except as otherwise provided in this section and except for such portions thereof which are public record, reports of examinations, operations, or condition, including working papers, or portions thereof, prepared by, or for the use of, the office or any state or federal agency responsible for the regulation or supervision of financial institutions in this state are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, such reports or papers or portions thereof may be released to:

(a) The financial institution under examination;

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(b) Any holding company of which the financial institution is a subsidiary;

(c) Proposed purchasers if necessary to protect the continued financial viability of the financial institution, upon prior approval by the board of directors of such institution;

(d) Persons proposing in good faith to acquire a controlling interest in or to merge with the financial institution, upon prior approval by the board of directors of such financial institution;

(e) Any officer, director, committee member, employee, attorney, auditor, or independent auditor officially connected with the financial institution, holding company, proposed purchaser, or person seeking to acquire a controlling interest in or merge with the financial institution; or

(f) A fidelity insurance company, upon approval of the financial institution's board of directors. However, a fidelity insurance company may receive only that portion of an examination report relating to a claim or investigation being conducted by such fidelity insurance company.

(g) Examination, operation, or condition reports of a financial institution shall be released by the office within 1 year after the appointment of a liquidator, receiver, or conservator to the financial institution. However, any portion of such reports which discloses the identities of depositors, bondholders, members, borrowers, or stockholders, other than directors, officers, or controlling stockholders of the institution, shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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Any confidential information or records obtained from the office pursuant to this subsection shall be maintained as confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(3) Except as otherwise provided in this section and except for those portions that are otherwise public record, after an investigation relating to an informal enforcement action is completed or ceases to be active, informal enforcement actions are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution to the extent that disclosure would:

(a) Jeopardize the integrity of another active investigation.

(b) Impair the safety and soundness of the financial institution.

(c) Reveal personal financial information.

(d) Reveal the identity of a confidential source.

(e) Defame or cause unwarranted damage to the good name or reputation of an individual or jeopardize the safety of an individual.

(f) Reveal investigative techniques or procedures.

(4) Except as otherwise provided in this section and except for those portions that are otherwise public record, trade secrets as defined in s. 688.002 which comply with s. 655.0591 and which are held by the office in accordance with its statutory duties with respect to the financial institutions codes are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(6) This section does not prevent or restrict:

(a) Publishing reports that are required to be submitted to

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the office pursuant to s. 655.045(2) or required by applicable federal statutes or regulations to be published.

(b) Furnishing records or information to any other state, federal, or foreign agency responsible for the regulation or supervision of financial institutions.

(c) Disclosing or publishing summaries of the condition of financial institutions and general economic and similar statistics and data, provided that the identity of a particular financial institution is not disclosed.

(d) Reporting any suspected criminal activity, with supporting documents and information, to appropriate law enforcement and prosecutorial agencies.

(e) Furnishing information upon request to the Chief Financial Officer or the Division of Treasury of the Department of Financial Services regarding the financial condition of any financial institution that is, or has applied to be, designated as a qualified public depository pursuant to chapter 280.

(f) Furnishing information to Federal Home Loan Banks regarding its member institutions pursuant to an information sharing agreement between the Federal Home Loan Banks and the office.

Any confidential information or records obtained from the office pursuant to this subsection shall be maintained as confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(10) Materials supplied to the office or to employees of any financial institution by other state or federal governmental agencies remain the property of the submitting agency or the

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corporation, and any document request must be made to the appropriate agency. Any confidential documents supplied to the office or to employees of any financial institution by other state or federal governmental agencies are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. Such information shall be made public only with the consent of such agency or the corporation.

(15) Subsections (1)-(4), (6), and (10) are subject to the Open Government Sunset Review Act in accordance with s. 119.15 and are repealed October 2, 2031, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 6. (1) The Legislature finds that it is a public necessity that all records and information relating to an investigation by the Office of Financial Regulation undertaken pursuant to chapter 655, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution until the investigation ceases to be active. The Legislature further finds that such information should remain confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution after the investigation ceases to be active if its disclosure would jeopardize the office's investigations by revealing techniques or procedures, or otherwise reveal information that is being used in another investigation; reveal personal financial information or a confidential source; or defame or cause unwarranted damage to an individual's reputation or jeopardize his or her safety.

(2) Information specified in s. 655.057(1)-(4), (6), and (10) is held by the office in conjunction with investigations of

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financial institutions which may include records concerning gold coin or silver coin products or services offered by such institutions, as authorized in s. 215.986(2)(e), Florida Statutes, enacted in chapter 2025-100, Laws of Florida. As a result, the office may receive sensitive personal and financial information relating to such institutions in conjunction with its duties under chapter 655, Florida Statutes. An exemption from public records requirements provides the same protections to custodians of gold coin or silver coin as are afforded to other financial institutions, thereby preventing any disadvantage to these similarly regulated entities in comparison to other entities currently classified as financial institutions. An exemption from public records requirements for reports of examinations, operations, or condition, including working papers, is necessary to ensure the office's ability to effectively and efficiently administer its examination and investigation duties. Examination and investigation are essential components of financial institutions regulation. They deter fraud and ensure the safety and soundness of the financial system. Examinations also provide a means of early detection of violations, allowing for corrective action to be taken before any harm can be done.

(3) The Legislature finds that it is a public necessity to make confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution records and information relating to an investigation by the Office of Financial Regulation; portions of records relating to a completed or inactive investigation by the office which would jeopardize the integrity of another active investigation, impair

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the safety and soundness of the financial institution, reveal
personal financial information, reveal the identity of a
confidential source, defame or cause unwarranted damage to the
good name or reputation of an individual or jeopardize the
safety of an individual, or reveal investigative techniques or
procedures; reports of examinations, operations, or condition,
including working papers, or portions thereof, prepared by, or
for the use of, the office or any state or federal agency
responsible for the regulation or supervision of financial
institutions in this state, until 1 year after the appointment
of a liquidator; any portion of such reports which discloses the
identities of depositors, bondholders, members, borrowers, or
stockholders, other than directors, officers, or controlling
stockholders of the institution; trade secrets held by the
office in accordance with its statutory duties under chapter
655, Florida Statutes, unless an administrative law judge or
circuit judge determines that the release of personal financial
information to the public is in the interest of justice; and
materials supplied to the office or to employees of any
financial institution by other state or federal governmental
agencies.

(4) Release of information specified in s. 655.057(1)-(4),
(6), and (10) could compromise the office's investigations and
examinations, reveal investigative techniques, result in the
disclosure of an individual's personal financial information, or
defame or cause unwarranted damage to the good name or
reputation of an individual or entity or jeopardize his or her
safety. Such disclosure could also result in the spread of
inaccurate information, which could harm the subject of the

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465 examination or investigation, or otherwise impair commerce
466 conducted by financial institutions in this state. Any portion
467 of a record or information relating to an investigation or
468 examination which reveals personal financial information or the
469 identity of a confidential source may defame, or cause
470 unwarranted damage to the good name or reputation of, those
471 individuals, or jeopardize their safety.

472 (5) A trade secret derives independent economic value,
473 actual or potential, from not being generally known to, and not
474 readily ascertainable by, other persons who can obtain economic
475 value from the disclosure or use of the trade secret. Without an
476 exemption for a trade secret held by the office in accordance
477 with its duties prescribed by chapter 655, Florida Statutes,
478 that trade secret becomes a public record when received and must
479 be divulged upon request. Divulging a trade secret under the
480 public records law would give business competitors an unfair
481 advantage and destroy the value of that property, causing a
482 financial loss to the person or entity submitting the trade
483 secret and weakening the position of that person or entity in
484 the marketplace.

485 (6) The Legislature finds that there is little public
486 benefit derived from access to such information during the
487 office's investigation, and that the exemption is narrowly
488 tailored to allow for release except when the public benefit is
489 outweighed by harm to individuals or institutions, when the
490 disclosure would jeopardize other investigations, reveal the
491 office's investigative techniques or procedures, or expose
492 personal financial information or a confidential source.

493 Section 7. Subsection (7) of section 655.50, Florida

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Statutes, is amended, and paragraph (d) of subsection (5) of this section is reenacted, to read:

655.50 Florida Control of Money Laundering and Terrorist Financing in Financial Institutions Act.—

(5) A financial institution shall keep a record of each financial transaction occurring in this state known to it which involves currency or other monetary instrument, as the commission prescribes by rule, has a value greater than \$10,000, and involves the proceeds of specified unlawful activity, or is designed to evade the reporting requirements of this section, chapter 896, or similar state or federal law, or which the financial institution reasonably believes is suspicious activity. Each financial institution shall maintain appropriate procedures to ensure compliance with this section, chapter 896, and other similar state or federal law. Any report of suspicious activity made pursuant to this subsection is entitled to the same confidentiality provided under 31 C.F.R. s. 1020.320, whether the report or information pertaining to or identifying the report is in the possession or control of the office or the reporting institution.

(d) Each financial institution shall file a report of the records required under this subsection with the office. Each report shall be filed at such time and must contain such information as the commission requires by rule.

(7) All reports and records filed with the office pursuant to this section are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. However, the office shall provide any report filed pursuant to this section, or information contained therein, to federal, state, and local

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law enforcement and prosecutorial agencies, and any federal or state agency responsible for the regulation or supervision of financial institutions.

Section 8. (1) The Legislature finds that it is a public necessity that all reports and records filed with the Office of Financial Regulation be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution unless disclosure is requested by a federal, state, or local law enforcement or prosecutorial agency or any federal or state agency responsible for the regulation or supervision of financial institutions. Information regarding potential money laundering or terrorism must be safeguarded to prevent the potential offender from being tipped off or circumventing an investigation conducted by the office, and disclosure of such information could harm the office's investigations.

(2) These reports and records are held by the office in conjunction with its duties pursuant to 31 U.S.C. s. 5313 and 31 C.F.R. part 1020 and its investigations of financial institutions' transactions involving monetary instruments concerning gold coin or silver coin products or services offered by such institutions, as authorized in s. 215.986(2)(e), Florida Statutes, enacted in chapter 2025-100, Laws of Florida, to include any transactions involving gold coin or silver coin products or services offered by such financial institutions. As a result, the office may receive sensitive personal and financial information relating to such entities in conjunction with its duties under chapter 655, Florida Statutes. An exemption from public records requirements provides the same

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552 protections to custodians of gold coin or silver coin as are
553 afforded to other financial institutions, thereby preventing any
554 disadvantage to these similarly regulated entities in comparison
555 to other entities currently classified as financial
556 institutions. An exemption from public records requirements for
557 reports and records submitted to the office is necessary to
558 ensure the office's ability to effectively and efficiently
559 administer its investigation duties. Examination and
560 investigation are essential components of financial institutions
561 regulation. They deter fraud and ensure the safety and soundness
562 of the financial system. Examinations also provide a means of
563 early detection of violations, allowing for corrective action to
564 be taken before any harm can be done.

565 Section 9. This act shall take effect on the same date that
566 sections 1 through 15 of chapter 2025-100, Laws of Florida,
567 become effective.