

**RN 20 11789 03****05/19/20 06:12 PM****SUBSTANTIVE****PROPOSED AMENDMENTS**

PROPOSED AMENDMENTS TO ASSEMBLY BILL NO. 2473

CALIFORNIA LEGISLATURE—2019–20 REGULAR SESSION

**ASSEMBLY BILL****No. 2473****Introduced by Assembly Member Cooper**

February 19, 2020



An act to add Section 6254.32 to the Government Code, relating to public records.

## LEGISLATIVE COUNSEL'S DIGEST

AB 2473, as introduced, Cooper. Public investment funds.

Existing law, the California Public Records Act, requires state and local agencies to make their records available for public inspection, unless an exemption from disclosure applies. Existing law excludes from the disclosure requirement certain records regarding alternative investments in which public investment funds invest.

This bill would exempt from disclosure under the act specified records regarding an internally managed private loan made directly by a public investment fund, including quarterly and annual financial statements of the borrower or its constituent owners, unless the information has already been publicly released by the keeper of the information.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

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AB 2473

— 2 —

*The people of the State of California do enact as follows:*

Page 2 1 SECTION 1. Section 6254.32 is added to the Government  
2 Code, to read:

3 6254.32. (a) Notwithstanding any provision of this chapter or  
4 other law, the following records regarding an internally managed  
5 private loan made directly by a public investment fund shall not  
6 be subject to disclosure pursuant to this chapter unless the  
7 information has already been publicly released by the keeper of  
8 the information:

9 (1) Due diligence materials that are proprietary to the public  
10 investment fund, any participating underwriting syndicate, the  
11 borrower, or any of the borrower's constituent owners or  
12 guarantors.

13 (2) Private loan agreements and all related documents.

14 ~~(3) Records containing information regarding the borrower or~~  
15 ~~its constituent owners:~~

**Amendment 1**

+ (3) *Personal or business identifying information contained in*  
+ *records that would disclose the identities of any constituent owners*  
+ *of the borrower, regardless of whether the constituent owner is a*  
+ *person or legal entity.*

16 (4) Quarterly and annual financial statements of the borrower  
17 or its constituent owners.

18 (5) Materials relating to collateral pledged in support of the  
19 private loan.

20 (6) Meeting materials of creditors' ~~committees or similar~~  
21 ~~records: committees.~~

**Amendment 2**

22 (b) Notwithstanding subdivision (a), the following information  
23 contained in records described in subdivision (a) shall be subject  
24 to disclosure pursuant to this chapter and shall not be considered  
25 a trade secret exempt from disclosure:

26 (1) The name and address of each borrower.

27 (2) The dollar amount of each private loan made to each  
28 borrower by the public investment fund since inception.

29 (3) The annualized time-weighted return of each private loan.

30 (4) For each private loan, the aggregate amount of undrawn  
31 loan commitments.

+ (5) *The amount of principal and interest payments made to the*  
+ *public investment fund by each borrower since the inception of*  
+ *the loan.*

**Amendment 3**

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+ (6) For each private loan, whether the loan has been in default  
+ for six months or longer.

32 (c) Records related to a public investment fund's indirect  
33 funding of a private loan via a fund or other type of externally  
34 managed investment vehicle shall remain subject to Sections  
35 6254.26 and ~~7514.7~~ of the Government Code: 7514.7.

36 (d) For purposes of this section, the following definitions shall  
37 apply:

+ (1) "Business identifying information" means any information  
+ about a legal entity that reveals a trade secret, commercial  
+ information, or financial data that is proprietary or confidential,  
+ including, but not limited to, information that may be used to  
+ distinguish or trace the identity of a person or other legal entity  
+ maintaining a constituent ownership interest in the borrower.

+ (2) "Constituent owner" means a person or legal entity that  
+ maintains a direct or indirect ownership interest in the borrower  
+ or one of its guarantors or sources of collateral for the loan,  
+ including, among others, a stockholder, member, or partner.

+ (3) "Personal identifying information" has the same meaning  
+ as defined in Section 530.55 of the Penal Code.

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1 (+)

+ (4) "Private loan" means a loan made pursuant to or evidenced  
2 by a loan agreement, debt instrument, or other evidence of  
3 indebtedness, if that lending arrangement is exempt from  
4 registration as a security under federal securities laws.

5 (2)

+ (5) "Public investment fund" means a public pension or  
6 retirement system or a public endowment or foundation.

7 SEC. 2. The Legislature finds and declares that Section 1 of  
8 this act, which adds Section 6254.32 to the Government Code,  
9 imposes a limitation on the public's right of access to the meetings  
10 of public bodies or the writings of public officials and agencies  
11 within the meaning of Section 3 of Article I of the California  
12 Constitution. Pursuant to that constitutional provision, the  
13 Legislature makes the following findings to demonstrate the interest  
14 protected by this limitation and the need for protecting that interest:

15 This act is necessary to protect information that is not appropriate  
16 for public disclosure.

Amendment 4

Amendment 5

Amendment 6

Amendment 7

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