

The following draft language is subject to further revision, including possible amendment as part of the legislative process.

Proposed Bill Language – Public Disclosure of Private Debt Records

Add Government Code section 6254.32, as follows:

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

- (1) Due diligence materials that are proprietary to the public investment fund, any participating underwriting syndicate, the borrower, or any of the borrower's constituent owners or guarantors.
- (2) Private loan agreements and all related documents.
- (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.
- (4) Quarterly and annual financial statements of the borrower or its constituent owners.
- (5) Materials relating to collateral pledged in support of the private loan.
- (6) Meeting materials of creditors' committees.

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

- (1) The name and address of each borrower.
- (2) The dollar amount of each private loan made to each borrower by the public investment fund since inception.
- (3) The annualized time-weighted return of each private loan.

- (4) For each private loan, the aggregate amount of undrawn 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.
 - (6) For each private loan, whether the loan has been in default for six months or longer.
- (c) Records related to a public investment fund's indirect funding of a private loan via a fund or other type of externally managed investment vehicle shall remain subject to Sections 6254.26 and 7514.7.
- (d) For purposes of this section, the following definitions shall 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.
 - (4) "Private loan" means a loan made pursuant to or evidenced by a loan agreement, debt instrument, or other evidence of indebtedness, if that lending arrangement is exempt from registration as a security under federal securities laws.
 - (5) "Public investment fund" means the Public Employees' Retirement Fund described in Section 20170.