

By Senator Dudley

25-854-98

See CS/HB 1903

1 A bill to be entitled
 2 An act relating to records of the Division of
 3 Florida Land Sales, Condominiums, and Mobile
 4 Homes; amending s. 498.047, F.S.; providing an
 5 exemption from public records requirements for
 6 information relative to an investigation by the
 7 division under the Florida Uniform Land Sales
 8 Practices Law for a specified period; providing
 9 for continued exemption for certain information
 10 relative to such investigation under certain
 11 conditions; authorizing certain disclosure of
 12 such information; providing for future review
 13 and repeal; providing a finding of public
 14 necessity; providing an effective date.

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

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 18 Section 1. Subsection (8) is added to section 498.047,
 19 Florida Statutes, to read:

20 498.047 Investigations.--

21 (8)(a) Except as otherwise provided by this
 22 subsection, information relative to an investigation by the
 23 division pursuant to this chapter, including any consumer
 24 complaint, is confidential and exempt from s. 119.07(1) and s.
 25 24(a), Art. I of the State Constitution, until 10 days after a
 26 notice to show cause has been filed by the division, or, in
 27 the case in which no notice to show cause is filed, the
 28 investigation is completed or ceases to be active. For
 29 purposes of this section, an investigation shall be considered
 30 "active" so long as the division or any law enforcement or
 31 administrative agency or regulatory organization is proceeding

1 with reasonable dispatch and has a reasonable good-faith
2 belief that the investigation may lead to the filing of an
3 administrative, civil, or criminal proceeding or to the denial
4 or conditional grant of a license or registration. However,
5 in response to a specific inquiry about the registration
6 status of a registered or unregistered subdivider, the
7 division may disclose the existence and the status of an
8 active investigation. This subsection shall not be construed
9 to prohibit disclosure of information which is required by law
10 to be filed with the division and which, but for the
11 investigation, would be subject to s. 119.07(1).

12 (b) Except as necessary for the division to enforce
13 the provisions of this chapter, a consumer complaint and other
14 information relative to an investigation shall remain
15 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
16 of the State Constitution, after the filing of a notice to
17 show cause or the investigation is completed or ceases to be
18 active to the extent disclosure would:

19 1. Jeopardize the integrity of another active
20 investigation.

21 2. Reveal the name, address, telephone number, social
22 security number, or any other identifying number or
23 information of any purchaser or account holder, or social
24 security number or any account number of a complainant.

25 3. Reveal a trade secret as defined in s. 688.002.

26 (c) Nothing in this subsection shall be construed to
27 prohibit the division from providing information to any law
28 enforcement or administrative agency or regulatory
29 organization. Any law enforcement or administrative agency or
30 regulatory organization receiving confidential information in
31 connection with its official duties shall maintain the

1 confidentiality of the information as provided for in this
2 subsection.

3 (d) If information subject to this subsection is
4 offered in evidence in any administrative, civil, or criminal
5 proceeding, the presiding officer may, in his or her
6 discretion, prevent the disclosure of information which would
7 be confidential pursuant to paragraph (b).

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9 This subsection is subject to the Open Government Sunset
10 Review Act of 1995 in accordance with s. 119.15, and shall
11 stand repealed on October 2, 2003, unless reviewed and saved
12 from repeal through reenactment by the Legislature.

13 Section 2. The Legislature finds that the exemptions
14 provided for in this act are a public necessity. The untimely
15 disclosure of information relative to an investigation by the
16 Division of Florida Land Sales, Condominiums, and Mobile Homes
17 could jeopardize the investigation. An investigation can be
18 jeopardized when the person or entity being investigated, or
19 his or her agent, obtains copies of the investigation file and
20 uses that information in order to alter records or otherwise
21 thwart the investigation. The untimely disclosure of certain
22 identifying and location information relating to complainants
23 could jeopardize the integrity of investigations by providing
24 a mechanism for the person or entity being investigated to
25 contact the complainant prior to the filing of a notice to
26 show cause, or other resolution of the investigation, and to
27 interfere with the investigation. This may also have the
28 effect of discouraging complainants from coming forward. A
29 consumer complaint and other information relative to an
30 investigation must remain confidential as specified herein.
31 The untimely disclosure of information in an investigation

1 which would otherwise become public must remain confidential
2 if it could jeopardize another active investigation. An
3 investigation can be compromised when the person being
4 investigated, or his or her agent, obtains copies of the
5 investigation file or a related investigation file and uses
6 the information contained therein to alter records or
7 otherwise interfere with an investigation. The name and
8 specified identifying information of the complainant must
9 remain confidential in order to encourage individuals to
10 report illegal activity without fear of reprisal. The
11 disclosure of information, such as customer lists, could
12 reveal trade secrets which would give competitors an economic
13 advantage, and could cause financial harm to the entity whose
14 trade secrets are being disclosed.

15 Section 3. This act shall take effect October 1 of the
16 year in which enacted.

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LEGISLATIVE SUMMARY

Exempts from the public records law for a specified period information relating to investigations by the Division of Land Sales, Condominiums, and Mobile Homes under the Florida Uniform Land Sales Practices Law.