

By Senator Grant

13-102-99

1 A bill to be entitled
2 An act relating to public records; prohibiting
3 governmental agencies from disclosing or
4 misusing certain information concerning the
5 information technology resources of businesses
6 or other governmental agencies under specified
7 conditions; providing remedies and prescribing
8 damages for violations; providing criminal
9 penalties for governmental employees who
10 unlawfully divulge or misuse such information;
11 providing for future review and repeal;
12 providing a statement of necessity; providing a
13 contingent effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Confidentiality of information provided to
18 governmental agencies; remedies regarding unlawful use or
19 disclosure; penalties.--

20 (1) Notwithstanding the provisions of section
21 119.07(1), Florida Statutes, and Section 24(a) of Article I of
22 the State Constitution, all information acquired by a
23 governmental agency concerning the information technology
24 operations, programs, equipment, and data of a business or of
25 another governmental agency in order to determine whether that
26 business or agency is year-2000 compliant or to assist that
27 business or agency in becoming year-2000 compliant under the
28 provisions of Committee Substitute for Senate Bill 80, 1999
29 Regular Session, remain the property of the business or agency
30 providing that information. The governmental agency acquiring
31 the information:

1 (a) May use the information only in the manner
2 expressly permitted by the business or agency providing the
3 information; and

4 (b) May not disclose the information to another
5 without the express written consent of the business or agency
6 providing the information or as otherwise required by law.

7 (2) Notwithstanding the limitations of section
8 688.008, Florida Statutes, a business or governmental agency
9 may bring an action to enjoin any actual or threatened
10 violation of subsection (1) or to recover damages, within the
11 limits specified in section 768.28, Florida Statutes,
12 resulting from a violation of subsection (1). These damages
13 include:

14 (a) Both the actual monetary loss incurred as a result
15 of the violation and any unjust enrichment caused by the
16 violation which is not otherwise considered in calculating the
17 actual monetary loss incurred; and

18 (b) If the misuse or disclosure was intentional or
19 grossly negligent, punitive damages in an amount not exceeding
20 three times the award made under paragraph (a).

21 (3)(a) Any employee of a governmental agency who
22 misuses or discloses information in violation of subsection
23 (1) is guilty of a misdemeanor of the first degree, punishable
24 as provided in section 775.082 or section 775.083, Florida
25 Statutes.

26 (b) Any employee of a governmental agency who for
27 pecuniary gain intentionally misuses or discloses information
28 in violation of subsection (1) is guilty of a felony of the
29 third degree, punishable as provided in section 775.082 or
30 section 775.083, Florida Statutes.

31 (4) As used in this section, the term:

1 (a) "Governmental agency" includes any agency of the
2 state or any political subdivision of the state as defined in
3 section 1.01, Florida Statutes.

4 (b) "Business" means a person or any entity, however
5 organized, which is routinely engaged in this state in
6 providing goods or services in the stream of commerce.

7 (5) This section expires October 1, 2003, and must be
8 reviewed by the Legislature pursuant to section 119.15,
9 Florida Statutes, before that date.

10 Section 2. The Legislature finds that there is a
11 public necessity in exempting from those provisions of the
12 public records law and State Constitution which grant public
13 access to information maintained by governmental agencies
14 information that is acquired by those agencies in an effort to
15 avert the disasters that could result from computer data
16 failures. Such information, being proprietary information that
17 would not otherwise willingly be divulged, should remain under
18 the control of its owner in order to encourage the free
19 exchange of information which is critically necessary to avert
20 disasters resulting from computer data failures; and the
21 public harm that could result from any impediments to this
22 free exchange of information overwhelms any public benefit
23 gleaned from the unauthorized release of that information.

24 Section 3. This act shall take effect upon becoming a
25 law, but it shall not take effect unless Committee Substitute
26 for Senate Bill 80, 1999 Regular Session, becomes a law.

27
28
29
30
31

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

SENATE SUMMARY

Prohibits governmental agencies from disclosing without permission or misusing information that is acquired from business or other governmental agencies concerning their information technology operations, programs, equipment, and data in order to avert disasters that could result from computer date failures. Provides remedies with respect to the unlawful disclosure or use of that information and provides criminal penalties for government employees who unlawfully disclose or use that information, contingent on the enactment of CS for SB 80.