

By the Committees on Governmental Operations, Tourism and
 Representatives Starks, Farkas, Dennis, Argenziano, Barreiro,
 Lynn, Bush, Melvin, Bloom and Hafner

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 288.1251, F.S.; providing an exemption from
 4 public records requirements for information
 5 held by the Office of Film Commissioner
 6 relating to specified information with respect
 7 to the business activities or applications for
 8 tax exemptions of private persons,
 9 partnerships, or corporations in the
 10 entertainment industry, when such
 11 confidentiality is requested; providing a
 12 penalty for violation of the act; providing for
 13 future review and repeal; providing a finding
 14 of public necessity; providing a contingent
 15 effective date.

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

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 19 Section 1. Subsection (3) is added to section
 20 288.1251, Florida Statutes, as created by HB 985, 1999 Regular
 21 Session, to read:

22 288.1251 Promotion and development of entertainment
 23 industry; Office of the Film Commissioner; creation; purpose;
 24 powers and duties; confidentiality of records.--

25 (3) CONFIDENTIALITY OF RECORDS.--

26 (a) Upon written request from an entertainment
 27 industry private corporation, partnership, or person applying
 28 for a sales and use tax certificate of exemption under s.
 29 288.1258, or seeking to locate, relocate, or expand any of its
 30 business activities in this state, information held by the
 31 Office of the Film Commissioner regarding the identity; trade

1 secrets as defined by s. 812.081; plans, intentions, or
2 interests of such private corporation, partnership, or person
3 to locate, relocate, or expand any of its business activities
4 in this state, or application for a sales and use tax
5 certificate of exemption under s. 288.1258, are confidential
6 and exempt from the provisions of s. 119.07(1) and s. 24(a),
7 Art. I of the State Constitution unless the information held
8 is otherwise released by the party requesting confidentiality
9 or, in the case of identity, or plans, intentions or interests
10 to locate, relocate, or expand any of its business activities
11 in this state, until the party retains a new or additional
12 business location in this state. This subsection is subject
13 to the Open Government Sunset Review Act of 1995 in accordance
14 with s. 119.15, and shall stand repealed on October 2, 2004,
15 unless reviewed and saved from repeal through reenactment by
16 the Legislature.

17 (b) Any person who is an employee of the Office of the
18 Film Commissioner who willfully and knowingly violates the
19 provisions of this section related to the identity, trade
20 secrets as defined by s. 812.081, or plans, intentions, or
21 interests to locate, relocate, or expand any business
22 activities in this state is guilty of a misdemeanor of the
23 second degree, punishable as provided in s. 775.082 or s.
24 775.083. Any person who is an employee of the Office of the
25 Film Commissioner who divulges any information related to the
26 application for a sales and use tax exemption under s.
27 288.1258 in any manner, except for official purposes, commits
28 a misdemeanor of the first degree, punishable as provided in
29 s. 775.082 or s. 775.083.

30 Section 2. The Legislature finds that it is a public
31 necessity that the identity, or trade secrets as defined by s.

1 812.081, Florida Statutes, of an entertainment industry
2 corporation, partnership, or person seeking to locate,
3 relocate, or expand any of its business activities in this
4 state, information concerning such plans, intentions, or
5 interests, or information relating to an application for a tax
6 exemption under s. 288.1258, Florida Statutes, be exempt from
7 public records requirements. This exemption is needed to
8 protect the ongoing and often delicate contract negotiations
9 common to the preproduction stage of an entertainment industry
10 business venture which occurs prior to that business retaining
11 a business location in the state. The identity, trade
12 secrets, and planning information solicited from such
13 businesses by the Office of the Film Commissioner are needed
14 by that office initially to encourage these businesses to
15 locate, relocate, or expand their activities in the state.
16 The Office of the Film Commissioner also needs such
17 information in the aggregate, which may be publicly reported
18 in such fashion, to plan the marketing programs it conducts to
19 promote entertainment industry growth for the benefit of this
20 state and to measure the effectiveness of those marketing
21 programs for the Legislature. If such records are not
22 protected, critical confidential information regarding
23 contract negotiations, business identity, trade secrets, and
24 business activity location, relocation, or expansion would be
25 revealed. Release of this proprietary information could put
26 those businesses from which the information is gathered at a
27 competitive disadvantage in the marketplace. Consequently,
28 private companies whose records are not required to be open
29 might refrain from responding to the solicitations of the
30 Office of the Film Commissioner and might choose not to
31 locate, relocate, or expand their activities in the state,

1 thereby denying the use of valuable information needed to
2 assist this state and causing the state to lose potential
3 revenue and employment for its citizens. The Legislature
4 further finds that the Office of the Film Commissioner needs
5 an exemption related to applications for a sales and use tax
6 exemption in order to effectively assist an entertainment
7 production company which seeks a certificate of exemption. If
8 such information is not protected, qualified entertainment
9 production companies would not seek such an exemption because
10 disclosure would put them at a competitive disadvantage. Tax
11 exemptions are a valuable resource for economic development,
12 especially for emerging industries such as the entertainment
13 industry. This exemption is consistent with existing taxpayer
14 rights and protections under ss. 213.015 and 213.05, Florida
15 Statutes. The harm that would result from any obstruction to
16 revealing the identity, trade secrets, and planning
17 information solicited from entertainment industry businesses
18 seeking to locate, relocate, or expand their business
19 activities in the state, or information relating to an
20 application for a tax exemption under s. 288.1258, Florida
21 Statutes, would far outweigh any public benefit derived from
22 release of such information.

23 Section 3. This act shall take effect on the same date
24 that House Bill 985 or similar legislation which creates s.
25 288.1251, F.S., establishing the Office of the Film
26 Commissioner, takes effect, if such legislation is adopted in
27 the same legislative session or an extension thereof.

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