

hbd-032

Bill No. HB 1157

Amendment No. ____ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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ORIGINAL STAMP BELOW

Representative(s) Miller offered the following:

Amendment (with title amendment)

On page 1, line 17,
remove from the bill: everything after the enacting clause,
and insert in lieu thereof:

Section 1. Subsection (6) of section 15.16, Florida Statutes, is amended to read:

15.16 Reproduction of records; admissibility in evidence; electronic receipt and transmission of records; certification; acknowledgment.--

(6) Notwithstanding s. 865.09(3)(d), the Department of State may waive the requirement that a person advertise the intention to register a fictitious name if the department indexes the fictitious name registration in a central database available to the public on the Internet ~~use government or private sector contractors in the promotion or provision of any electronic filing services.~~

Section 2. Subsection (3) of section 288.809, Florida Statutes, is amended to read:

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1 288.809 Florida Intergovernmental Relations
 2 Foundation; use of property; board of directors; audit.--
 3 (3) BOARD OF DIRECTORS.--The board of directors of the
 4 foundation shall be ~~composed of seven members~~ appointed by the
 5 Secretary of State, of whom no more than three shall be
 6 employees or elected officials of the state.

7 Section 3. Paragraph (f) of subsection (2) of section
 8 288.816, Florida Statutes, is amended to read:

9 288.816 Intergovernmental relations.--

10 (2) The secretary shall be responsible for all
 11 consular relations between the state and all foreign
 12 governments doing business in Florida. The secretary shall
 13 monitor United States laws and directives to ensure that all
 14 federal treaties regarding foreign privileges and immunities
 15 are properly observed. The secretary shall promulgate rules
 16 which shall:

17 (f) Establish a system of communication to provide all
 18 state and local law enforcement agencies with information
 19 regarding proper procedures relating to the arrest or
 20 incarceration of a foreign citizen. ~~Florida law enforcement~~
 21 ~~agencies shall inform the Department of State when such arrest~~
 22 ~~or incarceration occurs. The secretary in turn shall notify~~
 23 ~~the appropriate foreign governmental official. The secretary~~
 24 ~~shall annually report on the actions taken to inform law~~
 25 ~~enforcement agencies, and on the cooperation from such~~
 26 ~~agencies, to the President of the Senate and the Speaker of~~
 27 ~~the House of Representatives.~~

28 Section 4. Effective October 1, 2001, paragraph (c) of
 29 subsection (1) and subsection (5) of section 679.401, Florida
 30 Statutes, are amended to read:

31 679.401 Place of filing; erroneous filing; removal of

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1 collateral.--

2 (1) The proper place to file in order to perfect a
3 security interest is as follows:

4 (c) In all other cases, by filing under the Florida
5 Secured Transaction Registry in the office of the Department
6 of State.

7 (5) Notwithstanding the preceding subsections, and
8 subject to s. 679.302(3), the proper place to file in order to
9 perfect a security interest in collateral, including fixtures,
10 of a transmitting utility is under the Florida Secured
11 Transaction Registry the office of the Department of State.

12 Section 5. Section 679.4015, Florida Statutes, is
13 created to read:

14 679.4015 Florida Secured Transaction Registry.--

15 (1) As used in this section, the term:

16 (a) "Florida Secured Transaction Registry" or
17 "registry" means the central database in which all initial
18 financing statements, amendments, assignments, and other
19 statements of change authorized to be filed under this chapter
20 are filed, maintained, and retrieved. The term does not apply
21 to documents that are filed under this chapter with the clerk
22 of a circuit court.

23 (b) "Department" means the Department of State.

24 (c) "Materials and records" includes, but is not
25 limited to, databases, source or object codes, and any
26 software relating to the Florida Secured Transaction Registry
27 or other filing system under this chapter, regardless of the
28 original source of its creation or maintenance.

29 (2) The department shall perform the duties of the
30 filing office and filing officer under this chapter until
31 October 1, 2001, or until the effective date of a contract

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1 executed by the department for the performance of these
2 duties, whichever occurs later. At that time, the department
3 shall cease serving as the filing office and filing officer
4 under this chapter, and thereafter, except to the extent the
5 department may reclaim those duties under paragraph (3)(d),
6 the department is not responsible for the performance of the
7 duties of the filing office or filing officer under this
8 chapter, including determinations of whether filings under
9 this chapter satisfy the requirements of law.

10 (3) The department shall immediately develop and issue
11 a request for qualifications seeking capable entities to
12 perform the duties currently being performed by the department
13 as the filing office and filing officer under this chapter.

14 (a) The qualifications shall, at a minimum, provide
15 for the organization and maintenance of the Florida Secured
16 Transaction Registry, which:

17 1. Is comparable and compatible with the department's
18 current filing system.

19 2. Is open to the public and accessible through the
20 Internet, to permit the review of all current filings of the
21 department and all future filings in the registry, in
22 compliance with chapter 119.

23 3. Provides for oversight and compliance audits by the
24 department.

25 4. Requires records maintenance in compliance with
26 this chapter and chapter 119.

27 5. Maintains the current level of filing fees and
28 procedures for the deposit of revenues with the department as
29 specified in chapter 15, net of operating costs.

30 (b) Under chapter 287, the department has the
31 authority to determine and select the most qualified

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1 respondents to the request for qualifications and to negotiate
2 and enter into one or more contracts as provided in this
3 section.

4 (c) The contract may not be assignable or otherwise
5 transferable without the express written consent of the
6 department.

7 (d) Notwithstanding the terms and conditions of the
8 contract, the department and the state retain sole and
9 exclusive ownership of the materials and records in the
10 registry, have the right to inspect and make copies of the
11 materials and records in the registry, and have the right to
12 immediately reclaim and take possession and control of the
13 original materials and records in the registry if an entity
14 under contract with the department does not, or cannot,
15 perform the terms and conditions of the contract for any
16 reason or commences an insolvency proceeding. If the
17 department reclaims control of the materials and records in
18 the registry, the department shall provide for the
19 uninterrupted fulfillment of the duties of the filing office
20 and filing officer under this chapter. The department is
21 entitled to injunctive relief if an entity fails to turn over
22 the materials and records upon demand, and the Circuit Court
23 for Leon County, Florida, has exclusive original jurisdiction
24 over any disputes pertaining to this section or any contract
25 executed under this section.

26 (4) The department retains authority under this
27 chapter to approve the forms required to be filed under this
28 chapter. If authorized by the contract with the department,
29 the entity performing the duties of the filing office may
30 certify a copy of a financing statement, or an amendment
31 thereto, which shall be admissible in a state or federal court

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1 or in a proceeding before any other tribunal.

2 (5) The department shall develop performance standards
3 to ensure that the Florida Secured Transaction Registry is
4 accurate and complete and that the users thereof are being
5 well-served. Periodically, the department shall verify that
6 these performance standards are being met or modified as may
7 be needed from time to time.

8 Section 6. Section 901.26, Florida Statutes, is
9 amended to read:

10 (Substantial rewording of section.

11 See s. 901.26, F.S., for existing text.)

12 901.26 Arrest and detention of foreign
13 nationals.--Failure to provide consular notification under the
14 Vienna Convention on Consular Relations or other bilateral
15 consular conventions shall not be a defense in any criminal
16 proceeding against any foreign national and shall not be cause
17 for the foreign national's discharge from custody.

18 Section 7. Except as otherwise provided herein, this
19 act shall take effect upon becoming a law.

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22 ===== T I T L E A M E N D M E N T =====

23 And the title is amended as follows:

24 On page 1, line 3-14,
25 remove from the title of the bill: all of said lines,

26

27 and insert in lieu thereof:

28 amending s. 15.16, F.S.; authorizing the
29 department to waive certain advertising
30 requirements; amending s. 288.809, F.S.;

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1 Intergovernmental Relations Foundation;
2 amending s. 288.816, F.S.; deleting a
3 requirement that certain law enforcement
4 agencies notify the department of certain
5 arrests and incarcerations; amending s.
6 679.401, F.S.; specifying the Florida Secured
7 Transaction Registry as a place for certain
8 filings; creating s. 679.4015, F.S.;
9 establishing the Florida Secured Transaction
10 Registry; prescribing duties of the department;
11 prescribing standards for the registry;
12 providing powers and duties of contracting
13 entities performing services with respect to
14 the registry; amending s. 901.26, F.S.;
15 providing that failure to provide certain
16 consular notification shall not be a defense in
17 a criminal proceeding or a cause for release of
18 a foreign national from custody; providing
19 effective dates.

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