

hbd-032

Amendment No. \_\_\_\_ (for drafter's use only)

	<u>Senate</u>	CHAMBER ACTION	<u>House</u>
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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 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 3-13,  
25 remove from the title of the bill: all of said lines,

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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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