

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

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

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The Committee on State Administration offered the following:

Amendment (with title amendment)

Remove from the bill: Everything after the enacting clause
and insert in lieu thereof:

Section 1. Section 569.215, Florida Statutes, is
created to read:

569.215 Confidential records relating to tobacco
settlement agreement.--

(1) Proprietary confidential business information
received by the Governor, the Attorney General, or outside
counsel representing the State of Florida in negotiations for
settlement payments pursuant to the settlement agreement, as
amended, in the case of The State of Florida et al. v.
American Tobacco Company et al., Case #95-1466AH, in the
Circuit Court of the Fifteenth Judicial Circuit, in and for
Palm Beach County, or received by the Comptroller or the
Auditor General for the purposes of accomplishing their
respective responsibilities for settlement payments under s.
569.21(2) is confidential and exempt from s. 119.07(1) and s.

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1 24(a), Art. I of the State Constitution. Any state or federal
2 agency that is authorized to have access to such documents by
3 any provision of law shall be granted such access in
4 furtherance of such agency's statutory duties, notwithstanding
5 the provisions of this section. Proprietary confidential
6 business information received under this section shall not
7 retain its confidential and exempt status if that information
8 is made public, including publicizing such information in a
9 Securities and Exchange Commission filing, an annual financial
10 statement, or other document or means. This section is subject
11 to the Open Government Sunset Review Act of 1995 in accordance
12 with s. 119.15, and shall stand repealed on October 2, 2006,
13 unless reviewed and saved from repeal through reenactment by
14 the Legislature.

15 (2) As used in this section, "proprietary confidential
16 business information" means information, regardless of form or
17 characteristics, which is owned or controlled by a tobacco
18 company that is a signatory to the settlement agreement, as
19 amended, in the case of The State of Florida et al. v.
20 American Tobacco Company et al., Case #95-1466AH, in the
21 Circuit Court of the Fifteenth Judicial Circuit, in and for
22 Palm Beach County, which is intended to be and is treated by a
23 tobacco company as private in that the disclosure of the
24 information would cause harm to the company's business
25 operations, and which has not been disclosed unless disclosed
26 pursuant to a statutory provision, an order of a court or
27 administrative body, or private agreement that provides that
28 the information will not be released to the public. The term
29 includes, but is not limited to:

- 30 (a) Trade secrets.
- 31 (b) Information in a Form 10-K that is confidential

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1 pursuant to an order of the Division of Corporation Finance of
2 the Securities and Exchange Commission.

3 (c) Internal auditing control policies and procedures
4 and reports of internal auditors.

5 (d) Financial operating and marketing information
6 prepared in the ordinary course of business, the disclosure of
7 which could impair the competitive business of the provider of
8 information.

9 (e) Financial statements, which consist of balance
10 sheets, statements of income and cash flows, and notes related
11 thereto, of any subsidiary that is part of a consolidated
12 group and engaged in the production or sale of tobacco
13 products.

14 (f) Report letters from independent auditors relating
15 to domestic operating company income.

16 (g) Analyses of specific items of revenue and expense
17 included in operating profit and extraordinary items. As used
18 in this paragraph, "extraordinary items" consists of one-time
19 tobacco litigation settlement costs and restructuring charges.

20 (h) Working papers, schedules, analyses, and
21 reconciliations prepared by company personnel for the purpose
22 of clarifying the disclosures of domestic tobacco revenues and
23 operating profit contained in financial statements or other
24 information related to the sale or production of tobacco
25 products.

26 Section 2. The Legislature finds that it is a public
27 necessity that proprietary confidential business information
28 of tobacco companies that are signatories to the settlement
29 agreement, as amended, in the case of The State of Florida et
30 al. v. American Tobacco Company et al., Case #95-1466AH, in
31 the Circuit Court of the Fifteenth Judicial Circuit, in and

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1 for Palm Beach County, be exempt and confidential when held by
2 the State of Florida for the purpose of negotiating and
3 verifying the calculation of annual tobacco settlement
4 payments. In order for the state to determine that the annual
5 payments that it receives from tobacco companies are accurate
6 and verifiable, it is necessary for the state to obtain
7 proprietary confidential business information of the tobacco
8 companies that are signatories to the agreement. Disclosure of
9 the proprietary confidential business information of these
10 tobacco companies would harm them in the marketplace by
11 placing them at a competitive disadvantage with companies that
12 do not provide such information to the State of Florida and
13 would adversely affect their business interests. If the
14 participating tobacco companies are harmed in the marketplace,
15 their annual sales of tobacco products will be reduced, which
16 will diminish the annual amounts that they pay to the State of
17 Florida, thereby harming the financial interests of the state
18 and the people of Florida. The public and private harm in
19 disclosing this information significantly outweighs any public
20 benefit derived from disclosure, and the public's ability to
21 scrutinize and monitor government action is not diminished by
22 nondisclosure of this information. Therefore, the Legislature
23 finds that it is a public necessity that this proprietary
24 confidential business information be made confidential and
25 exempt from the requirements of s. 119.07(1) and s. 24(a),
26 Art. I of the State Constitution.

27 Section 3. This act shall take effect upon becoming a
28 law.
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1 ===== T I T L E A M E N D M E N T =====
2 And the title is amended as follows:
3 remove from the title of the bill: the entire title
4
5 and insert in lieu thereof:
6 A bill to be entitled
7 An act relating to public records exemptions;
8 creating s. 569.215, F.S.; providing that
9 proprietary confidential business information
10 used to negotiate or verify annual tobacco
11 settlement payments is exempt from public
12 records requirements; providing for future
13 review and repeal; providing a statement of
14 public necessity; providing an effective date.
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