 1   A bill to be entitled
 2   An act relating to copyright of governmental
 3   data processing software; creating s. 119.084,
 4   F.S.; providing definitions; authorizing
 5   governmental agencies to hold and enforce
 6   copyrights for data processing software they
 7   create; authorizing sale or license of such
 8   software and providing for fees; providing
 9   requirements for electronic recordkeeping
10   systems and for access to public records in
11   such systems; providing for fees; prohibiting
12   contracts for public records databases that
13   impair public access to such records; providing
14   for future review and repeal; providing a
15   finding of public necessity; providing an
16   effective date.
17
18 Be It Enacted by the Legislature of the State of Florida:
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20   Section 1. Section 119.084, Florida Statutes, is
21 created to read:
22   119.084 Definitions; copyright of data processing
23 software created by governmental agencies; fees; access to
24 public records; prohibited contracts.--
25   (1) As used in this section:
26   (a) "Agency" has the same meaning as in s. 119.011(2),
27 except that the term does not include any private agency,
28 person, partnership, corporation, or business entity.
29   (b) "Data processing software" has the same meaning as
30 in s. 282.303.
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1   (c) "Proprietary software" means data processing
2   software that is protected by copyright or trade secret laws.
3   (2) Any agency is authorized to hold copyrights for
4   data processing software created by the agency and to enforce
5   its rights pertaining to such copyrights, provided that the
6   agency complies with the requirements of this section.
7   (a) Any agency that has obtained a copyright for data
8   processing software created by the agency may sell or license
9   the copyrighted data processing software to any other public
10 or private entity and may establish a license fee for the use
11 of such data processing software. Proceeds from the sale or
12 licensing of copyrighted data processing software may be
13 deposited by a state agency into a state agency trust fund.
14 Counties, municipalities, and other political subdivisions of
15 the state may designate how such sale and licensing proceeds
16 are to be used. Prices or fees for the sale or licensing of
17 copyrighted data processing software may be based on market
18 considerations. However, the prices or fees for the sale or
19 licensing of copyrighted data processing software to an
20 individual or entity solely for application to data or
21 information maintained or generated by the agency that created
22 the copyrighted data processing software shall be determined
23 pursuant to s. 119.07(1).
24   (b) The provisions of this subsection are supplemental
25 to, and shall not supplant or repeal, any other provision of
26 law that authorizes an agency to hold or obtain copyrights.
27   (3) Subject to the restrictions of copyright and trade
28 secret laws and public records exemptions, agency use of
29 proprietary software must not diminish the right of the public
30 to inspect and copy a public record.
31

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

1   (4) An agency must consider when designing or
2 acquiring an electronic recordkeeping system that such system
3 is capable of providing data in some common format such as,
4 but not limited to, the American Standard Code for Information
5 Interchange.
6   (5) Each agency that maintains a public record in an
7 electronic recordkeeping system shall provide to any person,
8 pursuant to this chapter, a copy of any public record in that
9 system which is not exempted by law from public disclosure.
10 An agency must provide a copy of the record in the medium
11 requested if the agency maintains the record in that medium,
12 and the agency may charge a fee which shall be in accordance
13 with this chapter. For the purpose of satisfying a public
14 records request, the fee to be charged by an agency if it
15 elects to provide a copy of a public record in a medium not
16 routinely used by the agency or if it elects to compile
17 information not routinely developed or maintained by the
18 agency or that requires a substantial amount of manipulation
19 or programming must be in accordance with s. 119.07(1)(b).
20   (6) An agency may not enter into a contract for the
21 creation or maintenance of a public records database if that
22 contract impairs the ability of the public to inspect or copy
23 the public records of that agency, including public records
24 that are on-line or stored in an electronic recordkeeping
25 system used by the agency.
26   (7) This section is subject to the Open Government
27 Sunset Review Act of 1995 in accordance with s. 119.15 and
28 shall stand repealed on October 2, 2006, unless reviewed and
29 saved from repeal through reenactment by the Legislature.
30   Section 2. The Legislature finds that it is a public
31 necessity to permit governmental agencies to hold and enforce

 1 | copyrights for data processing software created by the agency.
 2 | Allowing agencies to copyright their software enables agencies
 3 | to sell or license the software at a fair market value to
 4 | other governmental entities or private industry and recoup
 5 | production expenses. Governmental agencies spend valuable
 6 | resources on developing and creating software to enhance
 7 | system productivity. Currently there is no protection from any
 8 | person or business entity obtaining software created by an
 9 | agency at the expense of taxpayers and using that software
10 | without restriction for personal or financial gain. This
11 | exemption is needed to protect the integrity and development
12 | of computer technology design of governmental agencies by
13 | restricting the resale or use of the software for commercial
14 | purposes. The Legislature also finds that this exemption
15 | protects the public by ensuring that access to electronic
16 | public records is not prohibited. Thus, the public benefit in
17 | copyrighting governmental software significantly outweighs any
18 | public or private harm because the resale or use of this
19 | information without the necessary restrictions adversely
20 | impacts governmental agencies' proprietary rights.
21 | Section 3. This act shall take effect upon becoming a
22 | law.
23 |
24 | ***
25 | HOUSE SUMMARY
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27 | Authorizes governmental agencies to hold and enforce
     copyrights for data processing software they create.
     Authorizes sale or license of such software and provides
28 | for fees. Provides requirements for electronic
     recordkeeping systems and for access to public records in
29 | such systems. Provides for fees. Prohibits contracts for
     public records databases that impair public access to
30 | such records. Provides for future review and repeal.
31 |