

By the Committee on Regulated Industries

315-1246-03

1 A bill to be entitled
2 An act relating to public records; amending s.
3 498.047, F.S.; providing for the
4 confidentiality of investigative information
5 held by the Division of Florida Land Sales,
6 Condominiums, and Mobile Homes of the
7 Department of Business and Professional
8 Regulation; clarifying provisions authorizing
9 the release of information in connection with
10 the official duties of a law enforcement or
11 administrative agency or regulatory
12 organization; removing the repeal of the
13 exemption scheduled under the Open Government
14 Sunset Review Act of 1995; providing an
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. Notwithstanding the repeal scheduled on
20 October 2, 2003, under the Open Government Sunset Review Act
21 of 1995, subsection (8) of section 498.047, Florida Statutes,
22 is amended to read:

23 498.047 Investigations.--

24 (8)(a) Information held by the Division of Florida
25 Land Sales, Condominiums, and Mobile Homes ~~Except as otherwise~~
26 ~~provided by this subsection, information~~ relative to an
27 investigation ~~by the division~~ pursuant to this chapter,
28 including any consumer complaint, is confidential and exempt
29 from s. 119.07(1) and s. 24(a), Art. I of the State
30 Constitution, until 10 days after a notice to show cause has
31 been filed by the division, or, in the case in which no notice

1 to show cause is filed, the investigation is completed or
2 ceases to be active. For purposes of this section, an
3 investigation shall be considered "active" so long as the
4 division or any law enforcement or administrative agency or
5 regulatory organization is proceeding with reasonable dispatch
6 and has a reasonable good faith belief that the investigation
7 may lead to the filing of an administrative, civil, or
8 criminal proceeding or to the denial or conditional grant of a
9 license or registration. However, in response to a specific
10 inquiry about the registration status of a registered or
11 unregistered subdivider, the division may disclose the
12 existence and the status of an active investigation. This
13 subsection shall not be construed to prohibit disclosure of
14 information which is required by law to be filed with the
15 division and which, but for the investigation, would be
16 subject to s. 119.07(1).

17 (b) ~~Except as necessary for the division to enforce~~
18 ~~the provisions of this chapter,~~A consumer complaint and other
19 information relative to an investigation shall remain
20 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
21 of the State Constitution, after the filing of a notice to
22 show cause or the investigation is completed or ceases to be
23 active to the extent disclosure would:

- 24 1. Jeopardize the integrity of another active
25 investigation.
- 26 2. Reveal the name, address, telephone number, social
27 security number, or any other identifying number or
28 information of any purchaser or account holder, or social
29 security number or any account number of a complainant.
- 30 3. Reveal a trade secret as defined in s. 688.002.

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1 (c) ~~Nothing in this subsection shall be construed to~~
2 ~~prohibit~~ The division may provide confidential and exempt from
3 providing information to any law enforcement or administrative
4 agency or regulatory organization when such agency or
5 organization makes the request in connection with its official
6 duties. Any law enforcement or administrative agency or
7 regulatory organization receiving confidential and exempt
8 information in connection with its official duties shall
9 maintain the confidential and exempt status ~~confidentiality~~ of
10 the information as provided for in this subsection.

11 (d) If information subject to this subsection is
12 offered in evidence in any administrative, civil, or criminal
13 proceeding, the presiding officer may, in his or her
14 discretion, prevent the disclosure of information which would
15 be confidential and exempt pursuant to paragraph (b).

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17 ~~This subsection is subject to the Open Government Sunset~~
18 ~~Review Act of 1995 in accordance with s. 119.15, and shall~~
19 ~~stand repealed on October 2, 2003, unless reviewed and saved~~
20 ~~from repeal through reenactment by the Legislature.~~

21 Section 2. This act shall take effect October 1, 2003.

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24 SENATE SUMMARY

25 Revises an exemption from the public-records law provided
26 for information held by the Division of Florida Land
27 Sales, Condominiums, and Mobile Homes of the Department
28 of Business and Professional Regulation. Provides for the
29 release of information under certain circumstances to a
30 law enforcement or administrative agency or to a
31 regulatory organization. Removes the repeal of the
exemption scheduled on October 2, 2003, under the Open
Government Sunset Review Act of 1995.