

By the Committee on Banking and Insurance; and Senator Clary

311-2239-04

1                                   A bill to be entitled  
2           An act relating to public records exemptions;  
3           repealing s. 717.117(8), F.S.; deleting an  
4           exemption from certain public records  
5           requirements for financial records held by the  
6           Department of Financial Services; creating s.  
7           717.1171, F.S.; exempting from public records  
8           requirements certain financial records held by  
9           the Department of Financial Services; providing  
10          exceptions; creating s. 717.12401, F.S.;  
11          exempting from public records requirements  
12          certain personal photographic information held  
13          by the department; providing exceptions;  
14          creating s. 717.12402, F.S.; exempting from  
15          public records requirements certain databases  
16          subscribed to by the department under certain  
17          circumstances; amending s. 717.1301, F.S.;  
18          creating an exemption from public records  
19          requirements for documents produced during an  
20          investigation or examination conducted by the  
21          Department of Financial Services; providing for  
22          future legislative review and repeal; creating  
23          s. 717.1342, F.S.; providing criminal penalties  
24          for disclosure of confidential records;  
25          providing findings of public necessity;  
26          providing for future legislative review and  
27          repeal; providing a contingent effective date.

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29 Be It Enacted by the Legislature of the State of Florida:  
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1           Section 1. Subsection (8) of section 717.117, Florida  
2 Statutes, is repealed.

3           Section 2. Section 717.1171, Florida Statutes, is  
4 created to read:

5           717.1171 Public records exemption for social security  
6 numbers, unclaimed property account dollar amounts, the number  
7 of reported shares of stock, and financial account numbers.--

8           (1) Social security numbers, unclaimed property  
9 account dollar amounts, the number of reported shares of  
10 stock, and financial account numbers held by the department  
11 are confidential and exempt from s. 119.07(1) and s. 24(a),  
12 Art. I of the State Constitution. Notwithstanding this  
13 exemption, the last four digits of social security numbers,  
14 unclaimed property account dollar amounts, and the number of  
15 reported shares of stock shall be released to an attorney  
16 licensed to practice law in this state, a licensed  
17 Florida-certified public accountant, or a private investigator  
18 licensed under chapter 493, and registered with the department  
19 under this chapter. Notwithstanding this exemption, social  
20 security numbers, unclaimed property account dollar amounts,  
21 the number of reported shares of stock, and financial account  
22 numbers held by the department may be provided to another  
23 agency in the furtherance of that agency's duties and  
24 responsibilities, or to an employee of such an agency. The  
25 receiving person or agency, other than the person entitled to  
26 the unclaimed property, must maintain the confidential and  
27 exempt status of such information. This exemption applies to  
28 social security numbers, unclaimed property account dollar  
29 amounts, the number of reported shares of stock, and financial  
30 account numbers held by the department before, on, or after  
31 October 1, 2004.

1           (2) If information made confidential and exempt under  
2 this section is offered as evidence in any administrative,  
3 civil, or criminal proceeding, or is otherwise subject to such  
4 a proceeding, the presiding officer, in her or his discretion,  
5 may prevent the disclosure of information that is confidential  
6 and exempt pursuant to this section.

7           (3) An attorney licensed to practice law in this  
8 state, a licensed Florida-certified public accountant, or a  
9 private investigator licensed under chapter 493, and  
10 registered with the department under this chapter, or an  
11 employee thereof, may disclose in good faith the last four  
12 digits of social security numbers, unclaimed property account  
13 dollar amounts, and the number of reported shares of stock to  
14 a person who is believed by the attorney, accountant, or  
15 investigator, or an employee thereof, to be entitled to the  
16 unclaimed property.

17           (4) The department, or an employee of the department,  
18 may disclose in good faith the last four digits of social  
19 security numbers, unclaimed property account dollar amounts,  
20 and the number of reported shares of stock to a person who is  
21 believed by the department, or an employee of the department,  
22 to be entitled to the unclaimed property.

23           (5) This section is subject to the Open Government  
24 Sunset Review Act of 1995 in accordance with s. 119.15 and  
25 shall stand repealed on October 2, 2009, unless reviewed and  
26 saved from repeal through reenactment by the Legislature.

27           Section 3. Section 717.12401, Florida Statutes, is  
28 created to read:

29           717.12401 Public records exemption for personal  
30 photographic identification.--

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1       (1) Personal photographic identification held by the  
2 department pursuant to this chapter is confidential and exempt  
3 from s. 119.07(1) and s. 24(a), Art. I of the State  
4 Constitution. This exemption applies to personal photographic  
5 identification held by the department before, on, or after  
6 October 1, 2004.

7       (2) This section does not prohibit the department from  
8 providing the personal photographic identification to any law  
9 enforcement or administrative agency or regulatory  
10 organization. The agency receiving the personal photographic  
11 identification that would be confidential and exempt pursuant  
12 to this section must maintain the confidentiality of the  
13 information so long as the information would otherwise be  
14 confidential.

15       (3) If personal photographic identification made  
16 confidential and exempt under this section is offered as  
17 evidence in any administrative, civil, or criminal proceeding,  
18 or is otherwise subject to such a proceeding, the presiding  
19 officer, in her or his discretion, may prevent the disclosure  
20 of information that is confidential and exempt pursuant to  
21 this section.

22       (4) This section is subject to the Open Government  
23 Sunset Review Act of 1995 in accordance with s. 119.15 and  
24 shall stand repealed on October 2, 2009, unless reviewed and  
25 saved from repeal through reenactment by the Legislature.

26       Section 4. Section 717.12402, Florida Statutes, is  
27 created to read:

28       717.12402 Public records exemption for database  
29 subscription required to be confidential by the database  
30 vendor.--A database subscribed to by the department and  
31 information derived from the database is confidential and

1 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
2 Constitution if the database vendor requires confidentiality.  
3 This section is subject to the Open Government Sunset Review  
4 Act of 1995 in accordance with s. 119.15 and shall stand  
5 repealed on October 2, 2009, unless reviewed and saved from  
6 repeal through reenactment by the Legislature.

7 Section 5. Subsection (5) of section 717.1301, Florida  
8 Statutes, is amended to read:

9 717.1301 Investigations; examinations; subpoenas.--

10 (5)(a) Except as otherwise provided by this section,  
11 information received or created during an investigation or  
12 examination by the Department of Financial Services pursuant  
13 to this chapter, including any consumer complaint, is  
14 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
15 of the State Constitution until the investigation or  
16 examination is completed or ceases to be active.

17 (b) The department may provide such confidential and  
18 exempt information to a law enforcement agency, administrative  
19 agency, or regulatory organization in the furtherance of its  
20 duties and responsibilities. The law enforcement agency,  
21 administrative agency, or regulatory organization must  
22 maintain the confidential and exempt status of the information  
23 so long as it would otherwise be confidential and exempt.

24 (c) If such confidential and exempt information is  
25 offered into evidence in any administrative, civil, or  
26 criminal proceeding, the presiding officer may, in her or his  
27 discretion, prevent the disclosure of such information.

28 (d) Such information shall remain confidential and  
29 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
30 Constitution until after the department completes its  
31 investigation or examination or the investigation or

1 examination ceases to be active to the extent disclosure  
2 would:  
3 1. Jeopardize the integrity of another active  
4 investigation.  
5 2. Reveal the name, address, telephone number, social  
6 security number, or any other identifying information of a  
7 complainant, customer, or account holder, except as authorized  
8 by s. 717.1171.  
9 3. Reveal the identity of a confidential source.  
10 4. Reveal investigative techniques or procedures.  
11 5. Reveal a trade secret as defined in s. 688.002.  
12 6. Reveal proprietary business information obtained by  
13 the department from any person which is only made available to  
14 the department on a confidential or similarly restricted  
15 basis.  
16  
17 For purposes of this subsection, an investigation or  
18 examination shall be considered "active" so long as the  
19 department or any law enforcement or administrative agency or  
20 regulatory organization is proceeding with reasonable dispatch  
21 and has a reasonable good faith belief that the investigation  
22 or examination may lead to the filing of an administrative,  
23 civil, or criminal proceeding or to the denial or conditional  
24 grant of a license, registration, or permit. This subsection  
25 does not prohibit disclosure of information that is required  
26 by law to be filed with the department and, but for the  
27 investigation or examination, would be subject to s.  
28 119.07(1).  
29 (e) This exemption does not prohibit disclosure of  
30 information that is required by law to be filed with the  
31

1 department or that is otherwise subject to s. 119.07(1) and s.  
2 24(a), Art. I of the State Constitution.

3 (f) This subsection is subject to the Open Government  
4 Sunset Review Act of 1995 in accordance with s. 119.15, and  
5 shall stand repealed on October 2, 2009, unless reviewed and  
6 saved from repeal through reenactment by the Legislature. The  
7 ~~material compiled by the department in an investigation or~~  
8 ~~examination under this chapter is confidential until the~~  
9 ~~investigation or examination is complete. The material~~  
10 ~~compiled by the department in an investigation or examination~~  
11 ~~under this chapter remains confidential after the department's~~  
12 ~~investigation or examination is complete if the department has~~  
13 ~~submitted the material or any part of it to any law~~  
14 ~~enforcement agency or other administrative agency for further~~  
15 ~~investigation or for the filing of a criminal or civil~~  
16 ~~prosecution and such investigation has not been completed or~~  
17 ~~become inactive.~~

18 Section 6. Section 717.1342, Florida Statutes, is  
19 created to read:

20 717.1342 Criminal penalties for disclosure of  
21 confidential records.--Any person who willfully and knowingly  
22 violates s. 717.1171 or s. 717.12401 commits a felony of the  
23 third degree, punishable as provided in s. 775.082 or s.  
24 775.083.

25 Section 7. (1) The Legislature finds that it is a  
26 public necessity that social security numbers and financial  
27 account numbers of apparent owners of unclaimed property which  
28 are in the custody of the Department of Financial Services be  
29 made confidential and exempt in order to prevent identity  
30 theft and related crimes. The Legislature further finds that  
31 this exemption is a public necessity in order to prevent the

1 use of such information in forged documents demonstrating  
2 entitlement to unclaimed property and thereby defrauding the  
3 rightful property owner or the State School Fund.  
4 Additionally, the social security number is the only  
5 nationwide, unique numeric form of identification. Release of  
6 a person's social security number is of concern due to the  
7 amount of information about an individual which that number  
8 can provide. A social security number is often the link to an  
9 individual's personal records, whether such records are  
10 financial, educational, medical, or familial in nature.  
11 Social security numbers furnished to registered owner  
12 representatives by the Department of Financial Services under  
13 current law have been released in solicitations to prospective  
14 unclaimed property clients. Additionally, social security  
15 numbers furnished to an owner's representative were used to  
16 manufacture and submit fraudulent documents in order to obtain  
17 unclaimed property in excess of \$350,000 from the department.  
18 Accordingly, once the social security numbers are released,  
19 the department has no control over what the recipients of the  
20 social security number information do with this sensitive  
21 information. The Legislature further finds that the continued  
22 release of social security numbers, and this lack of control,  
23 jeopardizes the financial security of potentially hundreds of  
24 thousands of individuals whose social security numbers are  
25 held by the Department of Financial Services on the unclaimed  
26 property database. Therefore, the harm from disclosure  
27 outweighs any public benefit obtained from the release of such  
28 information.

29 (2) The Legislature finds that it is a public  
30 necessity that unclaimed property account dollar amounts and  
31 the number of reported shares of stock which are in the



1 custody of the Department of Financial Services be made  
2 confidential and exempt in order to prevent unclaimed property  
3 fraud and related crimes. The Legislature further finds that  
4 this exemption is a public necessity in order to prevent  
5 criminal elements from using such information to identify  
6 which accounts to claim by using forged documents  
7 demonstrating entitlement to unclaimed property, thereby  
8 defrauding the rightful property owner or the State School  
9 Fund. Therefore, the harm from disclosure outweighs any public  
10 benefit obtained from the release of such information. The  
11 Legislature further finds that it is necessary, however, to  
12 provide access to unclaimed property account dollar amounts  
13 and the number of reported shares of stock to an attorney  
14 licensed to practice law in this state, a licensed  
15 Florida-certified public accountant, or a private investigator  
16 licensed under chapter 493, Florida Statutes, and registered  
17 with the department, because they are the only persons, other  
18 than the owner or an heir of the original owner, who are  
19 authorized to file claims on behalf of owners of unclaimed  
20 property pursuant to chapter 717, Florida Statutes. Providing  
21 access to unclaimed property account dollar amounts and the  
22 number of reported shares of stock to an attorney licensed to  
23 practice law in this state, a licensed Florida-certified  
24 public accountant, or a private investigator licensed under  
25 chapter 493, Florida Statutes, and registered with the  
26 department, will assist them in determining which accounts to  
27 pursue on behalf of owners.

28 (3) The Legislature finds that it is a public  
29 necessity that all personal photographic identifications that  
30 are in the custody of the Department of Financial Services be  
31 made confidential and exempt in order to prevent identity

1 theft and related crimes. The Legislature further finds that  
2 this exemption is a public necessity in order to prevent the  
3 use of such information in forged documents demonstrating  
4 entitlement to abandoned or unclaimed property and thereby  
5 defrauding the rightful property owner or the State School  
6 Fund. Release of a person's personal photographic  
7 identification is of concern due to the ability to use  
8 personal photographic identification to obtain access to an  
9 individual's personal records, whether such records are  
10 financial, educational, medical, or familial in nature.  
11 Concerns by the public over the release of personal  
12 photographic identifications that are in the custody of the  
13 Department of Financial Services has created a reluctance by  
14 some members of the public to claim their unclaimed property.  
15 Making personal photographic identification exempt from  
16 disclosure will reduce public fears of identity theft and  
17 promote the goal of returning unclaimed property to owners.  
18 Therefore, the harm from disclosure outweighs any public  
19 benefit obtained from the release of such information.

20 (4) The Legislature finds that it is a public  
21 necessity that the Department of Financial Services use the  
22 most current and efficient database resources in a  
23 cost-effective manner to notify owners of unclaimed property,  
24 to verify whether claimants are entitled to unclaimed  
25 property, and in order to prevent unclaimed property fraud and  
26 related crimes. The Legislature further finds that this  
27 exemption is a public necessity in order to help prevent  
28 criminal elements from successfully using forged documents or  
29 erroneous information demonstrating entitlement to abandoned  
30 or unclaimed property, thereby defrauding the rightful  
31 property owner or the State School Fund. Making such databases

1 confidential will reduce the concerns of vendors, due to  
2 federal legislation, about the public release of such  
3 information. Accordingly, the harm from disclosure outweighs  
4 any public benefit obtained from the release of such  
5 information.

6 (5)(a) The Legislature finds that it is a public  
7 necessity that information received or created during an  
8 investigation or examination conducted by the Department of  
9 Financial Services pursuant to chapter 717, Florida Statutes,  
10 including any consumer complaint, be confidential and exempt  
11 from section 119.07(1), Florida Statutes, and Section 24(a),  
12 Article I of the State Constitution until the investigation or  
13 examination is completed or ceases to be active or if the  
14 department submits the information to any law enforcement or  
15 administrative agency or regulatory organization for further  
16 investigation and that agency's or organization's  
17 investigation is completed or ceases to be active, in order to  
18 protect the integrity of such investigations or examinations.  
19 An investigation or examination may lead to filing an  
20 administrative, civil, or criminal proceeding or to denying or  
21 conditionally granting a license, registration, or permit. The  
22 public necessity exists to the extent disclosure might  
23 jeopardize the integrity of another active investigation or  
24 examination; reveal the name, address, telephone number,  
25 social security number, or any other identifying information  
26 of any complainant, customer, or account holder subject to the  
27 provisions of section 717.1171, Florida Statutes; disclose the  
28 identity of a confidential source; disclose investigative  
29 techniques or procedures; reveal a trade secret as defined in  
30 section 688.002, Florida Statutes; or reveal proprietary  
31 business information.

1           (b) Examinations and investigations by the department  
2 frequently involve the gathering of personal, sensitive  
3 information concerning individuals, such as complainants,  
4 customers, account holders, or other confidential sources. The  
5 department may not otherwise have this information in its  
6 possession but for the examination or investigation. Because  
7 of the sensitive nature of the information gathered, the  
8 information should not be made available to the public. If  
9 disclosed, this information may cause unwarranted damage to  
10 such persons by facilitating identity theft or jeopardizing  
11 the safety of such individuals.

12           (c) Revealing investigative techniques or procedures  
13 may inhibit the effective and efficient administration of the  
14 department to conduct investigations. Revelation of such  
15 techniques or procedures could allow a person to hide or  
16 conceal violations of law that would have otherwise been  
17 discovered during and examination or investigation. As such,  
18 the department's ability to perform an effective investigation  
19 or examination may be hindered.

20           (d) Proprietary information or trade secrets are on  
21 occasion necessary for the office to review as part of an  
22 ongoing examination or investigation. Disclosure of such  
23 information to the public may cause injury to the affected  
24 entity in the marketplace if revealed. Providing the  
25 confidentiality will provide the department with the necessary  
26 tool to perform its function while maintaining adequate  
27 protection for the affected business.

28           Section 8. This act shall take effect October 1, 2004,  
29 if SB 2288, or substantially similar legislation, is adopted  
30 in the same Legislative session or an extension thereof and  
31 becomes law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 2290

Permits the Department of Financial Services (Department) to release the last four digits of social security numbers held by the Department to a Florida licensed attorney, Florida-certified public accountant, or a Florida licensed private investigator that is registered with the Department under ch. 717, F.S.

Creates a public records exemption for information received or created by the Department during an investigation or examination. Exempt information is confidential until the investigation concludes or is inactive, with exceptions.