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HB 317, Engrossed 1

2004 Legislature

A bill to be entitled

An act relating to public records; amending s. 119.07, F.S.; creating an exemption from public records requirements to include building plans, blueprints, schematic drawings, and diagrams held by a public agency and relating to specified facilities, developments, and structures; providing exceptions; providing for legislative review and repeal; providing definitions; providing a statement of public necessity; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Present paragraphs (ff) and (gg) of subsection (3) of section 119.07, Florida Statutes, are redesignated as paragraphs (gg) and (hh), respectively, and a new paragraph (ff) is added to said subsection, to read:

119.07 Inspection, examination, and duplication of records; exemptions.--

(3)

(ff) Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout or structural elements of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development, which documents are held by an agency as defined in s. 119.011, are exempt from the provisions of subsection (1) and s. 24(a), Art.

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I of the State Constitution. This exemption applies to any such documents held either permanently or temporarily by an agency before or after the effective date of this act. Information made exempt by this paragraph may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to the owner or owners of the structure in question or the owner's legal representative; or upon a showing of good cause before a court of competent jurisdiction. As used in this paragraph, the term:

1. "Attractions and recreation facility" means any sports, entertainment, amusement, or recreation facility, including, but not limited to, a sports arena, stadium, racetrack, tourist attraction, amusement park, or pari-mutuel facility that:

a. For single-performance facilities:

(I) Provides single-performance facilities; or

(II) Provides more than 10,000 permanent seats for spectators.

b. For serial-performance facilities:

(I) Provides parking spaces for more than 1,000 motor vehicles; or

(II) Provides more than 4,000 permanent seats for spectators.

2. "Entertainment or resort complex" means a theme park comprised of at least 25 acres of land with permanent exhibitions and a variety of recreational activities, which has at least 1 million visitors annually who pay admission fees thereto, together with any lodging, dining, and recreational facilities located adjacent to, contiguous to, or in close

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proximity to the theme park, as long as the owners or operators of the theme park, or a parent or related company or subsidiary thereof, has an equity interest in the lodging, dining, or recreational facilities or is in privity therewith. Close proximity includes an area within a 5-mile radius of the theme park complex.

3. "Industrial complex" means any industrial, manufacturing, processing, distribution, warehousing, or wholesale facility or plant, as well as accessory uses and structures, under common ownership which:

a. Provides onsite parking for more than 250 motor vehicles;

b. Encompasses 500,000 square feet or more of gross floor area; or

c. Occupies a site of 100 acres or more, but excluding wholesale facilities or plants that primarily serve or deal onsite with the general public.

4. "Retail and service development" means any retail, service, or wholesale business establishment or group of establishments which deals primarily with the general public onsite and is operated under one common property ownership, development plan, or management that:

a. Encompasses more than 400,000 square feet of gross floor area; or

b. Provides parking spaces for more than 2,500 motor vehicles.

5. "Office development" means any office building or park operated under common ownership, development plan, or management

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that encompasses 300,000 or more square feet of gross floor area.

6. "Hotel or motel development" means any hotel or motel development that accommodates 350 or more units.

This exemption does not apply to comprehensive plans or site plans, or amendments thereto, which are submitted for approval or which have been approved under local land development regulations, local zoning regulations, or development-of-regional-impact review.

Section 2. Section 119.07(3)(ff), Florida Statutes, is subject to the Open Government Sunset Review Act of 1995, in accordance with s. 119.15, Florida Statutes, and shall stand repealed on October 2, 2009, unless reviewed and reenacted by the Legislature.

Section 3. The Legislature finds that the public records exemption created by this act is a public necessity in order to ensure the safety of an attractions and recreation facility, entertainment or resort complex, industrial complex, retail and service development, office development, or hotel or motel development and to ensure public safety. Such exempt information is a vital component of public safety and, if the building plans, blueprints, schematic drawings, and diagrams were made publicly available, the ability of persons who desire to harm individuals located in or using those structures would be increased. In addition, terrorists would have easy access to the exempt information and could use the information to inflict harm on the public. Although skill would be required to use such

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information to further an act of terrorism, ample evidence exists of the capabilities of terrorists to conduct complicated acts of terrorism. The attack on the World Trade Center and the Pentagon on September 11, 2001, as well as the intentional spread of anthrax in this country and state, provide evidence that such capabilities exist. These events also show the crippling effect that terrorist acts can have, not only on the lives of persons in a community affected by terrorism, but also on the economy of the community, the state, and the nation. Consequently, the Legislature finds that the public records exemption created by this act is a public necessity.

Section 4. This act shall take effect upon becoming a law.