

1                                   A bill to be entitled  
 2       An act relating to a review under the Open Government  
 3       Sunset Review Act regarding the tobacco settlement  
 4       agreement; amending s. 569.215, F.S., which provides an  
 5       exemption from public records requirements for proprietary  
 6       confidential business information received by the  
 7       Governor, the Attorney General, or outside counsel  
 8       representing the State of Florida in negotiations for  
 9       settlement payments pursuant to the settlement agreement  
 10      in the case of State of Florida et al. v. American Tobacco  
 11      Company et al., or received by the Chief Financial Officer  
 12      or the Auditor General for any purpose relating to  
 13      verifying settlement payments made pursuant to the  
 14      settlement agreement; clarifying the definition of "trade  
 15      secrets" for purposes of the exemption; making editorial  
 16      changes; removing the scheduled repeal of the exemption;  
 17      providing an effective date.

18  
 19   Be It Enacted by the Legislature of the State of Florida:

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 21           Section 1.   Section 569.215, Florida Statutes, is amended  
 22   to read:  
 23           569.215   Confidential records relating to tobacco  
 24   settlement agreement.--

25           (1)   Proprietary confidential business information received  
 26   by the Governor, the Attorney General, or outside counsel  
 27   representing the State of Florida in negotiations for settlement  
 28   payments pursuant to the settlement agreement, as amended, in

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29 the case of State of Florida et al. v. American Tobacco Company  
30 et al., No. 95-1466AH, in the Circuit Court of the Fifteenth  
31 Judicial Circuit, in and for Palm Beach County, or received by  
32 the Chief Financial Officer or the Auditor General for any  
33 purpose relating to verifying settlement payments made pursuant  
34 to the settlement agreement is confidential and exempt from ~~the~~  
35 ~~provisions of~~ s. 119.07(1) and s. 24(a) of Art. I of the State  
36 Constitution. Any state or federal agency that is authorized to  
37 have access to such documents by any provision of law shall be  
38 granted such access in furtherance of such agency's statutory  
39 duties, notwithstanding the provisions of this section.  
40 Proprietary confidential business information received under  
41 this section shall not retain its confidential and exempt status  
42 if that information is made public, including publicizing such  
43 information in a Securities and Exchange Commission filing, an  
44 annual financial statement, or other document or means. ~~This~~  
45 ~~exemption is subject to the Open Government Sunset Review Act of~~  
46 ~~1995 in accordance with s. 119.15, and shall stand repealed on~~  
47 ~~October 2, 2006, unless reviewed and saved from repeal through~~  
48 ~~reenactment by the Legislature.~~

49 (2) As used in this section, the term "proprietary  
50 confidential business information" means information, regardless  
51 of form or characteristics, which is owned or controlled by a  
52 tobacco company that is a signatory to the settlement agreement,  
53 as amended, in the case of State of Florida et al. v. American  
54 Tobacco Company et al., No. 95-1466AH, in the Circuit Court of  
55 the Fifteenth Judicial Circuit, in and for Palm Beach County, is  
56 intended to be and is treated by a tobacco company as private in

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57 | that the disclosure of the information would cause harm to the  
58 | company's business operations, and has not been disclosed unless  
59 | disclosed pursuant to a statutory provision, an order of a court  
60 | or administrative body, or private agreement that provides that  
61 | the information will not be released to the public. The term  
62 | includes, but is not limited to:

63 |       (a) Trade secrets as defined in s. 688.002.

64 |       (b) Information in a Form 10-K that is confidential  
65 | pursuant to an order of the Division of Corporation Finance of  
66 | the Securities and Exchange Commission.

67 |       (c) Internal auditing control policies and procedures and  
68 | reports of internal auditors.

69 |       (d) Financial operating and marketing information prepared  
70 | in the ordinary course of business, the disclosure of which  
71 | could impair the competitive business of the provider of  
72 | information.

73 |       (e) Financial statements, which consist of balance sheets,  
74 | statements of income and cash flows, and notes related thereto,  
75 | of any subsidiary that is part of a consolidated group and  
76 | engaged in the production or sale of tobacco products.

77 |       (f) Report letters from independent auditors relating to  
78 | domestic operating company income.

79 |       (g) Analyses of specific items of revenue and expense  
80 | included in operating profit and extraordinary items. As used in  
81 | this paragraph, the term "extraordinary items" consists of one-  
82 | time tobacco litigation settlement costs and restructuring  
83 | charges.

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84           (h) Working papers, schedules, analyses, and  
85 reconciliations prepared by company personnel for the purpose of  
86 clarifying the disclosures of domestic tobacco revenues and  
87 operating profit contained in financial statements or other  
88 information related to the sale or production of tobacco  
89 products.

90           Section 2. This act shall take effect October 1, 2006.