

ENROLLED
 HB 7047

2006 Legislature

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:

20
 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.