

580-992-06

1 A bill to be entitled  
2 An act relating to a review under the Open  
3 Government Sunset Review Act; amending s.  
4 569.215, F.S., relating to an exemption from  
5 the public-records law which is provided for  
6 certain business information concerning the  
7 tobacco-settlement agreement; defining the term  
8 "trade secrets" for purposes of the exemption;  
9 saving the exemption from repeal under the Open  
10 Government Sunset Review Act; deleting  
11 provisions that provide for repeal of the  
12 exemption; providing an effective date.  
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14 Be It Enacted by the Legislature of the State of Florida:  
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16 Section 1. Section 569.215, Florida Statutes, is  
17 amended to read:  
18 569.215 Confidential records relating to tobacco  
19 settlement agreement.--  
20 (1) Proprietary confidential business information  
21 received by the Governor, the Attorney General, or outside  
22 counsel representing the State of Florida in negotiations for  
23 settlement payments pursuant to the settlement agreement, as  
24 amended, in the case of State of Florida et al. v. American  
25 Tobacco Company et al., No. 95-1466AH, in the Circuit Court of  
26 the Fifteenth Judicial Circuit, in and for Palm Beach County,  
27 or received by the Chief Financial Officer or the Auditor  
28 General for any purpose relating to verifying settlement  
29 payments made pursuant to the settlement agreement is  
30 confidential and exempt from the provisions of s. 119.07(1)  
31 and s. 24(a) of Art. I of the State Constitution. Any state or

1 federal agency that is authorized to have access to such  
2 documents by any provision of law shall be granted such access  
3 in furtherance of such agency's statutory duties,  
4 notwithstanding the provisions of this section. Proprietary  
5 confidential business information received under this section  
6 shall not retain its confidential and exempt status if that  
7 information is made public, including publicizing such  
8 information in a Securities and Exchange Commission filing, an  
9 annual financial statement, or other document or means. ~~This~~  
10 ~~exemption is subject to the Open Government Sunset Review Act~~  
11 ~~of 1995 in accordance with s. 119.15, and shall stand repealed~~  
12 ~~on October 2, 2006, unless reviewed and saved from repeal~~  
13 ~~through reenactment by the Legislature.~~

14 (2) As used in this section, the term "proprietary  
15 confidential business information" means information,  
16 regardless of form or characteristics, which is owned or  
17 controlled by a tobacco company that is a signatory to the  
18 settlement agreement, as amended, in the case of State of  
19 Florida et al. v. American Tobacco Company et al., No.  
20 95-1466AH, in the Circuit Court of the Fifteenth Judicial  
21 Circuit, in and for Palm Beach County, is intended to be and  
22 is treated by a tobacco company as private in that the  
23 disclosure of the information would cause harm to the  
24 company's business operations, and has not been disclosed  
25 unless disclosed pursuant to a statutory provision, an order  
26 of a court or administrative body, or private agreement that  
27 provides that the information will not be released to the  
28 public. The term includes, but is not limited to:

29 (a) Trade secrets, as defined in s. 812.081.  
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1 (b) Information in a Form 10-K that is confidential  
2 pursuant to an order of the Division of Corporation Finance of  
3 the Securities and Exchange Commission.

4 (c) Internal auditing control policies and procedures  
5 and reports of internal auditors.

6 (d) Financial operating and marketing information  
7 prepared in the ordinary course of business, the disclosure of  
8 which could impair the competitive business of the provider of  
9 information.

10 (e) Financial statements, which consist of balance  
11 sheets, statements of income and cash flows, and notes related  
12 thereto, of any subsidiary that is part of a consolidated  
13 group and engaged in the production or sale of tobacco  
14 products.

15 (f) Report letters from independent auditors relating  
16 to domestic operating company income.

17 (g) Analyses of specific items of revenue and expense  
18 included in operating profit and extraordinary items. As used  
19 in this paragraph, the term "extraordinary items" consists of  
20 one-time tobacco litigation settlement costs and restructuring  
21 charges.

22 (h) Working papers, schedules, analyses, and  
23 reconciliations prepared by company personnel for the purpose  
24 of clarifying the disclosures of domestic tobacco revenues and  
25 operating profit contained in financial statements or other  
26 information related to the sale or production of tobacco  
27 products.

28 Section 2. This act shall take effect October 1, 2006.  
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SENATE SUMMARY

Removes provisions repealing an exemption from public-records requirements which is provided for certain business information concerning the tobacco-settlement agreement, and which repeal is scheduled to occur on October 2, 2006, under the Open Government Sunset Review Act.