

By the Committee on Governmental Operations

585-496-07

1                                   A bill to be entitled  
2           An act relating to a review under the Open  
3           Government Sunset Review Act; amending s.  
4           119.071, F.S., relating to exemptions from  
5           public-records requirements which are provided  
6           for social security numbers and financial  
7           account numbers; deleting certain obsolete  
8           provisions; saving the exemptions from repeal  
9           under the Open Government Sunset Review Act;  
10          deleting provisions that provide for the repeal  
11          of the exemptions; providing an effective date.

12  
13 Be It Enacted by the Legislature of the State of Florida:

14  
15           Section 1. Paragraphs (a) and (b) of subsection (5) of  
16 section 119.071, Florida Statutes, are amended to read:

17           119.071 General exemptions from inspection or copying  
18 of public records.--

19           (5) OTHER PERSONAL INFORMATION.--

20           (a)1. The Legislature acknowledges that the social  
21 security number was never intended to be used for business  
22 purposes but was intended to be used solely for the  
23 administration of the federal Social Security System. The  
24 Legislature is further aware that over time this unique  
25 numeric identifier has been used extensively for identity  
26 verification purposes and other legitimate consensual  
27 purposes. The Legislature is also cognizant of the fact that  
28 the social security number can be used as a tool to perpetuate  
29 fraud against a person and to acquire sensitive personal,  
30 financial, medical, and familial information, the release of  
31 which could cause great financial or personal harm to an

1 individual. The Legislature intends to monitor the commercial  
2 use of social security numbers held by state agencies in order  
3 to maintain a balanced public policy.

4         2. An agency may not collect an individual's social  
5 security number unless authorized by law to do so or unless  
6 the collection of the social security number is otherwise  
7 imperative for the performance of that agency's duties and  
8 responsibilities as prescribed by law. Social security numbers  
9 collected by an agency must be relevant to the purpose for  
10 which collected and may not be collected until and unless the  
11 need for social security numbers has been clearly documented.  
12 An agency that collects social security numbers shall also  
13 segregate that number on a separate page from the rest of the  
14 record, or as otherwise appropriate, in order that the social  
15 security number be more easily redacted, if required, pursuant  
16 to a public records request. An agency collecting a person's  
17 social security number shall, upon that person's request, at  
18 the time of or prior to the actual collection of the social  
19 security number by that agency, provide that person with a  
20 statement of the purpose or purposes for which the social  
21 security number is being collected and used. Social security  
22 numbers collected by an agency may not be used by that agency  
23 for any purpose other than the purpose stated. ~~Social security~~  
24 ~~numbers collected by an agency before May 13, 2002, shall be~~  
25 ~~reviewed for compliance with this subparagraph. If the~~  
26 ~~collection of a social security number before May 13, 2002, is~~  
27 ~~found to be unwarranted, the agency shall immediately~~  
28 ~~discontinue the collection of social security numbers for that~~  
29 ~~purpose.~~

30         3. Effective October 1, 2002, all social security  
31 numbers held by an agency are confidential and exempt from s.

1 119.07(1) and s. 24(a), Art. I of the State Constitution. This  
2 exemption applies to all social security numbers held by an  
3 agency before, on, or after the effective date of this  
4 exemption.

5 4. Social security numbers may be disclosed to another  
6 governmental entity or its agents, employees, or contractors  
7 if disclosure is necessary for the receiving entity to perform  
8 its duties and responsibilities. The receiving governmental  
9 entity and its agents, employees, and contractors shall  
10 maintain the confidential and exempt status of the numbers.

11 5. An agency may not deny a commercial entity engaged  
12 in the performance of a commercial activity, which, for  
13 purposes of this paragraph, means an activity that provides a  
14 product or service that is available from a private source, or  
15 its agents, employees, or contractors access to social  
16 security numbers, provided the social security numbers will be  
17 used only in the normal course of business for legitimate  
18 business purposes, and provided the commercial entity makes a  
19 written request for social security numbers, verified as  
20 provided in s. 92.525, legibly signed by an authorized  
21 officer, employee, or agent of the commercial entity. The  
22 verified written request must contain the commercial entity's  
23 name, business mailing and location addresses, business  
24 telephone number, and a statement of the specific purposes for  
25 which it needs the social security numbers and how the social  
26 security numbers will be used in the normal course of business  
27 for legitimate business purposes. The aggregate of these  
28 requests shall serve as the basis for the agency report  
29 required in subparagraph 8. An agency may request any other  
30 information reasonably necessary to verify the identity of the  
31 entity requesting the social security numbers and the specific

1 | purposes for which the numbers will be used; however, an  
2 | agency has no duty to inquire beyond the information contained  
3 | in the verified written request. A legitimate business purpose  
4 | includes verification of the accuracy of personal information  
5 | received by a commercial entity in the normal course of its  
6 | business; use in a civil, criminal, or administrative  
7 | proceeding; use for insurance purposes; use in law enforcement  
8 | and investigation of crimes; use in identifying and preventing  
9 | fraud; use in matching, verifying, or retrieving information;  
10 | and use in research activities. A legitimate business purpose  
11 | does not include the display or bulk sale of social security  
12 | numbers to the general public or the distribution of such  
13 | numbers to any customer that is not identifiable by the  
14 | distributor.

15 |         6. Any person who makes a false representation in  
16 | order to obtain a social security number pursuant to this  
17 | paragraph, or any person who willfully and knowingly violates  
18 | this paragraph, commits a felony of the third degree,  
19 | punishable as provided in s. 775.082 or s. 775.083. Any public  
20 | officer who violates this paragraph is guilty of a noncriminal  
21 | infraction, punishable by a fine not exceeding \$500. A  
22 | commercial entity that provides access to public records  
23 | containing social security numbers in accordance with this  
24 | paragraph is not subject to the penalty provisions of this  
25 | subparagraph.

26 |         7.a. On or after October 1, 2002, a person preparing  
27 | or filing a document to be recorded in the official records by  
28 | the county recorder as provided for in chapter 28 may not  
29 | include any person's social security number in that document,  
30 | unless otherwise expressly required by law. If a social  
31 | security number is or has been included in a document

1 presented to the county recorder for recording in the official  
2 records of the county before, on, or after October 1, 2002, it  
3 may be made available as part of the official record available  
4 for public inspection and copying.

5           b. Any person, or his or her attorney or legal  
6 guardian, has the right to request that a county recorder  
7 remove, from an image or copy of an official record placed on  
8 a county recorder's publicly available Internet website or a  
9 publicly available Internet website used by a county recorder  
10 to display public records or otherwise made electronically  
11 available to the general public by such recorder, his or her  
12 social security number contained in that official record. The  
13 request must be made in writing, legibly signed by the  
14 requester and delivered by mail, facsimile, or electronic  
15 transmission, or delivered in person, to the county recorder.  
16 The request must specify the identification page number that  
17 contains the social security number to be redacted. The county  
18 recorder has no duty to inquire beyond the written request to  
19 verify the identity of a person requesting redaction. A fee  
20 may not be charged for the redaction of a social security  
21 number pursuant to such request.

22           c. A county recorder shall immediately and  
23 conspicuously post signs throughout his or her offices for  
24 public viewing and shall immediately and conspicuously post,  
25 on any Internet website or remote electronic site made  
26 available by the county recorder and used for the ordering or  
27 display of official records or images or copies of official  
28 records, a notice stating, in substantially similar form, the  
29 following:

30           (I) On or after October 1, 2002, any person preparing  
31 or filing a document for recordation in the official records

1 may not include a social security number in such document,  
2 unless required by law.

3 (II) Any person has a right to request a county  
4 recorder to remove, from an image or copy of an official  
5 record placed on a county recorder's publicly available  
6 Internet website or on a publicly available Internet website  
7 used by a county recorder to display public records or  
8 otherwise made electronically available to the general public,  
9 any social security number contained in an official record.  
10 Such request must be made in writing and delivered by mail,  
11 facsimile, or electronic transmission, or delivered in person,  
12 to the county recorder. The request must specify the  
13 identification page number that contains the social security  
14 number to be redacted. A fee may not be charged for the  
15 redaction of a social security number pursuant to such a  
16 request.

17 d. Until January 1, 2008, if a social security number,  
18 made confidential and exempt pursuant to this paragraph, or a  
19 complete bank account, debit, charge, or credit card number  
20 made exempt pursuant to paragraph (b) is or has been included  
21 in a court file, such number may be included as part of the  
22 court record available for public inspection and copying  
23 unless redaction is requested by the holder of such number, or  
24 by the holder's attorney or legal guardian, in a signed,  
25 legibly written request specifying the case name, case number,  
26 document heading, and page number. The request must be  
27 delivered by mail, facsimile, electronic transmission, or in  
28 person to the clerk of the circuit court. The clerk of the  
29 circuit court does not have a duty to inquire beyond the  
30 written request to verify the identity of a person requesting  
31 redaction. A fee may not be charged for the redaction of a

1 | social security number or a bank account, debit, charge, or  
2 | credit card number pursuant to such request. The clerk of the  
3 | circuit court has no liability for the inadvertent release of  
4 | confidential and exempt social security numbers or exempt bank  
5 | account, debit, charge, or credit card numbers, unknown to the  
6 | clerk of the circuit court in court records filed with the  
7 | clerk of the circuit court on or before January 1, 2008.

8 |       e. Any person who prepares or files a document to be  
9 | recorded in the official records by the county recorder as  
10 | provided in chapter 28 may not include a person's social  
11 | security number or complete bank account, debit, charge, or  
12 | credit card number in that document unless otherwise expressly  
13 | required by law. Until January 1, 2008, if a social security  
14 | number or a complete bank account, debit, charge, or credit  
15 | card number is or has been included in a document presented to  
16 | the county recorder for recording in the official records of  
17 | the county, such number may be made available as part of the  
18 | official record available for public inspection and copying.  
19 | Any person, or his or her attorney or legal guardian, may  
20 | request that a county recorder remove from an image or copy of  
21 | an official record placed on a county recorder's publicly  
22 | available Internet website, or a publicly available Internet  
23 | website used by a county recorder to display public records  
24 | outside the office or otherwise made electronically available  
25 | outside the county recorder's office to the general public,  
26 | his or her social security number or complete account, debit,  
27 | charge, or credit card number contained in that official  
28 | record. Such request must be legibly written, signed by the  
29 | requester, and delivered by mail, facsimile, electronic  
30 | transmission, or in person to the county recorder. The request  
31 | must specify the identification page number of the document

1 | that contains the number to be redacted. The county recorder  
2 | does not have a duty to inquire beyond the written request to  
3 | verify the identity of a person requesting redaction. A fee  
4 | may not be charged for redacting such numbers. If the county  
5 | recorder accepts or stores official records in an electronic  
6 | format, the county recorder must use his or her best efforts  
7 | to redact all social security numbers and complete bank  
8 | account, debit, charge, or credit card numbers from electronic  
9 | copies of the official record. The use of an automated program  
10 | for redaction shall be deemed the best effort and complies  
11 | with the requirements of this sub-subparagraph. The county  
12 | recorder is not liable for the inadvertent release of  
13 | confidential and exempt social security numbers, or exempt  
14 | bank account, debit, charge, or credit card numbers, filed  
15 | with the county recorder on or before January 1, 2008.

16 |       f. Subparagraphs 5. and 6. do not apply to the clerks  
17 | of the court or the county recorder with respect to circuit  
18 | court records and official records.

19 |       g. On January 1, 2008, and thereafter, the clerk of  
20 | the circuit court and the county recorder must keep complete  
21 | bank account, debit, charge, and credit card numbers exempt as  
22 | provided for in paragraph (b), and must keep social security  
23 | numbers confidential and exempt as provided for in  
24 | subparagraph 3., without any person having to request  
25 | redaction.

26 |       8. Beginning January 31, 2004, and each January 31  
27 | thereafter, every agency must file a report with the Secretary  
28 | of State, the President of the Senate, and the Speaker of the  
29 | House of Representatives listing the identity of all  
30 | commercial entities that have requested social security  
31 | numbers during the preceding calendar year and the specific



1 | purpose or purposes stated by each commercial entity regarding  
2 | its need for social security numbers. If no disclosure  
3 | requests were made, the agency shall so indicate.

4 |         9. Any affected person may petition the circuit court  
5 | for an order directing compliance with this paragraph.

6 |         10. This paragraph does not supersede any other  
7 | applicable public records exemptions existing prior to May 13,  
8 | 2002, or created thereafter.

9 |         ~~11. This paragraph is subject to the Open Government~~  
10 | ~~Sunset Review Act in accordance with s. 119.15 and shall stand~~  
11 | ~~repealed October 2, 2007, unless reviewed and saved from~~  
12 | ~~repeal through reenactment by the Legislature.~~

13 |         (b) Bank account numbers and debit, charge, and credit  
14 | card numbers held by an agency are exempt from s. 119.07(1)  
15 | and s. 24(a), Art. I of the State Constitution. This exemption  
16 | applies to bank account numbers and debit, charge, and credit  
17 | card numbers held by an agency before, on, or after the  
18 | effective date of this exemption. ~~This paragraph is subject to~~  
19 | ~~the Open Government Sunset Review Act in accordance with s.~~  
20 | ~~119.15 and shall stand repealed on October 2, 2007, unless~~  
21 | ~~reviewed and saved from repeal through reenactment by the~~  
22 | ~~Legislature.~~

23 |         Section 2. This act shall take effect October 1, 2007.

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26 |                   SENATE SUMMARY

27 | Removes the repeal of exemptions from the public-records  
28 | law which are provided for social security numbers and  
29 | financial account numbers, which repeal is scheduled to  
30 | occur on October 2, 2007, under the Open Government  
31 | Sunset Review Act.