

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:

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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.