

FOR CONSIDERATION By the Committee on Judiciary

590-1036-07

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 for
5 public-records requirements for social security
6 and financial account numbers held by clerks of
7 the circuit court and county recorders;
8 clarifying provisions requiring that the county
9 recorder use his or her best efforts to redact
10 such information after January 1, 2008;
11 providing that the term "agency" includes a
12 unit of local government for purposes of
13 complying with an exemption provided for
14 financial account numbers; saving the
15 exemptions from repeal under the Open
16 Government Sunset Review Act; deleting
17 provisions that provide for the repeal of the
18 exemptions; amending s. 215.322, F.S., relating
19 to authorization for certain public bodies to
20 accept payment by credit cards, charge cards,
21 and debit cards; deleting provisions providing
22 an exemption from public-records requirements
23 for account numbers concerning such cards when
24 held by an agency, unit of local government, or
25 the judicial branch in order to conform to
26 changes made by the act; providing an effective
27 date.

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29 Be It Enacted by the Legislature of the State of Florida:
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1 Section 1. Paragraphs (a) and (b) of subsection (5) of
2 section 119.071, Florida Statutes, are amended to read:

3 119.071 General exemptions from inspection or copying
4 of public records.--

5 (5) OTHER PERSONAL INFORMATION.--

6 (a)1. The Legislature acknowledges that the social
7 security number was never intended to be used for business
8 purposes but was intended to be used solely for the
9 administration of the federal Social Security System. The
10 Legislature is further aware that over time this unique
11 numeric identifier has been used extensively for identity
12 verification purposes and other legitimate consensual
13 purposes. The Legislature is also cognizant of the fact that
14 the social security number can be used as a tool to perpetuate
15 fraud against a person and to acquire sensitive personal,
16 financial, medical, and familial information, the release of
17 which could cause great financial or personal harm to an
18 individual. The Legislature intends to monitor the commercial
19 use of social security numbers held by state agencies in order
20 to maintain a balanced public policy.

21 2. An agency may not collect an individual's social
22 security number unless authorized by law to do so or unless
23 the collection of the social security number is otherwise
24 imperative for the performance of that agency's duties and
25 responsibilities as prescribed by law. Social security numbers
26 collected by an agency must be relevant to the purpose for
27 which collected and may not be collected until and unless the
28 need for social security numbers has been clearly documented.
29 An agency that collects social security numbers shall also
30 segregate that number on a separate page from the rest of the
31 record, or as otherwise appropriate, in order that the social

1 security number be more easily redacted, if required, pursuant
2 to a public records request. An agency collecting a person's
3 social security number shall, upon that person's request, at
4 the time of or prior to the actual collection of the social
5 security number by that agency, provide that person with a
6 statement of the purpose or purposes for which the social
7 security number is being collected and used. Social security
8 numbers collected by an agency may not be used by that agency
9 for any purpose other than the purpose stated. Social security
10 numbers collected by an agency before May 13, 2002, shall be
11 reviewed for compliance with this subparagraph. If the
12 collection of a social security number before May 13, 2002, is
13 found to be unwarranted, the agency shall immediately
14 discontinue the collection of social security numbers for that
15 purpose.

16 3. Effective October 1, 2002, all social security
17 numbers held by an agency are confidential and exempt from s.
18 119.07(1) and s. 24(a), Art. I of the State Constitution. This
19 exemption applies to all social security numbers held by an
20 agency before, on, or after the effective date of this
21 exemption.

22 4. Social security numbers may be disclosed to another
23 governmental entity or its agents, employees, or contractors
24 if disclosure is necessary for the receiving entity to perform
25 its duties and responsibilities. The receiving governmental
26 entity and its agents, employees, and contractors shall
27 maintain the confidential and exempt status of the numbers.

28 5. An agency may not deny a commercial entity engaged
29 in the performance of a commercial activity, which, for
30 purposes of this paragraph, means an activity that provides a
31 product or service that is available from a private source, or

1 | its agents, employees, or contractors access to social
2 | security numbers, provided the social security numbers will be
3 | used only in the normal course of business for legitimate
4 | business purposes, and provided the commercial entity makes a
5 | written request for social security numbers, verified as
6 | provided in s. 92.525, legibly signed by an authorized
7 | officer, employee, or agent of the commercial entity. The
8 | verified written request must contain the commercial entity's
9 | name, business mailing and location addresses, business
10 | telephone number, and a statement of the specific purposes for
11 | which it needs the social security numbers and how the social
12 | security numbers will be used in the normal course of business
13 | for legitimate business purposes. The aggregate of these
14 | requests shall serve as the basis for the agency report
15 | required in subparagraph 8. An agency may request any other
16 | information reasonably necessary to verify the identity of the
17 | entity requesting the social security numbers and the specific
18 | purposes for which the numbers will be used; however, an
19 | agency has no duty to inquire beyond the information contained
20 | in the verified written request. A legitimate business purpose
21 | includes verification of the accuracy of personal information
22 | received by a commercial entity in the normal course of its
23 | business; use in a civil, criminal, or administrative
24 | proceeding; use for insurance purposes; use in law enforcement
25 | and investigation of crimes; use in identifying and preventing
26 | fraud; use in matching, verifying, or retrieving information;
27 | and use in research activities. A legitimate business purpose
28 | does not include the display or bulk sale of social security
29 | numbers to the general public or the distribution of such
30 | numbers to any customer that is not identifiable by the
31 | distributor.

1 6. Any person who makes a false representation in
2 order to obtain a social security number pursuant to this
3 paragraph, or any person who willfully and knowingly violates
4 this paragraph, commits a felony of the third degree,
5 punishable as provided in s. 775.082 or s. 775.083. Any public
6 officer who violates this paragraph is guilty of a noncriminal
7 infraction, punishable by a fine not exceeding \$500. A
8 commercial entity that provides access to public records
9 containing social security numbers in accordance with this
10 paragraph is not subject to the penalty provisions of this
11 subparagraph.

12 7.a. Any person who prepares or files a document to be
13 recorded in the official records by the county recorder as
14 provided in chapter 28 may not include a person's social
15 security number or complete bank account, debit, charge, or
16 credit card number in that document unless otherwise expressly
17 required by law. Until January 1, 2008, if a social security
18 number or a complete bank account, debit, charge, or credit
19 card number is or has been included in a document presented to
20 the county recorder for recording in the official records of
21 the county, such number may be made available as part of the
22 official record available for public inspection and copying.
23 ~~On or after October 1, 2002, a person preparing or filing a~~
24 ~~document to be recorded in the official records by the county~~
25 ~~recorder as provided for in chapter 28 may not include any~~
26 ~~person's social security number in that document, unless~~
27 ~~otherwise expressly required by law. If a social security~~
28 ~~number is or has been included in a document presented to the~~
29 ~~county recorder for recording in the official records of the~~
30 ~~county before, on, or after October 1, 2002, it may be made~~
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1 ~~available as part of the official record available for public~~
2 ~~inspection and copying.~~

3 b. Any person, or his or her attorney or legal
4 guardian, ~~may has the right to~~ request that a county recorder
5 remove, from an image or copy of an official record placed on
6 a county recorder's publicly available Internet website, or a
7 publicly available Internet website used by a county recorder
8 to display public records outside the office or otherwise made
9 electronically available outside the county recorder's office
10 to the general public ~~by such recorder~~, his or her social
11 security number or complete bank account, debit, charge, or
12 credit card number contained in that official record. ~~Such~~ The
13 request must be legibly written ~~made in writing~~, legibly
14 signed by the requester, and delivered by mail, facsimile, ~~or~~
15 electronic transmission, or ~~delivered~~ in person, to the county
16 recorder. The request must specify the identification page
17 number of the document that contains the ~~social security~~
18 number to be redacted. The county recorder does not have a ~~has~~
19 ~~no~~ duty to inquire beyond the written request to verify the
20 identity of a person requesting redaction. A fee may not be
21 charged for redacting such numbers ~~the redaction of a social~~
22 ~~security number pursuant to such request.~~ If the county
23 recorder accepts or stores official records in an electronic
24 format, effective January 1, 2008, the county recorder must
25 use his or her best efforts to redact all social security
26 numbers and complete bank account, debit, charge, or credit
27 card numbers from electronic copies of the official record.
28 The use of an automated program for redaction shall be deemed
29 the best effort and complies with the requirements of this
30 sub-subparagraph. The county recorder is not liable for the
31 inadvertent release of confidential and exempt social security

1 numbers, or exempt bank account, debit, charge, or credit card
2 numbers, filed with the county recorder on or before January
3 1, 2008.

4 c. A county recorder shall immediately and
5 conspicuously post signs throughout his or her offices for
6 public viewing and shall immediately and conspicuously post,
7 on any Internet website or remote electronic site made
8 available by the county recorder and used for the ordering or
9 display of official records or images or copies of official
10 records, a notice stating, in substantially similar form, the
11 following:

12 (I) On or after October 1, 2002, any person preparing
13 or filing a document for recordation in the official records
14 may not include a social security number in such document,
15 unless required by law.

16 (II) Any person has a right to request a county
17 recorder to remove, from an image or copy of an official
18 record placed on a county recorder's publicly available
19 Internet website or on a publicly available Internet website
20 used by a county recorder to display public records or
21 otherwise made electronically available to the general public,
22 any social security number contained in an official record.
23 Such request must be made in writing and delivered by mail,
24 facsimile, or electronic transmission, or delivered in person,
25 to the county recorder. The request must specify the
26 identification page number that contains the social security
27 number to be redacted. A fee may not be charged for the
28 redaction of a social security number pursuant to such a
29 request.

30 d. Until January 1, 2008, if a social security number,
31 made confidential and exempt pursuant to this paragraph, or a

1 complete bank account, debit, charge, or credit card number
2 made exempt pursuant to paragraph (b) is or has been included
3 in a court file, such number may be included as part of the
4 court record available for public inspection and copying
5 unless redaction is requested by the holder of such number, or
6 by the holder's attorney or legal guardian, in a signed,
7 legibly written request specifying the case name, case number,
8 document heading, and page number. The request must be
9 delivered by mail, facsimile, electronic transmission, or in
10 person to the clerk of the circuit court. The clerk of the
11 circuit court does not have a duty to inquire beyond the
12 written request to verify the identity of a person requesting
13 redaction. A fee may not be charged for the redaction of a
14 social security number or a bank account, debit, charge, or
15 credit card number pursuant to such request. The clerk of the
16 circuit court has no liability for the inadvertent release of
17 confidential and exempt social security numbers or exempt bank
18 account, debit, charge, or credit card numbers, unknown to the
19 clerk of the circuit court in court records filed with the
20 clerk of the circuit court on or before January 1, 2008.

21 ~~e. Any person who prepares or files a document to be~~
22 ~~recorded in the official records by the county recorder as~~
23 ~~provided in chapter 28 may not include a person's social~~
24 ~~security number or complete bank account, debit, charge, or~~
25 ~~credit card number in that document unless otherwise expressly~~
26 ~~required by law. Until January 1, 2008, if a social security~~
27 ~~number or a complete bank account, debit, charge, or credit~~
28 ~~card number is or has been included in a document presented to~~
29 ~~the county recorder for recording in the official records of~~
30 ~~the county, such number may be made available as part of the~~
31 ~~official record available for public inspection and copying.~~

1 ~~Any person, or his or her attorney or legal guardian, may~~
2 ~~request that a county recorder remove from an image or copy of~~
3 ~~an official record placed on a county recorder's publicly~~
4 ~~available Internet website, or a publicly available Internet~~
5 ~~website used by a county recorder to display public records~~
6 ~~outside the office or otherwise made electronically available~~
7 ~~outside the county recorder's office to the general public,~~
8 ~~his or her social security number or complete account, debit,~~
9 ~~charge, or credit card number contained in that official~~
10 ~~record. Such request must be legibly written, signed by the~~
11 ~~requester, and delivered by mail, facsimile, electronic~~
12 ~~transmission, or in person to the county recorder. The request~~
13 ~~must specify the identification page number of the document~~
14 ~~that contains the number to be redacted. The county recorder~~
15 ~~does not have a duty to inquire beyond the written request to~~
16 ~~verify the identity of a person requesting redaction. A fee~~
17 ~~may not be charged for redacting such numbers. If the county~~
18 ~~recorder accepts or stores official records in an electronic~~
19 ~~format, the county recorder must use his or her best efforts~~
20 ~~to redact all social security numbers and complete bank~~
21 ~~account, debit, charge, or credit card numbers from electronic~~
22 ~~copies of the official record. The use of an automated program~~
23 ~~for redaction shall be deemed the best effort and complies~~
24 ~~with the requirements of this sub subparagraph. The county~~
25 ~~recorder is not liable for the inadvertent release of~~
26 ~~confidential and exempt social security numbers, or exempt~~
27 ~~bank account, debit, charge, or credit card numbers, filed~~
28 ~~with the county recorder on or before January 1, 2008.~~

29 e.f. Subparagraphs 5. and 6. do not apply to the
30 clerks of the court or the county recorder with respect to
31 circuit court records and official records.

1 ~~f.g.~~ On January 1, 2008, and thereafter, the clerk of
2 the circuit court and the county recorder must keep complete
3 bank account, debit, charge, and credit card numbers exempt as
4 provided for in paragraph (b), and must keep social security
5 numbers confidential and exempt as provided for in
6 subparagraph 3., without any person having to request
7 redaction.

8 8. Beginning January 31, 2004, and each January 31
9 thereafter, every agency must file a report with the Secretary
10 of State, the President of the Senate, and the Speaker of the
11 House of Representatives listing the identity of all
12 commercial entities that have requested social security
13 numbers during the preceding calendar year and the specific
14 purpose or purposes stated by each commercial entity regarding
15 its need for social security numbers. If no disclosure
16 requests were made, the agency shall so indicate.

17 9. Any affected person may petition the circuit court
18 for an order directing compliance with this paragraph.

19 10. This paragraph does not supersede any other
20 applicable public records exemptions existing prior to May 13,
21 2002, or created thereafter.

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

26 (b) Bank account numbers and debit, charge, and credit
27 card numbers held by an agency are exempt from s. 119.07(1)
28 and s. 24(a), Art. I of the State Constitution. This exemption
29 applies to bank account numbers and debit, charge, and credit
30 card numbers held by an agency before, on, or after the
31 effective date of this exemption. For purposes of this

1 paragraph, the term "agency," as defined in s. 119.011,
2 includes a unit of local government as defined in s. 215.322.
3 ~~This paragraph is subject to the Open Government Sunset Review~~
4 ~~Act in accordance with s. 119.15 and shall stand repealed on~~
5 ~~October 2, 2007, unless reviewed and saved from repeal through~~
6 ~~reenactment by the Legislature.~~

7 Section 2. Section 215.322, Florida Statutes, is
8 amended to read:

9 215.322 Acceptance of credit cards, charge cards, or
10 debit cards by state agencies, units of local government, and
11 the judicial branch.--

12 (1) It is the intent of the Legislature to encourage
13 state agencies, the judicial branch and units of local
14 government to make their goods, services, and information more
15 convenient to the public through the acceptance of payments by
16 credit cards, charge cards, and debit cards to the maximum
17 extent practicable when the benefits to the participating
18 agency and the public substantiate the cost of accepting these
19 types of payments.

20 (2) A state agency as defined in s. 216.011, or the
21 judicial branch, may accept credit cards, charge cards, or
22 debit cards in payment for goods and services with the prior
23 approval of the Chief Financial Officer. When the Internet or
24 other related electronic methods are to be used as the
25 collection medium, the State Technology Office shall review
26 and recommend to the Chief Financial Officer whether to
27 approve the request with regard to the process or procedure to
28 be used.

29 (3) The Chief Financial Officer shall adopt rules
30 governing the establishment and acceptance of credit cards,
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1 charge cards, or debit cards by state agencies or the judicial
2 branch, including, but not limited to, the following:

3 (a) Utilization of a standardized contract between the
4 financial institution or other appropriate intermediaries and
5 the agency or judicial branch which shall be developed by the
6 Chief Financial Officer or approval by the Chief Financial
7 Officer of a substitute agreement.

8 (b) Procedures which permit an agency or officer
9 accepting payment by credit card, charge card, or debit card
10 to impose a convenience fee upon the person making the
11 payment. However, the total amount of such convenience fees
12 shall not exceed the total cost to the state agency. A
13 convenience fee is not refundable to the payor.

14 Notwithstanding the foregoing, this section shall not be
15 construed to permit surcharges on any other credit card
16 purchase in violation of s. 501.0117.

17 (c) All service fees payable pursuant to this section
18 when practicable shall be invoiced and paid by state warrant
19 or such other manner that is satisfactory to the Chief
20 Financial Officer in accordance with the time periods
21 specified in s. 215.422.

22 (d) Submission of information to the Chief Financial
23 Officer concerning the acceptance of credit cards, charge
24 cards, or debit cards by all state agencies or the judicial
25 branch.

26 (e) A methodology for agencies to use when completing
27 the cost-benefit analysis referred to in subsection (1). The
28 methodology must consider all quantifiable cost reductions,
29 other benefits to the agency, and potential impact on general
30 revenue. The methodology must also consider nonquantifiable
31 benefits such as the convenience to individuals and businesses

1 | that would benefit from the ability to pay for state goods and
2 | services through the use of credit cards, charge cards, and
3 | debit cards.

4 | (4) The Chief Financial Officer may establish
5 | contracts with one or more financial institutions, credit card
6 | companies, or other entities which may lawfully provide such
7 | services, in a manner consistent with chapter 287, for
8 | processing credit card, charge card, or debit card collections
9 | for deposit into the State Treasury or another qualified
10 | public depository. Any state agency, or the judicial branch,
11 | which accepts payment by credit card, charge card, or debit
12 | card shall use at least one of the contractors established by
13 | the Chief Financial Officer unless the state agency or
14 | judicial branch obtains authorization from the Chief Financial
15 | Officer to use another contractor which is more advantageous
16 | to such state agency or the judicial branch. Such contracts
17 | may authorize a unit of local government to use the services
18 | upon the same terms and conditions for deposit of credit card,
19 | charge card, or debit card transactions into its qualified
20 | public depositories.

21 | (5) A unit of local government, which term means a
22 | municipality, special district, or board of county
23 | commissioners or other governing body of a county, however
24 | styled, including that of a consolidated or metropolitan
25 | government, and means any clerk of the circuit court, sheriff,
26 | property appraiser, tax collector, or supervisor of elections,
27 | is authorized to accept payment by use of credit cards, charge
28 | cards, and bank debit cards for financial obligations that are
29 | owing to such unit of local government and to surcharge the
30 | person who uses a credit card, charge card, or bank debit card
31 | in payment of taxes, license fees, tuition, fines, civil

1 penalties, court-ordered payments, or court costs, or other
2 statutorily prescribed revenues an amount sufficient to pay
3 the service fee charges by the financial institution, vending
4 service company, or credit card company for such services. A
5 unit of local government shall verify both the validity of any
6 credit card, charge card, or bank debit card used pursuant to
7 this subsection and the existence of appropriate credit with
8 respect to the person using the card. The unit of local
9 government does not incur any liability as a result of such
10 verification or any subsequent action taken.

11 ~~(6) Credit card account numbers in the possession of a~~
12 ~~state agency, a unit of local government, or the judicial~~
13 ~~branch are confidential and exempt from the provisions of s.~~
14 ~~119.07(1).~~

15 (6)(7) Any action required to be performed by a state
16 officer or agency pursuant to this section shall be performed
17 within 10 working days after receipt of the request for
18 approval or be deemed approved if not acted upon within that
19 time.

20 (7)(8) Nothing contained in this section shall be
21 construed to prohibit a state agency or the judicial branch
22 from continuing to accept charge cards or debit cards pursuant
23 to a contract which was lawfully entered into prior to the
24 effective date of this act unless specifically directed
25 otherwise in the General Appropriations Act. However, such
26 contract shall not be extended or renewed after the effective
27 date of this act unless such renewal and extension conforms to
28 the requirements of this section.

29 Section 3. This act shall take effect October 1, 2007.
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SENATE SUMMARY

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Pursuant to a review under the Open Government Sunset Review Act, removes the repeal of an exemption from public-records requirements which is provided for social security and financial account numbers held by clerks of the circuit court and county recorders. Clarifies provisions that require the county recorder to use his or her best efforts to redact such information after January 1, 2008. Defines the term "agency" to include a unit of local government for purposes of complying with an exemption provided for financial account numbers. Deletes redundant provisions exempting credit card, charge card, and debit card account numbers from public-records requirements when such information is held by an agency, unit of local government, or the judicial branch.