

By the Committees on Governmental Oversight and Accountability;
and Community Affairs

585-03029-09

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1 A bill to be entitled

2 An act relating to a review under the Open Government
3 Sunset Review Act; amending s. 73.0155, F.S., relating
4 to an exemption from public-records requirements for
5 business information provided by the owner of a
6 business to a governmental condemning authority as
7 part of an offer of business damages in presuit
8 negotiations in an eminent domain proceeding;
9 reorganizing and clarifying provisions; saving the
10 exemption from repeal under the Open Government Sunset
11 Review Act; deleting provisions providing for repeal
12 of the exemption; providing an effective date.

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

15
16 Section 1. Section 73.0155, Florida Statutes, is amended to
17 read:

18 73.0155 Confidentiality; business information provided to a
19 governmental condemning authority.—

20 (1) The following business information provided by the
21 owner of a business to a governmental condemning authority as
22 part of an offer of business damages under s. 73.015 is
23 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
24 of the State Constitution ~~and s. 119.07(1)~~ if the owner requests
25 in writing that the business information be held confidential
26 and exempt:

27 (a) Federal tax returns or tax information confidential
28 under 26 U.S.C. s. 6103.

29 (b) State tax returns or tax information confidential under

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30 s. 213.053.

31 (c) Balance sheets, profit-and-loss statements, cash-flow
32 statements, inventory records, or customer lists or number of
33 customers for a business operating on the parcel to be acquired.

34 (d) A franchise, distributorship, or lease agreement of
35 which the business operating on the parcel to be acquired is the
36 subject.

37 (e) Materials that relate to methods of manufacture or
38 production, potential trade secrets, patentable material, or
39 actual trade secrets as defined in s. 688.002.

40 (f) Other ~~sensitive or~~ proprietary confidential business
41 information related to the business operating on the parcel to
42 be acquired, if the owner attests in writing to the governmental
43 condemning authority that:

44 1. The information is being relied upon to substantiate a
45 claim for business damages under s. 73.015;

46 2. The information has not otherwise been publicly
47 disclosed;

48 3. The information cannot be readily obtained by the public
49 using alternative means;

50 4. The information is used by the business to protect or
51 further a business advantage over those who do not know or use
52 the information; and

53 5. The disclosure of the information would injure the
54 business in the marketplace.

55 ~~(2) At the time that any information made confidential and~~
56 ~~exempt from disclosure under subsection (1) is legally available~~
57 ~~or subject to public disclosure for any reason, that information~~
58 ~~is no longer confidential and exempt and shall be made available~~

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59 ~~for inspection and copying.~~

60 (2)~~(3)~~ An agency as defined in s. 119.011 may inspect and
61 copy the confidential and exempt business records ~~or~~ information
62 ~~made confidential and exempt from disclosure under subsection~~
63 ~~(1)~~ exclusively for the transaction of official business by, or
64 on behalf of, an agency. ~~An agency receiving this confidential~~
65 ~~and exempt information must maintain the confidentiality of that~~
66 ~~information. Any employee or agent of the agency receiving this~~
67 ~~confidential and exempt information who willfully and knowingly~~
68 ~~violates this subsection commits a misdemeanor of the first~~
69 ~~degree, punishable as provided by s. 775.082 or s. 775.083.~~

70 (3)~~(4)~~ This section does not prevent an agency from
71 offering the confidential and exempt business information ~~made~~
72 ~~confidential and exempt from disclosure under subsection (1)~~ as
73 evidence in a legal proceeding and does not prevent a court from
74 determining whether to close a portion of a court record from
75 subsequent public disclosure after trial in order to maintain
76 the confidentiality of that information.

77 (4) Any employee or agent of an agency receiving such
78 confidential and exempt business information who willfully and
79 knowingly violates this section commits a misdemeanor of the
80 first degree, punishable as provided in s. 775.082 or s.
81 775.083.

82 ~~(5) Subsection (1) is subject to the Open Government Sunset~~
83 ~~Review Act in accordance with s. 119.15 and expires on October~~
84 ~~2, 2009, unless reviewed and reenacted by the Legislature.~~

85 Section 2. This act shall take effect October 1, 2009.