

HB 913

2011

1 A bill to be entitled
 2 An act relating to public records; creating s. 332.16,
 3 F.S.; providing definitions; providing an exemption from
 4 public-records requirements for proprietary confidential
 5 business information submitted to or held by a public
 6 airport and for any proposal or counterproposal exchanged
 7 between the governing body of a public airport and a
 8 nongovernmental entity relating to the sale, use,
 9 development, or lease of airport land or airport
 10 facilities; providing for exceptions to the exemptions;
 11 providing for future legislative review and repeal of the
 12 exemptions under the Open Government Sunset Review Act;
 13 providing a finding of public necessity; providing an
 14 effective date.

15
 16 Be It Enacted by the Legislature of the State of Florida:

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 18 Section 1. Section 332.16, Florida Statutes, is created to
 19 read:

20 332.16 Exemption from public disclosure.—
 21 (1) DEFINITIONS.—As used in this section, the term:
 22 (a) "Airport facilities" means airports, buildings,
 23 structures, terminal buildings, parking garages and lots,
 24 hangars, land, warehouses, shops, hotels, other aviation
 25 facilities of any kind or nature, or any other facility of any
 26 kind or nature related to or connected with a public airport and
 27 other aviation facility that a public airport is authorized by
 28 law to construct, acquire, own, lease, or operate, together with

29 all fixtures, equipment, and property, real or personal,
 30 tangible or intangible, necessary, appurtenant, or incidental
 31 thereto.

32 (b) "Governing body" means the board or body in which the
 33 general legislative powers of a public airport is vested.

34 (c) "Proprietor" means a self-employed individual,
 35 proprietorship, corporation, partnership, limited partnership,
 36 firm, enterprise, franchise, association, trust, or business
 37 entity, whether fictitiously named or not, authorized to do or
 38 doing business in this state, including its respective
 39 authorized officer, employee, agent, or successor in interest,
 40 which controls or owns the proprietary confidential business
 41 information provided to a public airport.

42 (d) "Proprietary confidential business information" means
 43 information that has been designated as confidential by the
 44 proprietor and includes:

- 45 1. Business plans;
- 46 2. Internal auditing controls and reports of internal
 47 auditors;
- 48 3. Reports of external auditors for privately held
 49 companies;
- 50 4. Trade secrets as defined in s. 688.002;
- 51 5. Client and customer lists;
- 52 6. Potentially patentable material;
- 53 7. Business transactions; or
- 54 8. Financial information of the proprietor or projections
 55 of financial results for the proprietor or the airport
 56 facilities project for which the information is provided.

HB 913

2011

57 (e) "Public airport" has the same meaning as provided in
58 s. 330.27 and includes areas defined in s. 332.01(3).

59 (2) PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION.—
60 Proprietary confidential business information submitted to or
61 held by a public airport is confidential and exempt from s.
62 119.07(1) and s. 24(a), Art. I of the State Constitution, until
63 such information is no longer considered to be proprietary
64 confidential business information by the proprietor.

65 (3) SALE, USE, DEVELOPMENT, OR LEASE OF AIRPORT LAND OR
66 AIRPORT FACILITIES.—

67 (a) A proposal or counterproposal exchanged between a
68 public airport and a nongovernmental entity relating to the
69 sale, use, development, or lease of airport land or airport
70 facilities is confidential and exempt from s. 119.07(1) and s.
71 24(a), Art. I of the State Constitution.

72 (b) Ten days after any such proposal or counterproposal is
73 approved by the governing body of a public airport, the proposal
74 or counterproposal shall cease to be exempt. If no proposal or
75 counterproposal is submitted to the governing body of the public
76 airport for approval, such proposal or counterproposal shall
77 cease to be exempt 90 days after the cessation of negotiations
78 between the public airport and the nongovernmental entity.

79 (4) LEGISLATIVE REVIEW.—This section is subject to the
80 Open Government Sunset Review Act in accordance with s. 119.15,
81 and shall stand repealed on October 2, 2016, unless reviewed and
82 saved from repeal through reenactment by the Legislature.

83 Section 2. The Legislature finds that it is a public
84 necessity that proprietary confidential business information,

HB 913

2011

85 including business plans, internal auditing controls and reports
86 of internal auditors, reports of external auditors for privately
87 held companies, trade secrets, client and customer lists,
88 potentially patentable material, business transactions, and
89 financial information of the proprietor or projections of
90 financial results for the proprietor or the airport facilities
91 project for which the information is provided, be made
92 confidential and exempt from s. 119.07(1), Florida Statutes, and
93 s. 24(a), Article I of the State Constitution. Proprietary
94 confidential business information derives independent economic
95 value, actual or potential, from not being generally known to,
96 and not being readily ascertainable by, other persons who could
97 obtain economic value from its disclosure or use. An airport, in
98 performing its lawful duties and responsibilities, may need to
99 obtain from a proprietor confidential business information.
100 Without an exemption from public-records requirements,
101 proprietary confidential business information that is received
102 or held by an airport becomes a public record and must be
103 divulged upon request. Divulging the proprietary confidential
104 business information would destroy the value of that property to
105 the proprietor, causing a financial loss not only to the
106 proprietor, but also to the airport and to the state and local
107 governments due to a loss of tax revenue and employment
108 opportunities for residents. Release of that information would
109 give business competitors an unfair advantage and would injure
110 the affected entity in the marketplace. Thus, the Legislature
111 finds that it is a public necessity that proprietary
112 confidential business information that is received or held by a

HB 913

2011

113 | public airport be made confidential and exempt from public-
114 | records requirements.

115 | Section 3. This act shall take effect July 1, 2011.