

1 A bill to be entitled
 2 An act relating to public records; amending s. 68.083,
 3 F.S.; providing an exemption from public records
 4 requirements for the complaint and information held by
 5 the Department of Legal Affairs pursuant to an
 6 investigation of a violation of s. 68.082, F.S.,
 7 relating to false claims against the state; providing
 8 for future legislative review and repeal of the
 9 exemption under the Open Government Sunset Review Act;
 10 providing for specified disclosure; specifying
 11 duration of the exemption; specifying conditions under
 12 which an investigation is considered complete;
 13 providing a statement of public necessity; providing a
 14 contingent effective date.

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

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 18 Section 1. Subsection (8) is added to section 68.083,
 19 Florida Statutes, to read:

20 68.083 Civil actions for false claims.—

21 (8) (a) Except as otherwise provided in this subsection,
 22 the complaint and information held by the department pursuant to
 23 an investigation of a violation of s. 68.082 is confidential and
 24 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 25 Constitution. This paragraph is subject to the Open Government
 26 Sunset Review Act in accordance with s. 119.15 and shall stand
 27 repealed on October 2, 2018, unless reviewed and saved from
 28 repeal through reenactment by the Legislature.

29 (b) Information made confidential and exempt under
30 paragraph (a) may be disclosed by the department to a law
31 enforcement agency or another administrative agency in the
32 performance of its official duties and responsibilities.

33 (c) Information made confidential and exempt under
34 paragraph (a) is no longer confidential and exempt once the
35 investigation is completed, unless the information is otherwise
36 protected by law.

37 (d) For purposes of this subsection, an investigation is
38 considered complete:

39 1. Under s. 68.083(1) once the department either files its
40 own action or closes its investigation without filing an action.

41 2. Under s. 68.083(2) upon the unsealing of the qui tam
42 action or its voluntary dismissal prior to any unsealing.

43 Section 2. The Legislature finds that it is a public
44 necessity that the complaint and information held by the
45 Department of Legal Affairs pursuant to an investigation of a
46 violation of s. 68.082, Florida Statutes, relating to false
47 claims against the state, be held confidential and exempt from
48 public records requirements. Because a false claims
49 investigation conducted by the Department of Legal Affairs may
50 lead to the filing of an administrative or civil proceeding, the
51 premature release of the complaint and information held by the
52 department could frustrate or thwart the investigation and
53 impair the ability of the department to effectively and
54 efficiently administer its duties under the Florida False Claims
55 Act, ss. 68.081-68.092, Florida Statutes. This exemption also
56 protects the reputation of the named defendant in the event the

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57 allegations of the qui tam complaint ultimately prove to be
58 unfounded. Without this exemption, a plaintiff can subject a
59 defendant to serious fraud allegations in the name of the State
60 of Florida merely by filing a qui tam complaint. Additionally,
61 given the department's subpoena powers for all qui tam
62 investigations, this exemption, which mirrors the existing
63 statutory exemption in s. 409.913(12), Florida Statutes, for
64 information obtained during investigations of Medicaid claims,
65 is especially appropriate. Therefore, the Legislature finds that
66 it is a public necessity that the complaint and information held
67 by the Department of Legal Affairs pursuant to an investigation
68 of a violation of s. 68.082, Florida Statutes, relating to false
69 claims against the state, be held confidential and exempt from
70 public records requirements.

71 Section 3. This act shall take effect on the same date
72 that HB 935 or similar legislation takes effect, if such
73 legislation is adopted in the same legislative session or an
74 extension thereof and becomes law.