

By the Committee on Judiciary; and Senator Thrasher

590-02618-13

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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 a complaint and other information  
5 held by 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 completed;  
13 providing a statement of public necessity; providing a  
14 contingent effective date.

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

17  
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, the  
22 complaint and other information held by the department pursuant  
23 to an investigation of a violation of s. 68.082 is confidential  
24 and 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27 repealed on October 2, 2018, unless reviewed and saved from  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

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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 completed:

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

41 2. Under subsection (2) upon the unsealing of the qui tam  
42 action or upon the voluntary dismissal of the qui tam action  
43 prior to the unsealing.

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

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

72 Section 3. This act shall take effect on the same date that  
73 SB 1494 or similar legislation takes effect, if such legislation  
74 is adopted in the same legislative session or an extension  
75 thereof and becomes a law.