

FOR CONSIDERATION By the Committee on Gaming

584-01589-14

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1                                   A bill to be entitled  
2       An act relating to public records; creating s.  
3       551.427, F.S.; defining the term "proprietary  
4       confidential business information"; providing an  
5       exemption from public records requirements for such  
6       information in license or license renewal applications  
7       submitted to the Gaming Control Board or the  
8       Department of Gaming Control by a gaming license  
9       applicant or licensee; providing for future  
10      legislative review and repeal of the exemption;  
11      providing a statement of public necessity; providing a  
12      contingent effective date.

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

15  
16       Section 1. Section 551.427, Florida Statutes, is created to  
17      read:

18       551.427 Public records exemption.—

19       (1) As used in this section, the term "proprietary  
20 confidential business information" means information that is  
21 submitted to the board or department pursuant to ss. 551.41,  
22 551.42, and 551.422 in an application for license or license  
23 renewal, that is treated by the applicant or licensee as private  
24 information because the disclosure of the information would  
25 cause harm to the applicant or licensee or the applicant's or  
26 licensee's business operations, and that has not been disclosed  
27 unless disclosed pursuant to a statutory provision, an order of  
28 a court or administrative body, or a private agreement that  
29 provides that the information will not be released to the

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30 public. The term includes, but is not limited to:

31 (a) Trade secrets.

32 (b) Business plans.

33 (c) Internal auditing controls and reports of internal  
34 auditors.

35 (d) Security measures, systems, or procedures.

36 (e) Information relating to competitive interests, the  
37 disclosure of which would impair the competitive business of the  
38 person providing the information.

39 (2) Proprietary confidential business information submitted  
40 in an application for license or license renewal pursuant to s.  
41 551.41, s. 551.42, or s. 551.422 is confidential and exempt from  
42 s. 119.07(1) and s. 24(a), Art. I of the State Constitution if  
43 the person submitting such information to the board or  
44 department:

45 (a) Requests that the information be kept confidential and  
46 exempt;

47 (b) Informs the board or department of the basis for the  
48 claim of the proprietary confidential business information; and

49 (c) Clearly marks each page of a document or specific  
50 portion of a document containing information claimed to be  
51 proprietary confidential business information as "proprietary  
52 confidential business information."

53 (3) If the department receives a public records request for  
54 a document or portion of a document that is marked "proprietary  
55 confidential business information" under this section, the  
56 department must promptly notify the applicant or licensee who  
57 submitted the information and identified it as proprietary  
58 confidential business information. The notice must inform the

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59 applicant or licensee that the applicant or licensee has 30 days  
60 following receipt of such notice to file an action in circuit  
61 court seeking a determination whether the document or portion of  
62 the document in question contains proprietary confidential  
63 business information and an order barring public disclosure of  
64 the document or portion of the document. If the applicant or  
65 licensee files an action within 30 days after receipt of notice  
66 of the public records request, the department may not release  
67 the document or portion of the document pending the outcome of  
68 the legal action. The failure to file an action within 30 days  
69 constitutes a waiver of any claim of confidentiality, and the  
70 department shall release the document or portion of the document  
71 as requested.

72 (4) Information made confidential and exempt under this  
73 subsection may be disclosed:

74 (a) To an officer or employee of another governmental  
75 entity in the performance of his or her duties or  
76 responsibilities; or

77 (b) If relevant, in a proceeding under this section. Those  
78 persons involved in a proceeding under this section, including,  
79 but not limited to, an administrative law judge, a hearing  
80 officer, or a judge or justice, must maintain the  
81 confidentiality of any proprietary confidential business  
82 information revealed at such proceeding.

83 (5) This section is subject to the Open Government Sunset  
84 Review Act in accordance with s. 119.15 and shall stand repealed  
85 on October 2, 2019, unless reviewed and saved from repeal  
86 through reenactment by the Legislature.

87 Section 2. The Legislature finds that it is a public

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88 necessity that proprietary confidential business information be  
89 made confidential and exempt from public records requirements.  
90 The disclosure of proprietary confidential business information  
91 could harm an applicant for license or license renewal in the  
92 marketplace by giving competitors insights into the applicant or  
93 licensee's financial status and business plan, thereby putting  
94 the applicant or licensee at a competitive disadvantage. The  
95 Legislature finds that requiring the applicant or licensee to  
96 identify the information the applicant or licensee considers  
97 proprietary confidential business information under the  
98 statutory definition is appropriate as the applicant or licensee  
99 is the owner of such information. Identification of proprietary  
100 confidential business information by the applicant or licensee  
101 puts the department on notice without requiring the department  
102 to have to attempt to determine what the applicant or licensee  
103 might consider confidential. The Legislature also finds that the  
104 harm to an applicant for license or license renewal in  
105 disclosing proprietary confidential business information  
106 significantly outweighs any public benefit derived from  
107 disclosure of the information. For these reasons, the  
108 Legislature declares that any proprietary confidential business  
109 information identified by an applicant for license or license  
110 renewal in the application submitted to the board or department  
111 pursuant to ss. 551.41, 551.42, and 551.422, Florida Statutes,  
112 is confidential and exempt from s. 119.07(1), Florida Statutes,  
113 and s. 24(a), Article I of the State Constitution.

114 Section 3. This act shall take effect on the same date that  
115 SB \_\_ or similar legislation takes effect, if such legislation  
116 is adopted in the same legislative session or an extension

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thereof and becomes a law.