

By Senator Flores

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1 A bill to be entitled
2 An act relating to public records; amending s. 895.06,
3 F.S.; providing that certain documents and information
4 held by an investigative agency pursuant to an
5 investigation relating to an activity prohibited under
6 the Florida RICO Act are confidential and exempt;
7 providing for legislative review and repeal of the
8 exemption under the Open Government Sunset Review Act;
9 providing exceptions to the exemption; providing a
10 statement of public necessity; providing an effective
11 date.

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

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15 Section 1. Subsection (8) is added to section 895.06,
16 Florida Statutes, to read:

17 895.06 Civil investigative subpoenas.—

18 (8) (a) Except as otherwise provided in this subsection, the
19 documents and information held by the investigative agency
20 pursuant to an investigation of a violation of s. 895.03 are
21 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
22 of the State Constitution. This paragraph is subject to the Open
23 Government Sunset Review Act in accordance with s. 119.15 and
24 shall stand repealed on July 1, 2020, unless reviewed and saved
25 from repeal through reenactment by the Legislature.

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

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30 (c) Information made confidential and exempt under
31 paragraph (a) may be disclosed by the investigative agency to a
32 court or tribunal.

33 (d) Information made confidential and exempt under
34 paragraph (a) is no longer confidential and exempt once all
35 investigations to which the information pertains are completed,
36 unless the information is otherwise protected by law.

37 (e) For purposes of this subsection, an investigation is
38 considered complete once the investigative agency either files
39 an action or closes its investigation without filing an action.

40 Section 2. The Legislature finds that it is a public
41 necessity that the documents and other information held by an
42 investigative agency pursuant to an investigation of a violation
43 of s. 895.03, Florida Statutes, relating to an activity
44 prohibited under the Florida RICO Act, be held confidential and
45 exempt from public records requirements. Because a Florida RICO
46 Act investigation conducted by an investigative agency may lead
47 to the filing of a civil action, the premature release of the
48 documents or information held by such investigative agency could
49 frustrate or thwart the investigation and impair the ability of
50 the investigative agency to effectively and efficiently
51 administer its duties under the Florida RICO Act, ss. 895.01-
52 895.09, Florida Statutes. This exemption also protects the
53 reputation of the potential defendant in the event the
54 investigation is closed without the filing of a civil action.
55 Further, without this exemption, a potential defendant under the
56 Florida RICO Act may learn of the investigation and dissipate
57 his or her assets and thwart any future enforcement action under
58 the act. Additionally, this exemption substantially mirrors the

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59 existing statutory exemption in ss. 68.083(8) and 68.0831(10),
60 Florida Statutes, for information obtained during investigations
61 of violations of the Florida False Claims Act, ss. 68.081-
62 68.092, Florida Statutes. Therefore, the Legislature finds that
63 it is a public necessity that the documents and information held
64 by the investigative agency pursuant to an investigation of a
65 violation of s. 895.03, Florida Statutes, relating to an
66 activity prohibited under the Florida RICO Act, be held
67 confidential and exempt from public records requirements.

68 Section 3. This act shall take effect on the same date that
69 SB ____ or similar legislation takes effect, if such legislation
70 is enacted in the same legislative session or an extension
71 thereof and becomes law.