



201042

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
10/06/2015	.	
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The Committee on Commerce and Tourism (Richter) recommended the following:

Senate Amendment (with title amendment)

Between lines 62 and 63

insert:

Section 2. For the purpose of incorporating the amendment made by this act to section 812.081, Florida Statutes, in a reference thereto, section 581.199, Florida Statutes, is reenacted to read:

581.199 Confidential business information.—It is unlawful for any authorized representative who in an official capacity



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11 obtains under the provisions of this chapter any information
12 entitled to protection as a trade secret, as defined in s.
13 812.081, to use that information for personal gain or to reveal
14 it to any unauthorized person.

15 Section 3. For the purpose of incorporating the amendment
16 made by this act to section 812.081, Florida Statutes, in a
17 reference thereto, subsection (1) of section 721.071, Florida
18 Statutes, is reenacted to read:

19 721.071 Trade secrets.—

20 (1) If a developer or any other person filing material with
21 the division pursuant to this chapter expects the division to
22 keep the material confidential on grounds that the material
23 constitutes a trade secret, as that term is defined in s.
24 812.081, the developer or other person shall file the material
25 together with an affidavit of confidentiality. "Filed material"
26 for purposes of this section shall mean material that is filed
27 with the division with the expectation that the material will be
28 kept confidential and that is accompanied by an affidavit of
29 confidentiality. Filed material that is trade secret information
30 includes, but is not limited to, service contracts relating to
31 the operation of reservation systems and those items and matters
32 described in s. 815.04(3).

33 Section 4. For the purpose of incorporating the amendment
34 made by this act to section 812.081, Florida Statutes, in
35 references thereto, subsections (1), (2), (5), (7), (8), (10),
36 and (11) of section 812.035, Florida Statutes, are reenacted to
37 read:

38 812.035 Civil remedies; limitation on civil and criminal
39 actions.—



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40 (1) Any circuit court may, after making due provisions for
41 the rights of innocent persons, enjoin violations of the
42 provisions of ss. 812.012-812.037 or s. 812.081 by issuing
43 appropriate orders and judgments, including, but not limited to:

44 (a) Ordering any defendant to divest himself or herself of
45 any interest in any enterprise, including real estate.

46 (b) Imposing reasonable restrictions upon the future
47 activities or investments of any defendant, including, but not
48 limited to, prohibiting any defendant from engaging in the same
49 type of endeavor as the enterprise in which he or she was
50 engaged in violation of the provisions of ss. 812.012-812.037 or
51 s. 812.081.

52 (c) Ordering the dissolution or reorganization of any
53 enterprise.

54 (d) Ordering the suspension or revocation of any license,
55 permit, or prior approval granted to any enterprise by any
56 department or agency of the state.

57 (e) Ordering the forfeiture of the charter of a corporation
58 organized under the laws of the state or the revocation of a
59 certificate authorizing a foreign corporation to conduct
60 business within the state, upon finding that the board of
61 directors or a managerial agent acting on behalf of the
62 corporation, in conducting the affairs of the corporation, has
63 authorized or engaged in conduct in violation of ss. 812.012-
64 812.037 or s. 812.081 and that, for the prevention of future
65 criminal activity, the public interest requires the charter of
66 the corporation forfeited and the corporation dissolved or the
67 certificate revoked.

68 (2) All property, real or personal, including money, used



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69 in the course of, intended for use in the course of, derived
70 from, or realized through conduct in violation of a provision of
71 ss. 812.012-812.037 or s. 812.081 is subject to civil forfeiture
72 to the state. The state shall dispose of all forfeited property
73 as soon as commercially feasible. If property is not exercisable
74 or transferable for value by the state, it shall expire. All
75 forfeitures or dispositions under this section shall be made
76 with due provision for the rights of innocent persons.

77 (5) The Department of Legal Affairs, any state attorney, or
78 any state agency having jurisdiction over conduct in violation
79 of a provision of ss. 812.012-812.037 or s. 812.081 may
80 institute civil proceedings under this section. In any action
81 brought under this section, the circuit court shall proceed as
82 soon as practicable to the hearing and determination. Pending
83 final determination, the circuit court may at any time enter
84 such injunctions, prohibitions, or restraining orders, or take
85 such actions, including the acceptance of satisfactory
86 performance bonds, as the court may deem proper.

87 (7) The state, including any of its agencies,
88 instrumentalities, subdivisions, or municipalities, if it proves
89 by clear and convincing evidence that it has been injured in any
90 fashion by reason of any violation of the provisions of ss.
91 812.012-812.037 or s. 812.081, has a cause of action for
92 threefold the actual damages sustained and, in any such action,
93 is entitled to minimum damages in the amount of \$200 and shall
94 also recover court costs and reasonable attorney's fees in the
95 trial and appellate courts. In no event shall punitive damages
96 be awarded under this section. The defendant shall be entitled
97 to recover reasonable attorney's fees and court costs in the



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98 trial and appellate courts upon a finding that the claimant
99 raised a claim which was without substantial fact or legal
100 support.

101 (8) A final judgment or decree rendered in favor of the
102 state in any criminal proceeding under ss. 812.012-812.037 or s.
103 812.081 shall estop the defendant in any subsequent civil action
104 or proceeding as to all matters as to which such judgment or
105 decree would be an estoppel as between the parties.

106 (10) Notwithstanding any other provision of law, a criminal
107 or civil action or proceeding under ss. 812.012-812.037 or s.
108 812.081 may be commenced at any time within 5 years after the
109 cause of action accrues; however, in a criminal proceeding under
110 ss. 812.012-812.037 or s. 812.081, the period of limitation does
111 not run during any time when the defendant is continuously
112 absent from the state or is without a reasonably ascertainable
113 place of abode or work within the state, but in no case shall
114 this extend the period of limitation otherwise applicable by
115 more than 1 year. If a criminal prosecution or civil action or
116 other proceeding is brought, or intervened in, to punish,
117 prevent, or restrain any violation of the provisions of ss.
118 812.012-812.037 or s. 812.081, the running of the period of
119 limitations prescribed by this section with respect to any cause
120 of action arising under subsection (6) or subsection (7) which
121 is based in whole or in part upon any matter complained of in
122 any such prosecution, action, or proceeding shall be suspended
123 during the pendency of such prosecution, action, or proceeding
124 and for 2 years following its termination.

125 (11) The application of one civil remedy under any
126 provision of ss. 812.012-812.037 or s. 812.081 shall not



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127 preclude the application of any other remedy, civil or criminal,
128 under ss. 812.012-812.037 or s. 812.081 or any other section of
129 the Florida Statutes.

130 Section 5. For the purpose of incorporating the amendment
131 made by this act to section 812.081, Florida Statutes, in a
132 reference thereto, subsection (4) of section 815.04, Florida
133 Statutes, is reenacted to read:

134 815.04 Offenses against intellectual property; public
135 records exemption.—

136 (4) A person who willfully, knowingly, and without
137 authorization discloses or takes data, programs, or supporting
138 documentation that is a trade secret as defined in s. 812.081 or
139 is confidential as provided by law residing or existing internal
140 or external to a computer, computer system, computer network, or
141 electronic device commits an offense against intellectual
142 property.

143

144 ===== T I T L E A M E N D M E N T =====

145 And the title is amended as follows:

146 Delete line 6

147 and insert:

148 penalties; reenacting ss. 581.199, 721.071(1),
149 812.035(1), (2), (5), (7), (8), (10), and (11), and
150 815.04(4), F.S., relating to confidential business
151 information, trade secret information filed with the
152 Division of Florida Condominiums, Timeshares, and
153 Mobile Homes within the Department of Business and
154 Professional Regulation, civil remedies, and offenses
155 against intellectual property, respectively, to



156 | incorporate changes made by this act to the definition
157 | of the term "trade secret" in s. 812.081, F.S., in
158 | references thereto; providing an effective date.