

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	<u>    </u>	(Y/N)
ADOPTED AS AMENDED	<u>    </u>	(Y/N)
ADOPTED W/O OBJECTION	<u>    </u>	(Y/N)
FAILED TO ADOPT	<u>    </u>	(Y/N)
WITHDRAWN	<u>    </u>	(Y/N)
OTHER	<u>    </u>	

1 Committee/Subcommittee hearing bill: Criminal Justice  
 2 Subcommittee

3 Representative Pilon offered the following:

4  
 5 **Amendment (with title amendment)**

6 Between lines 62 and 63, insert:

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

11 581.199 Confidential business information.—

12 It is unlawful for any authorized representative who in an  
 13 official capacity obtains under the provisions of this chapter  
 14 any information entitled to protection as a trade secret, as  
 15 defined in s. 812.081, to use that information for personal gain  
 16 or to reveal it to any unauthorized person.

## Amendment No. 1

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

21 721.071 Trade secrets.—

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

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

40 812.035 Civil remedies; limitation on civil and criminal  
41 actions.—

## Amendment No. 1

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

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

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

54 (c) Ordering the dissolution or reorganization of any  
55 enterprise.

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

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

Amendment No. 1

68 the corporation forfeited and the corporation dissolved or the  
69 certificate revoked.

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

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

89 (7) The state, including any of its agencies,  
90 instrumentalities, subdivisions, or municipalities, if it proves  
91 by clear and convincing evidence that it has been injured in any  
92 fashion by reason of any violation of the provisions of ss.  
93 812.012-812.037 or s. 812.081, has a cause of action for

Amendment No. 1

94 threefold the actual damages sustained and, in any such action,  
95 is entitled to minimum damages in the amount of \$200 and shall  
96 also recover court costs and reasonable attorney's fees in the  
97 trial and appellate courts. In no event shall punitive damages  
98 be awarded under this section. The defendant shall be entitled  
99 to recover reasonable attorney's fees and court costs in the  
100 trial and appellate courts upon a finding that the claimant  
101 raised a claim which was without substantial fact or legal  
102 support.

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

108 (10) Notwithstanding any other provision of law, a criminal  
109 or civil action or proceeding under ss. 812.012-812.037 or s.  
110 812.081 may be commenced at any time within 5 years after the  
111 cause of action accrues; however, in a criminal proceeding under  
112 ss. 812.012-812.037 or s. 812.081, the period of limitation does  
113 not run during any time when the defendant is continuously  
114 absent from the state or is without a reasonably ascertainable  
115 place of abode or work within the state, but in no case shall  
116 this extend the period of limitation otherwise applicable by  
117 more than 1 year. If a criminal prosecution or civil action or  
118 other proceeding is brought, or intervened in, to punish,  
119 prevent, or restrain any violation of the provisions of ss.

Amendment No. 1

120 812.012-812.037 or s. 812.081, the running of the period of  
121 limitations prescribed by this section with respect to any cause  
122 of action arising under subsection (6) or subsection (7) which  
123 is based in whole or in part upon any matter complained of in  
124 any such prosecution, action, or proceeding shall be suspended  
125 during the pendency of such prosecution, action, or proceeding  
126 and for 2 years following its termination.

127 (11) The application of one civil remedy under any  
128 provision of ss. 812.012-812.037 or s. 812.081 shall not  
129 preclude the application of any other remedy, civil or criminal,  
130 under ss. 812.012-812.037 or s. 812.081 or any other section of  
131 the Florida Statutes.

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

136 815.04 Offenses against intellectual property; public  
137 records exemption.—

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

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Amendment No. 1

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**T I T L E   A M E N D M E N T**

Remove line 6 and insert:  
penalties; reenacting ss. 581.199, 721.071(1), 812.035(1), (2),  
(5), (7), (8), (10), and (11), and 815.04(4), F.S., relating to  
confidential business information, trade secret information  
filed with the Division of Florida Condominiums, Timeshares, and  
Mobile Homes within the Department of Business and Professional  
Regulation, civil remedies, and offenses against intellectual  
property, respectively, to incorporate changes made by this act  
to the definition of the term "trade secret" in s. 812.081,  
F.S., in references thereto; providing an effective date.