

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: SPB 7004

INTRODUCER: For consideration by the Community Affairs Committee

SUBJECT: OGSR/Applicants or Participants in Certain Federal, State, or Local Housing Assistance Programs

DATE: February 17, 2025      REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Hunter</u>	<u>Fleming</u>		<b>Pre-meeting</b>

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**I. Summary:**

SPB 7004 repeals the sunset date in s 119.071(5)(f)4., F.S., to allow the public records exemption for property photographs and personal identifying information of applicants or participants in presidentially declared disaster-related federal, state, or local housing assistance programs to remain in statute.

The exemption covers records held by the Department of Commerce, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency.

The public records exemption for such information of applicants or participants in disaster-related housing assistance programs is subject to the Open Government Sunset Review Act, which requires the Legislature to review each public record and public meeting exemption five years after enactment. The exemption amended by this bill is scheduled for repeal on October 2, 2025. This bill removes the scheduled repeal to continue the confidential and exempt status of the information.

The bill is not expected to affect state and local revenues and expenditures.

The bill takes effect October 1, 2025.

**II. Present Situation:**

**Florida Public Records Law**

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>1</sup> This applies to the official business of any public body, officer, or employee of the state, including all three branches of state

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<sup>1</sup> FLA. CONST. art. I, s. 24(a).

government, local governmental entities, and any person acting on behalf of the government.<sup>2</sup> In addition to the Florida Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.<sup>3</sup> Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.<sup>4</sup> The Public Records Act states that:

[i]t is the policy of this state that all state, county and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.<sup>5</sup>

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.<sup>6</sup> The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”<sup>7</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>8</sup>

The Legislature may create an exemption to public records requirements by passing a general law by a two-thirds vote of each of the House and the Senate.<sup>9</sup> The exemption must explicitly lay out the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>10</sup> A statutory exemption, which does not meet these two criteria, may be unconstitutional and may not be judicially saved.<sup>11</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature’s records are public pursuant to s. 11.0431, F.S., and FLA. CONST. art. I, s. 24(b). Public records exemptions for the Legislature are primarily located in s. 11.0431(2)-(3), F.S.

<sup>4</sup> Public records laws are found throughout the Florida Statutes.

<sup>5</sup> Section 119.01(1), F.S.

<sup>6</sup> Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

<sup>8</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>9</sup> FLA. CONST. art. I, s. 24(c).

<sup>10</sup> *Id.*

<sup>11</sup> *Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption. *Id.* at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id.* at 196.

When creating a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”<sup>12</sup> Records designated “confidential and exempt” may be released by the records custodian only under the circumstances defined by statutory exemptions. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.<sup>13</sup>

### **Department of Commerce**

The Department of Commerce (department) was created to assist the Governor in working with the Legislature, state agencies, business leaders, and economic development professionals to formulate and implement coherent and consistent policies and strategies designed to promote economic opportunities for all Floridians.<sup>14</sup>

Within the department, the Office of Long-Term Resiliency “supports communities following disasters by addressing long-term recovery needs for housing, infrastructure and economic development.”<sup>15</sup> The department is also the state authority responsible for administering all United States Department of Housing and Urban Development (HUD) long-term disaster recovery funds awarded to the state.<sup>16</sup>

### **Florida Housing Finance Corporation**

The Florida Housing Finance Corporation Act provides that the Florida Housing Finance Corporation (FHFC) is created within the Department of Commerce and is a public corporation.<sup>17</sup> The FHFC is responsible for increasing the amount of affordable housing available to individuals and families by stimulating investment of private capital and encouraging public and private sector housing partnerships. To accomplish this, the FHFC uses federal and state resources to finance the development of safe, affordable homes and rental housing and to assist first-time homebuyers.<sup>18</sup>

### **Local Housing Finance Agencies**

Local Housing Finance Agencies (HFAs), also known as Local Housing Finance Authorities, are dependent<sup>19</sup> special districts of a local government. A “special district” is a unit of local government created for a particular purpose, with jurisdiction to operate within a limited geographic boundary.<sup>20</sup> HFAs are set up to sell bonds to finance affordable apartments, provide

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<sup>12</sup> If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So. 2d 48 (Fla. 5th DCA 2004).

<sup>13</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

<sup>14</sup> Section 20.60(4), F.S.

<sup>15</sup> Department of Commerce, *Office of Long-Term Resiliency*, <https://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited Feb. 14, 2025).

<sup>16</sup> *Id.*

<sup>17</sup> Section 420.504(1), F.S.

<sup>18</sup> *See sections*. 420.502 and 420.507, F.S.

<sup>19</sup> A special district is classified as “dependent” if the governing body of a single county or municipality: serves as governing body of the district; appoints the governing body of the district; may remove members of the district’s governing body at-will during their unexpired terms; or approves or can veto the budget of the district.

<sup>20</sup> *See Halifax Hospital Medical Center v. State of Fla., et al.*, 278 So. 3d 545, 547 (Fla. 2019)

loans with HFA funds for gap financing, sell bonds or administer other programs to provide low-rate mortgages, and provide down payment assistance to homebuyers.<sup>21</sup>

### **Disaster Recovery Housing Assistance Programs**

The Department of Commerce, FHFC, counties, municipalities, and local housing finance agencies have various housing programs that are designed to assist those who have been impacted by a disaster. While counties and municipalities have broad discretion to allocate local funds and create programs that meet the disaster housing needs within their communities, the primary programs which allocate significant funds to the state and local governments for such purposes are described below.

#### ***Community Development Block Grant - Disaster Recovery***

The primary program utilizing the public records exemption is the Community Development Block Grant - Disaster Recovery (CDBG-DR) Program administered in Florida by the department. CDBG-DR is funded by the U.S. Department of Housing and Urban Development (HUD) and supports communities following disasters by addressing long-term recovery needs.<sup>22</sup> In response to a presidentially declared disaster, Congress may appropriate supplemental funding for the CDBG-DR Program as “grants to rebuild disaster impacted areas and provide crucial seed money to start the recovery process.”<sup>23</sup> These flexible grants help cities, counties, and states recover from presidentially declared disasters, especially in low-income areas.<sup>24</sup>

The appropriations specify requirements or restrictions applicable to awards of the funds.<sup>25</sup> After Congress appropriates funding, the HUD calculates the allocations and then announces the awards and publishes rules specifying how the funds may be used in a Federal Register notice.<sup>26</sup> CDBG-DR funds must be used for “...necessary expenses related to disaster relief, long-term recovery, restoration of infrastructure and housing, economic revitalization, and mitigation....”<sup>27</sup> The funds are intended to address unmet needs that other resources—including Federal Emergency Management (FEMA) funds or homeowner’s insurance—aren’t likely to address.<sup>28</sup> CDBG-DR funds cannot duplicate funding available from federal, state, or local governments; private and non-profit organizations; insurance proceeds; or any other source of assistance.<sup>29</sup>

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<sup>21</sup> Presentation to Senate Community Affairs Committee 12-1-2021 on file with Senate Community Affairs Committee.

<sup>22</sup> Department of Commerce, *Office of Long-Term Resiliency*, <https://floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited Feb. 14, 2025).

<sup>23</sup> U.S. Department of Housing and Urban Development, *Community Development Block Grant Disaster Recovery Program*, [https://www.hud.gov/program\\_offices/comm\\_planning/cdbg-dr/](https://www.hud.gov/program_offices/comm_planning/cdbg-dr/) (last visited Feb. 14, 2025).

<sup>24</sup> *Id.*

<sup>25</sup> *See, e.g.*, Additional Supplemental Appropriations for Disaster Relief Act, 2019, Pub. L. No. 116-20 (2019).

<sup>26</sup> U.S. Department of Housing and Urban Development, *Community Development Block Grant Disaster Recovery: CDBG-DR Overview*, <https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-Disaster-Recovery-Overview.pdf> (last visited Feb. 16, 2025). *See, e.g.*, Allocations for Community Development Block Grant Disaster Recovery and Implementation of the CDBG-DR Consolidated Waivers and Alternative Requirements Notice, 88 Fed. Reg. 32046 (May 18, 2023) available at <https://www.hud.gov/sites/dfiles/CPD/documents/FR-6393-N-01-AAN.pdf> (last visited Feb. 16, 2025)

<sup>27</sup> U.S. Department of Housing and Urban Development, *Community Development Block Grant Disaster Recovery: CDBG-DR Overview*, <https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-Disaster-Recovery-Overview.pdf> (last visited Feb. 16, 2025).

<sup>28</sup> U.S. Department of Housing and Urban Development, *Fact Sheet*, <https://www.hud.gov/sites/dfiles/CPD/documents/CDBG-DR-Fact-Sheet.pdf> (last visited Feb. 16, 2025).

<sup>29</sup> *Id.*

The timeframe between the occurrence of a disaster and project implementation can be lengthy and vary widely.<sup>30</sup> While disasters may be quickly declared—often within 1 day—congressional appropriations may not happen until a year after the declaration date.<sup>31</sup> The process from HUD notice publication to action plan development and approval, and through first expenditure may take months, while execution of the activity and final completion may take years.<sup>32</sup> For example, Hurricane Michael struck on October 10, 2018, HUD published its notice about CDBG-DR funds in the Federal Register in January of 2020, and Florida received HUD’s approval of the State Action Plan in June of 2020.<sup>33</sup>

The department has received a total allocation of more than \$4.3 billion since 2017 to administer CDBG-DR and Mitigation (MIT) funds to communities impacted by these storms:<sup>34</sup>

- Hermine/Matthew: \$117,937,000
- Irma: \$812,235,745
- Michael: \$735,553,000
- Sally: \$187,383,000
- Ian: \$910,624,000
- 2023/24 storms: \$925,394,000 (announced 1/7/2025)<sup>35</sup>
- Mitigation efforts for all storms: \$680,411,000<sup>36</sup>

### ***Rebuild Florida***

Rebuild Florida is program created by the Department of Commerce, to distribute CDBG-DR program funding which focuses on long-term recovery for homeowners, small businesses and communities after all other assistance has been exhausted, including insurance and other forms of federal assistance.<sup>37</sup>

The Rebuild Florida Housing Repair and Replacement Program (HRRP) addresses remaining unmet housing recovery needs through the repair, rebuild or replacement of damaged homes.<sup>38</sup> CDBG-DR and Rebuild Florida also fund rebuild and repair programs through local

<sup>30</sup> U.S. Department of Housing and Urban Development, *Housing Recovery and CDBG-DR at 10*, available at [https://www.huduser.gov/portal/sites/default/files/pdf/HousingRecovery\\_CDBG-DR.pdf](https://www.huduser.gov/portal/sites/default/files/pdf/HousingRecovery_CDBG-DR.pdf) (last visited Feb. 16, 2025)

<sup>31</sup> *Id.* at 11-12.

<sup>32</sup> *Id.*

<sup>33</sup> Department of Commerce, *Hurricane Michael*, <https://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative/hurricane-michael> (last visited Feb. 16, 2025).

<sup>34</sup> Florida Commerce Office of Long-Term Resiliency, *Presentation to Senate Community Affairs Committee*, Tuesday, February 4, 2025. Available at [https://flsenate.gov/Committees/Show/CA/MeetingPacket/6282/10952\\_MeetingPacket\\_6282\\_2.pdf](https://flsenate.gov/Committees/Show/CA/MeetingPacket/6282/10952_MeetingPacket_6282_2.pdf) (last visited Feb. 16, 2025).

<sup>35</sup> On January 7, 2025, the State of Florida received more than \$925 million in funding to support long-term resiliency and mitigation efforts.<sup>35</sup>

<sup>36</sup> Congress may also appropriate Community Development Block Grant Mitigation (CDBG-MIT) funding for mitigation activities after a disaster, which are not housing related and would not apply to the public records exemption, however they are also administered under the CDBG. Mitigation activities “increase resilience to disasters and eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by lessening the impact of future disasters.”

<sup>37</sup> Department of Commerce, *Rebuild Florida*, available at <https://www.floridajobs.org/rebuildflorida> (last visited Feb. 14, 2025).

<sup>38</sup> Department of Commerce, *Recovery FAQ*, available at <https://ian.rebuildflorida.gov/resources/frequently-asked-questions/> (last visited Feb. 14, 2025)

governments, either directly from HUD<sup>39</sup> or through the department. The program offers reconstruction, manufactured housing unit replacement, or rehabilitation with a priority on the most vulnerable populations, including the elderly, those with disabilities, families with children under the age of 18, and families with low household incomes.<sup>40</sup> The HRRP program manages complete construction on behalf of eligible and awarded homeowners, but payments are not made to the property owner directly. Contractors are selected by the state as a subrecipient of the HUD funding, and homeowners do not directly select or contact the chosen builder.<sup>41</sup>

Applicants seeking assistance from the Department of Commerce's Rebuild Florida, CDBG-DR funded programs or local rebuild and repair programs, are required to provide personal information and supporting documentation. Applications may be received by the department or the local government.<sup>42</sup> For example, damage assessment data collected during property inspections to determine remaining needed repairs may include the applicant's name, address, telephone numbers, photo identification, and interior and exterior photographs of their residence.<sup>43</sup> Other commonly needed personal identifying information includes, proof of home ownership, tax returns, and salary or wage statements. The department maintains all files containing such personally identifiable information in a secure manner.<sup>44</sup>

Rebuild Florida currently has open programs on their website for Hurricane Irma (2017), Hurricane Michael (2018), and Hurricane Ian (2022), but funding has been received to support the 2023-2024 storms.<sup>45</sup>

### ***The State Housing Initiatives Partnership***

The State Housing Initiatives Partnership (SHIP) Program was created in 1992<sup>46</sup> to provide funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing.

The SHIP program provides funds to all 67 counties and 52 municipalities through the Community Development Block Grant. SHIP funds may be used to pay for emergency repairs, rehabilitation, down payment and closing cost assistance, impact fees, construction and gap financing, mortgage buydowns, acquisition of property for affordable housing, matching dollars for federal housing grants and programs, and homeownership counseling.<sup>47</sup>

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<sup>39</sup> HUD allocated \$201.5 million to Sarasota County through CDBG-DR, \$55 million of which was to provide decent, safe, and sanitary housing for residents affected by Hurricane Ian.

<sup>40</sup> *Id.*

<sup>41</sup> *Id.*

<sup>42</sup> Sarasota County, *Housing Recovery Program*, available at <https://www.resilientsrq.net/housing-recovery> (last visited Feb. 16, 2025)

<sup>43</sup> Department of Commerce, *Eligibility Requirements*, available at <https://ian.rebuildflorida.gov/eligibility/> (last visited Feb. 14, 2025)

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

<sup>46</sup> Chapter 92-317, Laws of Fla.

<sup>47</sup> Section 420.072(7), F.S.

FHFC is statutorily authorized to hold back up to \$5 million each fiscal year from the SHIP appropriation for recovery efforts for declared disasters.<sup>48</sup> These funds have been utilized for disaster recovery efforts that include response to hurricanes, tornadoes, flooding and wildfires.

Additionally, many local government's SHIP programs offer recovery assistance to help those affected by disasters with temporary relocation, rental assistance, mortgage foreclosure prevention, security and utility deposit assistance, debris removal and home repairs.<sup>49</sup> Examples include Leon County and Osceola County who have leveraged SHIP funds for these disaster recovery related activities.<sup>50</sup>

### **The Robert T. Stafford Disaster Relief Act and a Presidential Disaster Declaration**

Congress enacted the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("Stafford Act")<sup>51</sup> "to provide an orderly and continuing means of assistance by the Federal Government to State and local governments in carrying out their responsibilities to alleviate the suffering and damage which result from disasters."<sup>52</sup> The Stafford Act is triggered when the State Governor determines that State and local resources are insufficient to respond to a disaster, asks the President to declare an area a "major disaster," and the President does so.<sup>53</sup> The President's declaration designates the areas within a State where Federal assistance may be made available and what specific types of Federal assistance are authorized.

Recent presidentially declared disasters in the state of Florida include Hurricane Milton (2024), Hurricane Helene (2024), Hurricane Idalia (2023), and hurricanes Ian and Nicole (2022).<sup>54</sup>

### **The Public Records Exemption**

The public records exemption in this bill exempts records relating to property photographs and personal identifying information of applicants or participants in disaster-related federal, state, or local housing assistance programs held by the Department of Commerce, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency.

The law provides both confidential and exempt status of the information for the purpose of disaster recovery assistance for a presidentially declared disaster.

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<sup>48</sup> Section 420.9073(5), F.S.

<sup>49</sup> Florida Housing, *Disaster Relief Resources and Information*, available at <https://www.floridahousing.org/programs/special-programs/ship---state-housing-initiatives-partnership-program/disaster-relief> (last visited Feb. 16, 2025)

<sup>50</sup> *See*: Leon County offers housing assistance through the SHIP Disaster Recovery Program, available at <https://cms.leoncountyfl.gov/Government/Departments/Human-Services-Community-Partnerships/TEAM-Leon/TEAM-Leon-Individuals>, and Osceola County SHIP Program available at <https://www.osceola.org/Services/Housing-Programs/SHIP> (last visited Feb. 16, 2025)

<sup>51</sup> [42 U.S.C. §§ 5121](#) *et seq.*

<sup>52</sup> 42 U.S.C. §§ 5121(b).

<sup>53</sup> *Id.* at § 5171.

<sup>54</sup> FEMA, *Disasters and Other Declarations*, available at <https://www.fema.gov/disaster/declarations>, (last visited Feb. 14, 2025)

Unless it is reviewed by the Legislature and saved from repeal, the exemption will be repealed on October 2, 2025.<sup>55</sup>

### **Open Government Sunset Review Act**

Section 119.15, F.S., the Open Government Sunset Review Act (OGSR), prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions.<sup>56</sup> The OGSR provides that an exemption automatically repeals on October 2nd of the fifth year after creation or substantial amendment. In order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.<sup>57</sup> In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

The OGSR provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>58</sup> An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>59</sup>
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>60</sup> or
- It protects trade or business secrets.<sup>61</sup>

The OGSR also requires specified questions to be considered during the review process.<sup>62</sup> In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.<sup>63</sup> If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then

<sup>55</sup> Section 119.071(5)(f)4., F.S.

<sup>56</sup> Section 119.15(4)(b), F.S., provides that an exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings. The OGSR does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S.

<sup>57</sup> Section 119.15(3), F.S.

<sup>58</sup> Section 119.15(6)(b), F.S.

<sup>59</sup> Section 119.15(6)(b)1., F.S.

<sup>60</sup> Section 119.15(6)(b)2., F.S.

<sup>61</sup> Section 119.15(6)(b)3., F.S.

<sup>62</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>63</sup> FLA. CONST. art. I, s. 24(c).



a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.<sup>64</sup>

### ***Open Government Sunset Review Findings and Recommendations***

The Department of Commerce recommends the preservation of the public records exemption for records relating to property photographs and personal identifying information of applicants or participants in disaster-related federal, state, or local housing assistance programs.

Previous analysis from the department for the exemption included that “information could be used by fraudulent contractors, predatory lenders, thieves, or individuals seeking to impose on the vulnerability of a distressed homeowner or tenant following a disaster.”<sup>65</sup>

Additionally, the Senate Community Affairs Committee and House Local Administration, Federal Affairs & Special Districts Subcommittee surveyed local governments in regard to the exemption. Of the respondents who provided a recommendation, the overwhelming majority supported reenacting the public records exemption ‘as is.’<sup>66</sup> Only two local governments statewide recommended repealing the exemption, and their responses indicated non-use as a factor.<sup>67</sup>

### **III. Effect of Proposed Changes:**

**Section 1** repeals the October 2, 2025, sunset date for the public records exemption in s 119.071(5)(f)4., F.S., which protects records relating to property photographs and personal identifying information of applicants or participants in disaster-related federal, state, or local housing assistance programs held by the Department of Commerce, the Florida Housing Finance Corporation, a county, a municipality, or a local housing finance agency.

The result of the repeal of the sunset date provision is that property photographs and personal identifying information of applicants or participants in a presidentially declared disaster related federal, state, or local housing assistance programs for the purpose of disaster recovery assistance will remain exempt from public records law. Removing the scheduled repeal will also continue the confidential and exempt status of the information.

**Section 2** provides an effective date of October 1, 2025.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

None.

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<sup>64</sup> Section 119.15(7), F.S.

<sup>65</sup> Florida Commerce, *Agency Analysis of SB 966*, (Dec. 2019), on file with the Senate Committee on Community Affairs.

<sup>66</sup> Survey of local governments on file with the Senate Committee on Community Affairs.

<sup>67</sup> The municipalities of Shalimar and Longboat Key both indicated support for repealing the exemption.

**B. Public Records/Open Meetings Issues:****Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill does not create or expand an exemption and thus, the bill does not require a two-thirds vote to be enacted.

**Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. This bill does not create or expand an exemption and thus, a statement of public necessity is not required.

**Breadth of Exemption**

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The exemptions in the bill do not appear to be broader than necessary to accomplish the purposes of the laws.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 119.071 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.