

# FLORIDA HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [HB 7011](#) [PCB GOS 26-06](#)

**TITLE:** OGSR/Aquaculture Records

**SPONSOR(S):** Government Operations Subcommittee,  
Gentry

**COMPANION BILL:** [SB 7020](#)

**LINKED BILLS:** None

**RELATED BILLS:** None

**FINAL HOUSE FLOOR ACTION:** 109 Y's 0 N's

**GOVERNOR'S ACTION:** Pending

## SUMMARY

### **Effect of the Bill:**

The bill saves from repeal the public record exemption for certain aquaculture records held by the Department of Agriculture and Consumer Services. The public record exemption will repeal on October 2, 2026, if the bill does not become a law.

### **Fiscal or Economic Impact:**

None.

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## ANALYSIS

### **EFFECT OF THE BILL:**

The bill removes the scheduled repeal, created pursuant to the [Open Government Sunset Review Act](#), of the public record exemption for the following aquaculture records held by the Department of Agriculture and Consumer Services:

- Shellfish receiving and production records generated by licensed [shellfish processing facilities](#).
- Audit records and supporting documentation required for [submerged land leases](#).
- Aquaculture production records and receipts generated by certified [aquaculture facilities](#). (Section [1](#))

The public record exemption will repeal on October 2, 2026, if the bill does not become a law. (Section [1](#))

Subject to the Governor's veto powers, the effective date of this bill is upon becoming a law. (Section [2](#))

## RELEVANT INFORMATION

### **SUBJECT OVERVIEW:**

#### **[Open Government Sunset Review Act](#)**

The Open Government Sunset Review Act (OGSR Act)<sup>1</sup> sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2<sup>nd</sup> of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.<sup>2</sup>

The OGSR Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allow the state or its political subdivisions to effectively and efficiently administer a governmental program, which would be significantly impaired without the exemption.

<sup>1</sup> S. [119.15, F.S.](#)

<sup>2</sup> S. [119.15\(3\), F.S.](#)

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- Protect sensitive personal information that, if released, would be defamatory or would jeopardize an individual’s safety; however, only the identity of an individual may be exempted under this provision.
- Protect trade or business secrets.<sup>3</sup>

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required. If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created, then a public necessity statement and a two-thirds vote are not required.<sup>4</sup>

**Aquaculture**

Aquaculture, a subset of agriculture, is the cultivation of aquatic organisms.<sup>5</sup> Florida produces over 1,500 varieties of fish, aquatic plants, mollusks, shellfish, crustaceans, reptiles, and amphibians for ornamental, food, and bait markets, as well as for sporting, conservation, and educational purposes. The Department of Agriculture and Consumer Services (DACCS) serves as the state’s lead aquaculture agency and works to coordinate the development and regulation of aquaculture in order to protect and conserve Florida’s natural resources.<sup>6</sup>

[Aquaculture Facilities](#)

An aquaculture facility is where an aquaculture producer engages in the production of aquaculture products<sup>7</sup> and may be located in the open ocean, a bay, or in a variety of man-made ponds or tanks.<sup>8</sup> As part of its regulatory duties, DACCS requires an aquaculture producer to submit specified information, such as production records and receipts, to acquire an aquaculture certificate of registration,<sup>9</sup> to renew such registration annually,<sup>10</sup> and to comply with aquaculture best management practices.<sup>11</sup>

The aquaculture certificate of registration authorizes an approved aquaculture producer to plant, harvest, and sell aquaculture products and entitles the holder to the same benefits as other agricultural producers, including tax benefits.<sup>12</sup> An applicant for the certificate must submit:

- The applicant’s name or title.
- Company name.
- Mailing address.
- Legal property description and actual physical street address for each aquaculture facility.
- A description of production facilities.
- A description of the aquaculture products to be produced.
- An annual registration fee of \$100, documentation of compliance with DACCS rules, and, for some applicants, a certificate of training.<sup>13</sup>

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<sup>3</sup> S. [119.15\(6\)\(b\), F.S.](#)

<sup>4</sup> [Art. I, s. 24\(c\), FLA. CONST.](#)

<sup>5</sup> S. [597.0015\(1\), F.S.](#)

<sup>6</sup> Department of Agriculture and Consumer Services, [Aquaculture](#) (last visited Mar. 4, 2026); *see also* Department of Agriculture and Consumer Services, [Florida Aquaculture Industry Overview](#) (last visited Mar. 4, 2026).

<sup>7</sup> S. [597.0015\(2\), F.S.](#)

<sup>8</sup> Department of Agriculture and Consumer Services, [Discover Florida Aquaculture](#) (last visited Mar. 4, 2026).

<sup>9</sup> Department of Agriculture and Consumer Services, [Agriculture Certificate of Registration Application](#) (last visited Mar. 4, 2026).

<sup>10</sup> Department of Agriculture and Consumer Services, [Aquaculture Certificate of Registration Renewal Guidance Document](#) (last visited Mar. 4, 2026).

<sup>11</sup> Department of Agriculture and Consumer Services, [Aquaculture Best Management Practices Manual](#) (last visited Mar. 4, 2026).

<sup>12</sup> Department of Agriculture and Consumer Services, [Aquaculture Certificate of Registration](#) (last visited Mar. 4, 2026).

<sup>13</sup> S. [597.004\(1\), F.S.](#); R. 5L-3.005(1)(i), F.A.C.

Each applicant is also required to comply with DACS-approved best management practices.<sup>14</sup> Upon approval, DACS issues the applicant an aquaculture certificate of registration for a period of one year, which must be renewed on July 1 with the accompanying fee.<sup>15</sup>

**Submerged Land Leases**

Upon attaining statehood in 1845, “the state of Florida by virtue of its sovereignty assumed title to and sovereignty over the navigable waters in the state and lands thereunder.”<sup>16</sup> The lands beneath navigable waters are called “sovereign submerged lands” and include tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line. Title to sovereign submerged lands is held by the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees),<sup>17</sup> a body that is composed of the Governor and Cabinet, with the Governor as chair.<sup>18</sup> The Board of Trustees is responsible for the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state, including sovereign submerged lands.<sup>19</sup>

Sovereign submerged lands may be leased for many purposes, including for marinas, boatyards, marine manufacturers and retailers, construction of docks and piers, and aquaculture cultivation.<sup>20</sup> Aquaculture activities on sovereign submerged lands in Florida consist mostly of growing hard clams, oysters, and live rock.<sup>21</sup> To lease sovereign submerged lands, an aquaculture producer submits an application to DACS along with specified information, including the location of the proposed aquaculture activity.<sup>22</sup> DACS then reviews the application and as part of that process, DACS staff conducts a resource survey to determine whether the site is appropriate for leasing. If the site is deemed appropriate, the application is publicly noticed in the newspaper and the application undergoes comprehensive review by multiple agencies.<sup>23</sup> Additionally, the application requires approval from the Board of Trustees.<sup>24</sup>

An aquaculture lease for sovereign submerged land may not exceed 10 years<sup>25</sup> and each January DACS mails aquaculture leaseholders a submerged land lease audit.<sup>26</sup> There are two separate audits, one for shellfish<sup>27</sup> and one for live rock.<sup>28</sup> The audits require the submission of information on planting and harvesting activities<sup>29</sup> as well as supporting documentation, such as receipts that show the number of shellfish species purchased in or out of the state.<sup>30</sup>

**Shellfish Processing Facilities**

When shellfish have reached the preferred size for sale, they are harvested from submerged land leases and sold to a certified shellfish processing facility.<sup>31</sup> A shellfish processing facility must acquire a certification license from

<sup>14</sup> [S. 597.004\(2\), F.S.](#); R. 5L-3.005, F.A.C.

<sup>15</sup> [S. 597.004\(7\)\(a\), F.S.](#); see Department of Agriculture and Consumer Services, [Aquaculture Certificate of Registration Renewal Guidance Document](#) (last visited Mar. 4, 2026). The aquaculture certificate of registration renewal window begins on April 15 and all certificates expire on June 30.

<sup>16</sup> *Merrill-Stevens Co. v. Durkee*, 57 So. 428, 432 (Fla. 1912)

<sup>17</sup> Department of Environmental Protection, [Submerged Land Management](#) (last visited Mar. 4, 2026).

<sup>18</sup> [Art. IV, s. 4\(f\), FLA. CONST.](#)

<sup>19</sup> [S. 253.03\(1\), F.S.](#)

<sup>20</sup> Ch. 253, F.S.; see also Department of Environmental Protection, [Submerged Lands Management](#) (last visited Mar. 4, 2026).

<sup>21</sup> Department of Agriculture and Consumer Services, [Aquaculture Submerged Land Leasing](#) (last visited Mar. 4, 2026).

<sup>22</sup> R. 18-21.021(1), F.A.C.

<sup>23</sup> Other reviewing agencies may include the Department of Environmental Protection, Fish and Wildlife Conservation Commission, Department of State, Army Corps of Engineers, as well as the county commission of the site’s location. *Id.*

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

<sup>25</sup> R. 18-21.021(1), F.A.C.

<sup>26</sup> Department of Agriculture and Consumer Services, [Aquaculture Submerged Land Leasing](#) (last visited Mar. 4, 2026).

<sup>27</sup> Department of Agriculture and Consumer Services, [Shellfish Audit](#) (last visited Mar. 4, 2026).

<sup>28</sup> Department of Agriculture and Consumer Services, [Live Rock Audit](#) (last visited Mar. 4, 2026).

<sup>29</sup> Department of Agriculture and Consumer Services, [Lease Management](#) (last visited Mar. 4, 2026).

<sup>30</sup> Department of Agriculture and Consumer Services, [Shellfish Audit](#) (last visited Mar. 4, 2026).

<sup>31</sup> Department of Agriculture and Consumer Services, [Shellfish](#) (last visited Mar. 4, 2026).

DACS to operate any facility in which oysters, clams, mussels, scallops, or crabs are processed.<sup>32</sup> Examples of shellfish processing facilities include:

- An oyster, clam, mussel, or scallop cannery.
- A shell stock dealership.
- An oyster, clam, mussel, or scallop shucking plant.
- An oyster, clam, mussel, or scallop repacking plant.
- An oyster, clam, mussel, or scallop controlled purification plant.
- A crab or soft-shell crab processing or shedding plant.<sup>33</sup>

The shellfish processing certification application requires the submission of specified information, including the facility address and the types of products sought to be processed.<sup>34</sup> Once certified, a shellfish processing facility is routinely inspected by DACS staff to ensure regulatory compliance and consumer safety.<sup>35</sup> Processing facilities must maintain a variety of records for those inspections, including production volume reports,<sup>36</sup> receipts of sale,<sup>37</sup> and sanitation monitoring schedules.<sup>38</sup>

### Public Record Exemption under Review

In 2021, the Legislature created a public record exemption for the following aquaculture records held by DACS:

- Shellfish receiving and production records generated by licensed shellfish processing facilities.
- Audit records and supporting documentation required for submerged land leases.
- Aquaculture production records and receipts generated by certified aquaculture facilities.<sup>39</sup>

These records may be disclosed to another governmental entity in the performance of its duties and responsibilities. The exemption applies to aquaculture records held before, on, or after July 1, 2021.<sup>40</sup>

The 2021 public necessity statement<sup>41</sup> asserts that the exemption allows DACS to collect information required for compliance with Florida and federal law while also “protect[ing the aquaculture] industry and its facilities.”<sup>42</sup> The public necessity statement provided that the release of the protected information may create a chilling effect on submission of the information and thereby hinder DACS “from obtaining valuable and accurate information due to the nature of the industry.”<sup>43</sup>

Pursuant to the OGS Act, the exemption will repeal on October 2, 2026, unless reenacted by the Legislature.<sup>44</sup>

During the 2025 interim, House and Senate committee staff met jointly with staff from DACS to discuss the public record exemption under review. DACS staff indicated that they were unaware of any litigation concerning the exemption and have not had any issues interpreting or applying the exemption. DACS staff also indicated that the aquaculture records, if released, could be detrimental to aquaculture producers as information regarding products, harvest times, and locations make such businesses susceptible to theft. DACS staff recommended that the exemption be reenacted as is.

<sup>32</sup> [S. 597.020\(2\), F.S.](#)

<sup>33</sup> *Id.*

<sup>34</sup> R. 5L-1.005, F.A.C.

<sup>35</sup> Department of Agriculture and Consumer Services, [Shellfish Processing Facility Certification](#) (last visited Mar. 4, 2026).

<sup>36</sup> R. 5L-1.013(14), F.A.C.

<sup>37</sup> R. 5L-1.013(10), F.A.C.

<sup>38</sup> R. 5L-1.013(17), F.A.C.

<sup>39</sup> [Ch. 2021-59, L.O.F., codified as s. 597.0042, F.S.](#)

<sup>40</sup> [S. 597.0042, F.S.](#)

<sup>41</sup> [Article I, s. 24\(c\), FLA. CONST.](#), requires each public record exemption to “state with specificity the public necessity justifying exemption.”

<sup>42</sup> [Ch. 2021-59, L.O.F.](#)

<sup>43</sup> *Id.*

<sup>44</sup> [S. 597.0042, F.S.](#)