

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.)

Prepared By: The Professional Staff of the Committee on Commerce and Tourism

BILL: SPB 7016

INTRODUCER: For consideration by the Commerce and Tourism Committee

SUBJECT: OGSR/Administration of Small Business Loan Programs Held by an Economic Development Agency

DATE: December 9, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Renner	McKay		Pre-meeting

I. Summary:

SPB 7016 saves from repeal the current public records exemption for certain financial information held by an economic development agency pursuant to the administration of a state or federally funded small business loan program. The exemption protects tax returns, financial information, and credit information.

The exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2026, unless reenacted by the Legislature. The bill saves the exemption from repeal by deleting the scheduled repeal date, thereby maintaining the exempt status of the information.

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

The bill takes effect upon becoming law.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that:

¹ FLA. CONST. art. I, s. 24(a).

² *Id.* See also, *Sarasota Citizens for Responsible Gov't v. City of Sarasota*, 48 So. 3d 755, 762-763 (Fla. 2010).

³ Public records laws are found throughout the Florida Statutes.

[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.⁴

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.⁵ Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

Section 119.011(12), F.S., defines “public records” to include:

[a]ll 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.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business which are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

⁴ Section 119.01(1), F.S.

⁵ *Locke v. Hawkes*, 595 So. 2d 32, 34 (Fla. 1992); see also *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

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

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST. art. I, s. 24(c)

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act (the Act), prescribe a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁶ with specified exceptions.¹⁷ The Act requires the repeal of such exemption 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.¹⁸ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act 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.¹⁹ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²⁰
- It protects sensitive, personal information, the release of which 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;²¹ or
- It protects trade or business secrets.²²

The Act also requires specified questions to be considered during the review process.²³ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁶ Section 119.15, F.S. 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.

¹⁷ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁸ Section 119.15(3), F.S.

¹⁹ Section 119.15(6)(b), F.S.

²⁰ Section 119.15(6)(b)1., F.S.

²¹ Section 119.15(6)(b)2., F.S.

²² Section 119.15(6)(b)3., F.S.

²³ 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?

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 again required.²⁴ If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁵

Small Business Loan Programs

The Department of Commerce (Florida Commerce) administers several state and federally funded small business loan programs, including:

- Small Business Emergency Bridge Loan Program²⁶
 - Provides short-term, zero-interest working capital loans to “bridge the gap” between the time a disaster impacts a business and when a business has secured longer-term funding.
- Rebuild Florida Business Loan Fund²⁷
 - Utilizes a revolving loan fund designed to address gaps in available, affordable capital for businesses.
- Rural Community Development Revolving Loan Program²⁸
 - Facilitates the use of existing federal, state, and local financial resources by providing local governments with access to financial assistance.
- State Small Business Credit Initiative²⁹
 - Provides resources and capital to facilitate business growth and economic development to targeted business populations.
- Black Business Loan Program³⁰
 - Provides loans, loan guarantees, or investments to black business enterprises.

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- 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?

²⁴ FLA. CONST. art. I, s. 24(c).

²⁵ Section 119.15(7), F.S.

²⁶ Florida Department of Commerce, *Small Business Emergency Bridge Loan Program*, available at <https://floridacommerce.my.site.com/RebuildFloridaBusinessLoanFund/s/loan-programs?program=emergency-bridge-loan> (last visited Dec. 9, 2025).

²⁷ Florida Department of Commerce, *Rebuild Florida Business Loan Fund*, available at <https://floridacommerce.my.site.com/RebuildFloridaBusinessLoanFund/s/loan-programs?program=florida-resiliency-loan> (last visited Dec. 9, 2025).

²⁸ Section 288.065, F.S.

²⁹ Florida Department of Commerce, *State Small Business Credit Initiative*, available at <https://floridajobs.org/FloridaSSBCI> (last visited Dec. 9, 2025).

³⁰ Sections 288.7102-, 288.714, F.S.

Public Record Exemption under Review

In 2021, the Legislature created a public record exemption for certain information held by an economic development agency pursuant to the administration of a state or federally funded small business loan program. Specifically, the law exempts tax returns, financial information, credit history information, credit reports, and credit scores from public record requirements.³¹ An economic development agency is defined as:

- The Department of Commerce.
- Any industrial development authority created under part III of chapter 159, F.S., or by special law;
- Space Florida;
- A local government public economic agency or, in the absence of a public economic agency, the local government officers or employees designated to promote the general business or industrial interests of the local government;
- Any research and development authority created under part V of chapter 159, F.S.; or
- Any private agency, person, partnership, corporation, or business entity when authorized by the state or local government to promote the general business or industrial interests of the state or that local government.³²

The 2021 public necessity statement³³ provided that the release of the protected information “could be used by fraudulent contractors, predatory lenders, thieves, or individuals seeking to impose on the applicant or borrower.”³⁴ Therefore, the exemption exists to “ensure that applicants and borrowers are not harassed, intimidated, or potentially defrauded.”³⁵

Pursuant to the Act, the public record exemption will repeal on October 2, 2026, unless reviewed and saved from repeal by the Legislature.³⁶

During the 2025 interim, Senate and House staff met jointly with staff from Florida Commerce to discuss the public record exemption under review. Florida Commerce staff indicated that they have had no issue interpreting or applying the exemption and were unaware of any litigation concerning the exemption. Florida Commerce staff explained that, prior to the exemption, borrowers participating in state and federally funded small business loan programs were exposed to fraud. For that reason, Florida Commerce staff recommended reenacting the exemption as is. Senate and House committee staff also surveyed counties and cities concerning the public record exemption under review. All responding counties and cities stated that they did not participate in any state- or federally funded small business loan programs.

³¹ Section 288.075(7)(a)1.-3., F.S.

³² Section 288.075(1)(a), F.S.

³³ Article I, s. 24(c), FLA. CONST., requires each public record exemption to “state with specificity the public necessity justifying exemption.”

³⁴ Chapter 2021-23, L.O.F.

³⁵ *Id.*

³⁶ Section 288.075(7), F.S.

III. Effect of Proposed Changes:

SPB 7016 removes the scheduled repeal date, created pursuant to the Act, for the public record exemption for certain financial information, such as tax returns and credit reports, held by an economic development agency pursuant to the administration of a state or federally funded small business loan program. The public record exemption will repeal on October 2, 2026, if the bill does not become a law.

The effective date of the bill is upon becoming law.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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 continues a current public records exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote for enactment.

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 continues a current public records exemption without expansion.

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 purpose of the law is to protect financial information held by an economic development agency pursuant to the administration of a state or federally funded small business loan program. The exemption applies only to certain types of financial information, such as tax returns and credit reports, from public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The government sector will continue to incur costs related to the review and redaction of exempt records associated with responding to public records requests.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None identified.

VIII. Statutes Affected:

This bill substantially amends section 288.075 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.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
