

CHAPTER 98-54

Committee Substitute for House Bill No. 1903

An act relating to records of the Division of Florida Land Sales, Condominiums, and Mobile Homes; amending s. 498.047, F.S.; providing an exemption from public records requirements for information relative to an investigation by the division under the Florida Uniform Land Sales Practices Law for a specified period; providing for continued exemption for certain information relative to such investigation under certain conditions; authorizing certain disclosure of such information; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (8) is added to section 498.047, Florida Statutes, to read:

498.047 Investigations.—

(8)(a) Except as otherwise provided by this subsection, information relative to an investigation by the division pursuant to this chapter, including any consumer complaint, is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, until 10 days after a notice to show cause has been filed by the division, or, in the case in which no notice to show cause is filed, the investigation is completed or ceases to be active. For purposes of this section, an investigation shall be considered “active” so long as the division or any law enforcement or administrative agency or regulatory organization is proceeding with reasonable dispatch and has a reasonable good faith belief that the investigation may lead to the filing of an administrative, civil, or criminal proceeding or to the denial or conditional grant of a license or registration. However, in response to a specific inquiry about the registration status of a registered or unregistered subdivider, the division may disclose the existence and the status of an active investigation. This subsection shall not be construed to prohibit disclosure of information which is required by law to be filed with the division and which, but for the investigation, would be subject to s. 119.07(1).

(b) Except as necessary for the division to enforce the provisions of this chapter, a consumer complaint and other information relative to an investigation shall remain confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution, after the filing of a notice to show cause or the investigation is completed or ceases to be active to the extent disclosure would:

1. Jeopardize the integrity of another active investigation.
2. Reveal the name, address, telephone number, social security number, or any other identifying number or information of any purchaser or account holder, or social security number or any account number of a complainant.

3. Reveal a trade secret as defined in s. 688.002.

(c) Nothing in this subsection shall be construed to prohibit the division from providing information to any law enforcement or administrative agency or regulatory organization. Any law enforcement or administrative agency or regulatory organization receiving confidential information in connection with its official duties shall maintain the confidentiality of the information as provided for in this subsection.

(d) If information subject to this subsection is offered in evidence in any administrative, civil, or criminal proceeding, the presiding officer may, in his or her discretion, prevent the disclosure of information which would be confidential pursuant to paragraph (b).

This subsection is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2003, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that the exemptions provided for in this act are a public necessity. The untimely disclosure of information relative to an investigation by the Division of Florida Land Sales, Condominiums, and Mobile Homes could jeopardize the investigation. An investigation can be jeopardized when the person or entity being investigated, or his or her agent, obtains copies of the investigation file and uses that information in order to alter records or otherwise thwart the investigation. The untimely disclosure of certain identifying and location information relating to complainants could jeopardize the integrity of investigations by providing a mechanism for the person or entity being investigated to contact the complainant prior to the filing of a notice to show cause, or other resolution of the investigation, and to interfere with the investigation. This may also have the effect of discouraging complainants from coming forward. A consumer complaint and other information relative to an investigation must remain confidential as specified herein. The untimely disclosure of information in an investigation which would otherwise become public must remain confidential if it could jeopardize another active investigation. An investigation can be compromised when the person being investigated, or his or her agent, obtains copies of the investigation file or a related investigation file and uses the information contained therein to alter records or otherwise interfere with an investigation. The name and specified identifying information of the complainant must remain confidential in order to encourage individuals to report illegal activity without fear of reprisal. The disclosure of information, such as customer lists, could reveal trade secrets which would give competitors an economic advantage, and could cause financial harm to the entity whose trade secrets are being disclosed.

Section 3. This act shall take effect October 1 of the year in which enacted.

Became a law without the Governor's approval May 14, 1998.

Filed in Office Secretary of State May 13, 1998.