

## House Bill No. 1157

An act relating to the Department of State; amending s. 15.16, F.S.; authorizing the department to waive certain advertising requirements; amending s. 288.816, F.S.; deleting a requirement that certain law enforcement agencies notify the department of certain arrests and incarcerations; amending s. 679.401, F.S.; specifying the Florida Secured Transaction Registry as a place for certain filings; creating s. 679.4015, F.S.; establishing the Florida Secured Transaction Registry; prescribing duties of the department; prescribing standards for the registry; providing powers and duties of contracting entities performing services with respect to the registry; amending s. 901.26, F.S.; providing that failure to provide certain consular notification shall not be a defense in a criminal proceeding or a cause for release of a foreign national from custody; directing the Department of Community Affairs and the Department of State to conduct a study of lighthouses in the state; providing requirements of the study; providing for planning and funding responsibilities; directing each department to make a budget request for funding purposes; providing an appropriation; providing effective dates.

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

Section 1. Subsections (6) and (7) of section 15.16, Florida Statutes, are redesignated as subsections (7) and (8), respectively, and a new subsection (6) is added to that section to read:

15.16 Reproduction of records; admissibility in evidence; electronic receipt and transmission of records; certification; acknowledgment.—

(6) Notwithstanding s. 865.09(3)(d), the Department of State may waive the requirement that a person advertise the intention to register a fictitious name if the department indexes the fictitious name registration in a central database available to the public on the Internet.

Section 2. Paragraph (f) of subsection (2) of section 288.816, Florida Statutes, is amended to read:

288.816 Intergovernmental relations.—

(2) The secretary shall be responsible for all consular relations between the state and all foreign governments doing business in Florida. The secretary shall monitor United States laws and directives to ensure that all federal treaties regarding foreign privileges and immunities are properly observed. The secretary shall promulgate rules which shall:

(f) Establish a system of communication to provide all state and local law enforcement agencies with information regarding proper procedures relating to the arrest or incarceration of a foreign citizen. ~~Florida law enforcement agencies shall inform the Department of State when such arrest or incarceration occurs. The secretary in turn shall notify the appropriate~~

~~foreign governmental official. The secretary shall annually report on the actions taken to inform law enforcement agencies, and on the cooperation from such agencies, to the President of the Senate and the Speaker of the House of Representatives.~~

Section 3. Effective October 1, 2001, paragraph (c) of subsection (1) and subsection (5) of section 679.401, Florida Statutes, are amended to read:

679.401 Place of filing; erroneous filing; removal of collateral.—

(1) The proper place to file in order to perfect a security interest is as follows:

(c) In all other cases, by filing under the Florida Secured Transaction Registry in the office of the Department of State.

(5) Notwithstanding the preceding subsections, and subject to s. 679.302(3), the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is under the Florida Secured Transaction Registry the office of the Department of State.

Section 4. Section 679.4015, Florida Statutes, is created to read:

679.4015 Florida Secured Transaction Registry.—

(1) As used in this section, the term:

(a) “Florida Secured Transaction Registry” or “registry” means the central database in which all initial financing statements, amendments, assignments, and other statements of change authorized to be filed under this chapter are filed, maintained, and retrieved. The term does not apply to documents that are filed under this chapter with the clerk of a circuit court.

(b) “Department” means the Department of State.

(c) “Materials and records” includes, but is not limited to, databases, source or object codes, and any software relating to the Florida Secured Transaction Registry or other filing system under this chapter, regardless of the original source of its creation or maintenance.

(2) The department shall perform the duties of the filing office and filing officer under this chapter until October 1, 2001, or until the effective date of a contract executed by the department for the performance of these duties, whichever occurs later. At that time, the department shall cease serving as the filing office and filing officer under this chapter, and thereafter, except to the extent the department may reclaim those duties under paragraph (3)(d), the department is not responsible for the performance of the duties of the filing office or filing officer under this chapter, including determinations of whether filings under this chapter satisfy the requirements of law.

(3) The department shall immediately develop and issue a request for qualifications seeking capable entities to perform the duties currently being performed by the department as the filing office and filing officer under this chapter.

(a) The qualifications shall, at a minimum, provide for the organization and maintenance of the Florida Secured Transaction Registry in a matter that:

1. Is comparable and compatible with the department's current filing system.

2. Is open to the public and accessible through the Internet, to permit the review of all current filings of the department and all future filings in the registry, in compliance with chapter 119.

3. Provides for oversight and compliance audits by the department.

4. Requires records maintenance in compliance with this chapter and chapter 119.

5. Maintains the current level of filing fees and procedures for the deposit of revenues with the department as specified in chapter 15, net of operating costs.

(b) Under chapter 287, the department has the authority to determine and select the most qualified respondents to the request for qualifications and to negotiate and enter into one or more contracts as provided in this section.

(c) The contract may not be assignable or otherwise transferable without the express written consent of the department.

(d) Notwithstanding the terms and conditions of the contract, the department and the state retain sole and exclusive ownership of the materials and records in the registry, have the right to inspect and make copies of the materials and records in the registry, and have the right to immediately reclaim and take possession and control of the original materials and records in the registry if an entity under contract with the department does not, or cannot, perform the terms and conditions of the contract for any reason or commences an insolvency proceeding. If the department reclaims control of the materials and records in the registry, the department shall provide for the uninterrupted fulfillment of the duties of the filing office and filing officer under this chapter. The department is entitled to injunctive relief if an entity fails to turn over the materials and records upon demand, and the Circuit Court for Leon County, Florida, has exclusive original jurisdiction over any disputes pertaining to this section or any contract executed under this section.

(4) The department retains authority under this chapter to approve the forms required to be filed under this chapter. If authorized by the contract with the department, the entity performing the duties of the filing office may certify a copy of a financing statement, or an amendment thereto, which shall be admissible in a state or federal court or in a proceeding before any other tribunal.

(5) The department shall develop performance standards to ensure that the Florida Secured Transaction Registry is accurate and complete and that

the users thereof are being well-served. Periodically, the department shall verify that these performance standards are being met or modified as may be needed from time to time.

Section 5. Section 901.26, Florida Statutes, is amended to read:

(Substantial rewording of section.

See s. 901.26, F.S., for present text.)

901.26 Arrest and detention of foreign nationals.—Failure to provide consular notification under the Vienna Convention on Consular Relations or other bilateral consular conventions shall not be a defense in any criminal proceeding against any foreign national and shall not be cause for the foreign national's discharge from custody.

Section 6. (1) The Coastal Management Program of the Department of Community Affairs and the Division of Historical Resources of the Department of State shall undertake a study of the lighthouses in the state. The study must determine the location, ownership, condition, and historical significance of all lighthouses in the state and ensure that all historically significant lighthouses are nominated for inclusion on the National Register of Historic Places. The study must assess the condition and restoration needs of historic lighthouses and develop plans for appropriate future public access and use. The Coastal Management Program and the Division of Historical Resources shall take a leadership role in implementing plans to stabilize lighthouses and associated structures and to preserve and protect them from future deterioration. When possible, the lighthouses and associated buildings should be made available to the public for educational and recreational purposes. The Department of Community Affairs should consider these responsibilities to be a priority of the Florida Coastal Management Program, and implementation of this act should be a priority in the use of coastal management funds.

(2) The Department of Community Affairs and the Department of State shall request in their annual legislative budget requests funding necessary to carry out the duties and responsibilities specified in this act. Funds for the rehabilitation of lighthouses should be allocated through matching grants-in-aid to state and local government agencies and to nonprofit organizations. The Department of Community Affairs may assist the Division of Historical Resources in projects to accomplish lighthouse identification, assessment, restoration, and interpretation.

(3) There are appropriated in fiscal year 2001-2002 the sums of \$50,000 from nonrecurring general revenue to the Department of State and \$50,000 from nonrecurring general revenue to the Department of Community Affairs to implement the study required by this section.

(4) This section shall take effect upon this act becoming a law.

Section 7. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 9, 2001.

Filed in Office Secretary of State June 9, 2001.