

## House Bill No. 7013

An act relating to a review under the Open Government Sunset Review Act regarding business information provided to a governmental condemning authority; amending s. 73.0155, F.S., which provides an exemption from public records requirements for business information provided by the owner of a business to a governmental condemning authority as part of an offer of business damages in presuit negotiations in an eminent domain proceeding; reorganizing the exemption; clarifying provisions; removing superfluous provisions; removing the scheduled repeal of the exemption; providing an effective date.

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

Section 1. Section 73.0155, Florida Statutes, is amended to read:

73.0155 Confidentiality; business information provided to a governmental condemning authority.—

(1) The following business information provided by the owner of a business to a governmental condemning authority as part of an offer of business damages under s. 73.015 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and s. 119.07(1) if the owner requests in writing that the business information be held confidential and exempt:

(a) Federal tax returns or tax information confidential under 26 U.S.C. s. 6103.

(b) State tax returns or tax information confidential under s. 213.053.

(c) Balance sheets, profit-and-loss statements, cash-flow statements, inventory records, or customer lists or number of customers for a business operating on the parcel to be acquired.

(d) A franchise, distributorship, or lease agreement of which the business operating on the parcel to be acquired is the subject.

(e) Materials that relate to methods of manufacture or production, potential trade secrets, patentable material, or actual trade secrets as defined in s. 688.002.

(f) Other ~~sensitive or proprietary~~ confidential business information related to the business operating on the parcel to be acquired, if the owner attests in writing to the governmental condemning authority that:

1. The information is being relied upon to substantiate a claim for business damages under s. 73.015;

2. The information has not otherwise been publicly disclosed;

3. The information cannot be readily obtained by the public using alternative means;
4. The information is used by the business to protect or further a business advantage over those who do not know or use the information; and
5. The disclosure of the information would injure the business in the marketplace.

~~(2) At the time that any information made confidential and exempt from disclosure under subsection (1) is legally available or subject to public disclosure for any reason, that information is no longer confidential and exempt and shall be made available for inspection and copying.~~

~~(2)(3) An agency as defined in s. 119.011 may inspect and copy the confidential and exempt business records or information made confidential and exempt from disclosure under subsection (1) exclusively for the transaction of official business by, or on behalf of, an agency. An agency receiving this confidential and exempt information must maintain the confidentiality of that information. Any employee or agent of the agency receiving this confidential and exempt information who willfully and knowingly violates this subsection commits a misdemeanor of the first degree, punishable as provided by s. 775.082 or s. 775.083.~~

~~(3)(4) This section does not prevent an agency from offering the confidential and exempt business information made confidential and exempt from disclosure under subsection (1) as evidence in a legal proceeding and does not prevent a court from determining whether to close a portion of a court record from subsequent public disclosure after trial in order to maintain the confidentiality of that information.~~

~~(4) Any employee or agent of an agency receiving such confidential and exempt business information who willfully and knowingly violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(5) Subsection (1) is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and expires on October 2, 2009, unless reviewed and reenacted by the Legislature.~~

Section 2. This act shall take effect October 1, 2009.

Approved by the Governor June 24, 2009.

Filed in Office Secretary of State June 24, 2009.