

CHAPTER 2013-105

House Bill No. 1297

An act relating to public records; amending s. 68.083, F.S.; providing an exemption from public records requirements for the complaint and information held by the Department of Legal Affairs pursuant to an investigation of a violation of s. 68.082, F.S., relating to false claims against the state; providing for future legislative review and repeal of the exemption under the Open Government Sunset Review Act; providing for specified disclosure; specifying duration of the exemption; specifying conditions under which an investigation is considered complete; providing a statement of public necessity; providing a contingent effective date.

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

Section 1. Subsection (8) is added to section 68.083, Florida Statutes, to read:

68.083 Civil actions for false claims.—

(8)(a) Except as otherwise provided in this subsection, the complaint and information held by the department pursuant to an investigation of a violation of s. 68.082 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2018, unless reviewed and saved from repeal through reenactment by the Legislature.

(b) Information made confidential and exempt under paragraph (a) may be disclosed by the department to a law enforcement agency or another administrative agency in the performance of its official duties and responsibilities.

(c) Information made confidential and exempt under paragraph (a) is no longer confidential and exempt once the investigation is completed, unless the information is otherwise protected by law.

(d) For purposes of this subsection, an investigation is considered complete:

1. Under s. 68.083(1) once the department either files its own action or closes its investigation without filing an action.

2. Under s. 68.083(2) upon the unsealing of the qui tam action or its voluntary dismissal prior to any unsealing.

Section 2. The Legislature finds that it is a public necessity that the complaint and information held by the Department of Legal Affairs pursuant to an investigation of a violation of s. 68.082, Florida Statutes, relating to

false claims against the state, be held confidential and exempt from public records requirements. Because a false claims investigation conducted by the Department of Legal Affairs may lead to the filing of an administrative or civil proceeding, the premature release of the complaint and information held by the department could frustrate or thwart the investigation and impair the ability of the department to effectively and efficiently administer its duties under the Florida False Claims Act, ss. 68.081-68.092, Florida Statutes. This exemption also protects the reputation of the named defendant in the event the allegations of the qui tam complaint ultimately prove to be unfounded. Without this exemption, a plaintiff can subject a defendant to serious fraud allegations in the name of the State of Florida merely by filing a qui tam complaint. Additionally, given the department's subpoena powers for all qui tam investigations, this exemption, which mirrors the existing statutory exemption in s. 409.913(12), Florida Statutes, for information obtained during investigations of Medicaid claims, is especially appropriate. Therefore, the Legislature finds that it is a public necessity that the complaint and information held by the Department of Legal Affairs pursuant to an investigation of a violation of s. 68.082, Florida Statutes, relating to false claims against the state, be held confidential and exempt from public records requirements.

Section 3. This act shall take effect on the same date that HB 935 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes law.

Approved by the Governor June 3, 2013.

Filed in Office Secretary of State June 3, 2013.