

CHAPTER 2019-41

House Bill No. 7121

An act relating to public records; transferring, renumbering, and amending ss. 24.105(12) and 24.118(4), F.S.; exempting from public records requirements certain security information held by the Department of the Lottery, information about lottery games, personal identifying information of retailers and vendors for purposes of background checks, and certain financial information held by the department; providing for retroactive application; providing for future legislative review and repeal of the exemption; providing a statement of public necessity; providing a directive to the Division of Law Revision; providing an effective date.

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

Section 1. Paragraphs (a), (b), and (c) of subsection (12) of section 24.105, Florida Statutes, are transferred, renumbered as subsections (1), (2), and (3), respectively, of section 24.1051, Florida Statutes, and amended, and subsection (4) of section 24.118, Florida Statutes, is transferred, renumbered as subsection (4) of section 24.1051, Florida Statutes, and amended, to read:

24.1051 Exemptions from inspection or copying of public records.—

~~(1)(a)(12)(a)~~ The following information held by the department Determine by rule information relating to the operation of the lottery which is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution;

1. Such information that, if released, could harm the security or integrity of the department, including:

a. Information relating to the includes trade secrets; security of the department's technologies, processes, and practices designed to protect networks, computers, data processing software, data, and data measures, systems from attack, damage, or unauthorized access. procedures;

b. Security reports; information or information that would reveal security measures of the department, whether physical or virtual.

c. Information about lottery games, promotions, tickets, and ticket stock, including information concerning the description, design, production, printing, packaging, shipping, delivery, storage, and validation of such games, promotions, tickets, and stock.

d. Information concerning terminals, machines, and devices that issue tickets.

2. Information that must be maintained as confidential in order for the department to participate in a multistate lottery association or game.

3. Personal identifying information obtained by the department when processing background investigations of current or potential retailers or vendors.

4. Financial bids or other contractual data, the disclosure of which would impair the efforts of the department to contract for goods or services on favorable terms; employee personnel information unrelated to compensation, duties, qualifications, or responsibilities; and information about an entity which is not publicly available and is provided to the department in connection with its review of the financial responsibility of the entity obtained by the Division of Security pursuant to s. 24.111 or s. 24.112, provided that the entity marks such information as confidential. However, financial information related to any contract or agreement, or an addendum thereto, with the department, including the amount of money paid, any payment structure or plan, expenditures, incentives, bonuses, fees, and penalties, shall be public record.

(b) This exemption is remedial in nature, and it is the intent of the Legislature that this exemption apply to information held by the department before, on, or after the effective date of this act.

(c) Information made confidential and exempt under this subsection its investigations which is otherwise confidential. To be deemed confidential, the information must be necessary to the security and integrity of the lottery. Confidential information may be released to other governmental entities as needed in connection with the performance of their duties. The receiving governmental entity shall maintain the confidential and exempt status retain the confidentiality of such information as provided for in this subsection.

(d) This subsection is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

(2)(b) Maintain the confidentiality of The street address and the telephone number of a winner are, in that such information is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution, unless the winner consents to the release of such information or as provided for in s. 24.115(4) or s. 409.2577.

(3)(e) Any information made confidential and exempt from the provisions of s. 119.07(1) under this section ~~subsection~~ shall be disclosed to the Auditor General, to the Office of Program Policy Analysis and Government Accountability, or to the independent auditor selected under s. 24.123 upon such person's request therefor. If the President of the Senate or the Speaker of the House of Representatives certifies that information made confidential and exempt under this section ~~subsection~~ is necessary for effecting legislative changes, the requested information shall be disclosed to

him or her, and he or she may disclose such information to members of the Legislature and legislative staff as necessary to effect such purpose.

(4) ~~BREACH OF CONFIDENTIALITY.~~—Any person who, with intent to defraud or with intent to provide a financial or other advantage to himself, herself, or another, knowingly and willfully discloses any information relating to the lottery designated as confidential and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution pursuant to this act is guilty of a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. (1) The Legislature finds that it is a public necessity that the following information be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Art. I of the State Constitution:

(a) Information relating to the security of the Department of the Lottery. Ensuring the security and integrity of lottery operations safeguards against players gaining an unfair advantage over other players and enables the department to operate in a manner consistent with the dignity of the state lottery. If such security information were made available to the public, the integrity and efficiency of the lottery would be jeopardized and the effective and efficient administration of the lottery would be significantly impaired. For these reasons, the Legislature finds that it is a public necessity to maintain the confidential and exempt status of such information. Maintaining the effective and efficient administration of the lottery is a sufficiently compelling purpose to override the strong public policy of open government and cannot be accomplished without this exemption.

(b) Information required to be held confidential in order for the department to participate in multistate games and associations. The department is authorized to enter into agreements with other states for the operation and promotion of a multistate lottery and without the exemption, the department would be unable to join certain associations and games, thus causing the state to miss opportunities to generate revenue for education. As a result, the effective and efficient administration of the lottery would be significantly impaired if the confidentiality of these records is not maintained. For these reasons, the Legislature finds that it is a public necessity to maintain the confidential and exempt status of such information. Maintaining the effective and efficient administration of the lottery is a sufficiently compelling purpose to override the strong public policy of open government and cannot be accomplished without this exemption.

(c) Personal identifying information of current or potential retailers and vendors for purposes of processing background investigations. The release of such sensitive personal information could cause great financial harm to an individual and his or her family, cause unwarranted damage to the good name and reputation of such individuals, and increase the risk of identity theft. Without the exemption, current and potential retailers and vendors may be reluctant to participate as a department retailer or vendor, and the effective and efficient administration of the lottery would be significantly

impaired. For these reasons, the Legislature finds that it is a public necessity to maintain the confidential and exempt status of such information. Maintaining the effective and efficient administration of the lottery and protecting sensitive personal information concerning individuals are sufficiently compelling purposes to override the strong public policy of open government and cannot be accomplished without this exemption.

(d) Financial information about an entity that is not publicly available and is provided to the department in connection with its review of the financial responsibility of the entity. The release of such information could harm the business operations of entities with which the department wishes to contract, injure those entities in the marketplace, and decrease the likelihood that such entities would work with the department. As a result, the effective and efficient administration of the lottery would be significantly impaired without maintaining the confidentiality of such financial information. For these reasons, the Legislature finds that it is a public necessity to maintain the confidential and exempt status of such information. Maintaining the effective and efficient administration of the lottery and protecting such confidential information concerning entities are sufficiently compelling purposes to override the strong public policy of open government and cannot be accomplished without this exemption.

(2) The Legislature further finds that these public record exemptions must be given retroactive application because they are remedial in nature.

Section 3. The Division of Law Revision is directed to replace the phrase “the effective date of this act” wherever it occurs in this act with the date the act becomes a law.

Section 4. This act shall take effect upon becoming a law.

Approved by the Governor May 14, 2019.

Filed in Office Secretary of State May 14, 2019.