

House Bill No. 1039

An act relating to a public records exemption for investigative information held by the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business and Professional Regulation; amending s. 498.047, F.S.; making conforming and editorial changes; removing the October 2, 2003, repeal thereof scheduled under the Open Government Sunset Review Act of 1995; providing an effective date.

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

Section 1. Notwithstanding the October 2, 2003, repeal of said subsection scheduled pursuant to the Open Government Sunset Review Act of 1995, subsection (8) of section 498.047, Florida Statutes, is amended to read:

498.047 Investigations.—

(8)(a) ~~Information held by the Division of Florida Land Sales, Condominiums, and Mobile Homes~~ 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) ~~The Nothing in this subsection shall be construed to prohibit the division may provide confidential and exempt from providing information to any law enforcement or administrative agency or regulatory organization when such agency or organization makes the request in connection with its official duties.~~ Any law enforcement or administrative agency or regulatory organization receiving confidential and exempt information in connection with its official duties shall maintain the confidential and exempt status ~~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 and exempt 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. This act shall take effect October 1, 2003.

Approved by the Governor June 4, 2003.

Filed in Office Secretary of State June 4, 2003.