

House Bill No. 7047

An act relating to a review under the Open Government Sunset Review Act regarding the tobacco settlement agreement; amending s. 569.215, F.S., which provides an exemption from public records requirements for proprietary confidential business information received by the Governor, the Attorney General, or outside counsel representing the State of Florida in negotiations for settlement payments pursuant to the settlement agreement in the case of State of Florida et al. v. American Tobacco Company et al., or received by the Chief Financial Officer or the Auditor General for any purpose relating to verifying settlement payments made pursuant to the settlement agreement; clarifying the definition of “trade secrets” for purposes of the exemption; making editorial changes; 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 569.215, Florida Statutes, is amended to read:

569.215 Confidential records relating to tobacco settlement agreement.—

(1) Proprietary confidential business information received by the Governor, the Attorney General, or outside counsel representing the State of Florida in negotiations for settlement payments pursuant to the settlement agreement, as amended, in the case of State of Florida et al. v. American Tobacco Company et al., No. 95-1466AH, in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, or received by the Chief Financial Officer or the Auditor General for any purpose relating to verifying settlement payments made pursuant to the settlement agreement is confidential and exempt from the provisions of s. 119.07(1) and s. 24(a) of Art. I of the State Constitution. Any state or federal agency that is authorized to have access to such documents by any provision of law shall be granted such access in furtherance of such agency’s statutory duties, notwithstanding the provisions of this section. Proprietary confidential business information received under this section shall not retain its confidential and exempt status if that information is made public, including publicizing such information in a Securities and Exchange Commission filing, an annual financial statement, or other document or means. ~~This exemption is subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15, and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.~~

(2) As used in this section, the term “proprietary confidential business information” means information, regardless of form or characteristics, which is owned or controlled by a tobacco company that is a signatory to the settlement agreement, as amended, in the case of State of Florida et al. v. American Tobacco Company et al., No. 95-1466AH, in the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, is intended to

be and is treated by a tobacco company as private in that the disclosure of the information would cause harm to the company's business operations, and has not been disclosed unless disclosed pursuant to a statutory provision, an order of a court or administrative body, or private agreement that provides that the information will not be released to the public. The term includes, but is not limited to:

- (a) Trade secrets as defined in s. 688.002.
- (b) Information in a Form 10-K that is confidential pursuant to an order of the Division of Corporation Finance of the Securities and Exchange Commission.
- (c) Internal auditing control policies and procedures and reports of internal auditors.
- (d) Financial operating and marketing information prepared in the ordinary course of business, the disclosure of which could impair the competitive business of the provider of information.
- (e) Financial statements, which consist of balance sheets, statements of income and cash flows, and notes related thereto, of any subsidiary that is part of a consolidated group and engaged in the production or sale of tobacco products.
- (f) Report letters from independent auditors relating to domestic operating company income.
- (g) Analyses of specific items of revenue and expense included in operating profit and extraordinary items. As used in this paragraph, the term "extraordinary items" consists of one-time tobacco litigation settlement costs and restructuring charges.
- (h) Working papers, schedules, analyses, and reconciliations prepared by company personnel for the purpose of clarifying the disclosures of domestic tobacco revenues and operating profit contained in financial statements or other information related to the sale or production of tobacco products.

Section 2. This act shall take effect October 1, 2006.

Approved by the Governor June 9, 2006.

Filed in Office Secretary of State June 9, 2006.