

## HOUSE OF REPRESENTATIVES FINAL BILL ANALYSIS

<b>BILL #:</b>	HB 7013 (SB 2078)	<b>FINAL HOUSE FLOOR ACTION:</b>	
<b>SPONSOR(S):</b>	Government Operations Subcommittee; Stafford (Governmental Oversight and Accountability)	117 Y's	0 N's
<b>COMPANION BILLS:</b>	SB 2078	<b>GOVERNOR'S ACTION:</b>	Pending

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### SUMMARY ANALYSIS

HB 7013 passed the House on February 3, 2012, and subsequently passed the Senate on February 29, 2012.

The bill repeals the public record exemption for United States Census Bureau address information held by an agency pursuant to the Local Update of Census Addresses program (LUCA program).

The Open Government Sunset Review Act requires the Legislature to review each public record and each public meeting exemption five years after enactment. If the Legislature does not reenact the exemption, it automatically repeals on October 2nd of the fifth year after enactment.

The LUCA program was a decennial census geographic partnership program that allowed the United States Census Bureau to benefit from local knowledge in developing its master address file for the 2010 census. Current law provides a public record exemption for United States Census Bureau address information held by an agency pursuant to the LUCA program. The LUCA program officially ended as of March 31, 2010. As such, there is no need to continue the public record exemption.

The bill does not appear to have a fiscal impact on state or local governments.

Subject to the Governor's veto powers, the effective date of the bill is upon becoming a law.

## I. SUBSTANTIVE INFORMATION

### A. EFFECT OF CHANGES:

#### Background

##### Open Government Sunset Review Act

The Open Government Sunset Review Act<sup>1</sup> sets forth a legislative review process for newly created or substantially amended public record or public meeting exemptions. It requires an automatic repeal of the exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.

The Act provides that a public record or public meeting exemption may be created or maintained only if it serves an identifiable public purpose. In addition, it may be no broader than is necessary to meet one of the following purposes:

- Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption.
- Protects sensitive personal information that, if released, would be defamatory or would jeopardize an individual's safety; however, only the identity of an individual may be exempted under this provision.
- Protects trade or business secrets.

If, and only if, in reenacting an exemption that will repeal, the exemption is expanded (essentially creating a new exemption), then a public necessity statement and a two-thirds vote for passage are required.<sup>2</sup> If the exemption is reenacted with grammatical or stylistic changes that do not expand the exemption, if the exemption is narrowed, or if an exception to the exemption is created<sup>3</sup> then a public necessity statement and a two-thirds vote for passage are not required.

##### Local Update of Census Addresses Program

The Local Update of Census Addresses program (LUCA program) was a decennial census geographic partnership program that allowed the United States Census Bureau to benefit from local knowledge in developing its master address file for the 2010 census. The LUCA program was made possible by the Census Address List Improvement Act of 1994,<sup>4</sup> which provides an opportunity for designated representatives of local, state, and tribal governments to review addresses contained in the master address file.<sup>5</sup>

Governments that opted to participate in the LUCA program were required to designate a LUCA liaison to review the portion of the census address list covering the area under their jurisdiction. The LUCA liaison was subject to the same confidentiality requirements as census workers and was prohibited from disclosing census information.<sup>6</sup> LUCA program participants were required to review a set of security guidelines and sign a confidentiality agreement promising to protect the confidential address list, which included corresponding maps and address tallies.

##### Public Record Exemption under Review

In 2007, the Legislature created a public record exemption for United States Census Bureau address

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<sup>1</sup> See s. 119.15, F.S.

<sup>2</sup> Section 24(c), Art. I of the State Constitution.

<sup>3</sup> An example of an exception to a public record exemption would be allowing another agency access to confidential or exempt records.

<sup>4</sup> See Public Law 103-430.

<sup>5</sup> U.S. Census Bureau, 2010 Decennial Census Local Update of Census Addresses program, [www.census.gov/geo/www/luca2010/luca.html](http://www.census.gov/geo/www/luca2010/luca.html) (last viewed November 14, 2011).

<sup>6</sup> Pursuant to Title 13 U.S.C., the address list is confidential.

information held by an agency pursuant to the LUCA program.<sup>7</sup> Address information includes maps showing structure location points, agency records verifying addresses, and agency records identifying address errors or omissions.<sup>8</sup> Confidential and exempt address information<sup>9</sup> may be released to another agency or governmental entity in the furtherance of its duties and responsibilities under the LUCA program.<sup>10</sup> Also, agencies are authorized to access any other confidential or exempt information held by another agency if access is necessary for the receiving agency to perform its duties and responsibilities under the LUCA program.<sup>11</sup>

Pursuant to the Open Government Sunset Review Act, the exemption will repeal on October 2, 2012, unless reenacted by the Legislature.

The LUCA program officially ended as of March 31, 2010.<sup>12</sup> As such, there is no need to continue the public record exemption.

### **Effect of Bill**

The bill repeals the public record exemption for United States Census Bureau address information held by an agency pursuant to the LUCA program.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues: None.
2. Expenditures: None.

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues: None.
2. Expenditures: None.

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.**

### **D. FISCAL COMMENTS: None.**

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<sup>7</sup> Chapter 2007-250, L.O.F.; codified as s. 119.071(1)(g), F.S.

<sup>8</sup> Section 119.071(1)(g)1., F.S.

<sup>9</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (*See WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (*See* Attorney General Opinion 85-62, August 1, 1985)

<sup>10</sup> Section 119.071(1)(g)2., F.S.

<sup>11</sup> Section 119.071(1)(g)3., F.S.

<sup>12</sup> U.S. Census Bureau, LUCA Closeout Phase, [http://www.census.gov/geo/www/luca2010/luca\\_co.html](http://www.census.gov/geo/www/luca2010/luca_co.html), (last viewed November 14, 2011).