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1 A bill to be entitled
 2 An act relating to a review under the Open Government
 3 Sunset Review Act regarding business information provided
 4 to a governmental condemning authority; amending s.
 5 73.0155, F.S.; reorganizing the exemption; making
 6 clarifying changes; removing superfluous language;
 7 removing the scheduled repeal of the exemption; providing
 8 an effective date.

9
 10 Be It Enacted by the Legislature of the State of Florida:

11
 12 Section 1. Section 73.0155, Florida Statutes, is amended
 13 to read:

14 73.0155 Confidentiality; business information provided to
 15 a governmental condemning authority.--

16 (1) The following business information provided by the
 17 owner of a business to a governmental condemning authority as
 18 part of an offer of business damages under s. 73.015 is
 19 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 20 of the State Constitution ~~and s. 119.07(1)~~ if the owner requests
 21 in writing that the business information be held confidential
 22 and exempt:

23 (a) Federal tax returns or tax information confidential
 24 under 26 U.S.C. s. 6103.

25 (b) State tax returns or tax information confidential
 26 under s. 213.053.

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27 (c) Balance sheets, profit-and-loss statements, cash-flow
 28 statements, inventory records, or customer lists or number of
 29 customers for a business operating on the parcel to be acquired.

30 (d) A franchise, distributorship, or lease agreement of
 31 which the business operating on the parcel to be acquired is the
 32 subject.

33 (e) Materials that relate to methods of manufacture or
 34 production, potential trade secrets, patentable material, or
 35 actual trade secrets as defined in s. 688.002.

36 (f) Other ~~sensitive or proprietary~~ confidential business
 37 information related to the business operating on the parcel to
 38 be acquired, if the owner attests in writing to the governmental
 39 condemning authority that:

40 1. The information is being relied upon to substantiate a
 41 claim for business damages under s. 73.015;

42 2. The information has not otherwise been publicly
 43 disclosed;

44 3. The information cannot be readily obtained by the
 45 public using alternative means;

46 4. The information is used by the business to protect or
 47 further a business advantage over those who do not know or use
 48 the information; and

49 5. The disclosure of the information would injure the
 50 business in the marketplace.

51 (2) ~~At the time that any information made confidential and~~
 52 ~~exempt from disclosure under subsection (1) is legally available~~
 53 ~~or subject to public disclosure for any reason, that information~~

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54 ~~is no longer confidential and exempt and shall be made available~~
 55 ~~for inspection and copying.~~

56 ~~(3)~~ An agency as defined in s. 119.011 may inspect and
 57 copy the confidential and exempt business ~~records or~~ information
 58 ~~made confidential and exempt from disclosure under subsection~~
 59 ~~(1)~~ exclusively for the transaction of official business by, or
 60 on behalf of, an agency. ~~An agency receiving this confidential~~
 61 ~~and exempt information must maintain the confidentiality of that~~
 62 ~~information. Any employee or agent of the agency receiving this~~
 63 ~~confidential and exempt information who willfully and knowingly~~
 64 ~~violates this subsection commits a misdemeanor of the first~~
 65 ~~degree, punishable as provided by s. 775.082 or s. 775.083.~~

66 ~~(3)~~(4) This section does not prevent an agency from
 67 offering the confidential and exempt business information ~~made~~
 68 ~~confidential and exempt from disclosure under subsection (1) as~~
 69 evidence in a legal proceeding and does not prevent a court from
 70 determining whether to close a portion of a court record from
 71 subsequent public disclosure after trial in order to maintain
 72 the confidentiality of that information.

73 (4) Any employee or agent of an agency receiving such
 74 confidential and exempt business information who willfully and
 75 knowingly violates this section commits a misdemeanor of the
 76 first degree, punishable as provided by s. 775.082 or s.
 77 775.083.

78 ~~(5)~~ ~~Subsection (1) is subject to the Open Government~~
 79 ~~Sunset Review Act in accordance with s. 119.15 and expires on~~
 80 ~~October 2, 2009, unless reviewed and reenacted by the~~
 81 ~~Legislature.~~

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Section 2. This act shall take effect October 1, 2009.