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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 for social security numbers; amending s.  
 4           119.071, F.S.; providing that social security numbers of  
 5           current and former agency employees held by the employing  
 6           agency are confidential and exempt from public records  
 7           requirements; providing for future review and repeal of  
 8           the exemption; requiring that an agency identify the laws  
 9           governing the collection, use, and release of social  
 10          security numbers and ensure that it complies with such  
 11          laws; requiring notice as to whether collection of a  
 12          social security number is mandatory under federal or state  
 13          law; redefining the term "commercial activity" for  
 14          purposes of provisions authorizing the disclosure of a  
 15          social security number under limited circumstances;  
 16          clarifying that certain provisions do not supersede  
 17          federal or state requirements regarding the collection,  
 18          use, or release of social security numbers; providing a  
 19          statement of public necessity; providing an effective  
 20          date.

21  
 22   Be It Enacted by the Legislature of the State of Florida:

23  
 24           Section 1. Paragraph (a) of subsection (4) and paragraph  
 25           (a) of subsection (5) and of section 119.071, Florida Statutes,  
 26           are amended to read:

27           119.071 General exemptions from inspection or copying of  
 28           public records.--

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29 (4) AGENCY PERSONNEL INFORMATION.--

30 (a)~~1.~~ The social security numbers of all current and  
 31 former agency employees which numbers are held by the employing  
 32 ~~contained in agency employment records~~ are confidential and  
 33 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 34 Constitution. This paragraph is subject to the Open Government  
 35 Sunset Review Act in accordance with s. 119.15 and shall stand  
 36 repealed on October 2, 2014, unless reviewed and saved from  
 37 repeal through reenactment by the Legislature.

38 ~~2. An agency that is the custodian of a social security~~  
 39 ~~number specified in subparagraph 1. and that is not the~~  
 40 ~~employing agency shall maintain the exempt status of the social~~  
 41 ~~security number only if the employee or the employing agency of~~  
 42 ~~the employee submits a written request for confidentiality to~~  
 43 ~~the custodial agency. However, upon a request by a commercial~~  
 44 ~~entity as provided in sub-subparagraph (5) (a)7.b., the custodial~~  
 45 ~~agency shall release the last four digits of the exempt social~~  
 46 ~~security number, except that a social security number provided~~  
 47 ~~in a lien filed with the Department of State shall be released~~  
 48 ~~in its entirety. This subparagraph is subject to the Open~~  
 49 ~~Government Sunset Review Act in accordance with s. 119.15 and~~  
 50 ~~shall stand repealed on October 2, 2009, unless reviewed and~~  
 51 ~~saved from repeal through reenactment by the Legislature.~~

52 (5) OTHER PERSONAL INFORMATION.--

53 (a)1.a. The Legislature acknowledges that the social  
 54 security number was never intended to be used for business  
 55 purposes but was intended to be used solely for the  
 56 administration of the federal Social Security System. The

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57 | Legislature is further aware that over time this unique numeric  
 58 | identifier has been used extensively for identity verification  
 59 | purposes and other legitimate consensual purposes.

60 |       b. The Legislature recognizes that the social security  
 61 | number can be used as a tool to perpetuate fraud against an  
 62 | individual and to acquire sensitive personal, financial,  
 63 | medical, and familial information, the release of which could  
 64 | cause great financial or personal harm to an individual.

65 |       c. The Legislature intends to monitor the use of social  
 66 | security numbers held by agencies in order to maintain a  
 67 | balanced public policy.

68 |       2.a. An agency may not collect an individual's social  
 69 | security number unless the agency has stated in writing the  
 70 | purpose for its collection and unless it is:

71 |           (I) Specifically authorized by law to do so; or

72 |           (II) Imperative for the performance of that agency's  
 73 | duties and responsibilities as prescribed by law.

74 |       b. An agency shall identify in writing the specific  
 75 | federal or state law governing the collection, use, or release  
 76 | of social security numbers for each purpose that the agency  
 77 | collects the social security number, including any authorized  
 78 | exceptions that apply to such collection, use, or release. Each  
 79 | agency shall ensure that the collection, use, or release of  
 80 | social security numbers complies with the specific applicable  
 81 | federal or state law.

82 |       ~~c.b.~~ Social security numbers collected by an agency may  
 83 | not be used by that agency for any purpose other than the  
 84 | purpose provided in the written statement.

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85           3. An agency collecting an individual's social security  
 86 number shall provide that individual with a copy of the written  
 87 statement required in subparagraph 2. The written statement also  
 88 shall state whether collection of the individual's social  
 89 security number is authorized or mandatory under federal or  
 90 state law.

91           4.~~a.~~ Each agency shall review whether its collection of  
 92 social security numbers is in compliance with subparagraph 2. If  
 93 the agency determines that collection of a social security  
 94 number is not in compliance with subparagraph 2., the agency  
 95 shall immediately discontinue the collection of social security  
 96 numbers for that purpose.

97           ~~b. Each agency shall certify to the President of the~~  
 98 ~~Senate and the Speaker of the House of Representatives its~~  
 99 ~~compliance with this subparagraph no later than January 31,~~  
 100 ~~2008.~~

101           5. Social security numbers held by an agency are  
 102 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I  
 103 of the State Constitution. This exemption applies to social  
 104 security numbers held by an agency before, on, or after the  
 105 effective date of this exemption.

106           6. Social security numbers held by an agency may be  
 107 disclosed if any of the following apply: ~~to another agency or~~  
 108 ~~governmental entity if disclosure is necessary for the receiving~~  
 109 ~~agency or entity to perform its duties and responsibilities.~~

110           a. The disclosure of the social security number is  
 111 expressly required by federal or state law or a court order.

112           b. The disclosure of the social security number is

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113 necessary for the receiving agency or governmental entity to  
 114 perform its duties and responsibilities.

115 c. The individual expressly consents in writing to the  
 116 disclosure of that individual's social security number.

117 d. The disclosure of the social security number is made to  
 118 comply with the USA Patriot Act of 2001 (Pub. L. No. 107-56) or  
 119 Presidential Executive Order 13224.

120 e. The disclosure of the social security number is made to  
 121 a commercial entity for the permissible uses set forth in the  
 122 Driver's Privacy Protection Act (18 U.S.C. 2721 et seq.), the  
 123 Fair Credit Reporting Act (15 U.S.C. 1681 et seq.), or the  
 124 Financial Modernization Act of 1999 (15 U.S.C. 6801 et seq.),  
 125 provided that the authorized commercial entity complies with the  
 126 requirements of this paragraph.

127 f. The disclosure of the social security number is for the  
 128 purpose of the administration of health benefits for an agency  
 129 employee or the dependents of that agency employee.

130 g. The disclosure of the social security number is for the  
 131 purpose of the administration of a pension fund administered for  
 132 the agency employee's retirement fund, deferred compensation  
 133 plan, or defined contribution plan.

134 h. The disclosure of the social security number is for the  
 135 purpose of the administration of the Uniform Commercial Code by  
 136 the office of the Secretary of State.

137 7.a. For purposes of this subsection, the term:

138 (I) "Commercial activity" means the permissible uses set  
 139 forth in the Driver's Privacy Protection Act (18 U.S.C. 2721 et  
 140 seq.), the Fair Credit Reporting Act (15 U.S.C. 1681 et seq.),

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141 or the Financial Modernization Act of 1999 (15 U.S.C. 6801 et  
 142 seq.) or for ~~provision of a lawful product or service by a~~  
 143 ~~commercial entity. Commercial activity includes~~ verification of  
 144 the accuracy of personal information received by a commercial  
 145 entity in the normal course of its business, including  
 146 identification or prevention of fraud; ~~use for insurance~~  
 147 ~~purposes; use in identifying and preventing fraud; use in~~  
 148 ~~matching, verifying, or retrieving information; and use in~~  
 149 ~~research activities.~~ It does not include the display or bulk  
 150 sale of social security numbers to the public or the  
 151 distribution of such numbers to any customer that is not  
 152 identifiable by the commercial entity.

153 (II) "Commercial entity" means any corporation,  
 154 partnership, limited partnership, proprietorship, sole  
 155 proprietorship, firm, enterprise, franchise, or association that  
 156 performs a commercial activity in this state.

157 b. An agency may not deny a commercial entity engaged in  
 158 the performance of a commercial activity access to social  
 159 security numbers, provided the social security numbers will be  
 160 used only in the performance of a commercial activity and  
 161 provided the commercial entity makes a written request for the  
 162 social security numbers. The written request must:

163 (I) Be verified as provided in s. 92.525;

164 (II) Be legibly signed by an authorized officer, employee,  
 165 or agent of the commercial entity;

166 (III) Contain the commercial entity's name, business  
 167 mailing and location addresses, and business telephone number;  
 168 and

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169 (IV) Contain a statement of the specific purposes for  
 170 which it needs the social security numbers and how the social  
 171 security numbers will be used in the performance of a commercial  
 172 activity, including the identification of any specific federal  
 173 or state law that permits such use. ~~The aggregate of these~~  
 174 ~~requests shall serve as the basis for the agency report required~~  
 175 ~~in subparagraph 9.~~

176 c. An agency may request any other information reasonably  
 177 necessary to verify the identity of a commercial entity  
 178 requesting the social security numbers and the specific purposes  
 179 for which the numbers will be used.

180 8.a. Any person who makes a false representation in order  
 181 to obtain a social security number pursuant to this paragraph,  
 182 or any person who willfully and knowingly violates this  
 183 paragraph, commits a felony of the third degree, punishable as  
 184 provided in s. 775.082 or s. 775.083.

185 b. Any public officer who violates this paragraph commits  
 186 a noncriminal infraction, punishable by a fine not exceeding  
 187 \$500 per violation.

188 ~~9.a. Every agency shall file a report with the Executive~~  
 189 ~~Office of the Governor, the President of the Senate, and the~~  
 190 ~~Speaker of the House of Representatives by January 31 of each~~  
 191 ~~year.~~

192 ~~b. The report required under sub-subparagraph a. shall~~  
 193 ~~list:~~

194 ~~(I) The identity of all commercial entities that have~~  
 195 ~~requested social security numbers during the preceding calendar~~  
 196 ~~year; and~~

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197 ~~(II) The specific purpose or purposes stated by each~~  
 198 ~~commercial entity regarding its need for social security~~  
 199 ~~numbers.~~

200 ~~e. If no disclosure requests were made, the agency shall~~  
 201 ~~so indicate.~~

202 9.10. Any affected person may petition the circuit court  
 203 for an order directing compliance with this paragraph.

204 10.11. This paragraph does not supersede any federal or  
 205 state law regarding the collection, use, or release of social  
 206 security numbers or any other applicable public records  
 207 exemptions existing prior to May 13, 2002, or created  
 208 thereafter.

209 Section 2. The Legislature finds that it is a public  
 210 necessity that agency employee social security numbers be made  
 211 confidential and exempt from s. 119.07(1), Florida Statutes, and  
 212 s. 24(a), Article I of the State Constitution. The Legislature  
 213 notes that the lawful collection, use, or release of social  
 214 security numbers requires knowledge of a variety of complex  
 215 federal requirements that must be applied differently in various  
 216 circumstances. Federal requirements for the collection, use, or  
 217 release may differ from agency to agency depending upon the  
 218 purpose or use for which the social security number is collected  
 219 or the year in which such number was collected. The Legislature  
 220 finds that compliance with applicable federal requirements  
 221 regarding the collection, use, or release requires that agency  
 222 employee social security numbers be made confidential and  
 223 exempt.

224 Section 3. This act shall take effect October 1, 2009.