

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: March 19, 1998 Revised: _____

Subject: Public Records/Florida Land Sales

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	Rodriguez	Guthrie	RI	Favorable
2.	_____	_____	GO	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill provides a public records exemption for information relating to an investigation by the Division of Florida Land Sales, Condominiums, and Mobile Homes of the Department of Business & Professional Regulation pursuant to Chapter 498, Florida Statutes. The information is confidential until the investigation is complete or ceases to be active. However, the division may provide confidential information to any law enforcement agency or administrative agency or regulatory organization. The exemption expires October 2, 2003.

This bill substantially amends the following section of the Florida Statutes: 498.047.

II. Present Situation:

Article I, section 24, of the Florida Constitution provides that every person has the right to inspect or copy any public record made or received in connection with the official business of any public body, officer or employee of the state except with respect to records exempted. The legislature may create such an exemption provided the general law enacted states with specificity the public necessity for justifying the exemption and is no broader than necessary to accomplish the stated goal. Chapter 119, Florida Statutes, relates to the public records laws. Section 498.047, F.S., authorizes the Division of Florida Land Sales, Condominiums and Mobile Homes to investigate possible violations of laws, rules and orders governing land sales practices.

III. Effect of Proposed Changes:

Pursuant to Article 1, section 24, of the Florida Constitution, a public records exemption must specifically state the public necessity for the exemption and must be no broader than necessary to accomplish the stated goal. This bill provides a public records exemption for information relative

to an investigation by the Division of Florida Land Sales, Condominiums, and Mobile Homes pursuant to chapter 498, Florida Statutes. Specifically, the bill states that an untimely disclosure of certain information relating to purchasers, account holders, or complainants could jeopardize the integrity of an investigation or reveal trade secrets.

The bill amends s. 498.047, F.S., to provide that information is exempt from the public records disclosure and is confidential, so long as the division or any law enforcement, administrative agency, or regulatory body is proceeding with reasonable dispatch and has a good-faith belief the investigation will result in the filing of an administrative, civil or criminal proceeding or impacts the denial or issuance of a license or registration. The bill further allows for information to remain confidential if its release would jeopardize another active investigation, reveal identifying information of a purchaser or account holder, or reveal a trade secret. The bill authorizes the division, in connection with its official duties, to provide confidential information to any law enforcement agency, administrative agency, or regulatory organization.

Pursuant to the Open Government Sunset Review Act of 1995, this section shall stand repealed October 2, 2003, unless reenacted.

The effective date is October 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

Exempts information obtained in an active investigation of land sales practices by the Division of Florida Land Sales, Condominiums and Mobile Homes. The exemption expires October 2, 2003.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill provides adequate and appropriate standards and guidelines to direct the agency's implementation of the proposed legislation.

VIII. Amendments:

None.