

on their behalf, except with respect to records exempted pursuant to this section or specifically made confidential by this Constitution. This section specifically includes the legislative, executive, and judicial branches of government and each agency or department created thereunder; counties, municipalities, and districts; and each constitutional officer, board, and commission, or entity created pursuant to law or this Constitution.

Article I, s. 24(c), Florida Constitution, does, however, permit the Legislature to provide by general law for the exemption of records from the requirements of s. 24. The general law must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish its purpose.

Public policy regarding access to government records is also addressed in the Florida Statutes. Section 119.07(1)(a), F.S., provides that:

Every person who has custody of a public record shall permit the record to be inspected and examined by any person desiring to do so, at a reasonable time, under reasonable conditions, and under supervision by the custodian of the public record or the custodian's designee.

Section 119.15, F.S., the Open Government Sunset Review Act of 1995, provides that an exemption may be created or maintained only if it serves an identifiable public purpose and may be no broader than is necessary to meet the public purpose it serves. An identifiable public purpose is served if the exemption meets one of the following purposes, and the Legislature finds that the purpose is sufficiently compelling to override the strong public policy of open government and cannot be accomplished without the exemption:

1. Allows the state or its political subdivisions to effectively and efficiently administer a governmental program, which administration would be significantly impaired without the exemption;
2. Protects information of a sensitive personal nature concerning individuals, the release of which information would be defamatory to such individuals or cause unwarranted damage to the good name or reputation of such individuals or would jeopardize the safety of such individuals. However, in exemptions under this subparagraph, only information that would identify the individuals may be exempted; or
3. Protects information of a confidential nature concerning entities, including, but not limited to, a formula, pattern, device, combination of devices, or compilation of information which is used to protect or further a business advantage over those who do not know or use it, the disclosure of which information would injure the affected entity in the marketplace.

Regulation of Aerial Applicators

Chapter 388 authorizes the Department of Agriculture and Consumer Services (department) to control arthropods, such as mosquitoes to protect human health, promote the economic development of the state, and facilitate the enjoyment of its natural attractions by reducing the

number of pestiferous and disease-carrying arthropods. Chapter 487 authorizes the department to regulate the distribution, sale, and use of pesticides and to protect people and the environment from the adverse effects of pesticides. The department is authorized to regulate the sale and use of agricultural fertilizers under chapter 576 and the use of seed under chapter 578. The department's general authority is found in chapter 570.

Currently, public records for information under chapters 487, 570, 576, or 578 may be obtained by anyone who requests them. The result of this policy is that the name, address, and restricted-use license number of aerial applicators and any person or entity that sells, leases, purchases, rents, or transfers aircraft used for the aerial application of pesticides, fertilizers, or seed could be used by a terrorist in the planning and execution of an act of terrorism.

III. Effect of Proposed Changes:

Section 1. Amends s. 119.07, F.S., to exempt the following information obtained by the Department of Agriculture and Consumer Services from public records requirements:

- \$ The name, address, and restricted-use license number of any person engaged in the aerial application of pesticides, fertilizers, or seed, and
- \$ The name and address of any person or entity that sells, leases, purchases, rents, or transfers any aircraft used for the aerial application of pesticides, fertilizers, or seed.

As provided for in the Open Government Sunset Review Act of 1995, this exemption would stand repealed October 2, 2007, unless reviewed and saved from repeal through reenactment.

Section 2. Provides a statement of the public necessity for the exemption.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

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:

None.

VIII. Amendments:

#1 by Agriculture and Consumer Services:

Limits a public records exemption in the bill to the restricted-use license number of a person engaged in the aerial application of pesticides, fertilizers, or seed. Deletes the name and address of such person from the exempted information. (WITH TITLE AMENDMENT)