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Changes Made to Florida's Trade Secrets Statutes

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Recently, Governor Rick Scott signed into law S.B. 180 and 182, broadening the definition of Florida's criminal trade-secrets-theft statute to include financial information, and applying that definition to the trade-secrets exception to public-records laws. Section 812.081, Florida Statutes, criminalizes trade-secrets theft. Previously, the definition of "Trade Secret" did not explicitly reference financial information. Now, the definition has been amended to explicitly include financial information.

While this is a criminal statue, it could affect civil actions as well. First, Section 812.035(6) allows an "aggrieved person" to sue for an injunction that remedies a violation of the statute. Notably, under the civil-remedy provision, the plaintiff does not need to show special or irreparable damage. This is another tool for companies harmed by trade-secret misappropriation.

Second, although there were no corresponding changes to Florida's Uniform Trade Secret Act, Sec. 688.001, Fla. Stat., the broadened criminal definition could affect actions under the UTSA where financial information is at issue. The fact that the legislature has criminalized theft of financial information bolsters a claim that an injunction is necessary to remedy that type of misappropriation.

Finally, a number of other Florida Statutes were also amended to make clear that trade secrets, as defined in the newly amended Sec. 812.081, are exempted from disclosure under Florida's public-records laws. Companies involved in "P3s"—public/private partnerships—lobbied heavily for the passage of this bill. The amended statute affects just about all companies that do government contracting. Those companies now have statutory protection against having their financial information disclosed when bidding for or performing government contracts.