

1                                   A bill to be entitled  
 2           An act relating to public records; amending s.  
 3           655.057, F.S.; revising definitions; providing an  
 4           exemption from public records requirements for certain  
 5           information held by the Office of Financial Regulation  
 6           relating to international trust entities and limited  
 7           service affiliates; authorizing release of such  
 8           information under certain circumstances; authorizing  
 9           the publication of certain information; providing a  
 10          penalty; providing for future legislative review and  
 11          repeal of the exemption; providing a statement of  
 12          public necessity; providing a contingent effective  
 13          date.

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 15   Be It Enacted by the Legislature of the State of Florida:

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 17           Section 1. Subsection (2), paragraphs (a) and (d) of  
 18           subsection (12), and subsection (14) of section 655.057, Florida  
 19           Statutes, are amended, and subsection (10) of that section is  
 20           republished, to read:

21           655.057 Records; limited restrictions upon public access.—

22           (2) Except as otherwise provided in this section and  
 23           except for such portions thereof which are public record,  
 24           reports of examinations, operations, or condition, including  
 25           working papers, or portions thereof, prepared by, or for the use

26 of, the office or any state or federal agency responsible for  
27 the regulation or supervision of financial institutions in this  
28 state are confidential and exempt from s. 119.07(1) and s.  
29 24(a), Art. I of the State Constitution. However, such reports  
30 or papers or portions thereof may be released to:

31 (a) The financial institution under examination;

32 (b) Any holding company of which the financial institution  
33 is a subsidiary;

34 (c) Proposed purchasers if necessary to protect the  
35 continued financial viability of the financial institution, upon  
36 prior approval by the board of directors of such institution;

37 (d) Persons proposing in good faith to acquire a  
38 controlling interest in or to merge with the financial  
39 institution, upon prior approval by the board of directors of  
40 such financial institution;

41 (e) Any officer, director, committee member, employee,  
42 attorney, auditor, or independent auditor officially connected  
43 with the financial institution, holding company, proposed  
44 purchaser, or person seeking to acquire a controlling interest  
45 in or merge with the financial institution; or

46 (f) A fidelity insurance company, upon approval of the  
47 financial institution's board of directors. However, a fidelity  
48 insurance company may receive only that portion of an  
49 examination report relating to a claim or investigation being  
50 conducted by such fidelity insurance company.

51 (g) Examination, operation, or condition reports of a  
 52 financial institution shall be released by the office within 1  
 53 year after the appointment of a liquidator, receiver, or  
 54 conservator to the financial institution. However, any portion  
 55 of such reports which discloses the identities of depositors,  
 56 bondholders, members, borrowers, or stockholders, other than  
 57 directors, officers, or controlling stockholders of the  
 58 institution, shall remain confidential and exempt from s.  
 59 119.07(1).

60  
 61 Any confidential information or records obtained from the office  
 62 pursuant to this subsection ~~paragraph~~ shall be maintained as  
 63 confidential and exempt from s. 119.07(1).

64 (10) Examination reports, investigatory records,  
 65 applications, and related information compiled by the office, or  
 66 photographic copies thereof, shall be retained by the office for  
 67 at least 10 years.

68 (12) For purposes of this section, the term:

69 (a) "Examination report" means records submitted to or  
 70 prepared by the office as part of the office's duties performed  
 71 pursuant to s. 655.012, ~~or~~ s. 655.045(1), s. 663.532, s.  
 72 663.533, s. 663.534, s. 663.536, s. 663,537, s. 663.538, or s.  
 73 663.539.

74 (d) "Working papers" means the records of the procedures  
 75 followed, the tests performed, the information obtained, and the

76 conclusions reached in an examination or investigation performed  
77 under s. 655.032, ~~or~~ s. 655.045, s. 663.532, s. 663.533, s.  
78 663.537, s. 663.538, or s. 663.539. Working papers include  
79 planning documentation, work programs, analyses, memoranda,  
80 letters of confirmation and representation, abstracts of the  
81 books and records of a financial institution as defined in s.  
82 655.005(1), and schedules or commentaries prepared or obtained  
83 in the course of such examination or investigation.

84 (14) Subsections (2), (3), and (4) are subject to the Open  
85 Government Sunset Review Act in accordance with s. 119.15 and  
86 are repealed on October 2, 2022 ~~2019~~, unless reviewed and saved  
87 from repeal through reenactment by the Legislature.

88 Section 2. The Legislature finds that it is a public  
89 necessity that reports of examination, operations, or condition,  
90 including working papers, prepared by, or for the use of, the  
91 Office of Financial Regulation or any state or federal agency  
92 responsible for the regulation or supervision of financial  
93 institutions in this state which pertain to international trust  
94 entities and limited service affiliates be made confidential and  
95 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),  
96 Article I of the State Constitution.

97 (1) The terms "international trust entity" and "limited  
98 service affiliate" referenced in part III of chapter 663,  
99 Florida Statutes, are added to the definition of "financial  
100 institution" and made subject to investigations and examinations

101 by the Office of Financial Regulation. As such, the office may  
102 receive sensitive personal and financial information and trade  
103 secrets relating to such entities in conjunction with its duties  
104 under chapter 663. This exemption prevents gaps in the law that  
105 would put such entities at a disadvantage in comparison to other  
106 entities currently defined as financial institutions and also  
107 subject personal and financial information of customer to risk  
108 of disclosure.

109 (2) Public disclosure of financial information and lists  
110 of names of existing and prospective customers of an affiliated  
111 international trust entity could jeopardize the personal and  
112 financial safety of those existing and prospective customers and  
113 their family members. Families with a high net worth are  
114 frequently the targets of criminal predators seeking access to  
115 their assets. It is important that the exposure of such  
116 customers and their family members to threats of extortion,  
117 kidnapping, and other crimes not be increased. Placing names of  
118 family members and their private family business records and  
119 methodologies in the public domain would increase the security  
120 risk that a client or family could become the target of criminal  
121 activity. This is especially important because many of the  
122 existing and prospective customers of affiliated international  
123 trust entities reside in or frequently travel to countries in  
124 which kidnapping and extortion are significant risks and public  
125 corruption impedes the rule of law.

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126        (3) Public disclosure of an examination, report of  
127 examination, or emergency cease and desist order could expose  
128 individuals to security risks or could defame or cause  
129 unwarranted damage to the good name or reputation of the  
130 individual who is the subject of the information.

131        Section 3. This act shall take effect on the same date  
132 that HB 769 or similar legislation takes effect, if such  
133 legislation is adopted in the same legislative session or an  
134 extension thereof and becomes a law.