

1                   A bill to be entitled  
2           An act relating to public records; creating ss.  
3           663.416 and 663.540, F.S.; defining terms; providing  
4           exemptions from public records requirements for  
5           certain information held by the Office of Financial  
6           Regulation relating to international trust company  
7           representative offices or limited service affiliates,  
8           respectively, and relating to affiliated international  
9           trust entities; authorizing the disclosure of the  
10          information by the office to specified persons;  
11          providing construction; providing criminal penalties;  
12          providing future legislative review and repeal of the  
13          exemptions; providing statements of public necessity;  
14          amending s. 655.057, F.S.; providing that certain  
15          exemptions from public records requirements for  
16          information relating to investigations, reports of  
17          examinations, operations, or condition, including  
18          working papers, and certain materials supplied by  
19          governmental agencies are exempt from s. 24(a) of  
20          Article I of the State Constitution, as a result of  
21          the expansion of such exemptions to include the  
22          records of international trust entities and limited  
23          services affiliates, as made by CS/HB 435, 2017  
24          Regular Session; providing a statement of public  
25          necessity; providing a contingent effective date.

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

Section 1. Section 663.416, Florida Statutes, is created and incorporated into part III of chapter 663, Florida Statutes, as created by CS/HB 435, 2017 Regular Session, to read:

663.416 Public records exemption.—

(1) DEFINITIONS.—As used in this section, the term:

(a) "Reports of examinations, operations, or condition" means records submitted to or prepared by the office as part of the office's duties performed pursuant to s. 655.012 or s. 655.045.

(b) "Working papers" means the records of the procedure followed, the tests performed, the information obtained, and the conclusions reached in an investigation or examination performed under s. 655.032 or s. 655.045. The term includes planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of the books and records of a financial institution, as defined in s. 655.005, and schedules or commentaries prepared or obtained in the course of such investigation or examination.

(2) PUBLIC RECORDS EXEMPTION.—The following information held by the office is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution:

(a) Any personal identifying information of the customers

51 or prospective customers of an affiliated international trust  
52 entity which appears in the books and records of an  
53 international trust company representative office or in records  
54 relating to reports of examinations, operations, or condition of  
55 an international trust company representative office, including  
56 working papers.

57 (b) Any portion of a list of names of the shareholders or  
58 members of an affiliated international trust entity.

59 (c) Information received by the office from a person from  
60 another state or country or the Federal Government which is  
61 otherwise confidential or exempt pursuant to the laws of that  
62 state or country or pursuant to federal law.

63 (3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT  
64 INFORMATION.—Information made confidential and exempt under  
65 subsection (2) may be disclosed by the office:

66 (a) To the authorized representative or representatives of  
67 the international trust company representative office under  
68 examination. The authorized representative or representatives  
69 must be identified in a resolution or by written consent of the  
70 board of directors, or the equivalent, of the international  
71 trust entity.

72 (b) To a fidelity insurance company, upon written consent  
73 of the board of directors, or the equivalent, of the  
74 international trust entity.

75 (c) To an independent auditor, upon written consent of the

76 | board of directors, or the equivalent, of the international  
 77 | trust entity.

78 | (d) To the liquidator, receiver, or conservator for the  
 79 | international trust entity, if a liquidator, receiver, or  
 80 | conservator is appointed. However, any portion of the  
 81 | information which discloses the identity of a customer or  
 82 | prospective customer of the international trust entity, or a  
 83 | shareholder or member of the international trust entity, must be  
 84 | redacted by the office before releasing such portion to the  
 85 | liquidator, receiver, or conservator.

86 | (e) To a law enforcement agency in furtherance of the  
 87 | agency's official duties and responsibilities.

88 | (f) To the appropriate law enforcement or prosecutorial  
 89 | agency for the purpose of reporting any suspected criminal  
 90 | activity.

91 | (g) Pursuant to a legislative subpoena. A legislative body  
 92 | or committee that receives records or information pursuant to  
 93 | such a subpoena must maintain the confidential status of the  
 94 | records or information, except in a case involving the  
 95 | investigation of charges against a public official subject to  
 96 | impeachment or removal, in which case the records or information  
 97 | may be disclosed only to the extent necessary as determined by  
 98 | such legislative body or committee.

99 | (4) PUBLICATION OF INFORMATION.—This section does not  
 100 | prevent or restrict the publication of a report required by

101 federal law.

102 (5) PENALTY.—A person who willfully discloses information  
 103 made confidential and exempt by this section commits a felony of  
 104 the third degree, punishable as provided in s. 775.082, s.  
 105 775.083, or s. 775.084.

106 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject  
 107 to the Open Government Sunset Review Act in accordance with s.  
 108 119.15 and is repealed on October 2, 2022, unless reviewed and  
 109 saved from repeal through reenactment by the Legislature.

110 Section 2. The Legislature finds that it is a public  
 111 necessity to make confidential and exempt from s. 119.07(1),  
 112 Florida Statutes, and s. 24(a), Article I of the State  
 113 Constitution personal identifying information of the customers  
 114 or prospective customers of an affiliated international trust  
 115 entity which appears in the books and records of an  
 116 international trust company representative office or in records  
 117 relating to reports of examinations, operations, or condition of  
 118 an international trust company representative office, including  
 119 working papers; any portion of a list of names of the  
 120 shareholders or members of an affiliated international trust  
 121 entity which is held by the office; and information received by  
 122 the Office of Financial Regulation from a person from another  
 123 state or country or the Federal Government which is otherwise  
 124 confidential or exempt pursuant to the laws of that state or  
 125 country or pursuant to federal law.

126       (1) An exemption from public records requirements is  
127 necessary for such records and information because the Office of  
128 Financial Regulation may receive sensitive personal and  
129 financial information, including personal identifying  
130 information relating to such entities, in the course of its  
131 investigation and examination duties. Public disclosure of the  
132 personal identifying information of existing customers,  
133 prospective customers, shareholders, or members of the  
134 affiliated international trust entity could defame or jeopardize  
135 the personal and financial safety of those individuals and their  
136 family members. The individuals served by the affiliated  
137 international trust entity are often individuals of high net  
138 worth. Individuals of high net worth and shareholders or members  
139 of financial institutions are frequently the targets of criminal  
140 predators seeking access to their assets. It is important that  
141 the exposure of such individuals and their family members to  
142 threats of extortion, kidnapping, and other crimes not be  
143 increased. Placing the personal identifying information of these  
144 individuals within the public domain would increase the security  
145 risk that those individuals or their families could become the  
146 target of criminal activity.

147       (2) Public disclosure of information received by the  
148 Office of Financial Regulation from a person from another state  
149 or country or the Federal Government which is otherwise  
150 confidential or exempt pursuant to the laws of that state or

151 country or pursuant to federal law may deteriorate the office's  
152 relationships with other regulatory bodies. The office  
153 frequently engages in joint examinations with federal  
154 regulators. If such information were subject to disclosure to  
155 the public, not only would such disclosure deter other  
156 regulatory bodies from communicating vital information to the  
157 office, but the office would violate existing information-  
158 sharing agreements governing the sharing of confidential  
159 supervisory information.

160 Section 3. Section 663.540, Florida Statutes, is created  
161 and incorporated into part IV of chapter 663, Florida Statutes,  
162 as created by CS/HB 435, 2017 Regular Session, to read:

163 663.540 Public records exemption.—

164 (1) DEFINITIONS.—As used in this section, the term:

165 (a) "Reports of examinations, operations, or condition"  
166 means records submitted to or prepared by the office as part of  
167 the office's duties performed pursuant to s. 655.012 or s.  
168 663.537.

169 (b) "Working papers" means the records of the procedure  
170 followed, the tests performed, the information obtained, and the  
171 conclusions reached in an investigation or examination performed  
172 under s. 655.032 or s. 663.537. The term includes planning  
173 documentation, work programs, analyses, memoranda, letters of  
174 confirmation and representation, abstracts of the books and  
175 records of a financial institution, as defined in s. 655.005,

176 and schedules or commentaries prepared or obtained in the course  
177 of such investigation or examination.

178 (2) PUBLIC RECORDS EXEMPTION.—The following information  
179 held by the office is confidential and exempt from s. 119.07(1)  
180 and s. 24(a), Art. I of the State Constitution:

181 (a) Any personal identifying information of the customers  
182 or prospective customers of an affiliated international trust  
183 entity which appears in the books and records of a limited  
184 service affiliate or in records relating to reports of  
185 examinations, operations, or condition of a limited service  
186 affiliate, including working papers.

187 (b) Any portion of a list of names of the shareholders or  
188 members of a limited service affiliate.

189 (c) Information received by the office from a person from  
190 another state or country or the Federal Government which is  
191 otherwise confidential or exempt pursuant to the laws of that  
192 state or country or pursuant to federal law.

193 (3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT  
194 INFORMATION.—Information made confidential and exempt under  
195 subsection (2) may be disclosed by the office:

196 (a) To the authorized representative or representatives of  
197 the limited service affiliate under examination. The authorized  
198 representative or representatives must be identified in a  
199 resolution or by written consent of the board of directors, if  
200 the limited service affiliate is a corporation, or of the



201 managers, if the limited service affiliate is a limited  
202 liability company.

203 (b) To a fidelity insurance company, upon written consent  
204 of the limited service affiliate's board of directors, if the  
205 limited service affiliate is a corporation, or of the managers,  
206 if the limited service affiliate is a limited liability company.

207 (c) To an independent auditor, upon written consent of the  
208 limited service affiliate's board of directors, if the limited  
209 service affiliate is a corporation, or of the managers, if the  
210 limited service affiliate is a limited liability company.

211 (d) To the liquidator, receiver, or conservator for a  
212 limited service affiliate, if a liquidator, receiver, or  
213 conservator is appointed. However, any portion of the  
214 information which discloses the identity of a customer of the  
215 affiliated international trust entity, or a shareholder or  
216 member of the limited service affiliate, must be redacted by the  
217 office before releasing such portion to the liquidator,  
218 receiver, or conservator.

219 (e) To a law enforcement agency in furtherance of the  
220 agency's official duties and responsibilities.

221 (f) To the appropriate law enforcement or prosecutorial  
222 agency for the purpose of reporting any suspected criminal  
223 activity.

224 (g) Pursuant to a legislative subpoena. A legislative body  
225 or committee that receives records or information pursuant to

226 such a subpoena must maintain the confidential status of the  
227 records or information, except in a case involving the  
228 investigation of charges against a public official subject to  
229 impeachment or removal, in which case the records or information  
230 may be disclosed only to the extent necessary as determined by  
231 such legislative body or committee.

232 (4) PUBLICATION OF INFORMATION.—This section does not  
233 prevent or restrict the publication of a report required by  
234 federal law.

235 (5) PENALTY.—A person who willfully discloses information  
236 made confidential and exempt by this section commits a felony of  
237 the third degree, punishable as provided in s. 775.082, s.  
238 775.083, or s. 775.084.

239 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject  
240 to the Open Government Sunset Review Act in accordance with s.  
241 119.15 and is repealed on October 2, 2022, unless reviewed and  
242 saved from repeal through reenactment by the Legislature.

243 Section 4. The Legislature finds that it is a public  
244 necessity to make confidential and exempt from s. 119.07(1),  
245 Florida Statutes, and s. 24(a), Article I of the State  
246 Constitution personal identifying information of the customers  
247 or prospective customers of an affiliated international trust  
248 entity which appears in the books and records of a limited  
249 service affiliate or in records relating to reports of  
250 examinations, operations, or condition of a limited service

251 affiliate, including working papers; any portion of a list of  
252 names of the shareholders or members of a limited service  
253 affiliate which is held by the office; and information received  
254 by the office from a person from another state or country or the  
255 Federal Government which is otherwise confidential or exempt  
256 pursuant to the laws of that state or country or pursuant to  
257 federal law.

258 (1) An exemption from public records requirements is  
259 necessary for personal identifying information of existing and  
260 prospective customers of an affiliated international trust  
261 entity or shareholders or members of a limited service  
262 affiliate, because if such information is available for public  
263 access, such access could defame or jeopardize the personal and  
264 financial safety of those individuals. The individuals served by  
265 the affiliated international trust entity are often individuals  
266 of high net worth. Individuals of high net worth and  
267 shareholders or members of financial institutions are frequently  
268 the targets of criminal predators seeking access to their  
269 assets. It is important that the exposure of such individuals  
270 and their family members to threats of extortion, kidnapping,  
271 and other crimes not be increased. Placing the personal  
272 identifying information of these individuals within the public  
273 domain would increase the security risk that those individuals  
274 or their families could become the target of criminal activity.

275 (2) An exemption from public records requirements is

276 necessary for information received by the Office of Financial  
277 Regulation from a person from another state or country or the  
278 Federal Government which is otherwise confidential or exempt  
279 pursuant to the laws of that state or country or pursuant to  
280 federal law, as public disclosure may deteriorate the office's  
281 relationships with other regulatory bodies. The office  
282 frequently engages in joint examinations with federal  
283 regulators. If such information were subject to disclosure to  
284 the public, not only would this disclosure deter other  
285 regulatory bodies from communicating vital information to the  
286 office, but the office would violate existing information-  
287 sharing agreements governing the sharing of confidential  
288 supervisory information.

289 Section 5. Subsections (1), (2), (5), and (9) of section  
290 655.057, Florida Statutes, are amended, and subsection (15) is  
291 added to that section, to read:

292 655.057 Records; limited restrictions upon public access.—

293 (1) Except as otherwise provided in this section and  
294 except for such portions thereof which are otherwise public  
295 record, all records and information relating to an investigation  
296 by the office are confidential and exempt from s. 119.07(1) and  
297 s. 24(a), Art. I of the State Constitution until such  
298 investigation is completed or ceases to be active. For purposes  
299 of this subsection, an investigation is considered "active"  
300 while such investigation is being conducted by the office with a

301 reasonable, good faith belief that it may lead to the filing of  
302 administrative, civil, or criminal proceedings. An investigation  
303 does not cease to be active if the office is proceeding with  
304 reasonable dispatch, and there is a good faith belief that  
305 action may be initiated by the office or other administrative or  
306 law enforcement agency. After an investigation is completed or  
307 ceases to be active, portions of the records relating to the  
308 investigation are confidential and exempt from s. 119.07(1) and  
309 s. 24(a), Art. I of the State Constitution to the extent that  
310 disclosure would:

- 311 (a) Jeopardize the integrity of another active  
312 investigation;
- 313 (b) Impair the safety and soundness of the financial  
314 institution;
- 315 (c) Reveal personal financial information;
- 316 (d) Reveal the identity of a confidential source;
- 317 (e) Defame or cause unwarranted damage to the good name or  
318 reputation of an individual or jeopardize the safety of an  
319 individual; or
- 320 (f) Reveal investigative techniques or procedures.
- 321 (2) Except as otherwise provided in this section and  
322 except for such portions thereof which are public record,  
323 reports of examinations, operations, or condition, including  
324 working papers, or portions thereof, prepared by, or for the use  
325 of, the office or any state or federal agency responsible for

326 the regulation or supervision of financial institutions in this  
327 state are confidential and exempt from s. 119.07(1) and s.  
328 24(a), Art. I of the State Constitution. However, such reports  
329 or papers or portions thereof may be released to:

- 330 (a) The financial institution under examination;
- 331 (b) Any holding company of which the financial institution  
332 is a subsidiary;
- 333 (c) Proposed purchasers if necessary to protect the  
334 continued financial viability of the financial institution, upon  
335 prior approval by the board of directors of such institution;
- 336 (d) Persons proposing in good faith to acquire a  
337 controlling interest in or to merge with the financial  
338 institution, upon prior approval by the board of directors of  
339 such financial institution;
- 340 (e) Any officer, director, committee member, employee,  
341 attorney, auditor, or independent auditor officially connected  
342 with the financial institution, holding company, proposed  
343 purchaser, or person seeking to acquire a controlling interest  
344 in or merge with the financial institution; or
- 345 (f) A fidelity insurance company, upon approval of the  
346 financial institution's board of directors. However, a fidelity  
347 insurance company may receive only that portion of an  
348 examination report relating to a claim or investigation being  
349 conducted by such fidelity insurance company.
- 350 (g) Examination, operation, or condition reports of a

351 financial institution shall be released by the office within 1  
352 year after the appointment of a liquidator, receiver, or  
353 conservator to the financial institution. However, any portion  
354 of such reports which discloses the identities of depositors,  
355 bondholders, members, borrowers, or stockholders, other than  
356 directors, officers, or controlling stockholders of the  
357 institution, shall remain confidential and exempt from s.  
358 119.07(1) and s. 24(a), Art. I of the State Constitution.

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360 Any confidential information or records obtained from the office  
361 pursuant to this paragraph shall be maintained as confidential  
362 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
363 Constitution.

364 (5) This section does not prevent or restrict:

365 (a) Publishing reports that are required to be submitted  
366 to the office pursuant to s. 655.045(2) or required by  
367 applicable federal statutes or regulations to be published.

368 (b) Furnishing records or information to any other state,  
369 federal, or foreign agency responsible for the regulation or  
370 supervision of financial institutions.

371 (c) Disclosing or publishing summaries of the condition of  
372 financial institutions and general economic and similar  
373 statistics and data, provided that the identity of a particular  
374 financial institution is not disclosed.

375 (d) Reporting any suspected criminal activity, with

376 supporting documents and information, to appropriate law  
377 enforcement and prosecutorial agencies.

378 (e) Furnishing information upon request to the Chief  
379 Financial Officer or the Division of Treasury of the Department  
380 of Financial Services regarding the financial condition of any  
381 financial institution that is, or has applied to be, designated  
382 as a qualified public depository pursuant to chapter 280.

383 (f) Furnishing information to Federal Home Loan Banks  
384 regarding its member institutions pursuant to an information  
385 sharing agreement between the Federal Home Loan Banks and the  
386 office.

387  
388 Any confidential information or records obtained from the office  
389 pursuant to this subsection shall be maintained as confidential  
390 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
391 Constitution.

392 (9) Materials supplied to the office or to employees of  
393 any financial institution by other state or federal governmental  
394 agencies remain the property of the submitting agency or the  
395 corporation, and any document request must be made to the  
396 appropriate agency. Any confidential documents supplied to the  
397 office or to employees of any financial institution by other  
398 state or federal governmental agencies are confidential and  
399 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
400 Constitution. Such information shall be made public only with



401 the consent of such agency or the corporation.

402 (15) Subsections (1), (2), (5), and (9) are subject to the  
403 Open Government Sunset Review Act in accordance with s. 119.15  
404 and are repealed on October 2, 2022, unless reviewed and saved  
405 from repeal through reenactment by the Legislature.

406 Section 6. The Legislature finds that it is a public  
407 necessity to make confidential and exempt from s. 119.07(1),  
408 Florida Statutes, and s. 24(a), Article I of the State  
409 Constitution records and information relating to an  
410 investigation by the Office of Financial Regulation; portions of  
411 records relating to a completed or inactive investigation by the  
412 office which would jeopardize the integrity of another active  
413 investigation, impair the safety and soundness of the financial  
414 institution, reveal personal financial information, reveal the  
415 identity of a confidential source, defame or cause unwarranted  
416 damage to the good name or reputation of an individual or  
417 jeopardize the safety of an individual, or reveal investigative  
418 techniques or procedures; reports of examinations, operations,  
419 or condition, including working papers, or portions thereof,  
420 prepared by, or for the use of, the office or any state or  
421 federal agency responsible for the regulation or supervision of  
422 financial institutions in this state; any portion of such  
423 reports which discloses the identities of depositors,  
424 bondholders, members, borrowers, or stockholders, other than  
425 directors, officers, or controlling stockholders of the

426 institution; and materials supplied to the office or to  
427 employees of any financial institution by other state or federal  
428 governmental agencies. This exemption is necessary because:  
429 (1) The terms "international trust entity" and "limited  
430 service affiliate" referenced in newly created parts III and IV  
431 of chapter 663, Florida Statutes, are added to the definition of  
432 the term "financial institution" in s. 655.005(1)(i) in CS/HB  
433 435. The international trust company representative offices and  
434 limited service affiliates servicing international trust  
435 entities are thus subject to examination by the Office of  
436 Financial Regulation. As a result, the office may receive  
437 sensitive personal and financial information relating to such  
438 entities in conjunction with its duties under chapters 655 and  
439 663, Florida Statutes. An exemption from public records  
440 requirements prevents gaps in the law by providing the same  
441 protections to international trust entities and limited services  
442 affiliates which are afforded to other financial institutions,  
443 thereby preventing any disadvantage to these similarly regulated  
444 entities in comparison to other entities currently defined as  
445 "financial institutions." An exemption from public records  
446 requirements for reports of examinations, operations, or  
447 condition, including working papers, is necessary to ensure the  
448 office's ability to effectively and efficiently administer its  
449 examination and investigation duties. Examination and  
450 investigation are essential components of financial institutions

451 regulation. They deter fraud and ensure the safety and soundness  
452 of the financial system. Examinations also provide a means of  
453 early detection of violations, allowing for corrective action to  
454 be taken before any harm can be done.

455 (2) Public disclosure of records and information relating  
456 to an examination or investigation by the office could expose  
457 the subject financial institution to unwarranted damage to its  
458 good name or reputation and impair its safety and soundness, as  
459 well as the safety and soundness of the financial system in the  
460 state. Public disclosure of records and information relating to  
461 an investigation by the office which could jeopardize the  
462 integrity of another active investigation or reveal  
463 investigative techniques or procedures of the office would  
464 impair the office's ability to effectively and efficiently  
465 administer its duties under ss. 655.032 and 655.045, Florida  
466 Statutes. Any portion of a record or information relating to an  
467 investigation or examination which reveals personal financial  
468 information or the identity of a confidential source may defame,  
469 or cause unwarranted damage to the good name or reputation of,  
470 those individuals, or jeopardize their safety.

471 Section 7. This act shall take effect on the same date  
472 that CS/HB 435 or similar legislation takes effect, if such  
473 legislation is adopted in the same legislative session or an  
474 extension thereof and becomes a law.