

By Senator Jones

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1                   A bill to be entitled  
2           An act relating to public records; providing  
3           definitions; providing an exemption from public-  
4           records requirements for confidential and proprietary  
5           business information and trade secrets received by the  
6           Destination Resort Commission; providing an exemption  
7           from public-records requirements for information held  
8           that would reveal investigation techniques and  
9           procedures used by the Destination Resort Commission;  
10          providing a definition; providing an exception to the  
11          exemption for other governmental entities having  
12          oversight or regulatory or law enforcement authority;  
13          providing penalties for an employee of the commission  
14          who violates the provisions of the act; providing for  
15          future review and repeal of the exemption under the  
16          Open Government Sunset Review Act; providing a  
17          statement of public necessity; providing a contingent  
18          effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

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22           Section 1. Confidentiality of records.—

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

24           (a) "Proprietary confidential business information" means  
25 information that is owned or controlled by an applicant for a  
26 license or licensee under the Destination Resort Act who  
27 requests confidentiality under this section; that is intended to  
28 be and is treated by the applicant or licensee as private in  
29 that the disclosure of the information would cause harm to the

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30 business operations of the applicant or licensee; that has not  
31 been disclosed unless disclosed pursuant to a statute or rule,  
32 an order of a court or administrative body, or a private  
33 agreement providing that the information may be released to the  
34 public; and that is information concerning:

35 1. Business plans;

36 2. Internal auditing controls and reports of internal  
37 auditors; or

38 3. Reports of external auditors for privately held  
39 companies.

40 (b) "Trade secret" has the same meaning as in s. 688.002,  
41 Florida Statutes.

42 (2) TRADE SECRETS.—Trade secrets held by the Destination  
43 Resort Commission are confidential and exempt from s. 119.07(1),  
44 Florida Statutes, and s. 24(a), Article I of the State  
45 Constitution.

46 (3) PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION.—  
47 Proprietary confidential business information held by the  
48 Destination Resort Commission is confidential and exempt from s.  
49 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
50 State Constitution, until such information is otherwise publicly  
51 available or is no longer treated by an applicant for a license  
52 or a licensee under the Destination Resort Act as proprietary  
53 confidential business information.

54 (4) IDENTIFICATION, ACCOUNT, AND REGISTRATION NUMBERS.—A  
55 federal employer identification number, unemployment  
56 compensation account number, or Florida sales tax registration  
57 number held by the Destination Resort Commission is confidential  
58 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),

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59 Article I of the State Constitution.

60 (5) INVESTIGATION TECHNIQUES AND PROCEDURES.—

61 (a) For purposes of this subsection, "investigation  
62 techniques and procedures" are the methods, processes, and  
63 guidelines used to evaluate regulatory compliance and to collect  
64 and analyze data, records, and testimony for the purpose of  
65 documenting violations of the Destination Resort Act and the  
66 rules adopted thereunder.

67 (b) Information that would reveal examination techniques or  
68 procedures used by the Destination Resort Commission pursuant to  
69 the Destination Resort Act is confidential and exempt from s.  
70 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
71 State Constitution.

72 (c) Confidential and exempt information that would reveal  
73 examination techniques or procedures may be provided by the  
74 commission to another governmental entity having oversight or  
75 regulatory or law enforcement authority.

76 (6) PENALTIES.—Any person who is an employee of the  
77 Destination Resort Commission who violates the provisions of  
78 this section commits a misdemeanor of the second degree,  
79 punishable as provided in s. 775.082 or s. 775.083, Florida  
80 Statutes.

81 (7) LEGISLATIVE REVIEW OF EXEMPTIONS.—This section is  
82 subject to the Open Government Sunset Review Act in accordance  
83 with s. 119.15, Florida Statutes, and shall stand repealed on  
84 October 2, 2016, unless reviewed and saved from repeal through  
85 reenactment by the Legislature.

86 Section 2. (1) It is the finding of the Legislature that it  
87 is a public necessity that information relating to proprietary

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88 confidential business information and trade secrets under the  
89 Destination Resort Act be made confidential and exempt from s.  
90 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
91 State Constitution. This exemption is necessary to ensure that  
92 the best qualified applicants are not deterred from applying for  
93 licenses by the prospect of the disclosure of proprietary  
94 confidential business information and trade secrets.

95 (2) The Destination Resort Act provides for a competitive  
96 process for the award of an destination resort license. The  
97 selection of the best qualified applicant for a license is  
98 critical for the state to ensure that the state receives the  
99 most economic benefits and greatest amount of tax revenues in  
100 granting a resort license.

101 (3) (a) It is the finding of the Legislature that it is a  
102 public necessity that information that would reveal  
103 investigation techniques or procedures used by the Destination  
104 Resort Commission pursuant to the Destination Resort Act be made  
105 confidential and exempt from s. 119.07(1), Florida Statutes, and  
106 s. 24(a), Article I of the State Constitution. This exemption is  
107 necessary to ensure the commission's ability to effectively and  
108 efficiently enforce compliance with the Destination Resort Act,  
109 which would be significantly impaired without the exemption.

110 (b) Investigations are an essential component of gaming  
111 regulation. The mere existence of an investigation program  
112 fosters regulatory compliance and deters fraud and abuse by  
113 industry participants. Investigations often detect violations in  
114 their early stages. Early detection allows corrective action to  
115 be taken before significant harm can be done to the state. Due  
116 to the importance of such investigations, state regulators

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117 devote extensive resources to devising effective investigation  
118 techniques and procedures.

119 (c) Allowing access to information revealing investigation  
120 techniques or procedures would undermine the investigation  
121 process and facilitate evasion of the law. Any advance notice of  
122 the areas of inquiry to be explored during an examination might  
123 prompt a person to conceal evidence of deficiencies or fabricate  
124 evidence of compliance. Without the exemption, the Destination  
125 Resort Commission's ability to uncover misconduct and evaluate  
126 policies and procedures through the investigation process would  
127 be significantly impaired.

128 (d) Additionally, without such an exemption, the  
129 Destination Resort Commission's ability to participate in joint  
130 investigations with other regulators would be impaired as  
131 release of this information relating to investigations by other  
132 regulators would compromise the integrity of such joint  
133 investigations. The commission also would not be able to accept  
134 or use confidential examination techniques and procedures  
135 developed by other regulators. Thus, the absence of an exemption  
136 would create a situation that reduces the commission's ability  
137 to leverage its limited resources.

138 Section 3. This act shall take effect on the same date that  
139 SB \_\_\_\_ or similar legislation takes effect, if such legislation  
140 is enacted in the same legislative session, or an extension  
141 thereof, and becomes law, and only if this act is enacted by a  
142 two-thirds vote of the membership of each house of the  
143 Legislature.