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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/30/2011	.	
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The Committee on Governmental Oversight and Accountability  
(Fasano) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 31 and 32  
insert:

Section 2. Section 112.3142, Florida Statutes, is created  
to read:

112.3142 Qualified blind trusts.-

(1) The Legislature finds that if a public official creates  
a trust, and if the public official does not know the identity  
of the financial interests held by the trust and does not  
control the interests held by the trust, his or her official  
actions would not be influenced or appear to be influenced by



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13 private considerations. Thus, it is the intent of the  
14 Legislature that the public policy goal of the state, which is  
15 to be achieved through reliance on a blind trust, be an actual  
16 "blindness" or lack of knowledge or control by the official with  
17 respect to the interests held in trust.

18 (2) As used in this section, the term:

19 (a) "Cabinet" has the same meaning as in s. 20.03.

20 (b) "Commission" means the Commission on Ethics.

21 (c) "Covered public official" means the Governor, the  
22 Lieutenant Governor, or a member of the Cabinet.

23 (3) If a covered public official holds an economic interest  
24 in a qualified blind trust as defined in this section, he or she  
25 does not have a conflict of interest prohibited under s.  
26 112.313(3) or (7) or a voting conflict of interest under s.  
27 112.3143 with regard to matters pertaining to that economic  
28 interest.

29 (4) Except as otherwise provided in this section, the  
30 covered public official may not attempt to influence or exercise  
31 any control over decisions regarding the management of assets in  
32 a qualified blind trust. The covered public official and each  
33 person having a beneficial interest in the qualified blind trust  
34 may not make any effort to obtain information with respect to  
35 the holdings of the trust, including obtaining a copy of any  
36 trust tax return filed or any information relating thereto,  
37 except as otherwise provided in this section.

38 (5) Except for communications that consist solely of  
39 requests for distributions of cash or other unspecified assets  
40 of the trust, there shall be no direct or indirect communication  
41 with respect to the trust between the covered public official or



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42 any person having a beneficial interest in the qualified blind  
43 trust and the trustee, unless such communication is in writing  
44 and unless it relates only to:

45 (a) A request for a distribution from the trust which does  
46 not specify whether the distribution is to be made in cash or in  
47 kind;

48 (b) The general financial interests and needs of the  
49 covered public official or interested person, including, but not  
50 limited to, an interest in maximizing income or long-term  
51 capital gain;

52 (c) The notification of the trustee of a law or regulation  
53 subsequently applicable to the covered public official which  
54 prohibits the covered official from holding an asset and which  
55 notification directs that the asset not be held by the trust; or

56 (d) Directions to the trustee to sell all of an asset  
57 initially placed in the trust by the covered public official  
58 which, in the determination of the covered public official,  
59 creates a conflict of interest or the appearance thereof due to  
60 the subsequent assumption of duties by the public official.

61 (6) The covered public official shall report as an asset on  
62 his or her financial disclosure forms the beneficial interest in  
63 the qualified blind trust and its value, if the value is  
64 required to be disclosed. The covered public official shall  
65 report the blind trust as a primary source of income on his or  
66 her financial disclosure forms and its amount, if the amount of  
67 income is required to be disclosed. The covered public official  
68 is not required to report as a secondary source of income any  
69 source of income to the blind trust.

70 (7) In order to constitute a qualified blind trust, the



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71 trust must be established by the covered public official and  
72 meet the following requirements:

73 (a) The person or entity appointed as a trustee must not  
74 be:

75 1. The covered public official's spouse, child, parent,  
76 grandparent, grandchild, brother, sister, parent-in-law,  
77 brother-in-law, sister-in-law, aunt, uncle, or first cousin, or  
78 the spouse of any such person;

79 2. A person who is an elected or appointed public officer  
80 or a public employee; or

81 3. A person who has been appointed to serve in an agency by  
82 the covered public official or by a public officer or public  
83 employee supervised by the covered public official.

84 (b) The trust agreement that establishes the trust must:

85 1. Contain a clear statement of its purpose, namely, to  
86 remove from the grantor control and knowledge of investment of  
87 trust assets so that conflicts between the grantor's  
88 responsibilities as a public official and his or her private  
89 interests will be eliminated;

90 2. Give the trustee complete discretion to manage the  
91 trust, including, but not limited to, the power to dispose of  
92 and acquire trust assets without consulting or notifying the  
93 covered public official or any person having a beneficial  
94 interest in the trust;

95 3. Prohibit communication between the trustee and the  
96 covered public official and any person having a beneficial  
97 interest in the trust concerning the holdings or sources of  
98 income of the trust, except amounts of cash value or net income  
99 or loss, provided that such report may not identify any asset or



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100 holding, and except as provided in this section;

101 4. Provide that the trust tax return is prepared by the  
102 trustee or his or her designee and that any information relating  
103 thereto is not disclosed to the covered public official or to  
104 any other beneficiary, except as provided in this section;

105 5. Permit the trustee to notify the covered public official  
106 of the date of disposition and value at disposition of any  
107 original investment or interests in real property to the extent  
108 required by federal tax law, so that the information can be  
109 reported on the covered public official's applicable tax  
110 returns;

111 6. Prohibit the trustee from disclosing to the covered  
112 public official and any person having a beneficial interest in  
113 the trust any information concerning replacement assets to the  
114 trust, except for the minimum tax information that lists only  
115 the totals of taxable items from the trust and does not describe  
116 the source of individual items of income;

117 7. Prohibit the trustee from investing trust assets in  
118 business entities that he or she knows are regulated by or do a  
119 significant amount of business with the covered public  
120 official's public agency; and

121 8. Provide that the trust is not effective until it is  
122 approved by the commission.

123 (c) The obligations of the trustee and the official under  
124 the trust agreement must be observed by them.

125 (d) The trust shall contain only readily marketable assets.

126 (e) The trust must be approved by the commission as meeting  
127 the requirements of this section.

128 (8) A copy of the trust agreement must be filed with the



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129 commission within 5 business days after the agreement is  
130 executed and must include:  
131 (a) A listing of the assets placed in the trust;  
132 (b) A statement detailing the date the agreement was  
133 executed;  
134 (c) The name and address of the trustee; and  
135 (d) A separate statement signed by the trustee, under  
136 penalty of perjury, certifying that he or she will not reveal  
137 any information to the covered public official or any person  
138 having a beneficial interest in the qualified blind trust,  
139 except for information that is authorized under this section,  
140 and that, to the best of the trustee's knowledge, the submitted  
141 blind trust agreement complies with this section.  
142 (9) If the trust is revoked while the covered public  
143 official is a public officer, or if the covered public official  
144 learns of any replacement assets that have been added to the  
145 trust, the covered public official must file an amendment to his  
146 or her most recent financial disclosure statement. The amendment  
147 must be filed no later than 60 days after the date of revocation  
148 or the addition of the replacement assets. The covered public  
149 official must disclose the previously unreported pro rata share  
150 of the trust's interests in investments or income deriving from  
151 any such investments. For purposes of this section, any replaced  
152 asset of which the covered public official learns shall  
153 thereafter be treated as though the asset were an original asset  
154 of the trust.

155  
156 ===== T I T L E A M E N D M E N T =====  
157 And the title is amended as follows:



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158 Delete line 3  
159 and insert:  
160 title; creating s. 112.3142, F.S., pertaining to  
161 qualified blind trusts; providing legislative findings  
162 and intent relating to qualified blind trusts;  
163 defining terms; providing that if a covered public  
164 official holds an economic interest in a qualified  
165 blind trust, he or she does not have a conflict of  
166 interest that would otherwise be prohibited by law;  
167 prohibiting a covered public official from attempting  
168 to influence or exercise any control over decisions  
169 regarding the management of assets in a qualified  
170 blind trust; prohibiting direct or indirect  
171 communication between the covered public official or  
172 any person having a beneficial interest in the  
173 qualified blind trust and the trustee; providing  
174 exemptions; requiring a covered public official to  
175 report as an asset on his or her financial disclosure  
176 forms the beneficial interest, and its value if  
177 required, which he or she has in a qualified blind  
178 trust; specifying the required elements necessary to  
179 establish a qualified blind trust; specifying the  
180 required elements necessary to be a trustee;  
181 specifying the required elements in the trust  
182 agreement; providing that the trust is not effective  
183 unless it is approved by the Commission on Ethics;  
184 requiring that the trustee and the official observe  
185 the obligations of the trust agreement; providing that  
186 the trust contains only readily marketable assets;



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187 requiring that the trust agreement be filed with the  
188 commission within a specified time; providing for the  
189 filing of an amendment to a financial disclosure  
190 statement of a covered public official in specified  
191 circumstances; amending s. 112.3143, F.S.; providing  
192 an