

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 551.303, F.S.; providing definitions; providing an
 4 exemption from public records requirements for
 5 confidential and proprietary business information and
 6 trade secrets received by the State Gaming Commission;
 7 providing an exemption from public records
 8 requirements for information held that would reveal
 9 investigation techniques and procedures used by the
 10 State Gaming Commission; providing a definition;
 11 providing an exception to the exemption for other
 12 governmental entities having oversight or regulatory
 13 or law enforcement authority; providing penalties for
 14 an employee of the commission who violates the
 15 provisions of the act; providing for future review and
 16 repeal of the exemption under the Open Government
 17 Sunset Review Act; providing a statement of public
 18 necessity; providing a contingent effective date.

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

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 22 Section 1. Section 551.303, Florida Statutes, is created
 23 to read:

24 551.303 Confidentiality of records.-
 25 (1) DEFINITIONS.-As used in this section, the term:
 26 (a) "Proprietary confidential business information" means
 27 information that is owned or controlled by an applicant for a
 28 license or a licensee under this part who requests

29 confidentiality under this section; that is intended to be and
 30 is treated by the applicant or licensee as private in that the
 31 disclosure of the information would cause harm to the business
 32 operations of the applicant or licensee; that has not been
 33 disclosed unless disclosed pursuant to a statute or rule, an
 34 order of a court or administrative body, or a private agreement
 35 providing that the information may be released to the public;
 36 and that is information concerning:

- 37 1. Business plans;
- 38 2. Internal auditing controls and reports of internal
 39 auditors; or
- 40 3. Reports of external auditors for privately held
 41 companies.

42 (b) "Trade secret" has the same meaning as in s. 688.002.
 43 (2) TRADE SECRETS.—Trade secrets held by the State Gaming
 44 Commission are confidential and exempt from s. 119.07(1) and s.
 45 24(a), Art. I of the State Constitution.

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

53 (4) IDENTIFICATION, ACCOUNT, AND REGISTRATION NUMBERS.—A
 54 federal employer identification number, unemployment
 55 compensation account number, or Florida sales tax registration
 56 number held by the State Gaming Commission is confidential and

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57 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
58 Constitution.

59 (5) INVESTIGATION TECHNIQUES AND PROCEDURES.—

60 (a) As used in this subsection, the term "investigation
61 techniques and procedures" means the methods, processes, and
62 guidelines used to evaluate regulatory compliance and to collect
63 and analyze data, records, and testimony for the purpose of
64 documenting violations of this part and the rules adopted
65 thereunder.

66 (b) Information that would reveal examination techniques
67 or procedures used by the State Gaming Commission pursuant to
68 this part is confidential and exempt from s. 119.07(1) and s.
69 24(a), Art. I of the State Constitution.

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

74 (6) PENALTIES.—Any person who is an employee of the State
75 Gaming Commission who violates this section commits a
76 misdemeanor of the second degree, punishable as provided in s.
77 775.082 or s. 775.083.

78 (7) LEGISLATIVE REVIEW OF EXEMPTIONS.—This section is
79 subject to the Open Government Sunset Review Act in accordance
80 with s. 119.15 and shall stand repealed on October 2, 2017,
81 unless reviewed and saved from repeal through reenactment by the
82 Legislature.

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

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85 proprietary confidential business information and trade secrets
86 under part III of chapter 551, Florida Statutes, be made
87 confidential and exempt from s. 119.07(1), Florida Statutes, and
88 s. 24(a), Article I of the State Constitution. This exemption is
89 necessary to ensure that the best qualified applicants are not
90 deterred from applying for licenses by the prospect of the
91 disclosure of proprietary confidential business information and
92 trade secrets.

93 (2) Part III of chapter 551, Florida Statutes, provides
94 for a competitive process for the award of a destination resort
95 license. The selection of the best qualified applicant for a
96 license is critical for the state to ensure that the state
97 receives the most economic benefits and greatest amount of tax
98 revenues in granting a resort license.

99 (3) (a) It is the finding of the Legislature that it is a
100 public necessity that information that would reveal
101 investigation techniques or procedures used by the State Gaming
102 Commission pursuant to part III of chapter 551, Florida
103 Statutes, be made confidential and exempt from s. 119.07(1),
104 Florida Statutes, and s. 24(a), Article I of the State
105 Constitution. This exemption is necessary to ensure the
106 commission's ability to effectively and efficiently enforce
107 compliance with part III of chapter 551, Florida Statutes, which
108 would be significantly impaired without the exemption.

109 (b) Investigations are an essential component of gaming
110 regulation. The mere existence of an investigation program
111 fosters regulatory compliance and deters fraud and abuse by
112 industry participants. Investigations often detect violations in

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113 their early stages. Early detection allows corrective action to
114 be taken before significant harm can be done to the state. Due
115 to the importance of such investigations, state regulators
116 devote extensive resources to devising effective investigation
117 techniques and procedures.

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

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

137 Section 3. This act shall take effect on the same date
138 that HB 487 or similar legislation takes effect, if such
139 legislation is enacted in the same legislative session, or an
140 extension thereof, and becomes law, and only if this act is

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141 | enacted by a two-thirds vote of the membership of each house of
142 | the Legislature.