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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/09/2012	.	
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The Committee on Regulated Industries (Bogdanoff) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

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

551.303 Confidentiality of records.-

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

(a) "Proprietary confidential business information" means information that is owned or controlled by an applicant for a license or a licensee under this part who requests confidentiality under this section; that is intended to be and



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13 is treated by the applicant or licensee as private in that the
14 disclosure of the information would cause harm to the business
15 operations of the applicant or licensee; that has not been
16 disclosed unless disclosed pursuant to a statute or rule, an
17 order of a court or administrative body, or a private agreement
18 providing that the information may be released to the public;
19 and that is information concerning:

20 1. Business plans;

21 2. Internal auditing controls and reports of internal
22 auditors; or

23 3. Reports of external auditors for privately held
24 companies.

25 (b) "Trade secret" has the same meaning as in s. 688.002.

26 (2) TRADE SECRETS.—Trade secrets held by the Department of
27 Gaming Control are confidential and exempt from s. 119.07(1) and
28 s. 24(a), Art. I of the State Constitution.

29 (3) PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION.—

30 Proprietary confidential business information held by the
31 Department of Gaming Control is confidential and exempt from s.
32 119.07(1) and s. 24(a), Art. I of the State Constitution until
33 such information is otherwise publicly available or is no longer
34 treated by an applicant for a license or a licensee under this
35 part as proprietary confidential business information.

36 (4) IDENTIFICATION, ACCOUNT, AND REGISTRATION NUMBERS.—A

37 federal employer identification number, unemployment
38 compensation account number, or Florida sales tax registration
39 number held by the Department of Gaming Control is confidential
40 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
41 Constitution.



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42 (5) INVESTIGATION TECHNIQUES AND PROCEDURES.—

43 (a) As used in this subsection, the term “investigation
44 techniques and procedures” means the methods, processes, and
45 guidelines used to evaluate regulatory compliance and to collect
46 and analyze data, records, and testimony for the purpose of
47 documenting violations of this part and the rules adopted
48 thereunder.

49 (b) Information that would reveal examination techniques or
50 procedures used by the Department of Gaming Control pursuant to
51 this part is confidential and exempt from s. 119.07(1) and s.
52 24(a), Art. I of the State Constitution.

53 (c) Confidential and exempt information that would reveal
54 examination techniques or procedures may be provided by the
55 Department of Gaming Control to another governmental entity
56 having oversight or regulatory or law enforcement authority.

57 (6) PENALTIES.—Any person who is an employee of the
58 Department of Gaming Control who violates this section commits a
59 misdemeanor of the second degree, punishable as provided in s.
60 775.082 or s. 775.083.

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

66 Section 2. (1) It is the finding of the Legislature that it
67 is a public necessity that information relating to proprietary
68 confidential business information and trade secrets under part
69 III of chapter 551, Florida Statutes, be made confidential and
70 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),



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71 Article I of the State Constitution. This exemption is necessary
72 to ensure that the best qualified applicants are not deterred
73 from applying for licenses by the prospect of the disclosure of
74 proprietary confidential business information and trade secrets.

75 (2) Part III of chapter 551, Florida Statutes, provides for
76 a competitive process for the award of a destination resort
77 license. The selection of the best qualified applicant for a
78 license is critical for the state to ensure that the state
79 receives the most economic benefits and greatest amount of tax
80 revenues in granting a resort license.

81 (3) (a) It is the finding of the Legislature that it is a
82 public necessity that information that would reveal
83 investigation techniques or procedures used by the Department of
84 Gaming Control pursuant to part III of chapter 551, Florida
85 Statutes, be made confidential and exempt from s. 119.07(1),
86 Florida Statutes, and s. 24(a), Article I of the State
87 Constitution. This exemption is necessary to ensure the
88 Department of Gaming Control's ability to effectively and
89 efficiently enforce compliance with part III of chapter 551,
90 Florida Statutes, which would be significantly impaired without
91 the exemption.

92 (b) Investigations are an essential component of gaming
93 regulation. The mere existence of an investigation program
94 fosters regulatory compliance and deters fraud and abuse by
95 industry participants. Investigations often detect violations in
96 their early stages. Early detection allows corrective action to
97 be taken before significant harm can be done to the state. Due
98 to the importance of such investigations, state regulators
99 devote extensive resources to devising effective investigation



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100 techniques and procedures.

101 (c) Allowing access to information revealing investigation
102 techniques or procedures would undermine the investigation
103 process and facilitate evasion of the law. Any advance notice of
104 the areas of inquiry to be explored during an examination might
105 prompt a person to conceal evidence of deficiencies or fabricate
106 evidence of compliance. Without the exemption, the Department of
107 Gaming Control's ability to uncover misconduct and evaluate
108 policies and procedures through the investigation process would
109 be significantly impaired.

110 (d) Additionally, without such an exemption, the Department
111 of Gaming Control's ability to participate in joint
112 investigations with other regulators would be impaired as
113 release of this information relating to investigations by other
114 regulators would compromise the integrity of such joint
115 investigations. The Department of Gaming Control also would not
116 be able to accept or use confidential examination techniques and
117 procedures developed by other regulators. Thus, the absence of
118 an exemption would create a situation that reduces the
119 Department of Gaming Control's ability to leverage its limited
120 resources.

121 Section 3. This act shall take effect on the same date that
122 SB 710 or similar legislation takes effect, if such legislation
123 is enacted in the same legislative session, or an extension
124 thereof, and becomes law, and only if this act is enacted by a
125 two-thirds vote of the membership of each house of the
126 Legislature.



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129 ===== T I T L E A M E N D M E N T =====

130 And the title is amended as follows:

131 Delete everything before the enacting clause

132 and insert:

133 A bill to be entitled

134 An act relating to public records; creating s.
135 551.303, F.S.; providing definitions; providing an
136 exemption from public records requirements for
137 confidential and proprietary business information and
138 trade secrets received by the Department of Gaming
139 Control; providing an exemption from public records
140 requirements for information held that would reveal
141 investigation techniques and procedures used by the
142 Department of Gaming Control; providing a definition;
143 providing an exception to the exemption for other
144 governmental entities having oversight or regulatory
145 or law enforcement authority; providing penalties for
146 an employee of the department who violates the
147 provisions of the act; providing for future review and
148 repeal of the exemption under the Open Government
149 Sunset Review Act; providing a statement of public
150 necessity; providing a contingent effective date.