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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.



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.