

By Senator Bogdanoff

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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 to
23 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

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

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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 or
67 procedures used by the State Gaming Commission pursuant to this
68 part is confidential and exempt from s. 119.07(1) and s. 24(a),
69 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 it
84 is a public necessity that information relating to proprietary
85 confidential business information and trade secrets under part
86 III of chapter 551, Florida Statutes, be made confidential and
87 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),

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

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

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

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

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

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

136 Section 3. This act shall take effect on the same date that
137 SB 710 or similar legislation takes effect, if such legislation
138 is enacted in the same legislative session, or an extension
139 thereof, and becomes law, and only if this act is enacted by a
140 two-thirds vote of the membership of each house of the
141 Legislature.