

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Fasano offered the following:

**Amendment (with title amendment)**

Remove lines 437-552 and insert:

Section 5. Section 112.31425, Florida Statutes, is created to read:

112.31425 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 will not be influenced or appear to be influenced by private considerations. Thus, it is the intent of the Legislature that the public policy goal of this state, which is to be achieved through reliance on a blind trust, be an actual

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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  
24 interest in a qualified blind trust as described in this  
25 section, he or she does not have a conflict of interest  
26 prohibited under s. 112.313(3) or (7) or a voting conflict of  
27 interest under s. 112.3143 with regard to matters pertaining to  
28 that economic 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, direct or indirect communication with respect to  
41 the trust may not occur between the covered public official or  
42 any person having a beneficial interest in the qualified blind

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43 trust and the trustee unless such communication is in writing  
44 and 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 an  
50 interest in maximizing income or long-term capital gain;

51 (c) The notification of the trustee of a law or regulation  
52 subsequently applicable to the covered public official which  
53 prohibits the covered official from holding an asset and which  
54 notification directs that such asset not be held by the trust;  
55 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 the  
62 beneficial interest in the qualified blind trust and its value  
63 as an asset on his or her financial disclosure forms if 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 any source of income to the blind  
69 trust as a secondary source of income.

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70 (7) In order to constitute a qualified blind trust under  
71 this section, the trust must be established by the covered  
72 public official and meet the following requirements:

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

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

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

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

83 (b) The trust agreement establishing the trust must:

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

89 2. Give the trustee complete discretion to manage the  
90 trust, including the power to dispose of and acquire trust  
91 assets without consulting or notifying the covered public  
92 official or any person having a beneficial interest in the  
93 trust.

94 3. Prohibit communication between the trustee and the  
95 covered public official and any person having a beneficial  
96 interest in the trust concerning the holdings or sources of  
97 income of the trust, except amounts of cash value or net income

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98 or loss if such report does not identify any asset or holding,  
99 and except as provided in this section.

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

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

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

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

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

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

124 (d) The trust must contain only readily marketable assets.

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125 (e) The trust must be approved by the commission if it  
126 meets the requirements of this section.

127 (8) A copy of the trust agreement must be filed with the  
128 commission within 5 business days after the agreement is  
129 executed and include:

130 (a) A listing of the assets placed in the trust.

131 (b) A statement detailing the date the agreement was  
132 executed.

133 (c) The name and address of the trustee.

134 (d) A separate statement signed by the trustee, under  
135 penalty of perjury, certifying that he or she will not reveal  
136 any information to the covered public official or any person  
137 having a beneficial interest in the qualified blind trust,  
138 except for information that is authorized under this section,  
139 and that, to the best of the trustee's knowledge, the submitted  
140 blind trust agreement complies with this section.

141 (9) If the trust is revoked while the covered public  
142 official is a public officer, or if the covered public official  
143 learns of any replacement assets that have been added to the  
144 trust, the covered public official must file an amendment to his  
145 or her most recent financial disclosure statement. The amendment  
146 must be filed within 60 days after the date of revocation or the  
147 addition of the replacement assets. The covered public official  
148 must disclose the previously unreported pro rata share of the  
149 trust's interests in investments or income deriving from any  
150 such investments. For purposes of this section, any replaced  
151 asset of which the covered public official learns must

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152 subsequently be treated as though the asset were an original  
153 asset of the trust.

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156 **T I T L E A M E N D M E N T**

157 Remove lines 25-44 and insert:  
158 its rules; creating s. 112.31425, F.S., pertaining to  
159 the establishment of qualified blind trusts for public  
160 officials; providing legislative findings and intent;  
161 defining terms; providing that if a covered public  
162 official holds an economic interest in a qualified  
163 blind trust, he or she does not have a conflict of  
164 interest that would otherwise be prohibited by law;  
165 prohibiting a covered public official from attempting  
166 to influence or exercise any control over decisions  
167 regarding the management of assets in a qualified  
168 blind trust; prohibiting direct or indirect  
169 communication between the covered public official or  
170 any person having a beneficial interest in the blind  
171 trust and the trustee; providing exemptions; requiring  
172 a covered public official to report as an asset on his  
173 or her financial disclosure forms the beneficial  
174 interest, and its value if required, which he or she  
175 has in the trust; specifying the required elements  
176 necessary to establish a qualified blind trust;  
177 specifying the required elements necessary to be a  
178 trustee; specifying the required elements in the trust  
179 agreement; providing that the trust is not effective

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180 unless approved by the Commission on Ethics; requiring  
181 that the trustee and the official observe the  
182 obligations of the trust agreement; providing that the  
183 trust contain only readily marketable assets;  
184 requiring that the trust agreement be filed with the  
185 commission within a specified time; providing for the  
186 filing of an amendment to a financial disclosure  
187 statement of a covered public official in specified  
188 circumstances; amending s. 112.3143, F.S.;