

Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Committee/Subcommittee hearing bill: Insurance & Banking
2 Subcommittee
3 Representative McBurney offered the following:
4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Section 662.148, Florida Statutes, is created
8 and assigned to part IV of chapter 662, Florida Statutes, as
9 created by HB 1267, 2014 Regular Session, to read:

10 662.148 Public records exemption; records relating to
11 family trust companies, licensed family trust companies, and
12 foreign licensed family trust companies.—

13 (1) PUBLIC RECORDS EXEMPTION.—The following information
14 held by the office is confidential and exempt from s. 119.07(1)
15 and s. 24(a), Art. I of the State Constitution:

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16 (a) Records relating to a registration, an application, or
17 an annual certification of a family trust company, licensed
18 family trust company, or foreign licensed family trust company.

19 (b) Records relating to an examination of a family trust
20 company, licensed family trust company, or foreign licensed
21 family trust company.

22 (c) Reports of examinations, operations, or conditions of
23 a family trust company, licensed family trust company, or
24 foreign licensed family trust company, including working papers.

25 (d) Any portion of a list of names of the shareholders or
26 members of a family trust company, licensed family trust
27 company, or foreign licensed family trust company.

28 (e) Information received by the office from a person from
29 another state or nation or the Federal Government which is
30 otherwise confidential or exempt pursuant to the laws of that
31 state or nation or pursuant to federal law.

32 (f) An emergency cease and desist order under s. 662.143
33 until the emergency order is made permanent unless the office
34 finds that such confidentiality will result in substantial risk
35 of financial loss to the public.

36 (2) DEFINITIONS.—As used in this section, the term:

37 (a) "Reports of examinations, operations, or conditions"
38 means records submitted to or prepared by the office as part of
39 the office's duties performed pursuant to s. 655.012 or s.
40 655.045(1).

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41 (b) "Working papers" means the records of the procedure
42 followed, the tests performed, the information obtained, and the
43 conclusions reached in an examination under s. 655.032 or s.
44 655.045. The term also includes books and records.

45 (3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT
46 INFORMATION.—Information made confidential and exempt under
47 subsection (1) may be disclosed by the office to:

48 (a) The authorized representative or representatives of
49 the family trust company, licensed family trust company, or
50 foreign licensed family trust company under examination. The
51 authorized representative or representatives shall be identified
52 in a resolution or by written consent of the board of directors,
53 if the trust company is a corporation, or of the managers, if
54 the trust company is a limited liability company.

55 (b) A fidelity insurance company, upon written consent of
56 the trust company's board of directors, if a corporation, or its
57 managers, if a limited liability company.

58 (c) An independent auditor, upon written consent of the
59 trust company's board of directors, if a corporation, or its
60 managers, if a limited liability company.

61 (d) A liquidator, receiver, or conservator for a family
62 trust company, licensed family trust company, or foreign
63 licensed family trust company in the event of the appointment of
64 the liquidator, receiver, or conservator. However, any portion
65 of the information which discloses the identity of a bondholder,
66 customer, family member, member, or stockholder must be redacted

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67 by the office before the release of such portion to the
68 liquidator, receiver, or conservator.

69 (e) Any other state, federal, or foreign agency
70 responsible for the regulation or supervision of family trust
71 companies, licensed family trust companies, or foreign licensed
72 family trust companies.

73 (f) A law enforcement agency in the furtherance of the
74 agency's official duties and responsibilities.

75 (4) PUBLICATION OF INFORMATION.—This section does not
76 prevent or restrict the publication of:

77 (a) A report required by federal law.

78 (b) The name of the family trust company, licensed family
79 trust company, or foreign licensed family trust company and the
80 name and address of the registered agent of that company.

81 (5) PENALTY.—A person who willfully discloses information
82 made confidential and exempt by this section commits a felony of
83 the third degree, punishable as provided in s. 775.082, s.
84 775.083, or s. 775.084.

85 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
86 to the Open Government Sunset Review Act in accordance with s.
87 119.15 and shall stand repealed on October 2, 2019, unless
88 reviewed and saved from repeal through reenactment by the
89 Legislature.

90 Section 2. Subsections (1) through (4) of section 662.147,
91 Florida Statutes, as created by HB 1267, 2014 Regular Session,

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92 are renumbered as subsections (3) through (6), respectively, and
93 new subsections (1) and (2) are added to that section to read:

94 662.147 Records relating to the office examination;
95 limited restrictions on public access.—

96 (1) The public records exemptions contained in s. 662.148
97 do not prevent or restrict the office from:

98 (a) Furnishing records or information to any other state,
99 federal, or foreign agency responsible for the regulation or
100 supervision of family trust companies, licensed family trust
101 companies, or foreign licensed family trust companies.

102 (b) Reporting any suspected criminal activity, with
103 supporting documents and information, to appropriate law
104 enforcement and prosecutorial agencies.

105 (2) Confidential records and information furnished
106 pursuant to a legislative subpoena shall be kept confidential by
107 the legislative body or committee that received the records or
108 information, except in a case involving the investigation of
109 charges against a public official subject to impeachment or
110 removal, in which case disclosure of the information shall be
111 only to the extent necessary as determined by the legislative
112 body or committee.

113 Section 3. Paragraphs (d), (e), and (f) of subsection (1)
114 of section 662.146, Florida Statutes, as created by HB 1267,
115 2014 Regular Session, are redesignated as paragraphs (e), (f),
116 and (g), respectively, and a new paragraph (d) is added to that
117 subsection to read:

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118 662.146 Confidentiality of books and records.—

119 (1) The books and records of a family trust company,
120 licensed family trust company, and foreign licensed family trust
121 company are confidential and shall be made available for
122 inspection and examination only:

123 (d) As compelled by legislative subpoena as provided by
124 law, in which case s. 662.147 applies;

125 Section 4. The Legislature finds that it is a public
126 necessity that records held by the Office of Financial
127 Regulation which pertain to a family trust company, licensed
128 family trust company, or foreign licensed family trust company
129 relating to registration or certification; an examination;
130 reports of examinations, operations, or conditions, including
131 working papers; any portion of a list of the names of
132 shareholders or members; information received by the Office of
133 Financial Regulation from a person from another state or nation
134 or the Federal Government which is otherwise confidential or
135 exempt pursuant to the laws of that jurisdiction; or an
136 emergency cease and desist order be made confidential and exempt
137 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
138 the State Constitution. This exemption is necessary because:

139 (1) No public interest is served by granting public access
140 to family trust company records, and no protection is afforded
141 to the public or the state by allowing public access to private
142 financial records. Additionally, a family trust company is

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143 prohibited from serving or marketing its services to the general
144 public in any way; therefore, no public interests are involved.

145 (2) Families with a high net worth are frequently the
146 targets of criminal predators seeking access to their assets. It
147 is important that the exposure of such families to threats of
148 extortion, kidnapping, and other crimes not be increased.

149 Placing family business records and methodologies in the public
150 domain would increase the security risk that a family could
151 become the target of criminal activity.

152 (3) Family trust companies often provide a consolidated
153 structure for the ownership of an operating business owned by
154 multiple family members. Placing those private business
155 operations and methods in the public domain could jeopardize
156 their business assets, methodologies, and practices.

157 Section 5. This act shall take effect on the same date
158 that HB 1267 or similar legislation takes effect, if such
159 legislation is adopted in the same legislative session or an
160 extension thereof and becomes law.

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

164 Remove everything before the enacting clause and insert:

165 A bill to be entitled

166 An act relating to public records; creating s.

167 662.148, F.S.; providing an exemption from public

168 records requirements for certain information held by

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169 the Office of Financial Regulation relating to a
170 family trust company, licensed family trust company,
171 or foreign licensed family trust company; providing
172 definitions; providing for the authorized release of
173 certain information by the office; permitting the
174 publication of certain information; providing a
175 penalty; providing for future legislative review and
176 repeal of the exemption; amending s. 662.147, F.S.;
177 providing for additional authorized release of certain
178 information by the office; providing for production of
179 confidential records pursuant to legislative
180 subpoenas; providing an exemption from public records
181 requirements for an emergency order; providing an
182 exception; conforming provisions to changes made by
183 the act; amending s. 662.146, F.S.; providing for
184 production of certain confidential records pursuant to
185 legislative subpoenas; providing a statement of public
186 necessity; providing a contingent effective date.