

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 662.148, F.S.; providing definitions; providing an
 4 exemption from public records requirements for certain
 5 information held by the Office of Financial Regulation
 6 relating to a family trust company, licensed family
 7 trust company, or foreign licensed family trust
 8 company; providing for the authorized release of
 9 certain information by the office; authorizing the
 10 publication of certain information; providing a
 11 penalty; providing for future legislative review and
 12 repeal of the exemption; providing a statement of
 13 public necessity; providing a contingent effective
 14 date.

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 16 Be It Enacted by the Legislature of the State of Florida:

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

21 662.148 Public records exemption; records relating to
 22 family trust companies, licensed family trust companies, and
 23 foreign licensed family trust companies.-

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

25 (a) "Reports of examinations, operations, or conditions"
 26 means records submitted to or prepared by the office as part of

27 the office's duties performed pursuant to s. 655.012 or s.
 28 655.045(1).

29 (b) "Working papers" means the records of the procedure
 30 followed, the tests performed, the information obtained, and the
 31 conclusions reached in an examination under s. 655.032 or s.
 32 655.045. The term also includes books and records.

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

36 (a) Records relating to a registration, an application, or
 37 an annual certification of a family trust company, licensed
 38 family trust company, or foreign licensed family trust company.

39 (b) Records relating to an examination of a family trust
 40 company, licensed family trust company, or foreign licensed
 41 family trust company.

42 (c) Reports of examinations, operations, or conditions of
 43 a family trust company, licensed family trust company, or
 44 foreign licensed family trust company, including working papers.

45 (d) Any portion of a list of names of the shareholders or
 46 members of a family trust company, licensed family trust
 47 company, or foreign licensed family trust company.

48 (e) Information received by the office from a person from
 49 another state or nation or the Federal Government which is
 50 otherwise confidential or exempt pursuant to the laws of that
 51 state or nation or pursuant to federal law.

52 (f) An emergency cease and desist order under s. 662.143

53 until the emergency order is made permanent unless the office
54 finds that such confidentiality will result in substantial risk
55 of financial loss to the public.

56 (3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT
57 INFORMATION.—Information made confidential and exempt under
58 subsection (2) may be disclosed by the office:

59 (a) To the authorized representative or representatives of
60 the family trust company, licensed family trust company, or
61 foreign licensed family trust company under examination. The
62 authorized representative or representatives shall be identified
63 in a resolution or by written consent of the board of directors,
64 if the trust company is a corporation, or of the managers, if
65 the trust company is a limited liability company.

66 (b) To a fidelity insurance company, upon written consent
67 of the trust company's board of directors, if a corporation, or
68 its managers, if a limited liability company.

69 (c) To an independent auditor, upon written consent of the
70 trust company's board of directors, if a corporation, or its
71 managers, if a limited liability company.

72 (d) To a liquidator, receiver, or conservator for a family
73 trust company, licensed family trust company, or foreign
74 licensed family trust company in the event of the appointment of
75 the liquidator, receiver, or conservator. However, any portion
76 of the information which discloses the identity of a bondholder,
77 customer, family member, member, or stockholder must be redacted
78 by the office before the release of such portion to the

79 liquidator, receiver, or conservator.

80 (e) To any other state, federal, or foreign agency
 81 responsible for the regulation or supervision of family trust
 82 companies, licensed family trust companies, or foreign licensed
 83 family trust companies.

84 (f) To a law enforcement agency in the furtherance of the
 85 agency's official duties and responsibilities.

86 (g) To the appropriate law enforcement or prosecutorial
 87 agency for the purpose of reporting any suspected criminal
 88 activity.

89 (h) Pursuant to a legislative subpoena. A legislative body
 90 or committee that receives records or information pursuant to
 91 such a subpoena must maintain the confidential status of such
 92 records or information, except in a case involving the
 93 investigation of charges against a public official subject to
 94 impeachment or removal, in which case records or information
 95 shall only be disclosed to the extent necessary as determined by
 96 such legislative body or committee.

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

99 (a) A report required by federal law.

100 (b) The name of the family trust company, licensed family
 101 trust company, or foreign licensed family trust company and the
 102 name and address of the registered agent of that company.

103 (5) PENALTY.—A person who willfully discloses information
 104 made confidential and exempt by this section commits a felony of

105 the third degree, punishable as provided in s. 775.082, s.
106 775.083, or s. 775.084.

107 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
108 to the Open Government Sunset Review Act in accordance with s.
109 119.15 and shall stand repealed on October 2, 2019, unless
110 reviewed and saved from repeal through reenactment by the
111 Legislature.

112 Section 2. The Legislature finds that it is a public
113 necessity that records held by the Office of Financial
114 Regulation which pertain to a family trust company, licensed
115 family trust company, or foreign licensed family trust company
116 relating to registration or certification; an examination;
117 reports of examinations, operations, or conditions, including
118 working papers; any portion of a list of the names of
119 shareholders or members; information received by the Office of
120 Financial Regulation from a person from another state or nation
121 or the Federal Government which is otherwise confidential or
122 exempt pursuant to the laws of that jurisdiction; or an
123 emergency cease and desist order be made confidential and exempt
124 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
125 the State Constitution. This exemption is necessary because:

126 (1) No public interest is served by granting public access
127 to family trust company records, and no protection is afforded
128 to the public or the state by allowing public access to private
129 financial records. Additionally, a family trust company is
130 prohibited from serving or marketing its services to the general

131 public in any way; therefore, no public interests are involved.

132 (2) Families with a high net worth are frequently the
133 targets of criminal predators seeking access to their assets. It
134 is important that the exposure of such families to threats of
135 extortion, kidnapping, and other crimes not be increased.
136 Placing family business records and methodologies in the public
137 domain would increase the security risk that a family could
138 become the target of criminal activity.

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

144 Section 3. This act shall take effect on the same date
145 that HB 1267 or similar legislation takes effect, if such
146 legislation is adopted in the same legislative session or an
147 extension thereof and becomes law.