



756996

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2014	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Hays) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 662.148, Florida Statutes, is created
and incorporated into chapter 662, Florida Statutes, as created
by SB 1238, 2014 Regular Session, to read:

662.148 Public records exemption.—

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

(a) "Reports of examinations, operations, or conditions"



756996

11 means records submitted to or prepared by the office as part of
12 the office's duties performed pursuant to s. 655.012 or s.
13 655.045(1).

14 (b) "Working papers" means the records of the procedure
15 followed, the tests performed, the information obtained, and the
16 conclusions reached in an examination under s. 655.032 or s.
17 655.045. The term also includes books and records.

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

21 (a) Any personal identifying information appearing in
22 records relating to a registration, an application, or an annual
23 certification of a family trust company, licensed family trust
24 company, or foreign licensed family trust company.

25 (b) Any personal identifying information appearing in
26 records relating to an examination of a family trust company,
27 licensed family trust company, or foreign licensed family trust
28 company.

29 (c) Any personal identifying information appearing in
30 reports of examinations, operations, or conditions of a family
31 trust company, licensed family trust company, or foreign
32 licensed family trust company, including working papers.

33 (d) Any portion of a list of names of the shareholders or
34 members of a family trust company, licensed family trust
35 company, or foreign licensed family trust company.

36 (e) Information received by the office from a person from
37 another state or nation or the Federal Government which is
38 otherwise confidential or exempt pursuant to the laws of that
39 state or nation or pursuant to federal law.



756996

40 (f) An emergency cease and desist order issued under s.
41 662.143 until the emergency order is made permanent unless the
42 office finds that such confidentiality will result in
43 substantial risk of financial loss to the public.

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

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

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

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

60 (d) To a liquidator, receiver, or conservator for a family
61 trust company, licensed family trust company, or foreign
62 licensed family trust company if a liquidator, receiver, or
63 conservator is appointed. However, any portion of the
64 information which discloses the identity of a bondholder,
65 customer, family member, member, or stockholder must be redacted
66 by the office before releasing such portion to the liquidator,
67 receiver, or conservator.

68 (e) To any other state, federal, or foreign agency



756996

69 responsible for the regulation or supervision of family trust
70 companies, licensed family trust companies, or foreign licensed
71 family trust companies.

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

74 (g) To the appropriate law enforcement or prosecutorial
75 agency for the purpose of reporting any suspected criminal
76 activity.

77 (h) Pursuant to a legislative subpoena. A legislative body
78 or committee that receives records or information pursuant to
79 such a subpoena must maintain the confidential status of such
80 records or information, except in a case involving the
81 investigation of charges against a public official subject to
82 impeachment or removal, in which case records or information
83 shall only be disclosed to the extent necessary as determined by
84 such legislative body or committee.

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

87 (a) A report required by federal law.

88 (b) The name of the family trust company, licensed family
89 trust company, or foreign licensed family trust company and the
90 name and address of the registered agent of that company.

91 (5) PENALTY.—A person who willfully discloses information
92 made confidential and exempt by this section commits a felony of
93 the third degree, punishable as provided in s. 775.082, s.
94 775.083, or s. 775.084.

95 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
96 to the Open Government Sunset Review Act in accordance with s.
97 119.15 and is repealed on October 2, 2019, unless reviewed and



756996

98 saved from repeal through reenactment by the Legislature.

99 Section 2. The Legislature finds that it is a public
100 necessity that personal identifying information contained in
101 records held by the Office of Financial Regulation which pertain
102 to a family trust company, licensed family trust company, or
103 foreign licensed family trust company relating to registration
104 or certification; an examination; reports of examinations,
105 operations, or conditions, including working papers; any portion
106 of a list of the names of shareholders or members; information
107 received by the Office of Financial Regulation from a person
108 from another state or nation or the Federal Government which is
109 otherwise confidential or exempt pursuant to the laws of that
110 jurisdiction; or an emergency cease and desist order be made
111 confidential and exempt from s. 119.07(1), Florida Statutes, and
112 s. 24(a), Article I of the State Constitution. This exemption is
113 necessary because:

114 (1) Financial information and lists of names of family
115 members, qualified participants, and shareholders, if available
116 for public access could jeopardize the financial safety of the
117 family members who are the subject of the information. Families
118 with a high net worth are frequently the targets of criminal
119 predators seeking access to their assets. It is important that
120 the exposure of such families and family members to threats of
121 extortion, kidnapping, and other crimes not be increased.
122 Placing family names, private family business records and
123 methodologies into the public domain would increase the security
124 risk that a family could become the target of criminal activity.

125 (2) Public disclosure of an examination, report of
126 examination, or emergency cease and desist order could expose



756996

127 families to security risks, and could defame or cause
128 unwarranted damage to the good name or reputation of the family
129 that is the subject of the information.

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

135 Section 3. This act shall take effect on the same date that
136 SB 1238 or similar legislation takes effect, if such legislation
137 is adopted in the same legislative session or an extension
138 thereof and becomes law.

139
140 ===== T I T L E A M E N D M E N T =====

141 And the title is amended as follows:

142 Delete everything before the enacting clause
143 and insert:

144 A bill to be entitled
145 An act relating to public records; creating s.
146 662.148, F.S.; providing definitions; providing an
147 exemption from public records requirements for certain
148 information held by the Office of Financial Regulation
149 relating to a family trust company, licensed family
150 trust company, or foreign licensed family trust
151 company; providing for the authorized release of
152 certain information by the office; authorizing the
153 publication of certain information; providing a
154 penalty; providing for future legislative review and
155 repeal of the exemption; providing a statement of



756996

156
157

public necessity; providing a contingent effective
date.