

By Senator Richter

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1                   A bill to be entitled  
2       An act relating to public records; creating s.  
3       662.148, F.S.; providing an exemption from public  
4       records requirements for certain information held by  
5       the Office of Financial Regulation relating to a  
6       family trust company, licensed family trust company,  
7       or foreign licensed family trust company; providing  
8       for the authorized release of certain information by  
9       the office; permitting the publication of certain  
10      information; providing a penalty; providing for future  
11      legislative review and repeal of the exemption;  
12      amending ss. 662.146 and 662.147, F.S.; providing for  
13      additional authorized release of certain information  
14      by the office; providing for production of  
15      confidential records pursuant to court orders, orders  
16      by administrative law judges, and legislative  
17      subpoenas; conforming provisions to changes made by  
18      the act; providing a statement of public necessity;  
19      providing a contingent effective date.

20  
21 Be It Enacted by the Legislature of the State of Florida:

22  
23       Section 1. Section 662.148, Florida Statutes, is created  
24      and assigned to part IV of chapter 662, Florida Statutes, as  
25      created by SB \_\_\_\_, 2014 Regular Session, to read:

26       662.148 Public records exemption; records relating to  
27      family trust companies, licensed family trust companies, and  
28      foreign licensed family trust companies.-

29       (1) PUBLIC RECORDS EXEMPTION.-The following information

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30 held by the Office of Financial Regulation is confidential and  
31 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
32 Constitution:

33 (a) All records relating to a registration, an application,  
34 or an annual certification of a family trust company, licensed  
35 family trust company, or foreign licensed family trust company.

36 (b) All records relating to an examination of a family  
37 trust company, licensed family trust company, or foreign  
38 licensed family trust company.

39 (c) Reports of examinations, operations, or conditions of a  
40 family trust company, licensed family trust company, or foreign  
41 licensed family trust company, including working papers.

42 (d) Any portion of a list of names of the shareholders or  
43 members of a family trust company, licensed family trust  
44 company, or foreign licensed family trust company.

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

49 (2) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT  
50 INFORMATION.-Information made confidential and exempt under  
51 subsection (1) may be disclosed by the Office of Financial  
52 Regulation to:

53 (a) The authorized representative or representatives of the  
54 family trust company, licensed family trust company, or foreign  
55 licensed family trust company under examination. The authorized  
56 representative or representatives shall be identified in a  
57 resolution or by written consent of the board of directors, if  
58 the trust company is a corporation, or of the managers, if the

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59 trust company is a limited liability company.

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

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

66 (d) A liquidator, receiver, or conservator for a family  
67 trust company, licensed family trust company, or foreign  
68 licensed family trust company in the event of the appointment of  
69 the liquidator, receiver, or conservator. However, any portion  
70 of the information which discloses the identity of a bondholder,  
71 customer, family member, member, or stockholder must be redacted  
72 by the Office of Financial Regulation before the release of such  
73 portion to the liquidator, receiver, or conservator.

74 (e) Any other state, federal, or foreign agency responsible  
75 for the regulation or supervision of family trust companies,  
76 licensed family trust companies, or foreign licensed family  
77 trust companies.

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

80 (3) PUBLICATION OF INFORMATION.—This section does not  
81 prevent or restrict the publication of:

82 (a) A report required by federal law.

83 (b) The name of the family trust company, licensed family  
84 trust company, or foreign licensed family trust company and the  
85 name and address of the registered agent of that company.

86 (4) PENALTY.—A person who willfully discloses information  
87 made confidential and exempt by this section commits a felony of

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88 the third degree, punishable as provided in s. 775.082, s.  
89 775.083, or s. 775.084.

90 (5) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject  
91 to the Open Government Sunset Review Act in accordance with s.  
92 119.15 and shall stand repealed on October 2, 2019, unless  
93 reviewed and saved from repeal through reenactment by the  
94 Legislature.

95 Section 2. Paragraphs (d), (e), and (f) of subsection (1)  
96 of section 662.146, Florida Statutes, as created by SB \_\_\_\_,  
97 2014 Regular Session, are redesignated as paragraphs (e), (f),  
98 and (g), respectively, and a new paragraph (d) is added to that  
99 subsection, to read:

100 662.146 Confidentiality of books and records.—

101 (1) The books and records of a family trust company,  
102 licensed family trust company, and foreign licensed family trust  
103 company are confidential and shall be made available for  
104 inspection and examination only:

105 (d) As compelled by legislative subpoena as provided by  
106 law, in which case s. 662.47 applies;

107 Section 3. Subsections (1), (2), and (3) of section  
108 662.147, Florida Statutes, as created by SB \_\_\_\_, 2014 Regular  
109 Session, are renumbered as subsections (3), (4), and (5),  
110 respectively, and new subsections (1) and (2) are added to that  
111 section, to read:

112 662.147 Records relating to the office examination; limited  
113 restrictions on public access.—

114 (1) The public records exemptions contained in s. 662.148  
115 do not prevent or restrict the Office of Financial Regulation  
116 from:

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117 (a) Furnishing records or information to any other state,  
118 federal, or foreign agency responsible for the regulation or  
119 supervision of family trust companies, licensed family trust  
120 companies, or foreign licensed family trust companies.

121 (b) Reporting any suspected criminal activity, with  
122 supporting documents and information, to appropriate law  
123 enforcement and prosecutorial agencies.

124 (2) (a) Orders issued by courts or administrative law judges  
125 for the production of confidential records or information must  
126 provide for inspection in camera by the court or the  
127 administrative law judge. If the court or administrative law  
128 judge determines that the documents requested are relevant or  
129 would likely lead to the discovery of admissible evidence, the  
130 documents shall be subject to further orders by the court or the  
131 administrative law judge to protect the confidentiality thereof.  
132 An order directing the release of information shall be  
133 immediately reviewable, and a petition by the office for review  
134 of the order shall automatically stay any further proceedings in  
135 the trial court or the administrative hearing until the  
136 disposition of the petition by the reviewing court. If any other  
137 party files a petition for review, it will operate as a stay of  
138 the proceedings only upon order of the reviewing court.

139 (b) Confidential records and information furnished pursuant  
140 to a legislative subpoena shall be kept confidential by the  
141 legislative body or committee that received the records or  
142 information, except in a case involving the investigation of  
143 charges against a public official subject to impeachment or  
144 removal, in which case disclosure of the information shall be  
145 only to the extent necessary as determined by the legislative

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146 body or committee.

147 Section 4. The Legislature finds that it is a public  
148 necessity that records held by the Office of Financial  
149 Regulation which pertain to a family trust company, licensed  
150 family trust company, or foreign licensed family trust company  
151 relating to registration or certification; an examination;  
152 reports of examinations, operations, or conditions, including  
153 working papers; any portion of a list of the names of  
154 shareholders or members; or information received by the Office  
155 of Financial Regulation from a person from another state or  
156 nation or the Federal Government which is otherwise confidential  
157 or exempt pursuant to the laws of that jurisdiction be made  
158 confidential and exempt from s. 119.07(1), Florida Statutes, and  
159 s. 24(a), Article I of the State Constitution. This exemption is  
160 necessary because:

161 (1) No public interest is served by granting public access  
162 to family trust company records, and no protection is afforded  
163 to the public or the state by allowing public access to private  
164 financial records. Additionally, a family trust company is  
165 prohibited from serving or marketing its services to the general  
166 public in any way; therefore, no public interests are involved.

167 (2) Families with a high net worth are frequently the  
168 targets of criminal predators seeking access to their assets. It  
169 is important that the exposure of such families to threats of  
170 extortion, kidnapping, and other crimes not be increased.  
171 Placing family business records and methodologies in the public  
172 domain would increase the security risk that a family could  
173 become the target of criminal activity.

174 (3) Family trust companies often provide a consolidated

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175 structure for the ownership of an operating business owned by  
176 multiple family members. Placing those private business  
177 operations and methods in the public domain could jeopardize  
178 their business assets, methodologies, and practices.

179       Section 5. This act shall take effect on the same date that  
180 SB \_\_\_\_ or similar legislation takes effect, if such legislation  
181 is adopted in the same legislative session or an extension  
182 thereof and becomes a law.