

By the Committee on Banking and Insurance; and 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           definitions; 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; amending s. 662.147, F.S.;  
13          providing for additional authorized release of certain  
14          information by the office; providing for production of  
15          certain confidential records pursuant to legislative  
16          subpoenas; amending s. 662.146, F.S.; providing for  
17          production of certain confidential records pursuant to  
18          legislative subpoenas; providing a statement of public  
19          necessity; 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 1238, 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 is confidential and exempt from s. 119.07(1)  
31 and s. 24(a), Art. I of the State Constitution:

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

35 (b) Records relating to an examination of a family trust  
36 company, licensed family trust company, or foreign licensed  
37 family trust company.

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

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

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

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

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

53 (a) "Reports of examinations, operations, or conditions"  
54 means records submitted to or prepared by the office as part of  
55 the office's duties performed pursuant to s. 655.012 or s.  
56 655.045(1).

57 (b) "Working papers" means the records of the procedure  
58 followed, the tests performed, the information obtained, and the

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59 conclusions reached in an examination under s. 655.032 or s.  
60 655.045. The term also includes books and records.

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

64 (a) The authorized representative or representatives of the  
65 family trust company, licensed family trust company, or foreign  
66 licensed family trust company under examination. The authorized  
67 representative or representatives shall be identified in a  
68 resolution or by written consent of the board of directors, if  
69 the trust company is a corporation, or of the managers, if the  
70 trust company is a limited liability company.

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

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

77 (d) A liquidator, receiver, or conservator for a family  
78 trust company, licensed family trust company, or foreign  
79 licensed family trust company in the event of the appointment of  
80 the liquidator, receiver, or conservator. However, any portion  
81 of the information which discloses the identity of a bondholder,  
82 customer, family member, member, or stockholder must be redacted  
83 by the office before the release of such portion to the  
84 liquidator, receiver, or conservator.

85 (e) Any other state, federal, or foreign agency responsible  
86 for the regulation or supervision of family trust companies,  
87 licensed family trust companies, or foreign licensed family

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88 trust companies.

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

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

93 (a) A report required by federal law.

94 (b) The name of the family trust company, licensed family  
95 trust company, or foreign licensed family trust company and the  
96 name and address of the registered agent of that company.

97 (5) PENALTY.—A person who willfully discloses information  
98 made confidential and exempt by this section commits a felony of  
99 the third degree, punishable as provided in s. 775.082, s.  
100 775.083, or s. 775.084.

101 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject  
102 to the Open Government Sunset Review Act in accordance with s.  
103 119.15 and shall stand repealed on October 2, 2019, unless  
104 reviewed and saved from repeal through reenactment by the  
105 Legislature.

106 Section 2. Subsections (1) through (4) of section 662.147,  
107 Florida Statutes, as created by SB 1238, 2014 Regular Session,  
108 are renumbered as subsections (3) through (6), respectively, and  
109 new subsections (1) and (2) are added to that section, to read:

110 662.147 Records relating to the office examination; limited  
111 restrictions on public access.—

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

114 (a) Furnishing records or information to any other state,  
115 federal, or foreign agency responsible for the regulation or  
116 supervision of family trust companies, licensed family trust

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117 companies, or foreign licensed family trust companies.

118 (b) Reporting any suspected criminal activity, with  
119 supporting documents and information, to appropriate law  
120 enforcement and prosecutorial agencies.

121 (2) Confidential records and information furnished pursuant  
122 to a legislative subpoena shall be kept confidential by the  
123 legislative body or committee that received the records or  
124 information, except in a case involving the investigation of  
125 charges against a public official subject to impeachment or  
126 removal, in which case disclosure of the information shall be  
127 only to the extent necessary as determined by the legislative  
128 body or committee.

129 Section 3. Paragraphs (d), (e), and (f) of subsection (1)  
130 of section 662.146, Florida Statutes, as created by SB 1238,  
131 2014 Regular Session, are redesignated as paragraphs (e), (f),  
132 and (g), respectively, and a new paragraph (d) is added to that  
133 subsection, to read:

134 662.146 Confidentiality of books and records.—

135 (1) The books and records of a family trust company,  
136 licensed family trust company, and foreign licensed family trust  
137 company are confidential and shall be made available for  
138 inspection and examination only:

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

141 Section 4. The Legislature finds that it is a public  
142 necessity that records held by the Office of Financial  
143 Regulation which pertain to a family trust company, licensed  
144 family trust company, or foreign licensed family trust company  
145 relating to registration or certification; an examination;

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146 reports of examinations, operations, or conditions, including  
147 working papers; any portion of a list of the names of  
148 shareholders or members; information received by the Office of  
149 Financial Regulation from a person from another state or nation  
150 or the Federal Government which is otherwise confidential or  
151 exempt pursuant to the laws of that jurisdiction; or an  
152 emergency cease and desist order be made confidential and exempt  
153 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of  
154 the State Constitution. This exemption is necessary because:

155 (1) No public interest is served by granting public access  
156 to family trust company records, and no protection is afforded  
157 to the public or the state by allowing public access to private  
158 financial records. Additionally, a family trust company is  
159 prohibited from serving or marketing its services to the general  
160 public in any way; therefore, no public interests are involved.

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

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

173 Section 5. This act shall take effect on the same date that  
174 SB 1238 or similar legislation takes effect, if such legislation

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175 is adopted in the same legislative session or an extension  
176 thereof and becomes law.