

By the Committees on Governmental Oversight and Accountability;
and Banking and Insurance; and Senator Richter

585-04184-14

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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 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 incorporated into chapter 662, Florida Statutes, as created
20 by SB 1238, 2014 Regular Session, to read:

21 662.148 Public records exemption.-

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

23 (a) "Reports of examinations, operations, or conditions"
24 means records submitted to or prepared by the office as part of
25 the office's duties performed pursuant to s. 655.012 or s.
26 655.045(1).

27 (b) "Working papers" means the records of the procedure
28 followed, the tests performed, the information obtained, and the
29 conclusions reached in an examination under s. 655.032 or s.

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30 655.045. The term also includes books and records.

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

34 (a) Any personal identifying information appearing in
35 records relating to a registration, an application, or an annual
36 certification of a family trust company, licensed family trust
37 company, or foreign licensed family trust company.

38 (b) Any personal identifying information appearing in
39 records relating to an examination of a family trust company,
40 licensed family trust company, or foreign licensed family trust
41 company.

42 (c) Any personal identifying information appearing in
43 reports of examinations, operations, or conditions of a family
44 trust company, licensed family trust company, or foreign
45 licensed family trust company, including working papers.

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

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

53 (f) An emergency cease and desist order issued under s.
54 662.143 until the emergency order is made permanent unless the
55 office finds that such confidentiality will result in
56 substantial risk of financial loss to the public.

57 (3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT
58 INFORMATION.—Information made confidential and exempt under

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59 subsection (2) may be disclosed by the office:

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

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

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

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

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

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

87 (g) To the appropriate law enforcement or prosecutorial

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88 agency for the purpose of reporting any suspected criminal
89 activity.

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

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

100 (a) A report required by federal law.

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

104 (5) PENALTY.—A person who willfully discloses information
105 made confidential and exempt by this section commits a felony of
106 the third degree, punishable as provided in s. 775.082, s.
107 775.083, or s. 775.084.

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

112 Section 2. The Legislature finds that it is a public
113 necessity that personal identifying information contained in
114 records held by the Office of Financial Regulation which pertain
115 to a family trust company, licensed family trust company, or
116 foreign licensed family trust company relating to registration

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117 or certification; an examination; reports of examinations,
118 operations, or conditions, including working papers; any portion
119 of a list of the names of shareholders or members; information
120 received by the Office of Financial Regulation from a person
121 from another state or nation or the Federal Government which is
122 otherwise confidential or exempt pursuant to the laws of that
123 jurisdiction; or an emergency cease and desist order be made
124 confidential and exempt from s. 119.07(1), Florida Statutes, and
125 s. 24(a), Article I of the State Constitution. This exemption is
126 necessary because:

127 (1) Financial information and lists of names of family
128 members, qualified participants, and shareholders, if available
129 for public access could jeopardize the financial safety of the
130 family members who are the subject of the information. Families
131 with a high net worth are frequently the targets of criminal
132 predators seeking access to their assets. It is important that
133 the exposure of such families and family members to threats of
134 extortion, kidnapping, and other crimes not be increased.
135 Placing family names, private family business records and
136 methodologies into the public domain would increase the security
137 risk that a family could become the target of criminal activity.

138 (2) Public disclosure of an examination, report of
139 examination, or emergency cease and desist order could expose
140 families to security risks, and could defame or cause
141 unwarranted damage to the good name or reputation of the family
142 that is the subject of the information.

143 (3) Family trust companies often provide a consolidated
144 structure for the ownership of an operating business owned by
145 multiple family members. Placing those private business

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146 operations and methods in the public domain could jeopardize
147 their business assets, methodologies, and practices.

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