



187568

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/16/2016	.	
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The Committee on Governmental Oversight and Accountability
(Ring) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 663.097, Florida Statutes, is created to
read:

663.097 Public records exemption.-

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

(a) "Reports or investigations" means records submitted to
or prepared by the office as part of the office's duties



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11 performed pursuant to s. 663.045, s. 663.046, or s. 663.09.

12 (b) "Working papers" means the records of the procedure
13 followed, the tests performed, the information obtained, and the
14 conclusions reached in an investigation under s. 663.045, s.
15 663.046, or s. 663.09. The term also includes books and records.

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

19 (a) All records and information appearing in reports or
20 investigations, records, or working papers of a limited purpose
21 international trust company representative office, until such
22 investigation is completed or ceases to be active. For purposes
23 of this paragraph, an investigation is considered active while
24 such investigation is being conducted by the office with a
25 reasonable and good faith belief that it may lead to the
26 initiation of administrative or criminal proceedings. An
27 investigation does not cease to be active if the office is
28 proceeding with reasonable dispatch and there is a good faith
29 belief that action may be initiated by the office or other
30 administrative or law enforcement agency. After an investigation
31 is completed or ceases to be active, portions of the records,
32 reports, or investigation, including working papers, are
33 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
34 of the State Constitution to the extent that disclosure would:

- 35 1. Jeopardize the integrity of another active
36 investigation;
37 2. Reveal personal financial information;
38 3. Reveal the identity of a confidential source;
39 4. Defame or cause unwarranted damage to the good name or



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40 reputation of an individual or jeopardize the safety of an
41 individual; or

42 5. Reveal investigative techniques or procedures.

43 (b) Any personal identifying information of the clients of
44 a limited purpose international trust company representative
45 office.

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

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

53 (a) To the authorized representative or representatives of
54 the limited purpose international trust company representative
55 office that is the subject of a report or investigation. The
56 authorized representative or representatives shall be identified
57 in a resolution or by written consent of the board of directors
58 if the limited purpose international trust company
59 representative office is a corporation, or of the managers if
60 the limited purpose international trust company representative
61 office is a limited liability company.

62 (b) To a fidelity insurance company or liability insurer,
63 upon written consent of the limited purpose international trust
64 company representative office's board of directors if a
65 corporation, or of its managers if a limited liability company.

66 (c) To an independent auditor.

67 (d) To a liquidator, receiver, or conservator for a limited
68 purpose international trust company representative office if a



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69 liquidator, receiver, or conservator is appointed.

70 (e) To another governmental entity in the furtherance of
71 that entity's official duties and responsibilities.

72 (f) Pursuant to a legislative subpoena. A legislative body
73 or committee that receives records or information pursuant to a
74 subpoena must maintain the confidential status of such records
75 or information, except in a case involving the investigation of
76 charges against a public official subject to impeachment or
77 removal, in which case records or information may be disclosed
78 only to the extent necessary as determined by the legislative
79 body or committee.

80 (g) Pursuant to federal law.

81 (4) PUBLICATION OF INFORMATION.—Notwithstanding any
82 provision to the contrary, this section does not make
83 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
84 of the State Constitution:

85 (a) The name of the limited purpose international trust
86 company representative office or any affiliated international
87 trust company.

88 (b) The name and business address of the directors,
89 managers, officers, or registered agent of the limited purpose
90 international trust company representative office or any
91 affiliated international trust company.

92 (c) Personal identifying information that is already in the
93 public domain about the directors, officers, managers, or
94 persons who own or control, directly or indirectly, more than 25
95 percent of the voting stock or nonvoting stock that is
96 convertible to voting stock of the limited purpose international
97 trust company representative office.



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98 (5) PENALTY.—A person who willfully discloses information
99 made confidential and exempt by this section commits a felony of
100 the third degree, punishable as provided in s. 775.082, s.
101 775.083, or s. 775.084.

102 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
103 to the Open Government Sunset Review Act in accordance with s.
104 119.15 and shall stand repealed on October 2, 2021, unless
105 reviewed and saved from repeal through reenactment by the
106 Legislature.

107 Section 2. (1) The Legislature finds that it is a public
108 necessity that the following information in records related to a
109 limited purpose internal trust company representative office
110 held by the Office of Financial Regulation be confidential and
111 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
112 Article I of the State Constitution: records and information in
113 reports or investigations, records, or working papers, by the
114 Office of Financial Regulation of a limited purpose
115 international trust company representative office; personal
116 identifying information of the clients of a limited purpose
117 international trust company representative office; and
118 information received by the Office of Financial Regulation from
119 a person from another state or country or the Federal Government
120 which is otherwise confidential or exempt pursuant to the laws
121 of that state or country or pursuant to federal law.

122 (2) The Office of Financial Regulation's regulatory
123 authority over registered limited purpose international trust
124 company representative offices requires the Office of Financial
125 Regulation to investigate information submitted to determine
126 whether the applicant has met the requirements for registration



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127 or renewal, including information about the directors, officers,
128 and certain employees of an international trust company
129 representative office. Such an investigation may include
130 information about suspected criminal acts or of pending criminal
131 or administrative proceedings against such officers or
132 employees. Public disclosure of suspected criminal acts or of
133 pending and nonfinal criminal or administrative proceedings may
134 impede related investigations if publicly known. Such
135 information, if released before an adjudication, may defame an
136 individual or an international trust company representative
137 office that is the subject of the investigation or proceeding.
138 Unsubstantiated information received by the Office of Financial
139 Regulation for the purposes of conducting background
140 investigations also may defame or cause unwarranted damage to
141 the good name or reputation of an individual. It is the intent
142 of the Legislature to grant such entities more protection from
143 public disclosure than is currently provided under ss. 655.057
144 and 655.059, Florida Statutes.

145 (3) Personal identifying information of the clients of
146 limited purpose international trust company representative
147 offices, if available for public access, could jeopardize the
148 personal and financial safety of the clients and their family
149 members. Clients of limited purpose international trust company
150 representative offices have a high net worth and are frequently
151 the targets of criminal predators seeking access to their
152 assets. It is important that the exposure of such clients and
153 their family members to threats of extortion, kidnapping, and
154 other crimes not be increased. Placing a client's personal
155 identifying information into the public domain would increase



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156 the risk that a client and his or her family would become the
157 target of criminal activity. This is especially important
158 because many of the clients of international trust company
159 representative offices reside in or frequently travel to
160 countries where kidnapping and extortion are significant risks
161 and where public corruption impedes the rule of law.

162 (4) The Legislature further finds that it is a public
163 necessity to exempt from public records requirements information
164 received by the Office of Financial Regulation from a person
165 from another state or nation or the Federal Government which is
166 otherwise confidential or exempt pursuant to the laws of that
167 state or nation or pursuant to federal law. The Legislature
168 finds that maintaining the confidentiality of the information
169 shared with the office by those persons is necessary to protect
170 the sensitive nature of the information and to facilitate the
171 sharing of such information for the office's effective and
172 efficient performance of its duties.

173 Section 3. This act shall take effect on the same date that
174 SB 1106 or similar legislation takes effect, if such legislation
175 is adopted in the same legislative session or an extension
176 thereof and becomes a law.

178 ===== T I T L E A M E N D M E N T =====

179 And the title is amended as follows:

180 Delete everything before the enacting clause
181 and insert:

182 A bill to be entitled
183 An act relating to public records; creating s.
184 663.097, F.S.; defining terms; providing an exemption



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185 from public records requirements for certain
186 information held by the Office of Financial Regulation
187 relating to a limited purpose international trust
188 company representative office; authorizing the release
189 of certain confidential and exempt information by the
190 office; authorizing the publication of certain
191 information; providing a criminal penalty for willful
192 disclosure; providing for future legislative review
193 and repeal of the exemption; providing a statement of
194 public necessity; providing a contingent effective
195 date.