

By Senator Flores

37-01350-16

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1                   A bill to be entitled  
2           An act relating to public records; creating s.  
3           663.097, F.S.; defining terms; providing an exemption  
4           from public records requirements for certain  
5           information held by the Office of Financial Regulation  
6           relating to a limited purpose international trust  
7           company representative office; authorizing the release  
8           of certain confidential and exempt information by the  
9           office; authorizing the publication of certain  
10          information; providing a criminal penalty for willful  
11          disclosure; providing for future legislative review  
12          and repeal of the exemption; providing a statement of  
13          public necessity; providing a contingent effective  
14          date.

15  
16 Be It Enacted by the Legislature of the State of Florida:

17  
18           Section 1. Section 663.097, Florida Statutes, is created to  
19 read:

20           663.097 Public records exemption.-

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

22           (a) "Reports or investigations" means records submitted to  
23 or prepared by the office as part of the office's duties  
24 performed pursuant to s. 663.045, s. 663.046, or s. 663.09.

25           (b) "Working papers" means the records of the procedure  
26 followed, the tests performed, the information obtained, and the  
27 conclusions reached in an investigation under s. 663.045, s.  
28 663.046, or s. 663.09. The term also includes books and records.

29           (2) PUBLIC RECORDS EXEMPTION.-The following information  
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) Any personal identifying information appearing in

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33 records relating to an application, or a new or renewal  
34 registration, of a limited purpose international trust company  
35 representative office.

36 (b) Any personal identifying information appearing in  
37 records relating to an investigation of a limited purpose  
38 international trust company representative office.

39 (c) Any personal identifying information appearing in  
40 reports or investigations of a limited purpose international  
41 trust company representative office, including working papers.

42 (d) Any portion of a list of names of the existing or  
43 prospective clients of an affiliated international trust  
44 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 (3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT  
50 INFORMATION.—Information made confidential and exempt under  
51 subsection (2) may be disclosed by the office:

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

61 (b) To a fidelity insurance company or liability insurer,

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62 upon written consent of the limited purpose international trust  
63 company representative office's board of directors if a  
64 corporation, or its managers if a limited liability company.

65 (c) To an independent auditor, upon written consent of the  
66 limited purpose international trust company representative  
67 office's board of directors if a corporation, or its managers if  
68 a limited liability company.

69 (d) To a liquidator, receiver, or conservator for a limited  
70 purpose international trust company representative office if a  
71 liquidator, receiver, or conservator is appointed. However, any  
72 portion of the information which discloses the identity of a  
73 current or prospective client of an affiliated international  
74 trust company must be redacted by the office before releasing  
75 such portion to the liquidator, receiver, or conservator.

76 (e) To any other state, federal, or foreign agency  
77 responsible for the regulation or supervision of limited purpose  
78 international trust company representative offices or an  
79 affiliated international trust company.

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

82 (g) To the appropriate law enforcement or prosecutorial  
83 agency for the purpose of reporting any suspected criminal  
84 activity.

85 (h) Pursuant to a legislative subpoena. A legislative body  
86 or committee that receives records or information pursuant to  
87 such a subpoena must maintain the confidential status of such  
88 records or information, except in a case involving the  
89 investigation of charges against a public official subject to  
90 impeachment or removal, in which case records or information may

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91 be disclosed only to the extent necessary as determined by such  
92 legislative body or committee.

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

95 (a) A report required by federal law.

96 (b) The name of the limited purpose international trust  
97 company representative office or any affiliated international  
98 trust company and the name and address of the directors,  
99 managers, officers, or registered agent of the limited purpose  
100 international trust company representative office or any  
101 affiliated international trust company.

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

106 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject  
107 to the Open Government Sunset Review Act in accordance with s.  
108 119.15 and shall stand repealed on October 2, 2021, unless  
109 reviewed and saved from repeal through reenactment by the  
110 Legislature.

111 Section 2. (1) The Legislature finds that it is a public  
112 necessity to exempt from public records requirements any  
113 personal identifying information appearing in records relating  
114 to an application, or a new or renewal registration, of a  
115 limited purpose international trust company representative  
116 office; any personal identifying information appearing in  
117 records relating to an investigation of a limited purpose  
118 international trust company representative office; any personal  
119 identifying information appearing in reports or investigations

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120 by the Office of Financial Regulation of a limited purpose  
121 international trust company representative office, including  
122 working papers; and any portion of a list of names of the  
123 existing or prospective clients of an affiliated international  
124 trust company.

125 (2) The Legislature finds that if financial information and  
126 lists of names of clients or prospective clients of affiliated  
127 international trust companies are available for public access,  
128 the personal and financial safety of the clients, the  
129 prospective clients, and their family members who are the  
130 subject of the information will be jeopardized. Families with  
131 high net worth are frequently the targets of criminal predators  
132 seeking access to their assets. It is important that the  
133 exposure of such clients or prospective clients and their family  
134 members to threats of extortion, kidnapping, and other crimes  
135 not be increased. Placing family names and their related private  
136 business records and methodologies into the public domain would  
137 increase the risk that a family would become the target of  
138 criminal activity. The Legislature further finds this is  
139 especially important because many of the clients and prospective  
140 clients of affiliated international trust companies reside in or  
141 frequently travel to countries in which kidnapping and extortion  
142 are significant risks and public corruption impedes the rule of  
143 law.

144 (3) The Legislature further finds that it is a public  
145 necessity to exempt from public records requirements information  
146 received by the office from a person from another state or  
147 nation or the Federal Government which is otherwise confidential  
148 or exempt pursuant to the laws of that state or nation or

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149 pursuant to federal law. The Legislature finds that maintaining  
150 the confidentiality of the information shared with the office by  
151 those persons is necessary to protect the sensitive nature of  
152 the information and to facilitate the sharing of such  
153 information for the office's effective and efficient performance  
154 of its duties.

155       Section 3. This act shall take effect on the same date that  
156 SB \_\_\_\_ or similar legislation takes effect, if such legislation  
157 is adopted in the same legislative session or an extension  
158 thereof and becomes a law.