

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

585-03643A-16

20161094c2

A bill to be entitled

An act relating to public records; creating s.
663.097, F.S.; defining terms; providing an exemption
from public records requirements for certain
information held by the Office of Financial Regulation
relating to international trust entities; authorizing
the release of certain confidential and exempt
information by the office; authorizing the publication
of certain information; providing for future
legislative review and repeal of the exemption;
providing a statement of public necessity; providing a
contingent effective date.

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

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) "Internal corporate information or documents" means the
articles of organization, bylaws, or other organizational
documents of the entity or organization applying for the
moratorium pursuant to s. 663.041 or of the international trust
entity that are not publicly disclosed or are confidential under
the laws of the home country jurisdiction where the
international trust entity is organized or doing business.

(b) "International trust entity" has the same definition as
in s. 663.01(8).

(c) "Working papers" means the records of the procedure
followed, the tests performed, the information obtained, and the
conclusions reached in processing an application under s.

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32 663.041.

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

36 (a) All internal corporate documents of an organization or
37 entity applying for a moratorium under s. 663.041 or of an
38 international trust entity submitted pursuant to s. 663.041;

39 (b) The names of the officers, directors, and shareholders
40 of an international trust entity, if such names are otherwise
41 confidential under the laws of the home country jurisdiction of
42 the international trust entity;

43 (c) Documentation provided to or from the supervisory or
44 regulatory authority or equivalent, or other similarly
45 sanctioned body, organization, governmental entity, or
46 recognized authority that has licensing, chartering, oversight,
47 or similar responsibilities over the international trust entity;

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

52 (e) The working papers of the office in processing the
53 application under s. 663.041.

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

57 (a) To the authorized representative or representatives of
58 the organization or entity applying for a moratorium under s.
59 663.041. For that entity's confidential and exempt information
60 that has been submitted to the office, the authorized

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61 representative or representatives of that entity shall be
62 identified in a resolution or by written consent of the board of
63 directors if the organization or entity is a corporation, or of
64 the managers if the organization or entity is a limited
65 liability company.

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

70 (c) To an independent auditor.

71 (d) To a liquidator, receiver, or conservator for the
72 organization or entity if a liquidator, receiver, or conservator
73 is appointed.

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

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

84 (g) Pursuant to federal law.

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

89 (a) The name of the organization or entity applying for the

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90 moratorium under s. 663.041 or of any international trust entity
91 for which it provides services.

92 (b) The name and business address of the directors,
93 managers, officers, or registered agent of the organization or
94 entity applying for moratorium under s. 663.041.

95 (5) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
96 to the Open Government Sunset Review Act in accordance with s.
97 119.15 and shall stand repealed on October 2, 2021, unless
98 reviewed and saved from repeal through reenactment by the
99 Legislature.

100 Section 2. (1) The Legislature finds that it is a public
101 necessity that the following information in records held by the
102 Office of Financial Regulation be confidential and exempt from
103 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
104 State Constitution: All internal corporate documents of an
105 organization or entity applying for a moratorium under s.
106 663.041 or of an international trust entity submitted pursuant
107 to s. 663.041; the names of the officers, directors, and
108 shareholders of an international trust entity if such names are
109 otherwise confidential under the laws of the home country
110 jurisdiction of the international trust entity; documentation
111 provided to or from the supervisory or regulatory authority or
112 equivalent, or other similarly sanctioned body, organization,
113 governmental entity, or recognized authority that has licensing,
114 chartering, oversight, or similar responsibilities over the
115 international trust entity; information received by the office
116 from a person from another state or nation or the Federal
117 Government which is otherwise confidential or exempt pursuant to
118 the laws of that state or nation or pursuant to federal law; and

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119 the working papers of the office in processing the application
120 under s. 663.041.

121 (2) The Office of Financial Regulation is required to
122 obtain the names of the officers and directors of an
123 international trust entity and to determine whether the
124 organization or entity has met the requirements for the
125 moratorium, including proof of the corporate standing of the
126 international trust entity and that it is not operating under
127 the direct control of the government, regulatory, or supervisory
128 authority of the jurisdiction of its incorporation. In certain
129 cases, such proof may require submission to the office of
130 internal corporate documents or shareholder lists that are not
131 otherwise available to the public and that are considered
132 confidential under the laws of the home country jurisdiction.
133 Likewise, in certain jurisdictions, the names of the officers
134 and directors are confidential under the laws of that
135 jurisdiction. The office also may receive documentation provided
136 to or from the supervisory or regulatory authority or
137 equivalent, or other similarly sanctioned body, organization,
138 governmental entity, or recognized authority that has licensing,
139 chartering, oversight, or similar responsibilities over the
140 international trust entity. To the extent that the home country
141 laws of the jurisdiction in which the international trust entity
142 is located or organized considers this information and these
143 documents confidential, they should not lose their confidential
144 status solely because the office reviews them in processing the
145 application for the moratorium. The exemption does not apply if
146 the home country jurisdiction of the international trust entity
147 does not consider such information or documents confidential.

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