

By Senator Garcia

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1 A bill to be entitled
2 An act relating to public records; amending s.
3 655.057, F.S.; revising definitions; providing an
4 exemption from public records requirements for certain
5 information held by the Office of Financial Regulation
6 relating to international trust entities and limited
7 service affiliates; authorizing release of such
8 information under certain circumstances; authorizing
9 the publication of certain information; providing a
10 penalty; providing for future legislative review and
11 repeal of the exemption; providing a statement of
12 public necessity; providing a contingent effective
13 date.

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

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17 Section 1. Subsection (2), paragraphs (a) and (d) of
18 subsection (12), and subsection (14) of section 655.057, Florida
19 Statutes, are amended, and subsection (10) of that section is
20 republished, to read:

21 655.057 Records; limited restrictions upon public access.—

22 (2) Except as otherwise provided in this section and except
23 for such portions thereof which are public record, reports of
24 examinations, operations, or condition, including working
25 papers, or portions thereof, prepared by, or for the use of, the
26 office or any state or federal agency responsible for the
27 regulation or supervision of financial institutions in this
28 state are confidential and exempt from s. 119.07(1) and s.
29 24(a), Art. I of the State Constitution. However, such reports

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30 or papers or portions thereof may be released to:

31 (a) The financial institution under examination;

32 (b) Any holding company of which the financial institution
33 is a subsidiary;

34 (c) Proposed purchasers if necessary to protect the
35 continued financial viability of the financial institution, upon
36 prior approval by the board of directors of such institution;

37 (d) Persons proposing in good faith to acquire a
38 controlling interest in or to merge with the financial
39 institution, upon prior approval by the board of directors of
40 such financial institution;

41 (e) Any officer, director, committee member, employee,
42 attorney, auditor, or independent auditor officially connected
43 with the financial institution, holding company, proposed
44 purchaser, or person seeking to acquire a controlling interest
45 in or merge with the financial institution; or

46 (f) A fidelity insurance company, upon approval of the
47 financial institution's board of directors. However, a fidelity
48 insurance company may receive only that portion of an
49 examination report relating to a claim or investigation being
50 conducted by such fidelity insurance company.

51 (g) Examination, operation, or condition reports of a
52 financial institution shall be released by the office within 1
53 year after the appointment of a liquidator, receiver, or
54 conservator to the financial institution. However, any portion
55 of such reports which discloses the identities of depositors,
56 bondholders, members, borrowers, or stockholders, other than
57 directors, officers, or controlling stockholders of the
58 institution, shall remain confidential and exempt from s.

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59 119.07(1).

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61 Any confidential information or records obtained from the office
62 pursuant to this subsection ~~paragraph~~ shall be maintained as
63 confidential and exempt from s. 119.07(1).

64 (10) Examination reports, investigatory records,
65 applications, and related information compiled by the office, or
66 photographic copies thereof, shall be retained by the office for
67 at least 10 years.

68 (12) For purposes of this section, the term:

69 (a) "Examination report" means records submitted to or
70 prepared by the office as part of the office's duties performed
71 pursuant to s. 655.012, ~~or~~ s. 655.045(1), s. 663.532, s.
72 663.533, s. 663.534, s. 663.536, s. 663.537, s. 663.538, or s.
73 663.539.

74 (d) "Working papers" means the records of the procedures
75 followed, the tests performed, the information obtained, and the
76 conclusions reached in an examination or investigation performed
77 under s. 655.032, ~~or~~ s. 655.045, s. 663.532, s. 663.533, s.
78 663.537, s. 663.538, or s. 663.539. Working papers include
79 planning documentation, work programs, analyses, memoranda,
80 letters of confirmation and representation, abstracts of the
81 books and records of a financial institution as defined in s.
82 655.005(1), and schedules or commentaries prepared or obtained
83 in the course of such examination or investigation.

84 (14) Subsections (2), (3), and (4) are subject to the Open
85 Government Sunset Review Act in accordance with s. 119.15 and
86 are repealed on October 2, 2022 ~~2019~~, unless reviewed and saved
87 from repeal through reenactment by the Legislature.

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88 Section 2. The Legislature finds that it is a public
89 necessity that reports of examination, operations, or condition,
90 including working papers, prepared by, or for the use of, the
91 Office of Financial Regulation or any state or federal agency
92 responsible for the regulation or supervision of financial
93 institutions in this state which pertain to international trust
94 entities and limited service affiliates be made confidential and
95 exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
96 Article I of the State Constitution.

97 (1) The terms "international trust entity" and "limited
98 service affiliate" referenced in part III of chapter 663,
99 Florida Statutes, are added to the definition of "financial
100 institution" and made subject to investigations and examinations
101 by the Office of Financial Regulation. As such, the office may
102 receive sensitive personal and financial information and trade
103 secrets relating to such entities in conjunction with its duties
104 under chapter 663. This exemption prevents gaps in the law which
105 would put such entities at a disadvantage in comparison to other
106 entities currently defined as financial institutions and also
107 subject personal and financial information of customers to risk
108 of disclosure.

109 (2) Public disclosure of financial information and lists of
110 names of existing and prospective customers of an affiliated
111 international trust entity could jeopardize the personal and
112 financial safety of those existing and prospective customers and
113 their family members. Families with a high net worth are
114 frequently the targets of criminal predators seeking access to
115 their assets. It is important that the exposure of such
116 customers and their family members to threats of extortion,

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117 kidnapping, and other crimes not be increased. Placing the names
118 of family members and their private family business records and
119 methodologies in the public domain would increase the security
120 risk that a client or family could become the target of criminal
121 activity. This is especially important because many of the
122 existing and prospective customers of affiliated international
123 trust entities reside in or frequently travel to countries in
124 which kidnapping and extortion are significant risks and public
125 corruption impedes the rule of law.

126 (3) Public disclosure of an examination, report of
127 examination, or emergency cease and desist order could expose
128 individuals to security risks or could defame or cause
129 unwarranted damage to the good name or reputation of the
130 individual who is the subject of the information.

131 Section 3. This act shall take effect on the same date that
132 SB ____ or similar legislation takes effect, if such legislation
133 is adopted in the same legislative session or an extension
134 thereof and becomes a law.