

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Commerce Committee
2 Representative Raulerson offered the following:

3
4 **Amendment (with title amendment)**

5 Remove everything after the enacting clause and insert:

6
7 Section 1. Section 663.416, Florida Statutes, is created
8 and incorporated into part III of chapter 663, Florida Statutes,
9 as created by CS/CS/HB 435, 2017 Regular Session, to read:

10 663.416 Public records exemption.-

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

12 (a) "Reports of examinations, operations, or condition"
13 means records submitted to or prepared by the office as part of
14 the office's duties performed pursuant to s. 655.012 or s.
15 655.045.

16 (b) "Working papers" means the records of the procedure

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17 followed, the tests performed, the information obtained, and the
18 conclusions reached in an investigation or examination performed
19 under s. 655.032 or s. 655.045. The term includes planning
20 documentation, work programs, analyses, memoranda, letters of
21 confirmation and representation, abstracts of the books and
22 records of a financial institution, as defined in s. 655.005,
23 and schedules or commentaries prepared or obtained in the course
24 of such investigation or examination.

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

28 (a) Any personal identifying information of the customers
29 or prospective customers of an affiliated international trust
30 entity which appears in the books and records of an
31 international trust company representative office or in records
32 relating to reports of examinations, operations, or condition of
33 an international trust company representative office, including
34 working papers.

35 (b) Any portion of a list of names of the shareholders or
36 members of an affiliated international trust entity.

37 (c) Information received by the office from a person from
38 another state or country or the Federal Government which is
39 otherwise confidential or exempt pursuant to the laws of that
40 state or country or pursuant to federal law.

41 (3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT

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42 INFORMATION.—Information made confidential and exempt under
43 subsection (2) may be disclosed by the office:

44 (a) To the authorized representative or representatives of
45 the international trust company representative office under
46 examination. The authorized representative or representatives
47 must be identified in a resolution or by written consent of the
48 board of directors, or the equivalent, of the international
49 trust entity.

50 (b) To a fidelity insurance company, upon written consent
51 of the board of directors, or the equivalent, of the
52 international trust entity.

53 (c) To an independent auditor, upon written consent of the
54 board of directors, or the equivalent, of the international
55 trust entity.

56 (d) To the liquidator, receiver, or conservator for the
57 international trust entity, if a liquidator, receiver, or
58 conservator is appointed. However, any portion of the
59 information which discloses the identity of a customer or
60 prospective customer of the international trust entity, or a
61 shareholder or member of the international trust entity, must be
62 redacted by the office before releasing such portion to the
63 liquidator, receiver, or conservator.

64 (e) To a law enforcement agency in furtherance of the
65 agency's official duties and responsibilities.

66 (f) To the appropriate law enforcement or prosecutorial

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67 agency for the purpose of reporting any suspected criminal
68 activity.

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

77 (4) PUBLICATION OF INFORMATION.—This section does not
78 prevent or restrict the publication of a report required by
79 federal law.

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

84 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
85 to the Open Government Sunset Review Act in accordance with s.
86 119.15 and is repealed on October 2, 2022, unless reviewed and
87 saved from repeal through reenactment by the Legislature.

88 Section 2. The Legislature finds that it is a public
89 necessity to make confidential and exempt from s. 119.07(1),
90 Florida Statutes, and s. 24(a), Article I of the State
91 Constitution personal identifying information of the customers

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92 or prospective customers of an affiliated international trust
93 entity which appears in the books and records of an
94 international trust company representative office or in records
95 relating to reports of examinations, operations, or condition of
96 an international trust company representative office, including
97 working papers; any portion of a list of names of the
98 shareholders or members of an affiliated international trust
99 entity which is held by the office; and information received by
100 the Office of Financial Regulation from a person from another
101 state or country or the Federal Government which is otherwise
102 confidential or exempt pursuant to the laws of that state or
103 country or pursuant to federal law.

104 (1) An exemption from public records requirements is
105 necessary for such records and information because the Office of
106 Financial Regulation may receive sensitive personal and
107 financial information, including personal identifying
108 information relating to such entities, in the course of its
109 investigation and examination duties. Public disclosure of the
110 personal identifying information of existing customers,
111 prospective customers, shareholders, or members of the
112 affiliated international trust entity could defame or jeopardize
113 the personal and financial safety of those individuals and their
114 family members. The individuals served by the affiliated
115 international trust entity are often individuals of high net
116 worth. Individuals of high net worth and shareholders or members

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117 of financial institutions are frequently the targets of criminal
118 predators seeking access to their assets. It is important that
119 the exposure of such individuals and their family members to
120 threats of extortion, kidnapping, and other crimes not be
121 increased. Placing the personal identifying information of these
122 individuals within the public domain would increase the security
123 risk that those individuals or their families could become the
124 target of criminal activity.

125 (2) Public disclosure of information received by the
126 Office of Financial Regulation from a person from another state
127 or country or the Federal Government which is otherwise
128 confidential or exempt pursuant to the laws of that state or
129 country or pursuant to federal law may deteriorate the office's
130 relationships with other regulatory bodies. The office
131 frequently engages in joint examinations with federal
132 regulators. If such information were subject to disclosure to
133 the public, not only would such disclosure deter other
134 regulatory bodies from communicating vital information to the
135 office, but the office would violate existing information-
136 sharing agreements governing the sharing of confidential
137 supervisory information.

138 Section 3. Section 663.540, Florida Statutes, is created
139 and incorporated into part IV of chapter 663, Florida Statutes,
140 as created by CS/CS/HB 435, 2017 Regular Session, to read:

141 663.540 Public records exemption.-

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

143 (a) "Reports of examinations, operations, or condition"

144 means records submitted to or prepared by the office as part of
145 the office's duties performed pursuant to s. 655.012 or s.
146 663.537.

147 (b) "Working papers" means the records of the procedure
148 followed, the tests performed, the information obtained, and the
149 conclusions reached in an investigation or examination performed
150 under s. 655.032 or s. 663.537. The term includes planning
151 documentation, work programs, analyses, memoranda, letters of
152 confirmation and representation, abstracts of the books and
153 records of a financial institution, as defined in s. 655.005,
154 and schedules or commentaries prepared or obtained in the course
155 of such investigation or examination.

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

159 (a) Any personal identifying information of the customers
160 or prospective customers of an affiliated international trust
161 entity which appears in the books and records of a qualified
162 limited service affiliate or in records relating to reports of
163 examinations, operations, or condition of a qualified limited
164 service affiliate, including working papers.

165 (b) Any portion of a list of names of the shareholders or
166 members of a qualified limited service affiliate.

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167 (c) Information received by the office from a person from
168 another state or country or the Federal Government which is
169 otherwise confidential or exempt pursuant to the laws of that
170 state or country or pursuant to federal law.

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

174 (a) To the authorized representative or representatives of
175 the qualified limited service affiliate under examination. The
176 authorized representative or representatives must be identified
177 in a resolution or by written consent of the board of directors,
178 if the qualified limited service affiliate is a corporation, or
179 of the managers, if the qualified limited service affiliate is a
180 limited liability company.

181 (b) To a fidelity insurance company, upon written consent
182 of the qualified limited service affiliate's board of directors,
183 if the qualified limited service affiliate is a corporation, or
184 of the managers, if the qualified limited service affiliate is a
185 limited liability company.

186 (c) To an independent auditor, upon written consent of the
187 qualified limited service affiliate's board of directors, if the
188 qualified limited service affiliate is a corporation, or of the
189 managers, if the qualified limited service affiliate is a
190 limited liability company.

191 (d) To the liquidator, receiver, or conservator for a

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192 qualified limited service affiliate, if a liquidator, receiver,
193 or conservator is appointed. However, any portion of the
194 information which discloses the identity of a customer of the
195 affiliated international trust entity, or a shareholder or
196 member of the qualified limited service affiliate, must be
197 redacted by the office before releasing such portion to the
198 liquidator, receiver, or conservator.

199 (e) To a law enforcement agency in furtherance of the
200 agency's official duties and responsibilities.

201 (f) To the appropriate law enforcement or prosecutorial
202 agency for the purpose of reporting any suspected criminal
203 activity.

204 (g) Pursuant to a legislative subpoena. A legislative body
205 or committee that receives records or information pursuant to
206 such a subpoena must maintain the confidential status of the
207 records or information, except in a case involving the
208 investigation of charges against a public official subject to
209 impeachment or removal, in which case the records or information
210 may be disclosed only to the extent necessary as determined by
211 such legislative body or committee.

212 (4) PUBLICATION OF INFORMATION.—This section does not
213 prevent or restrict the publication of a report required by
214 federal law.

215 (5) PENALTY.—A person who willfully, in violation of this
216 section, discloses information made confidential and exempt by

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217 this section commits a felony of the third degree, punishable as
218 provided in s. 775.082, s. 775.083, or s. 775.084.

219 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
220 to the Open Government Sunset Review Act in accordance with s.
221 119.15 and is repealed on October 2, 2022, unless reviewed and
222 saved from repeal through reenactment by the Legislature.

223 Section 4. The Legislature finds that it is a public
224 necessity to make confidential and exempt from s. 119.07(1),
225 Florida Statutes, and s. 24(a), Article I of the State
226 Constitution personal identifying information of the customers
227 or prospective customers of an affiliated international trust
228 entity which appears in the books and records of a qualified
229 limited service affiliate or in records relating to reports of
230 examinations, operations, or condition of a qualified limited
231 service affiliate, including working papers; any portion of a
232 list of names of the shareholders or members of a qualified
233 limited service affiliate which is held by the Office of
234 Financial Regulation; and information received by the office
235 from a person from another state or country or the Federal
236 Government which is otherwise confidential or exempt pursuant to
237 the laws of that state or country or pursuant to federal law.

238 (1) An exemption from public records requirements is
239 necessary for personal identifying information of existing and
240 prospective customers of an affiliated international trust
241 entity or shareholders or members of a qualified limited service

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242 affiliate, because if such information is available for public
243 access, such access could defame or jeopardize the personal and
244 financial safety of those individuals. The individuals served by
245 the affiliated international trust entity are often individuals
246 of high net worth. Individuals of high net worth and
247 shareholders or members of financial institutions are frequently
248 the targets of criminal predators seeking access to their
249 assets. It is important that the exposure of such individuals
250 and their family members to threats of extortion, kidnapping,
251 and other crimes not be increased. Placing the personal
252 identifying information of these individuals within the public
253 domain would increase the security risk that those individuals
254 or their families could become the target of criminal activity.

255 (2) An exemption from public records requirements is
256 necessary for information received by the Office of Financial
257 Regulation from a person from another state or country or the
258 Federal Government which is otherwise confidential or exempt
259 pursuant to the laws of that state or country or pursuant to
260 federal law, as public disclosure may deteriorate the office's
261 relationships with other regulatory bodies. The office
262 frequently engages in joint examinations with federal
263 regulators. If such information were subject to disclosure to
264 the public, not only would this disclosure deter other
265 regulatory bodies from communicating vital information to the
266 office, but the office would violate existing information-

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267 sharing agreements governing the sharing of confidential
268 supervisory information.

269 Section 5. Subsections (1), (2), (5), and (9) of section
270 655.057, Florida Statutes, are amended, and subsection (15) is
271 added to that section, to read:

272 655.057 Records; limited restrictions upon public access.—

273 (1) Except as otherwise provided in this section and
274 except for such portions thereof which are otherwise public
275 record, all records and information relating to an investigation
276 by the office are confidential and exempt from s. 119.07(1) and
277 s. 24(a), Art. I of the State Constitution until such
278 investigation is completed or ceases to be active. For purposes
279 of this subsection, an investigation is considered "active"
280 while such investigation is being conducted by the office with a
281 reasonable, good faith belief that it may lead to the filing of
282 administrative, civil, or criminal proceedings. An investigation
283 does not cease to be active if the office is proceeding with
284 reasonable dispatch, and there is a good faith belief that
285 action may be initiated by the office or other administrative or
286 law enforcement agency. After an investigation is completed or
287 ceases to be active, portions of the records relating to the
288 investigation are confidential and exempt from s. 119.07(1) and
289 s. 24(a), Art. I of the State Constitution to the extent that
290 disclosure would:

291 (a) Jeopardize the integrity of another active

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292 investigation;

293 (b) Impair the safety and soundness of the financial

294 institution;

295 (c) Reveal personal financial information;

296 (d) Reveal the identity of a confidential source;

297 (e) Defame or cause unwarranted damage to the good name or

298 reputation of an individual or jeopardize the safety of an

299 individual; or

300 (f) Reveal investigative techniques or procedures.

301 (2) Except as otherwise provided in this section and

302 except for such portions thereof which are public record,

303 reports of examinations, operations, or condition, including

304 working papers, or portions thereof, prepared by, or for the use

305 of, the office or any state or federal agency responsible for

306 the regulation or supervision of financial institutions in this

307 state are confidential and exempt from s. 119.07(1) and s.

308 24(a), Art. I of the State Constitution. However, such reports

309 or papers or portions thereof may be released to:

310 (a) The financial institution under examination;

311 (b) Any holding company of which the financial institution

312 is a subsidiary;

313 (c) Proposed purchasers if necessary to protect the

314 continued financial viability of the financial institution, upon

315 prior approval by the board of directors of such institution;

316 (d) Persons proposing in good faith to acquire a

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317 controlling interest in or to merge with the financial
318 institution, upon prior approval by the board of directors of
319 such financial institution;

320 (e) Any officer, director, committee member, employee,
321 attorney, auditor, or independent auditor officially connected
322 with the financial institution, holding company, proposed
323 purchaser, or person seeking to acquire a controlling interest
324 in or merge with the financial institution; or

325 (f) A fidelity insurance company, upon approval of the
326 financial institution's board of directors. However, a fidelity
327 insurance company may receive only that portion of an
328 examination report relating to a claim or investigation being
329 conducted by such fidelity insurance company.

330 (g) Examination, operation, or condition reports of a
331 financial institution shall be released by the office within 1
332 year after the appointment of a liquidator, receiver, or
333 conservator to the financial institution. However, any portion
334 of such reports which discloses the identities of depositors,
335 bondholders, members, borrowers, or stockholders, other than
336 directors, officers, or controlling stockholders of the
337 institution, shall remain confidential and exempt from s.
338 119.07(1) and s. 24(a), Art. I of the State Constitution.

339
340 Any confidential information or records obtained from the office
341 pursuant to this paragraph shall be maintained as confidential

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342 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
343 Constitution.

344 (5) This section does not prevent or restrict:

345 (a) Publishing reports that are required to be submitted
346 to the office pursuant to s. 655.045(2) or required by
347 applicable federal statutes or regulations to be published.

348 (b) Furnishing records or information to any other state,
349 federal, or foreign agency responsible for the regulation or
350 supervision of financial institutions.

351 (c) Disclosing or publishing summaries of the condition of
352 financial institutions and general economic and similar
353 statistics and data, provided that the identity of a particular
354 financial institution is not disclosed.

355 (d) Reporting any suspected criminal activity, with
356 supporting documents and information, to appropriate law
357 enforcement and prosecutorial agencies.

358 (e) Furnishing information upon request to the Chief
359 Financial Officer or the Division of Treasury of the Department
360 of Financial Services regarding the financial condition of any
361 financial institution that is, or has applied to be, designated
362 as a qualified public depository pursuant to chapter 280.

363 (f) Furnishing information to Federal Home Loan Banks
364 regarding its member institutions pursuant to an information
365 sharing agreement between the Federal Home Loan Banks and the
366 office.

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367
368 Any confidential information or records obtained from the office
369 pursuant to this subsection shall be maintained as confidential
370 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
371 Constitution.

372 (9) Materials supplied to the office or to employees of
373 any financial institution by other state or federal governmental
374 agencies remain the property of the submitting agency or the
375 corporation, and any document request must be made to the
376 appropriate agency. Any confidential documents supplied to the
377 office or to employees of any financial institution by other
378 state or federal governmental agencies are confidential and
379 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
380 Constitution. Such information shall be made public only with
381 the consent of such agency or the corporation.

382 (15) Subsections (1), (2), (5), and (9) are subject to the
383 Open Government Sunset Review Act in accordance with s. 119.15
384 and are repealed on October 2, 2022, unless reviewed and saved
385 from repeal through reenactment by the Legislature.

386 Section 6. The Legislature finds that it is a public
387 necessity to make confidential and exempt from s. 119.07(1),
388 Florida Statutes, and s. 24(a), Article I of the State
389 Constitution records and information relating to an
390 investigation by the Office of Financial Regulation; portions of
391 records relating to a completed or inactive investigation by the

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392 office which would jeopardize the integrity of another active
393 investigation, impair the safety and soundness of the financial
394 institution, reveal personal financial information, reveal the
395 identity of a confidential source, defame or cause unwarranted
396 damage to the good name or reputation of an individual or
397 jeopardize the safety of an individual, or reveal investigative
398 techniques or procedures; reports of examinations, operations,
399 or condition, including working papers, or portions thereof,
400 prepared by, or for the use of, the office or any state or
401 federal agency responsible for the regulation or supervision of
402 financial institutions in this state; any portion of such
403 reports which discloses the identities of depositors,
404 bondholders, members, borrowers, or stockholders, other than
405 directors, officers, or controlling stockholders of the
406 institution; and materials supplied to the office or to
407 employees of any financial institution by other state or federal
408 governmental agencies.

409 (1) The terms "international trust entity" and "qualified
410 limited service affiliate" referenced in newly created parts III
411 and IV of chapter 663, Florida Statutes, are added to the
412 definition of the term "financial institution" in s.
413 655.005(1)(i), Florida Statutes, in CS/CS/HB 435. The
414 international trust company representative offices and qualified
415 limited service affiliates servicing international trust
416 entities are thus subject to examination by the Office of

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417 Financial Regulation. As a result, the office may receive
418 sensitive personal and financial information relating to such
419 entities in conjunction with its duties under chapters 655 and
420 663, Florida Statutes. An exemption from public records
421 requirements prevents gaps in the law by providing the same
422 protections to international trust entities and qualified
423 limited service affiliates which are afforded to other financial
424 institutions, thereby preventing any disadvantage to these
425 similarly regulated entities in comparison to other entities
426 currently defined as "financial institutions." An exemption from
427 public records requirements for reports of examinations,
428 operations, or condition, including working papers, is necessary
429 to ensure the office's ability to effectively and efficiently
430 administer its examination and investigation duties. Examination
431 and investigation are essential components of financial
432 institutions regulation. They deter fraud and ensure the safety
433 and soundness of the financial system. Examinations also provide
434 a means of early detection of violations, allowing for
435 corrective action to be taken before any harm can be done.

436 (2) The Legislature finds that it is a public necessity
437 that information and records relating to an examination or
438 investigation by the office be held confidential and exempt from
439 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
440 State Constitution. Public disclosure of records and information
441 relating to an examination or investigation by the office could

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442 expose the subject financial institution to unwarranted damage
443 to its good name or reputation and impair its safety and
444 soundness, as well as the safety and soundness of the financial
445 system in the state. Public disclosure of records and
446 information relating to an investigation by the office which
447 could jeopardize the integrity of another active investigation
448 or reveal investigative techniques or procedures of the office
449 would impair the office's ability to effectively and efficiently
450 administer its duties under ss. 655.032 and 655.045, Florida
451 Statutes. Any portion of a record or information relating to an
452 investigation or examination which reveals personal financial
453 information or the identity of a confidential source may defame,
454 or cause unwarranted damage to the good name or reputation of,
455 those individuals, or jeopardize their safety.

456 Section 7. This act shall take effect on the same date
457 that CS/CS/HB 435 or similar legislation takes effect, if such
458 legislation is adopted in the same legislative session or an
459 extension thereof and becomes a law.

460
461 -----

462 **T I T L E A M E N D M E N T**

463 Remove everything before the enacting clause and insert:

464
465 A bill to be entitled

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466 An act relating to public records; creating ss.
467 663.416 and 663.540, F.S.; defining terms; providing
468 exemptions from public records requirements for
469 certain information held by the Office of Financial
470 Regulation relating to international trust company
471 representative offices or qualified limited service
472 affiliates, respectively, and relating to affiliated
473 international trust entities; authorizing the
474 disclosure of the information by the office to
475 specified persons; providing construction; providing
476 criminal penalties; providing future legislative
477 review and repeal of the exemptions; providing
478 statements of public necessity; amending s. 655.057,
479 F.S.; providing that certain exemptions from public
480 records requirements for information relating to
481 investigations, reports of examinations, operations,
482 or condition, including working papers, and certain
483 materials supplied by governmental agencies are exempt
484 from Section 24(a) of Article I of the State
485 Constitution, as a result of the expansion of such
486 exemptions to include the records of international
487 trust entities and qualified limited service
488 affiliates, as made by CS/CS/HB 435, 2017 Regular
489 Session; providing a statement of public necessity;
490 providing a contingent effective date.

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