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1  
2 An act relating to public records; creating ss.  
3 663.416 and 663.540, F.S.; defining terms; providing  
4 exemptions from public records requirements for  
5 certain information held by the Office of Financial  
6 Regulation relating to international trust company  
7 representative offices or qualified limited service  
8 affiliates, respectively, and relating to affiliated  
9 international trust entities; authorizing the  
10 disclosure of the information by the office to  
11 specified persons; providing construction; providing  
12 criminal penalties; providing future legislative  
13 review and repeal of the exemptions; providing  
14 statements of public necessity; amending s. 655.057,  
15 F.S.; providing that certain exemptions from public  
16 records requirements for information relating to  
17 investigations, reports of examinations, operations,  
18 or condition, including working papers, and certain  
19 materials supplied by governmental agencies are exempt  
20 from Section 24(a) of Article I of the State  
21 Constitution, as a result of the expansion of such  
22 exemptions to include the records of international  
23 trust entities and qualified limited service  
24 affiliates, as made by CS/CS/HB 435, 2017 Regular  
25 Session; providing a statement of public necessity;

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26 providing a contingent effective date.

27

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

29

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

33 663.416 Public records exemption.—

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

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

36 means records submitted to or prepared by the office as part of

37 the office's duties performed pursuant to s. 655.012 or s.

38 655.045.

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

40 followed, the tests performed, the information obtained, and the

41 conclusions reached in an investigation or examination performed

42 under s. 655.032 or s. 655.045. The term includes planning

43 documentation, work programs, analyses, memoranda, letters of

44 confirmation and representation, abstracts of the books and

45 records of a financial institution, as defined in s. 655.005,

46 and schedules or commentaries prepared or obtained in the course

47 of such investigation or examination.

48 (2) PUBLIC RECORDS EXEMPTION.—The following information

49 held by the office is confidential and exempt from s. 119.07(1)

50 and s. 24(a), Art. I of the State Constitution:

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51 (a) Any personal identifying information of the customers  
52 or prospective customers of an affiliated international trust  
53 entity which appears in the books and records of an  
54 international trust company representative office or in records  
55 relating to reports of examinations, operations, or condition of  
56 an international trust company representative office, including  
57 working papers.

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

60 (c) Information received by the office from a person from  
61 another state or country or the Federal Government which is  
62 otherwise confidential or exempt pursuant to the laws of that  
63 state or country or pursuant to federal law.

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

67 (a) To the authorized representative or representatives of  
68 the international trust company representative office under  
69 examination. The authorized representative or representatives  
70 must be identified in a resolution or by written consent of the  
71 board of directors, or the equivalent, of the international  
72 trust entity.

73 (b) To a fidelity insurance company, upon written consent  
74 of the board of directors, or the equivalent, of the  
75 international trust entity.

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76 (c) To an independent auditor, upon written consent of the  
 77 board of directors, or the equivalent, of the international  
 78 trust entity.

79 (d) To the liquidator, receiver, or conservator for the  
 80 international trust entity, if a liquidator, receiver, or  
 81 conservator is appointed. However, any portion of the  
 82 information which discloses the identity of a customer or  
 83 prospective customer of the international trust entity, or a  
 84 shareholder or member of the international trust entity, must be  
 85 redacted by the office before releasing such portion to the  
 86 liquidator, receiver, or conservator.

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

89 (f) To the appropriate law enforcement or prosecutorial  
 90 agency for the purpose of reporting any suspected criminal  
 91 activity.

92 (g) Pursuant to a legislative subpoena. A legislative body  
 93 or committee that receives records or information pursuant to  
 94 such a subpoena must maintain the confidential status of the  
 95 records or information, except in a case involving the  
 96 investigation of charges against a public official subject to  
 97 impeachment or removal, in which case the records or information  
 98 may be disclosed only to the extent necessary as determined by  
 99 such legislative body or committee.

100 (4) PUBLICATION OF INFORMATION.—This section does not

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101 prevent or restrict the publication of a report required by  
 102 federal law.

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

107 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject  
 108 to the Open Government Sunset Review Act in accordance with s.  
 109 119.15 and is repealed on October 2, 2022, unless reviewed and  
 110 saved from repeal through reenactment by the Legislature.

111 Section 2. The Legislature finds that it is a public  
 112 necessity to make confidential and exempt from s. 119.07(1),  
 113 Florida Statutes, and s. 24(a), Article I of the State  
 114 Constitution personal identifying information of the customers  
 115 or prospective customers of an affiliated international trust  
 116 entity which appears in the books and records of an  
 117 international trust company representative office or in records  
 118 relating to reports of examinations, operations, or condition of  
 119 an international trust company representative office, including  
 120 working papers; any portion of a list of names of the  
 121 shareholders or members of an affiliated international trust  
 122 entity which is held by the office; and information received by  
 123 the Office of Financial Regulation from a person from another  
 124 state or country or the Federal Government which is otherwise  
 125 confidential or exempt pursuant to the laws of that state or

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126 | country or pursuant to federal law.

127 |       (1) An exemption from public records requirements is  
128 | necessary for such records and information because the Office of  
129 | Financial Regulation may receive sensitive personal and  
130 | financial information, including personal identifying  
131 | information relating to such entities, in the course of its  
132 | investigation and examination duties. Public disclosure of the  
133 | personal identifying information of existing customers,  
134 | prospective customers, shareholders, or members of the  
135 | affiliated international trust entity could defame or jeopardize  
136 | the personal and financial safety of those individuals and their  
137 | family members. The individuals served by the affiliated  
138 | international trust entity are often individuals of high net  
139 | worth. Individuals of high net worth and shareholders or members  
140 | of financial institutions are frequently the targets of criminal  
141 | predators seeking access to their assets. It is important that  
142 | the exposure of such individuals and their family members to  
143 | threats of extortion, kidnapping, and other crimes not be  
144 | increased. Placing the personal identifying information of these  
145 | individuals within the public domain would increase the security  
146 | risk that those individuals or their families could become the  
147 | target of criminal activity.

148 |       (2) Public disclosure of information received by the  
149 | Office of Financial Regulation from a person from another state  
150 | or country or the Federal Government which is otherwise

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151 confidential or exempt pursuant to the laws of that state or  
152 country or pursuant to federal law may deteriorate the office's  
153 relationships with other regulatory bodies. The office  
154 frequently engages in joint examinations with federal  
155 regulators. If such information were subject to disclosure to  
156 the public, not only would such disclosure deter other  
157 regulatory bodies from communicating vital information to the  
158 office, but the office would violate existing information-  
159 sharing agreements governing the sharing of confidential  
160 supervisory information.

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

164 663.540 Public records exemption.-

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

166 (a) "Reports of examinations, operations, or condition"  
167 means records submitted to or prepared by the office as part of  
168 the office's duties performed pursuant to s. 655.012 or s.  
169 663.537.

170 (b) "Working papers" means the records of the procedure  
171 followed, the tests performed, the information obtained, and the  
172 conclusions reached in an investigation or examination performed  
173 under s. 655.032 or s. 663.537. The term includes planning  
174 documentation, work programs, analyses, memoranda, letters of  
175 confirmation and representation, abstracts of the books and

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176 records of a financial institution, as defined in s. 655.005,  
 177 and schedules or commentaries prepared or obtained in the course  
 178 of such investigation or examination.

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

182 (a) Any personal identifying information of the customers  
 183 or prospective customers of an affiliated international trust  
 184 entity which appears in the books and records of a qualified  
 185 limited service affiliate or in records relating to reports of  
 186 examinations, operations, or condition of a qualified limited  
 187 service affiliate, including working papers.

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

190 (c) Information received by the office from a person from  
 191 another state or country or the Federal Government which is  
 192 otherwise confidential or exempt pursuant to the laws of that  
 193 state or country or pursuant to federal law.

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

197 (a) To the authorized representative or representatives of  
 198 the qualified limited service affiliate under examination. The  
 199 authorized representative or representatives must be identified  
 200 in a resolution or by written consent of the board of directors,



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201 if the qualified limited service affiliate is a corporation, or  
202 of the managers, if the qualified limited service affiliate is a  
203 limited liability company.

204 (b) To a fidelity insurance company, upon written consent  
205 of the qualified limited service affiliate's board of directors,  
206 if the qualified limited service affiliate is a corporation, or  
207 of the managers, if the qualified limited service affiliate is a  
208 limited liability company.

209 (c) To an independent auditor, upon written consent of the  
210 qualified limited service affiliate's board of directors, if the  
211 qualified limited service affiliate is a corporation, or of the  
212 managers, if the qualified limited service affiliate is a  
213 limited liability company.

214 (d) To the liquidator, receiver, or conservator for a  
215 qualified limited service affiliate, if a liquidator, receiver,  
216 or conservator is appointed. However, any portion of the  
217 information which discloses the identity of a customer of the  
218 affiliated international trust entity, or a shareholder or  
219 member of the qualified limited service affiliate, must be  
220 redacted by the office before releasing such portion to the  
221 liquidator, receiver, or conservator.

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

224 (f) To the appropriate law enforcement or prosecutorial  
225 agency for the purpose of reporting any suspected criminal

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226 activity.

227 (g) Pursuant to a legislative subpoena. A legislative body  
228 or committee that receives records or information pursuant to  
229 such a subpoena must maintain the confidential status of the  
230 records or information, except in a case involving the  
231 investigation of charges against a public official subject to  
232 impeachment or removal, in which case the records or information  
233 may be disclosed only to the extent necessary as determined by  
234 such legislative body or committee.

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

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

242 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject  
243 to the Open Government Sunset Review Act in accordance with s.  
244 119.15 and is repealed on October 2, 2022, unless reviewed and  
245 saved from repeal through reenactment by the Legislature.

246 Section 4. The Legislature finds that it is a public  
247 necessity to make confidential and exempt from s. 119.07(1),  
248 Florida Statutes, and s. 24(a), Article I of the State  
249 Constitution personal identifying information of the customers  
250 or prospective customers of an affiliated international trust

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251 entity which appears in the books and records of a qualified  
252 limited service affiliate or in records relating to reports of  
253 examinations, operations, or condition of a qualified limited  
254 service affiliate, including working papers; any portion of a  
255 list of names of the shareholders or members of a qualified  
256 limited service affiliate which is held by the Office of  
257 Financial Regulation; and information received by the office  
258 from a person from another state or country or the Federal  
259 Government which is otherwise confidential or exempt pursuant to  
260 the laws of that state or country or pursuant to federal law.

261 (1) An exemption from public records requirements is  
262 necessary for personal identifying information of existing and  
263 prospective customers of an affiliated international trust  
264 entity or shareholders or members of a qualified limited service  
265 affiliate, because if such information is available for public  
266 access, such access could defame or jeopardize the personal and  
267 financial safety of those individuals. The individuals served by  
268 the affiliated international trust entity are often individuals  
269 of high net worth. Individuals of high net worth and  
270 shareholders or members of financial institutions are frequently  
271 the targets of criminal predators seeking access to their  
272 assets. It is important that the exposure of such individuals  
273 and their family members to threats of extortion, kidnapping,  
274 and other crimes not be increased. Placing the personal  
275 identifying information of these individuals within the public

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276 domain would increase the security risk that those individuals  
 277 or their families could become the target of criminal activity.

278 (2) An exemption from public records requirements is  
 279 necessary for information received by the Office of Financial  
 280 Regulation from a person from another state or country or the  
 281 Federal Government which is otherwise confidential or exempt  
 282 pursuant to the laws of that state or country or pursuant to  
 283 federal law, as public disclosure may deteriorate the office's  
 284 relationships with other regulatory bodies. The office  
 285 frequently engages in joint examinations with federal  
 286 regulators. If such information were subject to disclosure to  
 287 the public, not only would this disclosure deter other  
 288 regulatory bodies from communicating vital information to the  
 289 office, but the office would violate existing information-  
 290 sharing agreements governing the sharing of confidential  
 291 supervisory information.

292 Section 5. Subsections (1), (2), (5), and (9) of section  
 293 655.057, Florida Statutes, are amended, and subsection (15) is  
 294 added to that section, to read:

295 655.057 Records; limited restrictions upon public access.—

296 (1) Except as otherwise provided in this section and  
 297 except for such portions thereof which are otherwise public  
 298 record, all records and information relating to an investigation  
 299 by the office are confidential and exempt from s. 119.07(1) and  
 300 s. 24(a), Art. I of the State Constitution until such

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301 investigation is completed or ceases to be active. For purposes  
302 of this subsection, an investigation is considered "active"  
303 while such investigation is being conducted by the office with a  
304 reasonable, good faith belief that it may lead to the filing of  
305 administrative, civil, or criminal proceedings. An investigation  
306 does not cease to be active if the office is proceeding with  
307 reasonable dispatch, and there is a good faith belief that  
308 action may be initiated by the office or other administrative or  
309 law enforcement agency. After an investigation is completed or  
310 ceases to be active, portions of the records relating to the  
311 investigation are confidential and exempt from s. 119.07(1) and  
312 s. 24(a), Art. I of the State Constitution to the extent that  
313 disclosure would:

314 (a) Jeopardize the integrity of another active  
315 investigation;

316 (b) Impair the safety and soundness of the financial  
317 institution;

318 (c) Reveal personal financial information;

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

320 (e) Defame or cause unwarranted damage to the good name or  
321 reputation of an individual or jeopardize the safety of an  
322 individual; or

323 (f) Reveal investigative techniques or procedures.

324 (2) Except as otherwise provided in this section and  
325 except for such portions thereof which are public record,

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326 reports of examinations, operations, or condition, including  
327 working papers, or portions thereof, prepared by, or for the use  
328 of, the office or any state or federal agency responsible for  
329 the regulation or supervision of financial institutions in this  
330 state are confidential and exempt from s. 119.07(1) and s.  
331 24(a), Art. I of the State Constitution. However, such reports  
332 or papers or portions thereof may be released to:

- 333 (a) The financial institution under examination;
- 334 (b) Any holding company of which the financial institution  
335 is a subsidiary;
- 336 (c) Proposed purchasers if necessary to protect the  
337 continued financial viability of the financial institution, upon  
338 prior approval by the board of directors of such institution;
- 339 (d) Persons proposing in good faith to acquire a  
340 controlling interest in or to merge with the financial  
341 institution, upon prior approval by the board of directors of  
342 such financial institution;
- 343 (e) Any officer, director, committee member, employee,  
344 attorney, auditor, or independent auditor officially connected  
345 with the financial institution, holding company, proposed  
346 purchaser, or person seeking to acquire a controlling interest  
347 in or merge with the financial institution; or
- 348 (f) A fidelity insurance company, upon approval of the  
349 financial institution's board of directors. However, a fidelity  
350 insurance company may receive only that portion of an

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351 examination report relating to a claim or investigation being  
352 conducted by such fidelity insurance company.

353 (g) Examination, operation, or condition reports of a  
354 financial institution shall be released by the office within 1  
355 year after the appointment of a liquidator, receiver, or  
356 conservator to the financial institution. However, any portion  
357 of such reports which discloses the identities of depositors,  
358 bondholders, members, borrowers, or stockholders, other than  
359 directors, officers, or controlling stockholders of the  
360 institution, shall remain confidential and exempt from s.  
361 119.07(1) and s. 24(a), Art. I of the State Constitution.

362

363 Any confidential information or records obtained from the office  
364 pursuant to this paragraph shall be maintained as confidential  
365 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
366 Constitution.

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

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

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

374 (c) Disclosing or publishing summaries of the condition of  
375 financial institutions and general economic and similar

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376 | statistics and data, provided that the identity of a particular  
377 | financial institution is not disclosed.

378 |         (d) Reporting any suspected criminal activity, with  
379 | supporting documents and information, to appropriate law  
380 | enforcement and prosecutorial agencies.

381 |         (e) Furnishing information upon request to the Chief  
382 | Financial Officer or the Division of Treasury of the Department  
383 | of Financial Services regarding the financial condition of any  
384 | financial institution that is, or has applied to be, designated  
385 | as a qualified public depository pursuant to chapter 280.

386 |         (f) Furnishing information to Federal Home Loan Banks  
387 | regarding its member institutions pursuant to an information  
388 | sharing agreement between the Federal Home Loan Banks and the  
389 | office.

390 |

391 | Any confidential information or records obtained from the office  
392 | pursuant to this subsection shall be maintained as confidential  
393 | and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
394 | Constitution.

395 |         (9) Materials supplied to the office or to employees of  
396 | any financial institution by other state or federal governmental  
397 | agencies remain the property of the submitting agency or the  
398 | corporation, and any document request must be made to the  
399 | appropriate agency. Any confidential documents supplied to the  
400 | office or to employees of any financial institution by other



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401 state or federal governmental agencies are confidential and  
402 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
403 Constitution. Such information shall be made public only with  
404 the consent of such agency or the corporation.

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

409 Section 6. The Legislature finds that it is a public  
410 necessity to make confidential and exempt from s. 119.07(1),  
411 Florida Statutes, and s. 24(a), Article I of the State  
412 Constitution records and information relating to an  
413 investigation by the Office of Financial Regulation; portions of  
414 records relating to a completed or inactive investigation by the  
415 office which would jeopardize the integrity of another active  
416 investigation, impair the safety and soundness of the financial  
417 institution, reveal personal financial information, reveal the  
418 identity of a confidential source, defame or cause unwarranted  
419 damage to the good name or reputation of an individual or  
420 jeopardize the safety of an individual, or reveal investigative  
421 techniques or procedures; reports of examinations, operations,  
422 or condition, including working papers, or portions thereof,  
423 prepared by, or for the use of, the office or any state or  
424 federal agency responsible for the regulation or supervision of  
425 financial institutions in this state; any portion of such

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426 | reports which discloses the identities of depositors,  
427 | bondholders, members, borrowers, or stockholders, other than  
428 | directors, officers, or controlling stockholders of the  
429 | institution; and materials supplied to the office or to  
430 | employees of any financial institution by other state or federal  
431 | governmental agencies.

432 |       (1) The terms "international trust entity" and "qualified  
433 | limited service affiliate" referenced in newly created parts III  
434 | and IV of chapter 663, Florida Statutes, are added to the  
435 | definition of the term "financial institution" in s.  
436 | 655.005(1)(i), Florida Statutes, in CS/CS/HB 435. The  
437 | international trust company representative offices and qualified  
438 | limited service affiliates servicing international trust  
439 | entities are thus subject to examination by the Office of  
440 | Financial Regulation. As a result, the office may receive  
441 | sensitive personal and financial information relating to such  
442 | entities in conjunction with its duties under chapters 655 and  
443 | 663, Florida Statutes. An exemption from public records  
444 | requirements prevents gaps in the law by providing the same  
445 | protections to international trust entities and qualified  
446 | limited service affiliates which are afforded to other financial  
447 | institutions, thereby preventing any disadvantage to these  
448 | similarly regulated entities in comparison to other entities  
449 | currently defined as "financial institutions." An exemption from  
450 | public records requirements for reports of examinations,

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451 operations, or condition, including working papers, is necessary  
452 to ensure the office's ability to effectively and efficiently  
453 administer its examination and investigation duties. Examination  
454 and investigation are essential components of financial  
455 institutions regulation. They deter fraud and ensure the safety  
456 and soundness of the financial system. Examinations also provide  
457 a means of early detection of violations, allowing for  
458 corrective action to be taken before any harm can be done.

459 (2) The Legislature finds that it is a public necessity  
460 that information and records relating to an examination or  
461 investigation by the office be held confidential and exempt from  
462 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the  
463 State Constitution. Public disclosure of records and information  
464 relating to an examination or investigation by the office could  
465 expose the subject financial institution to unwarranted damage  
466 to its good name or reputation and impair its safety and  
467 soundness, as well as the safety and soundness of the financial  
468 system in the state. Public disclosure of records and  
469 information relating to an investigation by the office which  
470 could jeopardize the integrity of another active investigation  
471 or reveal investigative techniques or procedures of the office  
472 would impair the office's ability to effectively and efficiently  
473 administer its duties under ss. 655.032 and 655.045, Florida  
474 Statutes. Any portion of a record or information relating to an  
475 investigation or examination which reveals personal financial

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476 | information or the identity of a confidential source may defame,  
477 | or cause unwarranted damage to the good name or reputation of,  
478 | those individuals, or jeopardize their safety.

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