

**FOR CONSIDERATION By** the Committee on Regulated Industries

580-02528-21

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1                   A bill to be entitled  
2           An act relating to public records and public meetings  
3           exemptions; amending s. 16.71, F.S.; specifying that  
4           any exempt or confidential and exempt information  
5           obtained by the Florida Gaming Control Commission  
6           retains its exempt or confidential and exempt status;  
7           providing an exemption from public meetings  
8           requirements for portions of meetings of the  
9           commission wherein confidential or exempt information  
10          is discussed; specifying the commission is a criminal  
11          justice agency; authorizing the commission to close  
12          portions of meetings during which certain criminal  
13          matters are discussed if certain requirements are met;  
14          providing an exemption from public meetings  
15          requirements for such portions of meetings; providing  
16          an exemption from public records requirements for  
17          documents and recordings relating to such exempt  
18          portions of meetings; providing for future review and  
19          repeal; providing a statement of public necessity;  
20          providing an effective date.

21  
22 Be It Enacted by the Legislature of the State of Florida:

23  
24           Section 1. Subsection (11) is added to section 16.71, as  
25           created by SB \_\_\_\_, 2021 Regular Session, to read:

26           16.71 Florida Gaming Control Commission.—

27           (11) (a) 1. Information made exempt or confidential and  
28           exempt from s. 119.07(1) or s. 24(a) Art I. of the State  
29           Constitution which is obtained by the Florida Gaming Control

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30 Commission shall retain its exempt or confidential and exempt  
31 status. The information may be released by the commission to  
32 other governmental entities as needed in the performance of its  
33 official duties and responsibilities. The governmental entity  
34 shall maintain the exempt or confidential and exempt status of  
35 the information.

36 2. Portions of meetings of the commission during which  
37 information made exempt or confidential and exempt is discussed  
38 are exempt from s. 286.011 and s. 24(b), Art I. of the State  
39 Constitution.

40 (b)1. The Florida Gaming Control Commission is a criminal  
41 justice agency as defined in s. 119.011.

42 2.a. The Florida Gaming Control Commission may close  
43 portions of meetings during which the commission will hear or  
44 discuss active criminal intelligence information or active  
45 criminal investigative information, as those terms are defined  
46 in s. 119.011(3), and such portions of meetings shall be exempt  
47 from the provisions of s. 286.011 and s. 24(b), Art. I of the  
48 State Constitution, provided that the following conditions are  
49 met:

50 (I) The chair of the commission shall advise the commission  
51 at a public meeting that, in connection with the performance of  
52 a commission duty, it is necessary that the commission hear or  
53 discuss active criminal investigative information or active  
54 criminal intelligence information.

55 (II) The chair's declaration of necessity for closure and  
56 the specific reasons for such necessity shall be stated in  
57 writing in a document that shall be a public record and shall be  
58 filed with the official records of the commission.

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59       (III) The entire closed session shall be recorded. The  
60 recording shall include the times of commencement and  
61 termination of the closed session, all discussion and  
62 proceedings, and the names of all persons present. No portion of  
63 the session shall be off the record. Such recording shall be  
64 maintained by the commission.

65       b. Only members of the commission, Department of Law  
66 Enforcement staff supporting the commission's function, and  
67 other persons whose presence has been authorized by the chair of  
68 the commission shall be allowed to attend the exempted portions  
69 of the commission meetings. The commission shall assure that any  
70 closure of its meetings as authorized by this paragraph is  
71 limited so that the general policy of this state in favor of  
72 public meetings is maintained.

73       3. A tape recording of, and any minutes and notes generated  
74 during, that portion of a Florida Gaming Control Commission  
75 meeting which is closed to the public pursuant to this paragraph  
76 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
77 I of the State Constitution until such time as the criminal  
78 investigative information or criminal intelligence information  
79 ceases to be active.

80       (c) This subsection is subject to the Open Government  
81 Sunset Review Act in accordance with s. 119.115 and is repealed  
82 on October 2, 2026, unless reviewed and saved from repeal  
83 through reenactment by the Legislature.

84       Section 2. (1) The Legislature finds that it is a public  
85 necessity to maintain the exempt or confidential and exempt  
86 status of any exempt or confidential and exempt information  
87 obtained by the Florida Gaming Control Commission. In the

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88 absence of this exemption, sensitive confidential or exempt  
89 information would be disclosed. In addition, the Legislature  
90 finds that it is a public necessity that portions of meetings of  
91 the Florida Gaming Control Commission wherein confidential and  
92 exempt information is discussed be made exempt from public  
93 meetings requirements. The release of confidential and exempt  
94 information via a public meeting defeats the purpose of a public  
95 records exemption. Accordingly, the Legislature finds that the  
96 harm to the public that would result from the release of such  
97 information substantially outweighs any minimal public benefit  
98 derived therefrom.

99 (2) The Legislature finds that during limited portions of  
100 the meetings of the Florida Gaming Control Commission it is  
101 necessary that the commission be presented with and discuss  
102 details, information, and documents related to active criminal  
103 intelligence information or active criminal investigative  
104 information. These presentations and discussions are necessary  
105 for the commission to make its decisions for licensing of  
106 persons for pari-mutuel and gaming activities, and for decisions  
107 related to gaming enforcement and enforcement of gambling laws  
108 as required by the Legislature under this act. The Legislature  
109 finds that to reveal the contents of documents containing active  
110 criminal investigative or intelligence information or to allow  
111 active criminal investigative or active criminal intelligence  
112 matters to be discussed in a meeting open to the public  
113 negatively impacts the ability of law enforcement agencies to  
114 efficiently continue their investigative or intelligence  
115 gathering activities. The Legislature finds that information  
116 coming before the commission that pertains to active criminal

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117 investigations or intelligence should remain confidential and  
118 exempt from public disclosure. The Legislature finds that the  
119 Florida Gaming Control Commission may, by declaring only those  
120 portions of commission meetings in which active criminal  
121 investigative or active criminal intelligence information is to  
122 be presented or discussed closed to the public, assure an  
123 appropriate balance between the policy of this state that  
124 meetings be public and the policy of this state to facilitate  
125 efficient law enforcement efforts. Accordingly, the Legislature  
126 finds that the harm to the public that would result from the  
127 release of such information substantially outweighs any minimal  
128 public benefit derived therefrom.

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