

By the Committee on Banking and Insurance

597-01494-22

20227020\_\_

1                                   A bill to be entitled  
 2           An act relating to review under the Open Government  
 3           Sunset Review Act; amending s. 663.416, F.S., which  
 4           provides an exemption from public records requirements  
 5           for certain information held by the Office of  
 6           Financial Regulation relating to affiliated  
 7           international trust entities; removing the scheduled  
 8           repeal of the exemption; amending s. 663.540, F.S.,  
 9           which provides an exemption from public records  
 10          requirements for certain information held by the  
 11          office relating to qualified limited service  
 12          affiliates; removing the scheduled repeal of the  
 13          exemption; amending s. 655.057, F.S., which provides  
 14          exemptions from public records requirements for  
 15          certain information held by the office relating to  
 16          active investigations of and the regulation of  
 17          financial institutions; removing the scheduled repeal  
 18          of the exemption; providing an effective date.

19  
 20 Be It Enacted by the Legislature of the State of Florida:

21  
 22           Section 1. Section 663.416, Florida Statutes, is amended to  
 23           read:

24           663.416 Public records exemption.—

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

26           (a) "Reports of examinations, operations, or condition"  
 27           means records submitted to or prepared by the office as part of  
 28           the office's duties performed pursuant to s. 655.012 or s.  
 29           655.045.

597-01494-22

20227020\_\_

30 (b) "Working papers" means the records of the procedure  
31 followed, the tests performed, the information obtained, and the  
32 conclusions reached in an investigation or examination performed  
33 under s. 655.032 or s. 655.045. The term includes planning  
34 documentation, work programs, analyses, memoranda, letters of  
35 confirmation and representation, abstracts of the books and  
36 records of a financial institution, as defined in s. 655.005,  
37 and schedules or commentaries prepared or obtained in the course  
38 of such investigation or examination.

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

42 (a) Any personal identifying information of the customers  
43 or prospective customers of an affiliated international trust  
44 entity which appears in the books and records of an  
45 international trust company representative office or in records  
46 relating to reports of examinations, operations, or condition of  
47 an international trust company representative office, including  
48 working papers.

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

51 (c) Information received by the office from a person from  
52 another state or country or the Federal Government which is  
53 otherwise confidential or exempt pursuant to the laws of that  
54 state or country or pursuant to federal law.

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

58 (a) To the authorized representative or representatives of

597-01494-22

20227020\_\_

59 the international trust company representative office under  
60 examination. The authorized representative or representatives  
61 must be identified in a resolution or by written consent of the  
62 board of directors, or the equivalent, of the international  
63 trust entity.

64 (b) To a fidelity insurance company, upon written consent  
65 of the board of directors, or the equivalent, of the  
66 international trust entity.

67 (c) To an independent auditor, upon written consent of the  
68 board of directors, or the equivalent, of the international  
69 trust entity.

70 (d) To the liquidator, receiver, or conservator for the  
71 international trust entity, if a liquidator, receiver, or  
72 conservator is appointed. However, any portion of the  
73 information which discloses the identity of a customer or  
74 prospective customer of the international trust entity, or a  
75 shareholder or member of the international trust entity, must be  
76 redacted by the office before releasing such portion to the  
77 liquidator, receiver, or conservator.

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

80 (f) To the appropriate law enforcement or prosecutorial  
81 agency for the purpose of reporting any suspected criminal  
82 activity.

83 (g) Pursuant to a legislative subpoena. A legislative body  
84 or committee that receives records or information pursuant to  
85 such a subpoena must maintain the confidential status of the  
86 records or information, except in a case involving the  
87 investigation of charges against a public official subject to

597-01494-22

20227020\_\_

88 impeachment or removal, in which case the records or information  
89 may be disclosed only to the extent necessary as determined by  
90 such legislative body or committee.

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

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

98 ~~(6) OPEN GOVERNMENT SUNSET REVIEW. This section is subject~~  
99 ~~to the Open Government Sunset Review Act in accordance with s.~~  
100 ~~119.15 and is repealed on October 2, 2022, unless reviewed and~~  
101 ~~saved from repeal through reenactment by the Legislature.~~

102 Section 2. Section 663.540, Florida Statutes, is amended to  
103 read:

104 663.540 Public records exemption.—

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

106 (a) "Reports of examinations, operations, or condition"  
107 means records submitted to or prepared by the office as part of  
108 the office's duties performed pursuant to s. 655.012 or s.  
109 663.537.

110 (b) "Working papers" means the records of the procedure  
111 followed, the tests performed, the information obtained, and the  
112 conclusions reached in an investigation or examination performed  
113 under s. 655.032 or s. 663.537. The term includes planning  
114 documentation, work programs, analyses, memoranda, letters of  
115 confirmation and representation, abstracts of the books and  
116 records of a financial institution, as defined in s. 655.005,

597-01494-22

20227020\_\_

117 and schedules or commentaries prepared or obtained in the course  
118 of such investigation or examination.

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

122 (a) Any personal identifying information of the customers  
123 or prospective customers of an affiliated international trust  
124 entity which appears in the books and records of a qualified  
125 limited service affiliate or in records relating to reports of  
126 examinations, operations, or condition of a qualified limited  
127 service affiliate, including working papers.

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

130 (c) Information received by the office from a person from  
131 another state or country or the Federal Government which is  
132 otherwise confidential or exempt pursuant to the laws of that  
133 state or country or pursuant to federal law.

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

137 (a) To the authorized representative or representatives of  
138 the qualified limited service affiliate under examination. The  
139 authorized representative or representatives must be identified  
140 in a resolution or by written consent of the board of directors,  
141 if the qualified limited service affiliate is a corporation, or  
142 of the managers, if the qualified limited service affiliate is a  
143 limited liability company.

144 (b) To a fidelity insurance company, upon written consent  
145 of the qualified limited service affiliate's board of directors,

597-01494-22

20227020\_\_

146 if the qualified limited service affiliate is a corporation, or  
147 of the managers, if the qualified limited service affiliate is a  
148 limited liability company.

149 (c) To an independent auditor, upon written consent of the  
150 qualified limited service affiliate's board of directors, if the  
151 qualified limited service affiliate is a corporation, or of the  
152 managers, if the qualified limited service affiliate is a  
153 limited liability company.

154 (d) To the liquidator, receiver, or conservator for a  
155 qualified limited service affiliate, if a liquidator, receiver,  
156 or conservator is appointed. However, any portion of the  
157 information which discloses the identity of a customer of the  
158 affiliated international trust entity, or a shareholder or  
159 member of the qualified limited service affiliate, must be  
160 redacted by the office before releasing such portion to the  
161 liquidator, receiver, or conservator.

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

164 (f) To the appropriate law enforcement or prosecutorial  
165 agency for the purpose of reporting any suspected criminal  
166 activity.

167 (g) Pursuant to a legislative subpoena. A legislative body  
168 or committee that receives records or information pursuant to  
169 such a subpoena must maintain the confidential status of the  
170 records or information, except in a case involving the  
171 investigation of charges against a public official subject to  
172 impeachment or removal, in which case the records or information  
173 may be disclosed only to the extent necessary as determined by  
174 such legislative body or committee.

597-01494-22

20227020\_\_

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

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

182 ~~(6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject~~  
183 ~~to the Open Government Sunset Review Act in accordance with s.~~  
184 ~~119.15 and is repealed on October 2, 2022, unless reviewed and~~  
185 ~~saved from repeal through reenactment by the Legislature.~~

186 Section 3. Section 655.057, Florida Statutes, is amended to  
187 read:

188 655.057 Records; limited restrictions upon public access.—

189 (1) Except as otherwise provided in this section and except  
190 for such portions thereof which are otherwise public record, all  
191 records and information relating to an investigation by the  
192 office are confidential and exempt from s. 119.07(1) and s.  
193 24(a), Art. I of the State Constitution until such investigation  
194 is completed or ceases to be active. For purposes of this  
195 subsection, an investigation is considered "active" while such  
196 investigation is being conducted by the office with a  
197 reasonable, good faith belief that it may lead to the filing of  
198 administrative, civil, or criminal proceedings. An investigation  
199 does not cease to be active if the office is proceeding with  
200 reasonable dispatch, and there is a good faith belief that  
201 action may be initiated by the office or other administrative or  
202 law enforcement agency. After an investigation is completed or  
203 ceases to be active, portions of the records relating to the

597-01494-22

20227020\_\_

204 investigation are confidential and exempt from s. 119.07(1) and  
205 s. 24(a), Art. I of the State Constitution to the extent that  
206 disclosure would:

207 (a) Jeopardize the integrity of another active  
208 investigation;

209 (b) Impair the safety and soundness of the financial  
210 institution;

211 (c) Reveal personal financial information;

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

213 (e) Defame or cause unwarranted damage to the good name or  
214 reputation of an individual or jeopardize the safety of an  
215 individual; or

216 (f) Reveal investigative techniques or procedures.

217 (2) Except as otherwise provided in this section and except  
218 for such portions thereof which are public record, reports of  
219 examinations, operations, or condition, including working  
220 papers, or portions thereof, prepared by, or for the use of, the  
221 office or any state or federal agency responsible for the  
222 regulation or supervision of financial institutions in this  
223 state are confidential and exempt from s. 119.07(1) and s.  
224 24(a), Art. I of the State Constitution. However, such reports  
225 or papers or portions thereof may be released to:

226 (a) The financial institution under examination;

227 (b) Any holding company of which the financial institution  
228 is a subsidiary;

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

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



597-01494-22

20227020\_\_

233 controlling interest in or to merge with the financial  
234 institution, upon prior approval by the board of directors of  
235 such financial institution;

236 (e) Any officer, director, committee member, employee,  
237 attorney, auditor, or independent auditor officially connected  
238 with the financial institution, holding company, proposed  
239 purchaser, or person seeking to acquire a controlling interest  
240 in or merge with the financial institution; or

241 (f) A fidelity insurance company, upon approval of the  
242 financial institution's board of directors. However, a fidelity  
243 insurance company may receive only that portion of an  
244 examination report relating to a claim or investigation being  
245 conducted by such fidelity insurance company.

246 (g) Examination, operation, or condition reports of a  
247 financial institution shall be released by the office within 1  
248 year after the appointment of a liquidator, receiver, or  
249 conservator to the financial institution. However, any portion  
250 of such reports which discloses the identities of depositors,  
251 bondholders, members, borrowers, or stockholders, other than  
252 directors, officers, or controlling stockholders of the  
253 institution, shall remain confidential and exempt from s.  
254 119.07(1) and s. 24(a), Art. I of the State Constitution.

255  
256 Any confidential information or records obtained from the office  
257 pursuant to this paragraph shall be maintained as confidential  
258 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
259 Constitution.

260 (3) Except as otherwise provided in this section and except  
261 for those portions that are otherwise public record, after an

597-01494-22

20227020\_\_

262 investigation relating to an informal enforcement action is  
263 completed or ceases to be active, informal enforcement actions  
264 are confidential and exempt from s. 119.07(1) and s. 24(a), Art.  
265 I of the State Constitution to the extent that disclosure would:

266 (a) Jeopardize the integrity of another active  
267 investigation.

268 (b) Impair the safety and soundness of the financial  
269 institution.

270 (c) Reveal personal financial information.

271 (d) Reveal the identity of a confidential source.

272 (e) Defame or cause unwarranted damage to the good name or  
273 reputation of an individual or jeopardize the safety of an  
274 individual.

275 (f) Reveal investigative techniques or procedures.

276 (4) Except as otherwise provided in this section and except  
277 for those portions that are otherwise public record, trade  
278 secrets as defined in s. 688.002 which comply with s. 655.0591  
279 and which are held by the office in accordance with its  
280 statutory duties with respect to the financial institutions  
281 codes are confidential and exempt from s. 119.07(1) and s.  
282 24(a), Art. I of the State Constitution.

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

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

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

290 (c) Disclosing or publishing summaries of the condition of

597-01494-22

20227020\_\_

291 financial institutions and general economic and similar  
292 statistics and data, provided that the identity of a particular  
293 financial institution is not disclosed.

294 (d) Reporting any suspected criminal activity, with  
295 supporting documents and information, to appropriate law  
296 enforcement and prosecutorial agencies.

297 (e) Furnishing information upon request to the Chief  
298 Financial Officer or the Division of Treasury of the Department  
299 of Financial Services regarding the financial condition of any  
300 financial institution that is, or has applied to be, designated  
301 as a qualified public depository pursuant to chapter 280.

302 (f) Furnishing information to Federal Home Loan Banks  
303 regarding its member institutions pursuant to an information  
304 sharing agreement between the Federal Home Loan Banks and the  
305 office.

306  
307 Any confidential information or records obtained from the office  
308 pursuant to this subsection shall be maintained as confidential  
309 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
310 Constitution.

311 (6) (a) Orders of courts or of administrative law judges for  
312 the production of confidential records or information must  
313 provide for inspection in camera by the court or the  
314 administrative law judge. After the court or administrative law  
315 judge determines that the documents requested are relevant or  
316 would likely lead to the discovery of admissible evidence and  
317 that the information sought is not otherwise reasonably  
318 available from other sources, the documents shall be subject to  
319 further orders by the court or the administrative law judge to

597-01494-22

20227020\_\_

320 protect the confidentiality thereof. An order directing the  
321 release of information is immediately reviewable, and a petition  
322 by the office for review of such order automatically stays  
323 further proceedings in the trial court or the administrative  
324 hearing until the disposition of such petition by the reviewing  
325 court. If any other party files such a petition for review, it  
326 operates as a stay of such proceedings only upon order of the  
327 reviewing court.

328 (b) Confidential records and information furnished pursuant  
329 to a legislative subpoena shall be kept confidential by the  
330 legislative body or committee that received the records or  
331 information. However, in a case involving investigation of  
332 charges against a public official subject to impeachment or  
333 removal, disclosure of such information shall be only to the  
334 extent necessary as determined by the legislative body or  
335 committee.

336 (c) Documents, statements, books, records, and any other  
337 information provided to the office by any person pursuant to an  
338 investigation, examination, or other supervisory activity by the  
339 office are not considered a waiver of any privilege or other  
340 legal right in an administrative or legal proceeding in which  
341 the office is not a party.

342 (7) Every credit union and mutual association shall  
343 maintain full and correct records of the names and residences of  
344 all the members of the credit union or mutual association in the  
345 principal office where its business is transacted. Such records  
346 are subject to inspection by all members of the credit union or  
347 mutual association, and the officers authorized to assess taxes  
348 under state authority, during normal business hours. No member

597-01494-22

20227020\_\_

349 or any other person has the right to copy the membership records  
350 for any purpose other than in the course of business of the  
351 credit union or mutual association, as authorized by the office  
352 or the board of directors of the credit union or mutual  
353 association. A current list of members shall be made available  
354 to the office's examiners for their inspection and, upon the  
355 request of the office, shall be submitted to the office. Except  
356 as otherwise provided in this subsection, the list of the  
357 members of the credit union or mutual association is  
358 confidential and exempt from s. 119.07(1).

359 (8) Every bank, trust company, and stock association shall  
360 maintain, in the principal office where its business is  
361 transacted, full and complete records of the names and  
362 residences of all the shareholders of the bank, trust company,  
363 or stock association and the number of shares held by each. Such  
364 records are subject to the inspection of all the shareholders of  
365 the bank, trust company, or stock association, and the officers  
366 authorized to assess taxes under state authority, during normal  
367 business hours. No shareholder or any other person has the right  
368 to copy the shareholder records for any purpose other than in  
369 the course of business of the bank, the trust company, or the  
370 stock association, as authorized by the office or the board of  
371 directors of the bank, the trust company, or the stock  
372 association. A current list of shareholders shall be made  
373 available to the office's examiners for their inspection and,  
374 upon the request of the office, shall be submitted to the  
375 office. Except as otherwise provided in this subsection, any  
376 portion of this list which reveals the identities of the  
377 shareholders is confidential and exempt from s. 119.07(1).

597-01494-22

20227020\_\_

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

388 (10) Examination reports, investigatory records,  
389 applications, and related information compiled by the office, or  
390 photographic copies thereof, shall be retained by the office for  
391 at least 10 years.

392 (11) A copy of any document on file with the office which  
393 is certified by the office as being a true copy may be  
394 introduced in evidence as if it were the original. The  
395 commission shall establish a schedule of fees for preparing true  
396 copies of documents.

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

398 (a) "Examination report" means records submitted to or  
399 prepared by the office as part of the office's duties performed  
400 pursuant to s. 655.012 or s. 655.045(1).

401 (b) "Informal enforcement action" means a board resolution,  
402 a document of resolution, or an agreement in writing between the  
403 office and a financial institution which:

404 1. The office imposes on an institution when the office  
405 considers the administrative enforcement guidelines in s.  
406 655.031 and determines that a formal enforcement action is not

597-01494-22

20227020\_\_

407 an appropriate administrative remedy;

408 2. Sets forth a program of corrective action to address one  
409 or more safety and soundness deficiencies and violations of law  
410 or rule at the institution; and

411 3. Is not subject to enforcement by imposition of an  
412 administrative fine pursuant to s. 655.041.

413 (c) "Personal financial information" means:

414 1. Information relating to the existence, nature, source,  
415 or amount of a person's personal income, expenses, or debt.

416 2. Information relating to a person's financial  
417 transactions of any kind.

418 3. Information relating to the existence, identification,  
419 nature, or value of a person's assets, liabilities, or net  
420 worth.

421 (d) "Working papers" means the records of the procedures  
422 followed, the tests performed, the information obtained, and the  
423 conclusions reached in an examination or investigation performed  
424 under s. 655.032 or s. 655.045. Working papers include planning  
425 documentation, work programs, analyses, memoranda, letters of  
426 confirmation and representation, abstracts of the books and  
427 records of a financial institution as defined in s. 655.005(1),  
428 and schedules or commentaries prepared or obtained in the course  
429 of such examination or investigation.

430 (13) A person who willfully discloses information made  
431 confidential by this section commits a felony of the third  
432 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
433 775.084.

434 ~~(14) Subsections (1), (2), (5), and (9) are subject to the~~  
435 ~~Open Government Sunset Review Act in accordance with s. 119.15~~

597-01494-22

20227020\_\_

436 ~~and are repealed on October 2, 2022, unless reviewed and saved~~  
437 ~~from repeal through reenactment by the Legislature.~~

438 Section 4. This act shall take effect October 1, 2022.