

1 A bill to be entitled
 2 An act relating to public records; providing definitions;
 3 providing an exemption from public-records requirements
 4 for confidential and proprietary business information and
 5 trade secrets received by the Destination Resort
 6 Commission; providing an exemption from public-records
 7 requirements for information held that would reveal
 8 investigation techniques and procedures used by the
 9 Destination Resort Commission; providing a definition;
 10 providing an exception to the exemption for other
 11 governmental entities having oversight or regulatory or
 12 law enforcement authority; providing penalties for an
 13 employee of the commission who violates the provisions of
 14 the act; providing for future review and repeal of the
 15 exemption under the Open Government Sunset Review Act;
 16 providing a statement of public necessity; providing a
 17 contingent effective date.

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

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 21 Section 1. Confidentiality of records.—

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

23 (a) "Proprietary confidential business information" means
 24 information that is owned or controlled by an applicant for a
 25 license or licensee under the Destination Resort Act who
 26 requests confidentiality under this section; that is intended to
 27 be and is treated by the applicant or licensee as private in
 28 that the disclosure of the information would cause harm to the

29 business operations of the applicant or licensee; that has not
 30 been disclosed unless disclosed pursuant to a statute or rule,
 31 an order of a court or administrative body, or a private
 32 agreement providing that the information may be released to the
 33 public; and that is information concerning:

- 34 1. Business plans;
- 35 2. Internal auditing controls and reports of internal
 36 auditors; or
- 37 3. Reports of external auditors for privately held
 38 companies.

39 (b) "Trade secret" has the same meaning as in s. 688.002,
 40 Florida Statutes.

41 (2) TRADE SECRETS.—Trade secrets held by the Destination
 42 Resort Commission are confidential and exempt from s. 119.07(1),
 43 Florida Statutes, and s. 24(a), Article I of the State
 44 Constitution.

45 (3) PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION.—
 46 Proprietary confidential business information held by the
 47 Destination Resort Commission is confidential and exempt from s.
 48 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 49 State Constitution, until such information is otherwise publicly
 50 available or is no longer treated by an applicant for a license
 51 or a licensee under the Destination Resort Act as proprietary
 52 confidential business information.

53 (4) IDENTIFICATION, ACCOUNT, AND REGISTRATION NUMBERS.—A
 54 federal employer identification number, unemployment
 55 compensation account number, or Florida sales tax registration
 56 number held by the Destination Resort Commission is confidential

57 and exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
 58 Article I of the State Constitution.

59 (5) INVESTIGATION TECHNIQUES AND PROCEDURES.—

60 (a) For purposes of this subsection, "investigation
 61 techniques and procedures" are the methods, processes, and
 62 guidelines used to evaluate regulatory compliance and to collect
 63 and analyze data, records, and testimony for the purpose of
 64 documenting violations of the Destination Resort Act and the
 65 rules adopted thereunder.

66 (b) Information that would reveal examination techniques
 67 or procedures used by the Destination Resort Commission pursuant
 68 to the Destination Resort Act is confidential and exempt from s.
 69 119.07(1), Florida Statutes, and s. 24(a), Article I of the
 70 State Constitution.

71 (c) Confidential and exempt information that would reveal
 72 examination techniques or procedures may be provided by the
 73 commission to another governmental entity having oversight or
 74 regulatory or law enforcement authority.

75 (6) PENALTIES.—Any person who is an employee of the
 76 Destination Resort Commission who violates the provisions of
 77 this section commits a misdemeanor of the second degree,
 78 punishable as provided in s. 775.082 or s. 775.083, Florida
 79 Statutes.

80 (7) LEGISLATIVE REVIEW OF EXEMPTIONS.—This section is
 81 subject to the Open Government Sunset Review Act in accordance
 82 with s. 119.15, Florida Statutes, and shall stand repealed on
 83 October 2, 2016, unless reviewed and saved from repeal through
 84 reenactment by the Legislature.

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85 Section 2. (1) It is the finding of the Legislature that
86 it is a public necessity that information relating to
87 proprietary confidential business information and trade secrets
88 under the Destination Resort Act be made confidential and exempt
89 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
90 the State Constitution. This exemption is necessary to ensure
91 that the best qualified applicants are not deterred from
92 applying for licenses by the prospect of the disclosure of
93 proprietary confidential business information and trade secrets.

94 (2) The Destination Resort Act provides for a competitive
95 process for the award of an destination resort license. The
96 selection of the best qualified applicant for a license is
97 critical for the state to ensure that the state receives the
98 most economic benefits and greatest amount of tax revenues in
99 granting a resort license.

100 (3) (a) It is the finding of the Legislature that it is a
101 public necessity that information that would reveal
102 investigation techniques or procedures used by the Destination
103 Resort Commission pursuant to the Destination Resort Act be made
104 confidential and exempt from s. 119.07(1), Florida Statutes, and
105 s. 24(a), Article I of the State Constitution. This exemption is
106 necessary to ensure the commission's ability to effectively and
107 efficiently enforce compliance with the Destination Resort Act,
108 which would be significantly impaired without the exemption.

109 (b) Investigations are an essential component of gaming
110 regulation. The mere existence of an investigation program
111 fosters regulatory compliance and deters fraud and abuse by
112 industry participants. Investigations often detect violations in

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113 their early stages. Early detection allows corrective action to
114 be taken before significant harm can be done to the state. Due
115 to the importance of such investigations, state regulators
116 devote extensive resources to devising effective investigation
117 techniques and procedures.

118 (c) Allowing access to information revealing investigation
119 techniques or procedures would undermine the investigation
120 process and facilitate evasion of the law. Any advance notice of
121 the areas of inquiry to be explored during an examination might
122 prompt a person to conceal evidence of deficiencies or fabricate
123 evidence of compliance. Without the exemption, the Destination
124 Resort Commission's ability to uncover misconduct and evaluate
125 policies and procedures through the investigation process would
126 be significantly impaired.

127 (d) Additionally, without such an exemption, the
128 Destination Resort Commission's ability to participate in joint
129 investigations with other regulators would be impaired as
130 release of this information relating to investigations by other
131 regulators would compromise the integrity of such joint
132 investigations. The commission also would not be able to accept
133 or use confidential examination techniques and procedures
134 developed by other regulators. Thus, the absence of an exemption
135 would create a situation that reduces the commission's ability
136 to leverage its limited resources.

137 Section 3. This act shall take effect on the same date
138 that HB 1415 or similar legislation takes effect, if such
139 legislation is enacted in the same legislative session, or an
140 extension thereof, and becomes law, and only if this act is

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141 | enacted by a two-thirds vote of the membership of each house of
142 | the Legislature.