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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/27/2011	.	
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The Committee on Rules (Thrasher) recommended the following:

**Senate Amendment (with title amendment)**

Between lines 118 and 119  
insert:

Section 2. Section 112.3142, Florida Statutes, is created  
to read:

112.3142 Qualified blind trusts.-

(1) The Legislature finds that if a public officer creates  
a trust and does not control the interests held by the trust,  
his or her official actions will not be influenced or appear to  
be influenced by private considerations.

(2) If a public officer holds an economic interest in a  
qualified blind trust as described in this section, he or she



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14 does not have a conflict of interest prohibited under s.  
15 112.313(3) or (7) or a voting conflict of interest under s.  
16 112.3143 with regard to matters pertaining to that economic  
17 interest.

18 (3) Except as otherwise provided in this section, the  
19 public officer may not attempt to influence or exercise any  
20 control over decisions regarding the management of assets in a  
21 qualified blind trust. The public officer and each person having  
22 a beneficial interest in the qualified blind trust may not make  
23 any effort to obtain information with respect to the holdings of  
24 the trust, including obtaining a copy of any trust tax return  
25 filed or any information relating thereto, except as otherwise  
26 provided in this section.

27 (4) Except for communications that consist solely of  
28 requests for distributions of cash or other unspecified assets  
29 of the trust, there shall be no direct or indirect communication  
30 with respect to the trust between the public officer or any  
31 person having a beneficial interest in the qualified blind trust  
32 and the trustee, unless such communication is in writing and  
33 unless it relates only to:

34 (a) A request for a distribution from the trust which does  
35 not specify whether the distribution is to be made in cash or in  
36 kind;

37 (b) The general financial interests and needs of the public  
38 officer or a person having a beneficial interest, including, but  
39 not limited to, an interest in maximizing income or long-term  
40 capital gain;

41 (c) The notification of the trustee of a law or regulation  
42 subsequently applicable to the public officer which prohibits



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43 the officer from holding an asset and which notification directs  
44 that the asset not be held by the trust; or

45 (d) Directions to the trustee to sell all of an asset  
46 initially placed in the trust by the public officer which, in  
47 the determination of the public officer, creates a conflict of  
48 interest or the appearance thereof due to the subsequent  
49 assumption of duties by the public officer.

50 (5) The public officer shall report as an asset on his or  
51 her financial disclosure forms the beneficial interest in the  
52 qualified blind trust and its value, if the value is required to  
53 be disclosed. The public officer shall report the blind trust as  
54 a primary source of income on his or her financial disclosure  
55 forms and its amount, if the amount of income is required to be  
56 disclosed. The public officer is not required to report as a  
57 secondary source of income any source of income to the blind  
58 trust.

59 (6) In order to constitute a qualified blind trust, the  
60 trust must be established by the public officer and meet the  
61 following requirements:

62 (a) The person appointed as a trustee must not be:

63 1. The public officer's spouse, child, parent, grandparent,  
64 grandchild, brother, sister, parent-in-law, brother-in-law,  
65 sister-in-law, aunt, uncle, or first cousin, or the spouse of  
66 any such person;

67 2. A person who is an elected or appointed public officer  
68 or a public employee; or

69 3. A person who has been appointed to serve in an agency by  
70 the public officer or by a public officer or public employee  
71 supervised by the public officer.



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72       (b) The trust agreement that establishes the trust must:

73       1. Contain a statement that its purpose is to remove from  
74 the grantor control and knowledge of investment of trust assets  
75 so that conflicts between the grantor's responsibilities as a  
76 public officer and his or her private interests will be  
77 eliminated.

78       2. Give the trustee complete discretion to manage the  
79 trust, including, but not limited to, the power to dispose of  
80 and acquire trust assets without consulting or notifying the  
81 covered public officer or any person having a beneficial  
82 interest in the trust.

83       3. Prohibit communication between the trustee and the  
84 public officer and any person having a beneficial interest in  
85 the trust concerning the holdings or sources of income of the  
86 trust, except amounts of cash value or net income or loss, if  
87 such report does not identify any asset or holding, except as  
88 provided in this section.

89       4. Provide that the trust tax return is prepared by the  
90 trustee or his or her designee and that any information relating  
91 thereto is not disclosed to the public officer or to any other  
92 beneficiary, except as provided in this section.

93       5. Permit the trustee to notify the public officer of the  
94 date of disposition and value at disposition of any original  
95 investment or interests in real property to the extent required  
96 by federal tax law so that the information can be reported on  
97 the public officer's applicable tax returns.

98       6. Prohibit the trustee from disclosing to the public  
99 officer and any person having a beneficial interest in the trust  
100 any information concerning replacement assets to the trust,



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101 except for the minimum tax information that lists only the  
102 totals of taxable items from the trust and does not describe the  
103 source of individual items of income.

104 (c) Within 5 business days after the agreement is executed,  
105 the public officer shall file a notice with the commission  
106 setting forth:

- 107 1. The date the agreement was executed;  
108 2. The name and address of the trustee; and  
109 3. Acknowledgement by the trustee that he or she has agreed  
110 to serve as trustee.

111  
112 ===== T I T L E A M E N D M E N T =====

113 And the title is amended as follows:

114 Between lines 4 and 5

115 insert:

116 creating s. 112.3142, F.S.; providing for qualified  
117 blind trusts; providing legislative findings;  
118 providing conditions when a public officer has no  
119 conflict of interest; prohibiting a public officer  
120 from influencing or exercising control over the  
121 management of the blind trust; providing exceptions;  
122 providing conditions for certain communications  
123 between the public officer or other persons having a  
124 beneficial interest and the trustee; providing that  
125 the public officer report certain information relating  
126 to the blind trust; providing requirements for the  
127 public officer in creating a qualified blind trust;  
128 prohibiting the trustee from disclosing certain  
129 information to the public officer or other persons



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130       having a beneficial interest in the trust; requiring  
131       the public officer to provide notice and specified  
132       information to the Commission on Ethics;