

1 A bill to be entitled

2 An act relating to public records; creating s.
3 662.148, F.S.; providing an exemption from public
4 records requirements for certain information held by
5 the Office of Financial Regulation relating to a
6 family trust company, licensed family trust company,
7 or foreign licensed family trust company; providing
8 for the authorized release of certain information by
9 the office; permitting the publication of certain
10 information; providing a penalty; providing for future
11 legislative review and repeal of the exemption;
12 amending ss. 662.146 and 662.147, F.S.; providing for
13 additional authorized release of certain information
14 by the office; providing for production of
15 confidential records pursuant to court orders, orders
16 by administrative law judges, and legislative
17 subpoenas; conforming provisions to changes made by
18 the act; providing a statement of public necessity;
19 providing a contingent effective date.

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

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23 Section 1. Section 662.148, Florida Statutes, is created
24 and assigned to part IV of chapter 662, Florida Statutes, as
25 created by HB 1267, 2014 Regular Session, to read:

26 662.148 Public records exemption; records relating to

27 family trust companies, licensed family trust companies, and
 28 foreign licensed family trust companies.-

29 (1) PUBLIC RECORDS EXEMPTION.-The following information
 30 held by the Office of Financial Regulation is confidential and
 31 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 32 Constitution:

33 (a) All records relating to a registration, an
 34 application, or an annual certification of a family trust
 35 company, licensed family trust company, or foreign licensed
 36 family trust company.

37 (b) All records relating to an examination of a family
 38 trust company, licensed family trust company, or foreign
 39 licensed family trust company.

40 (c) Reports of examinations, operations, or conditions of
 41 a family trust company, licensed family trust company, or
 42 foreign licensed family trust company, including working papers.

43 (d) Any portion of a list of names of the shareholders or
 44 members of a family trust company, licensed family trust
 45 company, or foreign licensed family trust company.

46 (e) Information received by the office from a person from
 47 another state or nation or the Federal Government which is
 48 otherwise confidential or exempt pursuant to the laws of that
 49 state or nation or pursuant to federal law.

50 (2) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT
 51 INFORMATION.-Information made confidential and exempt under
 52 subsection (1) may be disclosed by the Office of Financial

53 Regulation to:

54 (a) The authorized representative or representatives of
55 the family trust company, licensed family trust company, or
56 foreign licensed family trust company under examination. The
57 authorized representative or representatives shall be identified
58 in a resolution or by written consent of the board of directors,
59 if the trust company is a corporation, or of the managers, if
60 the trust company is a limited liability company.

61 (b) A fidelity insurance company, upon written consent of
62 the trust company's board of directors, if a corporation, or its
63 managers, if a limited liability company.

64 (c) An independent auditor, upon written consent of the
65 trust company's board of directors, if a corporation, or its
66 managers, if a limited liability company.

67 (d) A liquidator, receiver, or conservator for a family
68 trust company, licensed family trust company, or foreign
69 licensed family trust company in the event of the appointment of
70 the liquidator, receiver, or conservator. However, any portion
71 of the information which discloses the identity of a bondholder,
72 customer, family member, member, or stockholder must be redacted
73 by the Office of Financial Regulation before the release of such
74 portion to the liquidator, receiver, or conservator.

75 (e) Any other state, federal, or foreign agency
76 responsible for the regulation or supervision of family trust
77 companies, licensed family trust companies, or foreign licensed
78 family trust companies.

79 (f) A law enforcement agency in the furtherance of the
 80 agency's official duties and responsibilities.

81 (3) PUBLICATION OF INFORMATION.—This section does not
 82 prevent or restrict the publication of:

83 (a) A report required by federal law.

84 (b) The name of the family trust company, licensed family
 85 trust company, or foreign licensed family trust company and the
 86 name and address of the registered agent of that company.

87 (4) PENALTY.—A person who willfully discloses information
 88 made confidential and exempt by this section commits a felony of
 89 the third degree, punishable as provided in s. 775.082, s.
 90 775.083, or s. 775.084.

91 (5) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
 92 to the Open Government Sunset Review Act in accordance with s.
 93 119.15 and shall stand repealed on October 2, 2019, unless
 94 reviewed and saved from repeal through reenactment by the
 95 Legislature.

96 Section 2. Paragraphs (d), (e), and (f) of subsection (1)
 97 of section 662.146, Florida Statutes, as created by HB 1267,
 98 2014 Regular Session, are redesignated as paragraphs (e), (f),
 99 and (g), respectively, and a new paragraph (d) is added to that
 100 subsection, to read:

101 662.146 Confidentiality of books and records.—

102 (1) The books and records of a family trust company,
 103 licensed family trust company, and foreign licensed family trust
 104 company are confidential and shall be made available for

105 inspection and examination only:

106 (d) As compelled by legislative subpoena as provided by
107 law, in which case s. 662.47 applies;

108 Section 3. Subsections (1), (2), and (3) of section
109 662.147, Florida Statutes, as created by HB 1267, 2014 Regular
110 Session, are renumbered as subsections (3), (4), and (5),
111 respectively, and new subsections (1) and (2) are added to that
112 section, to read:

113 662.147 Records relating to the office examination;
114 limited restrictions on public access.—

115 (1) The public records exemptions contained in s. 662.148
116 do not prevent or restrict the Office of Financial Regulation
117 from:

118 (a) Furnishing records or information to any other state,
119 federal, or foreign agency responsible for the regulation or
120 supervision of family trust companies, licensed family trust
121 companies, or foreign licensed family trust companies.

122 (b) Reporting any suspected criminal activity, with
123 supporting documents and information, to appropriate law
124 enforcement and prosecutorial agencies.

125 (2) (a) Orders issued by courts or administrative law
126 judges for the production of confidential records or information
127 must provide for inspection in camera by the court or the
128 administrative law judge. If the court or administrative law
129 judge determines that the documents requested are relevant or
130 would likely lead to the discovery of admissible evidence, the

131 documents shall be subject to further orders by the court or the
132 administrative law judge to protect the confidentiality thereof.
133 An order directing the release of information shall be
134 immediately reviewable, and a petition by the office for review
135 of the order shall automatically stay any further proceedings in
136 the trial court or the administrative hearing until the
137 disposition of the petition by the reviewing court. If any other
138 party files a petition for review, it will operate as a stay of
139 the proceedings only upon order of the reviewing court.

140 (b) Confidential records and information furnished
141 pursuant to a legislative subpoena shall be kept confidential by
142 the legislative body or committee that received the records or
143 information, except in a case involving the investigation of
144 charges against a public official subject to impeachment or
145 removal, in which case disclosure of the information shall be
146 only to the extent necessary as determined by the legislative
147 body or committee.

148 Section 4. The Legislature finds that it is a public
149 necessity that records held by the Office of Financial
150 Regulation which pertain to a family trust company, licensed
151 family trust company, or foreign licensed family trust company
152 relating to registration or certification; an examination;
153 reports of examinations, operations, or conditions, including
154 working papers; any portion of a list of the names of
155 shareholders or members; or information received by the Office
156 of Financial Regulation from a person from another state or

157 nation or the Federal Government which is otherwise confidential
158 or exempt pursuant to the laws of that jurisdiction be made
159 confidential and exempt from s. 119.07(1), Florida Statutes, and
160 s. 24(a), Article I of the State Constitution. This exemption is
161 necessary because:

162 (1) No public interest is served by granting public access
163 to family trust company records, and no protection is afforded
164 to the public or the state by allowing public access to private
165 financial records. Additionally, a family trust company is
166 prohibited from serving or marketing its services to the general
167 public in any way; therefore, no public interests are involved.

168 (2) Families with a high net worth are frequently the
169 targets of criminal predators seeking access to their assets. It
170 is important that the exposure of such families to threats of
171 extortion, kidnapping, and other crimes not be increased.
172 Placing family business records and methodologies in the public
173 domain would increase the security risk that a family could
174 become the target of criminal activity.

175 (3) Family trust companies often provide a consolidated
176 structure for the ownership of an operating business owned by
177 multiple family members. Placing those private business
178 operations and methods in the public domain could jeopardize
179 their business assets, methodologies, and practices.

180 Section 5. This act shall take effect on the same date
181 that HB 1267 or similar legislation takes effect, if such
182 legislation is adopted in the same legislative session or an

HB 1269

2014

183 | extension thereof and becomes a law. |