

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 definitions; providing for the authorized release of
 9 certain information by the office; authorizing the
 10 publication of certain information; providing a
 11 penalty; providing for future legislative review and
 12 repeal of the exemption; amending s. 662.147, F.S.;
 13 providing for additional authorized release of certain
 14 information by the office; providing for production of
 15 certain confidential records pursuant to legislative
 16 subpoenas; amending s. 662.146, F.S.; providing for
 17 production of certain confidential records pursuant to
 18 legislative subpoenas; providing a statement of public
 19 necessity; 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 is confidential and exempt from s. 119.07(1)
 31 and s. 24(a), Art. I of the State Constitution:

32 (a) Records relating to a registration, an application, or
 33 an annual certification of a family trust company, licensed
 34 family trust company, or foreign licensed family trust company.

35 (b) Records relating to an examination of a family trust
 36 company, licensed family trust company, or foreign licensed
 37 family trust company.

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

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

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

48 (f) An emergency cease and desist order under s. 662.143
 49 until the emergency order is made permanent unless the office
 50 finds that such confidentiality will result in substantial risk
 51 of financial loss to the public.

52 (2) DEFINITIONS.-As used in this section, the term:

53 (a) "Reports of examinations, operations, or conditions"
 54 means records submitted to or prepared by the office as part of
 55 the office's duties performed pursuant to s. 655.012 or s.
 56 655.045(1).

57 (b) "Working papers" means the records of the procedure
 58 followed, the tests performed, the information obtained, and the
 59 conclusions reached in an examination under s. 655.032 or s.
 60 655.045. The term also includes books and records.

61 (3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT
 62 INFORMATION.—Information made confidential and exempt under
 63 subsection (1) may be disclosed by the office to:

64 (a) The authorized representative or representatives of
 65 the family trust company, licensed family trust company, or
 66 foreign licensed family trust company under examination. The
 67 authorized representative or representatives shall be identified
 68 in a resolution or by written consent of the board of directors,
 69 if the trust company is a corporation, or of the managers, if
 70 the trust company is a limited liability company.

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

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

77 (d) A liquidator, receiver, or conservator for a family
 78 trust company, licensed family trust company, or foreign

79 licensed family trust company in the event of the appointment of
 80 the liquidator, receiver, or conservator. However, any portion
 81 of the information which discloses the identity of a bondholder,
 82 customer, family member, member, or stockholder must be redacted
 83 by the office before the release of such portion to the
 84 liquidator, receiver, or conservator.

85 (e) Any other state, federal, or foreign agency
 86 responsible for the regulation or supervision of family trust
 87 companies, licensed family trust companies, or foreign licensed
 88 family trust companies.

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

91 (4) PUBLICATION OF INFORMATION.—This section does not
 92 prevent or restrict the publication of:

93 (a) A report required by federal law.

94 (b) The name of the family trust company, licensed family
 95 trust company, or foreign licensed family trust company and the
 96 name and address of the registered agent of that company.

97 (5) PENALTY.—A person who willfully discloses information
 98 made confidential and exempt by this section commits a felony of
 99 the third degree, punishable as provided in s. 775.082, s.
 100 775.083, or s. 775.084.

101 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
 102 to the Open Government Sunset Review Act in accordance with s.
 103 119.15 and shall stand repealed on October 2, 2019, unless
 104 reviewed and saved from repeal through reenactment by the

105 Legislature.

106 Section 2. Subsections (1) through (4) of section 662.147,
107 Florida Statutes, as created by HB 1267, 2014 Regular Session,
108 are renumbered as subsections (3) through (6), respectively, and
109 new subsections (1) and (2) are added to that section to read:

110 662.147 Records relating to the office examination;
111 limited restrictions on public access.—

112 (1) The public records exemptions contained in s. 662.148
113 do not prevent or restrict the office from:

114 (a) Furnishing records or information to any other state,
115 federal, or foreign agency responsible for the regulation or
116 supervision of family trust companies, licensed family trust
117 companies, or foreign licensed family trust companies.

118 (b) Reporting any suspected criminal activity, with
119 supporting documents and information, to appropriate law
120 enforcement and prosecutorial agencies.

121 (2) Confidential records and information furnished
122 pursuant to a legislative subpoena shall be kept confidential by
123 the legislative body or committee that received the records or
124 information, except in a case involving the investigation of
125 charges against a public official subject to impeachment or
126 removal, in which case disclosure of the information shall be
127 only to the extent necessary as determined by the legislative
128 body or committee.

129 Section 3. Paragraphs (d), (e), and (f) of subsection (1)
130 of section 662.146, Florida Statutes, as created by HB 1267,

131 2014 Regular Session, are redesignated as paragraphs (e), (f),
 132 and (g), respectively, and a new paragraph (d) is added to that
 133 subsection to read:

134 662.146 Confidentiality of books and records.—

135 (1) The books and records of a family trust company,
 136 licensed family trust company, and foreign licensed family trust
 137 company are confidential and shall be made available for
 138 inspection and examination only:

139 (d) As compelled by legislative subpoena as provided by
 140 law, in which case s. 662.147 applies;

141 Section 4. The Legislature finds that it is a public
 142 necessity that records held by the Office of Financial
 143 Regulation which pertain to a family trust company, licensed
 144 family trust company, or foreign licensed family trust company
 145 relating to registration or certification; an examination;
 146 reports of examinations, operations, or conditions, including
 147 working papers; any portion of a list of the names of
 148 shareholders or members; information received by the Office of
 149 Financial Regulation from a person from another state or nation
 150 or the Federal Government which is otherwise confidential or
 151 exempt pursuant to the laws of that jurisdiction; or an
 152 emergency cease and desist order be made confidential and exempt
 153 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of
 154 the State Constitution. This exemption is necessary because:

155 (1) No public interest is served by granting public access
 156 to family trust company records, and no protection is afforded

157 to the public or the state by allowing public access to private
158 financial records. Additionally, a family trust company is
159 prohibited from serving or marketing its services to the general
160 public in any way; therefore, no public interests are involved.

161 (2) Families with a high net worth are frequently the
162 targets of criminal predators seeking access to their assets. It
163 is important that the exposure of such families to threats of
164 extortion, kidnapping, and other crimes not be increased.
165 Placing family business records and methodologies in the public
166 domain would increase the security risk that a family could
167 become the target of criminal activity.

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

173 Section 5. This act shall take effect on the same date
174 that HB 1267 or similar legislation takes effect, if such
175 legislation is adopted in the same legislative session or an
176 extension thereof and becomes law.