



564280

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/25/2014	.	
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The Committee on Banking and Insurance (Richter) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

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

662.148 Public records exemption; records relating to  
family trust companies, licensed family trust companies, and  
foreign licensed family trust companies.-



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

14           (a) Records relating to a registration, an application, or  
15 an annual certification of a family trust company, licensed  
16 family trust company, or foreign licensed family trust company.

17           (b) Records relating to an examination of a family trust  
18 company, licensed family trust company, or foreign licensed  
19 family trust company.

20           (c) Reports of examinations, operations, or conditions of a  
21 family trust company, licensed family trust company, or foreign  
22 licensed family trust company, including working papers.

23           (d) Any portion of a list of names of the shareholders or  
24 members of a family trust company, licensed family trust  
25 company, or foreign licensed family trust company.

26           (e) Information received by the office from a person from  
27 another state or nation or the Federal Government which is  
28 otherwise confidential or exempt pursuant to the laws of that  
29 state or nation or pursuant to federal law.

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

34           (2) DEFINITIONS.—As used in this section, the term:

35           (a) "Reports of examinations, operations, or conditions"  
36 means records submitted to or prepared by the office as part of  
37 the office's duties performed pursuant to s. 655.012 or s.  
38 655.045(1).

39           (b) "Working papers" means the records of the procedure



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40 followed, the tests performed, the information obtained, and the  
41 conclusions reached in an examination under s. 655.032 or s.  
42 655.045. The term also includes books and records.

43 (3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT  
44 INFORMATION.-Information made confidential and exempt under  
45 subsection (1) may be disclosed by the office to:

46 (a) The authorized representative or representatives of the  
47 family trust company, licensed family trust company, or foreign  
48 licensed family trust company under examination. The authorized  
49 representative or representatives shall be identified in a  
50 resolution or by written consent of the board of directors, if  
51 the trust company is a corporation, or of the managers, if the  
52 trust company is a limited liability company.

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

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

59 (d) A liquidator, receiver, or conservator for a family  
60 trust company, licensed family trust company, or foreign  
61 licensed family trust company in the event of the appointment of  
62 the liquidator, receiver, or conservator. However, any portion  
63 of the information which discloses the identity of a bondholder,  
64 customer, family member, member, or stockholder must be redacted  
65 by the office before the release of such portion to the  
66 liquidator, receiver, or conservator.

67 (e) Any other state, federal, or foreign agency responsible  
68 for the regulation or supervision of family trust companies,



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69 licensed family trust companies, or foreign licensed family  
70 trust companies.

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

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

75 (a) A report required by federal law.

76 (b) The name of the family trust company, licensed family  
77 trust company, or foreign licensed family trust company and the  
78 name and address of the registered agent of that company.

79 (5) PENALTY.—A person who willfully discloses information  
80 made confidential and exempt by this section commits a felony of  
81 the third degree, punishable as provided in s. 775.082, s.  
82 775.083, or s. 775.084.

83 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject  
84 to the Open Government Sunset Review Act in accordance with s.  
85 119.15 and shall stand repealed on October 2, 2019, unless  
86 reviewed and saved from repeal through reenactment by the  
87 Legislature.

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

92 662.147 Records relating to the office examination; limited  
93 restrictions on public access.—

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

96 (a) Furnishing records or information to any other state,  
97 federal, or foreign agency responsible for the regulation or



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98 supervision of family trust companies, licensed family trust  
99 companies, or foreign licensed family trust companies.

100 (b) Reporting any suspected criminal activity, with  
101 supporting documents and information, to appropriate law  
102 enforcement and prosecutorial agencies.

103 (2) Confidential records and information furnished pursuant  
104 to a legislative subpoena shall be kept confidential by the  
105 legislative body or committee that received the records or  
106 information, except in a case involving the investigation of  
107 charges against a public official subject to impeachment or  
108 removal, in which case disclosure of the information shall be  
109 only to the extent necessary as determined by the legislative  
110 body or committee.

111 Section 3. Paragraphs (d), (e), and (f) of subsection (1)  
112 of section 662.146, Florida Statutes, as created by HB 1267,  
113 2014 Regular Session, are redesignated as paragraphs (e), (f),  
114 and (g), respectively, and a new paragraph (d) is added to that  
115 subsection, to read:

116 662.146 Confidentiality of books and records.—

117 (1) The books and records of a family trust company,  
118 licensed family trust company, and foreign licensed family trust  
119 company are confidential and shall be made available for  
120 inspection and examination only:

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

123 Section 4. The Legislature finds that it is a public  
124 necessity that records held by the Office of Financial  
125 Regulation which pertain to a family trust company, licensed  
126 family trust company, or foreign licensed family trust company



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127 relating to registration or certification; an examination;  
128 reports of examinations, operations, or conditions, including  
129 working papers; any portion of a list of the names of  
130 shareholders or members; information received by the Office of  
131 Financial Regulation from a person from another state or nation  
132 or the Federal Government which is otherwise confidential or  
133 exempt pursuant to the laws of that jurisdiction; or an  
134 emergency cease and desist order be made confidential and exempt  
135 from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of  
136 the State Constitution. This exemption is necessary because:

137 (1) No public interest is served by granting public access  
138 to family trust company records, and no protection is afforded  
139 to the public or the state by allowing public access to private  
140 financial records. Additionally, a family trust company is  
141 prohibited from serving or marketing its services to the general  
142 public in any way; therefore, no public interests are involved.

143 (2) Families with a high net worth are frequently the  
144 targets of criminal predators seeking access to their assets. It  
145 is important that the exposure of such families to threats of  
146 extortion, kidnapping, and other crimes not be increased.

147 Placing family business records and methodologies in the public  
148 domain would increase the security risk that a family could  
149 become the target of criminal activity.

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

155 Section 5. This act shall take effect on the same date that



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156 HB 1267 or similar legislation takes effect, if such legislation  
157 is adopted in the same legislative session or an extension  
158 thereof and becomes law.

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160 ===== T I T L E A M E N D M E N T =====

161 And the title is amended as follows:

162 Delete everything before the enacting clause  
163 and insert:

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A bill to be entitled

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An act relating to public records; creating s.

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662.148, F.S.; providing an exemption from public

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records requirements for certain information held by

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the Office of Financial Regulation relating to a

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family trust company, licensed family trust company,

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or foreign licensed family trust company; providing

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definitions; providing for the authorized release of

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certain information by the office; authorizing the

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publication of certain information; providing a

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penalty; providing for future legislative review and

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repeal of the exemption; amending s. 662.147, F.S.;

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providing for additional authorized release of certain

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information by the office; providing for production of

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certain confidential records pursuant to legislative

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subpoenas; amending s. 662.146, F.S.; providing for

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production of certain confidential records pursuant to

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legislative subpoenas; providing a statement of public

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necessity; providing a contingent effective date.