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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/13/2017	.	
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The Committee on Appropriations (Mayfield) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 663.416, Florida Statutes, is created
and incorporated into part III of chapter 663, Florida Statutes,
as created by CS/CS/SB 736, 2017 Regular Session, to read:

663.416 Public records exemption.—

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

(a) "Reports of examinations, operations, or condition"



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11 means records submitted to or prepared by the office as part of
12 the office's duties performed pursuant to s. 655.012 or s.
13 655.045.

14 (b) "Working papers" means the records of the procedure
15 followed, the tests performed, the information obtained, and the
16 conclusions reached in an investigation or examination performed
17 under s. 655.032 or s. 655.045. The term includes planning
18 documentation, work programs, analyses, memoranda, letters of
19 confirmation and representation, abstracts of the books and
20 records of a financial institution, as defined in s. 655.005,
21 and schedules or commentaries prepared or obtained in the course
22 of such investigation or examination.

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

26 (a) Any personal identifying information of the customers
27 or prospective customers of an affiliated international trust
28 entity which appears in the books and records of an
29 international trust company representative office or in records
30 relating to reports of examinations, operations, or condition of
31 an international trust company representative office, including
32 working papers.

33 (b) Any portion of a list of names of the shareholders or
34 members of an affiliated international trust entity.

35 (c) Information received by the office from a person from
36 another state or country or the Federal Government which is
37 otherwise confidential or exempt pursuant to the laws of that
38 state or country or pursuant to federal law.

39 (3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT



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40 INFORMATION.—Information made confidential and exempt under
41 subsection (2) may be disclosed by the office:

42 (a) To the authorized representative or representatives of
43 the international trust company representative office under
44 examination. The authorized representative or representatives
45 must be identified in a resolution or by written consent of the
46 board of directors, or the equivalent, of the international
47 trust entity.

48 (b) To a fidelity insurance company, upon written consent
49 of the board of directors, or the equivalent, of the
50 international trust entity.

51 (c) To an independent auditor, upon written consent of the
52 board of directors, or the equivalent, of the international
53 trust entity.

54 (d) To the liquidator, receiver, or conservator for the
55 international trust entity, if a liquidator, receiver, or
56 conservator is appointed. However, any portion of the
57 information which discloses the identity of a customer or
58 prospective customer of the international trust entity, or a
59 shareholder or member of the international trust entity, must be
60 redacted by the office before releasing such portion to the
61 liquidator, receiver, or conservator.

62 (e) To a law enforcement agency in furtherance of the
63 agency's official duties and responsibilities.

64 (f) To the appropriate law enforcement or prosecutorial
65 agency for the purpose of reporting any suspected criminal
66 activity.

67 (g) Pursuant to a legislative subpoena. A legislative body
68 or committee that receives records or information pursuant to



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69 such a subpoena must maintain the confidential status of the
70 records or information, except in a case involving the
71 investigation of charges against a public official subject to
72 impeachment or removal, in which case the records or information
73 may be disclosed only to the extent necessary as determined by
74 such legislative body or committee.

75 (4) PUBLICATION OF INFORMATION.—This section does not
76 prevent or restrict the publication of a report required by
77 federal law.

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

82 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
83 to the Open Government Sunset Review Act in accordance with s.
84 119.15 and is repealed on October 2, 2022, unless reviewed and
85 saved from repeal through reenactment by the Legislature.

86 Section 2. The Legislature finds that it is a public
87 necessity to make confidential and exempt from s. 119.07(1),
88 Florida Statutes, and s. 24(a), Article I of the State
89 Constitution personal identifying information of the customers
90 or prospective customers of an affiliated international trust
91 entity which appears in the books and records of an
92 international trust company representative office or in records
93 relating to reports of examinations, operations, or condition of
94 an international trust company representative office, including
95 working papers; any portion of a list of names of the
96 shareholders or members of an affiliated international trust
97 entity which is held by the office; and information received by



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98 the Office of Financial Regulation from a person from another
99 state or country or the Federal Government which is otherwise
100 confidential or exempt pursuant to the laws of that state or
101 country or pursuant to federal law.

102 (1) An exemption from public records requirements is
103 necessary for such records and information because the Office of
104 Financial Regulation may receive sensitive personal and
105 financial information, including personal identifying
106 information relating to such entities, in the course of its
107 investigation and examination duties. Public disclosure of the
108 personal identifying information of existing customers,
109 prospective customers, shareholders, or members of the
110 affiliated international trust entity could defame or jeopardize
111 the personal and financial safety of those individuals and their
112 family members. The individuals served by the affiliated
113 international trust entity are often individuals of high net
114 worth. Individuals of high net worth and shareholders or members
115 of financial institutions are frequently the targets of criminal
116 predators seeking access to their assets. It is important that
117 the exposure of such individuals and their family members to
118 threats of extortion, kidnapping, and other crimes not be
119 increased. Placing the personal identifying information of these
120 individuals within the public domain would increase the security
121 risk that those individuals or their families could become the
122 target of criminal activity.

123 (2) Public disclosure of information received by the Office
124 of Financial Regulation from a person from another state or
125 country or the Federal Government which is otherwise
126 confidential or exempt pursuant to the laws of that state or



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127 country or pursuant to federal law may deteriorate the office's
128 relationships with other regulatory bodies. The office
129 frequently engages in joint examinations with federal
130 regulators. If such information were subject to disclosure to
131 the public, not only would such disclosure deter other
132 regulatory bodies from communicating vital information to the
133 office, but the office would violate existing information-
134 sharing agreements governing the sharing of confidential
135 supervisory information.

136 Section 3. Section 663.540, Florida Statutes, is created
137 and incorporated into part IV of chapter 663, Florida Statutes,
138 as created by CS/CS/SB 736, 2017 Regular Session, to read:

139 663.540 Public records exemption.-

140 (1) DEFINITIONS.-As used in this section, the term:

141 (a) "Reports of examinations, operations, or condition"
142 means records submitted to or prepared by the office as part of
143 the office's duties performed pursuant to s. 655.012 or s.
144 663.537.

145 (b) "Working papers" means the records of the procedure
146 followed, the tests performed, the information obtained, and the
147 conclusions reached in an investigation or examination performed
148 under s. 655.032 or s. 663.537. The term includes planning
149 documentation, work programs, analyses, memoranda, letters of
150 confirmation and representation, abstracts of the books and
151 records of a financial institution, as defined in s. 655.005,
152 and schedules or commentaries prepared or obtained in the course
153 of such investigation or examination.

154 (2) PUBLIC RECORDS EXEMPTION.-The following information
155 held by the office is confidential and exempt from s. 119.07(1)



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156 and s. 24(a), Art. I of the State Constitution:

157 (a) Any personal identifying information of the customers
158 or prospective customers of an affiliated international trust
159 entity which appears in the books and records of a qualified
160 limited service affiliate or in records relating to reports of
161 examinations, operations, or condition of a qualified limited
162 service affiliate, including working papers.

163 (b) Any portion of a list of names of the shareholders or
164 members of a qualified limited service affiliate.

165 (c) Information received by the office from a person from
166 another state or country or the Federal Government which is
167 otherwise confidential or exempt pursuant to the laws of that
168 state or country or pursuant to federal law.

169 (3) AUTHORIZED RELEASE OF CONFIDENTIAL AND EXEMPT
170 INFORMATION.—Information made confidential and exempt under
171 subsection (2) may be disclosed by the office:

172 (a) To the authorized representative or representatives of
173 the qualified limited service affiliate under examination. The
174 authorized representative or representatives must be identified
175 in a resolution or by written consent of the board of directors,
176 if the qualified limited service affiliate is a corporation, or
177 of the managers, if the qualified limited service affiliate is a
178 limited liability company.

179 (b) To a fidelity insurance company, upon written consent
180 of the qualified limited service affiliate's board of directors,
181 if the qualified limited service affiliate is a corporation, or
182 of the managers, if the qualified limited service affiliate is a
183 limited liability company.

184 (c) To an independent auditor, upon written consent of the



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185 qualified limited service affiliate's board of directors, if the
186 qualified limited service affiliate is a corporation, or of the
187 managers, if the qualified limited service affiliate is a
188 limited liability company.

189 (d) To the liquidator, receiver, or conservator for a
190 qualified limited service affiliate, if a liquidator, receiver,
191 or conservator is appointed. However, any portion of the
192 information which discloses the identity of a customer of the
193 affiliated international trust entity, or a shareholder or
194 member of the qualified limited service affiliate, must be
195 redacted by the office before releasing such portion to the
196 liquidator, receiver, or conservator.

197 (e) To a law enforcement agency in furtherance of the
198 agency's official duties and responsibilities.

199 (f) To the appropriate law enforcement or prosecutorial
200 agency for the purpose of reporting any suspected criminal
201 activity.

202 (g) Pursuant to a legislative subpoena. A legislative body
203 or committee that receives records or information pursuant to
204 such a subpoena must maintain the confidential status of the
205 records or information, except in a case involving the
206 investigation of charges against a public official subject to
207 impeachment or removal, in which case the records or information
208 may be disclosed only to the extent necessary as determined by
209 such legislative body or committee.

210 (4) PUBLICATION OF INFORMATION.—This section does not
211 prevent or restrict the publication of a report required by
212 federal law.

213 (5) PENALTY.—A person who willfully, in violation of this



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214 section, discloses information made confidential and exempt by
215 this section commits a felony of the third degree, punishable as
216 provided in s. 775.082, s. 775.083, or s. 775.084.

217 (6) OPEN GOVERNMENT SUNSET REVIEW.—This section is subject
218 to the Open Government Sunset Review Act in accordance with s.
219 119.15 and is repealed on October 2, 2022, unless reviewed and
220 saved from repeal through reenactment by the Legislature.

221 Section 4. The Legislature finds that it is a public
222 necessity to make confidential and exempt from s. 119.07(1),
223 Florida Statutes, and s. 24(a), Article I of the State
224 Constitution personal identifying information of the customers
225 or prospective customers of an affiliated international trust
226 entity which appears in the books and records of a qualified
227 limited service affiliate or in records relating to reports of
228 examinations, operations, or condition of a qualified limited
229 service affiliate, including working papers; any portion of a
230 list of names of the shareholders or members of a qualified
231 limited service affiliate which is held by the Office of
232 Financial Regulation; and information received by the office
233 from a person from another state or country or the Federal
234 Government which is otherwise confidential or exempt pursuant to
235 the laws of that state or country or pursuant to federal law.

236 (1) An exemption from public records requirements is
237 necessary for personal identifying information of existing and
238 prospective customers of an affiliated international trust
239 entity or shareholders or members of a qualified limited service
240 affiliate, because if such information is available for public
241 access, such access could defame or jeopardize the personal and
242 financial safety of those individuals. The individuals served by



243 the affiliated international trust entity are often individuals
244 of high net worth. Individuals of high net worth and
245 shareholders or members of financial institutions are frequently
246 the targets of criminal predators seeking access to their
247 assets. It is important that the exposure of such individuals
248 and their family members to threats of extortion, kidnapping,
249 and other crimes not be increased. Placing the personal
250 identifying information of these individuals within the public
251 domain would increase the security risk that those individuals
252 or their families could become the target of criminal activity.

253 (2) An exemption from public records requirements is
254 necessary for information received by the Office of Financial
255 Regulation from a person from another state or country or the
256 Federal Government which is otherwise confidential or exempt
257 pursuant to the laws of that state or country or pursuant to
258 federal law, as public disclosure may deteriorate the office's
259 relationships with other regulatory bodies. The office
260 frequently engages in joint examinations with federal
261 regulators. If such information were subject to disclosure to
262 the public, not only would this disclosure deter other
263 regulatory bodies from communicating vital information to the
264 office, but the office would violate existing information-
265 sharing agreements governing the sharing of confidential
266 supervisory information.

267 Section 5. Subsections (1), (2), (5), and (9) of section
268 655.057, Florida Statutes, are amended, and subsection (15) is
269 added to that section, to read:

270 655.057 Records; limited restrictions upon public access.-

271 (1) Except as otherwise provided in this section and except



272 for such portions thereof which are otherwise public record, all
273 records and information relating to an investigation by the
274 office are confidential and exempt from s. 119.07(1) and s.
275 24(a), Art. I of the State Constitution until such investigation
276 is completed or ceases to be active. For purposes of this
277 subsection, an investigation is considered "active" while such
278 investigation is being conducted by the office with a
279 reasonable, good faith belief that it may lead to the filing of
280 administrative, civil, or criminal proceedings. An investigation
281 does not cease to be active if the office is proceeding with
282 reasonable dispatch, and there is a good faith belief that
283 action may be initiated by the office or other administrative or
284 law enforcement agency. After an investigation is completed or
285 ceases to be active, portions of the records relating to the
286 investigation are confidential and exempt from s. 119.07(1) and
287 s. 24(a), Art. I of the State Constitution to the extent that
288 disclosure would:

- 289 (a) Jeopardize the integrity of another active
290 investigation;
 - 291 (b) Impair the safety and soundness of the financial
292 institution;
 - 293 (c) Reveal personal financial information;
 - 294 (d) Reveal the identity of a confidential source;
 - 295 (e) Defame or cause unwarranted damage to the good name or
296 reputation of an individual or jeopardize the safety of an
297 individual; or
 - 298 (f) Reveal investigative techniques or procedures.
- 299 (2) Except as otherwise provided in this section and except
300 for such portions thereof which are public record, reports of



301 examinations, operations, or condition, including working
302 papers, or portions thereof, prepared by, or for the use of, the
303 office or any state or federal agency responsible for the
304 regulation or supervision of financial institutions in this
305 state are confidential and exempt from s. 119.07(1) and s.
306 24(a), Art. I of the State Constitution. However, such reports
307 or papers or portions thereof may be released to:

308 (a) The financial institution under examination;

309 (b) Any holding company of which the financial institution
310 is a subsidiary;

311 (c) Proposed purchasers if necessary to protect the
312 continued financial viability of the financial institution, upon
313 prior approval by the board of directors of such institution;

314 (d) Persons proposing in good faith to acquire a
315 controlling interest in or to merge with the financial
316 institution, upon prior approval by the board of directors of
317 such financial institution;

318 (e) Any officer, director, committee member, employee,
319 attorney, auditor, or independent auditor officially connected
320 with the financial institution, holding company, proposed
321 purchaser, or person seeking to acquire a controlling interest
322 in or merge with the financial institution; or

323 (f) A fidelity insurance company, upon approval of the
324 financial institution's board of directors. However, a fidelity
325 insurance company may receive only that portion of an
326 examination report relating to a claim or investigation being
327 conducted by such fidelity insurance company.

328 (g) Examination, operation, or condition reports of a
329 financial institution shall be released by the office within 1



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330 year after the appointment of a liquidator, receiver, or
331 conservator to the financial institution. However, any portion
332 of such reports which discloses the identities of depositors,
333 bondholders, members, borrowers, or stockholders, other than
334 directors, officers, or controlling stockholders of the
335 institution, shall remain confidential and exempt from s.
336 119.07(1) and s. 24(a), Art. I of the State Constitution.

337
338 Any confidential information or records obtained from the office
339 pursuant to this paragraph shall be maintained as confidential
340 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
341 Constitution.

342 (5) This section does not prevent or restrict:

343 (a) Publishing reports that are required to be submitted to
344 the office pursuant to s. 655.045(2) or required by applicable
345 federal statutes or regulations to be published.

346 (b) Furnishing records or information to any other state,
347 federal, or foreign agency responsible for the regulation or
348 supervision of financial institutions.

349 (c) Disclosing or publishing summaries of the condition of
350 financial institutions and general economic and similar
351 statistics and data, provided that the identity of a particular
352 financial institution is not disclosed.

353 (d) Reporting any suspected criminal activity, with
354 supporting documents and information, to appropriate law
355 enforcement and prosecutorial agencies.

356 (e) Furnishing information upon request to the Chief
357 Financial Officer or the Division of Treasury of the Department
358 of Financial Services regarding the financial condition of any



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359 financial institution that is, or has applied to be, designated
360 as a qualified public depository pursuant to chapter 280.

361 (f) Furnishing information to Federal Home Loan Banks
362 regarding its member institutions pursuant to an information
363 sharing agreement between the Federal Home Loan Banks and the
364 office.

365
366 Any confidential information or records obtained from the office
367 pursuant to this subsection shall be maintained as confidential
368 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
369 Constitution.

370 (9) Materials supplied to the office or to employees of any
371 financial institution by other state or federal governmental
372 agencies remain the property of the submitting agency or the
373 corporation, and any document request must be made to the
374 appropriate agency. Any confidential documents supplied to the
375 office or to employees of any financial institution by other
376 state or federal governmental agencies are confidential and
377 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
378 Constitution. Such information shall be made public only with
379 the consent of such agency or the corporation.

380 (15) Subsections (1), (2), (5), and (9) are subject to the
381 Open Government Sunset Review Act in accordance with s. 119.15
382 and are repealed on October 2, 2022, unless reviewed and saved
383 from repeal through reenactment by the Legislature.

384 Section 6. The Legislature finds that it is a public
385 necessity to make confidential and exempt from s. 119.07(1),
386 Florida Statutes, and s. 24(a), Article I of the State
387 Constitution records and information relating to an



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388 investigation by the Office of Financial Regulation; portions of
389 records relating to a completed or inactive investigation by the
390 office which would jeopardize the integrity of another active
391 investigation, impair the safety and soundness of the financial
392 institution, reveal personal financial information, reveal the
393 identity of a confidential source, defame or cause unwarranted
394 damage to the good name or reputation of an individual or
395 jeopardize the safety of an individual, or reveal investigative
396 techniques or procedures; reports of examinations, operations,
397 or condition, including working papers, or portions thereof,
398 prepared by, or for the use of, the office or any state or
399 federal agency responsible for the regulation or supervision of
400 financial institutions in this state; any portion of such
401 reports which discloses the identities of depositors,
402 bondholders, members, borrowers, or stockholders, other than
403 directors, officers, or controlling stockholders of the
404 institution; and materials supplied to the office or to
405 employees of any financial institution by other state or federal
406 governmental agencies.

407 (1) The terms "international trust entity" and "qualified
408 limited service affiliate" referenced in newly created parts III
409 and IV of chapter 663, Florida Statutes, are added to the
410 definition of the term "financial institution" in s.
411 655.005(1)(i), Florida Statutes, in CS/CS/SB 736. The
412 international trust company representative offices and qualified
413 limited service affiliates servicing international trust
414 entities are thus subject to examination by the Office of
415 Financial Regulation. As a result, the office may receive
416 sensitive personal and financial information relating to such



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417 entities in conjunction with its duties under chapters 655 and
418 663, Florida Statutes. An exemption from public records
419 requirements prevents gaps in the law by providing the same
420 protections to international trust entities and qualified
421 limited service affiliates which are afforded to other financial
422 institutions, thereby preventing any disadvantage to these
423 similarly regulated entities in comparison to other entities
424 currently defined as "financial institutions." An exemption from
425 public records requirements for reports of examinations,
426 operations, or condition, including working papers, is necessary
427 to ensure the office's ability to effectively and efficiently
428 administer its examination and investigation duties. Examination
429 and investigation are essential components of financial
430 institutions regulation. They deter fraud and ensure the safety
431 and soundness of the financial system. Examinations also provide
432 a means of early detection of violations, allowing for
433 corrective action to be taken before any harm can be done.

434 (2) The Legislature finds that it is a public necessity
435 that information and records relating to an examination or
436 investigation by the office be held confidential and exempt from
437 s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the
438 State Constitution. Public disclosure of records and information
439 relating to an examination or investigation by the office could
440 expose the subject financial institution to unwarranted damage
441 to its good name or reputation and impair its safety and
442 soundness, as well as the safety and soundness of the financial
443 system in the state. Public disclosure of records and
444 information relating to an investigation by the office which
445 could jeopardize the integrity of another active investigation



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446 or reveal investigative techniques or procedures of the office
447 would impair the office's ability to effectively and efficiently
448 administer its duties under ss. 655.032 and 655.045, Florida
449 Statutes. Any portion of a record or information relating to an
450 investigation or examination which reveals personal financial
451 information or the identity of a confidential source may defame,
452 or cause unwarranted damage to the good name or reputation of,
453 those individuals, or jeopardize their safety.

454 Section 7. This act shall take effect on the same date that
455 CS/CS/SB 736 or similar legislation takes effect, if such
456 legislation is adopted in the same legislative session or an
457 extension thereof and becomes a law.

458
459 ===== T I T L E A M E N D M E N T =====

460 And the title is amended as follows:

461 Delete everything before the enacting clause
462 and insert:

463 A bill to be entitled
464 An act relating to public records; creating ss.
465 663.416 and 663.540, F.S.; defining terms; providing
466 exemptions from public records requirements for
467 certain information held by the Office of Financial
468 Regulation relating to international trust company
469 representative offices or qualified limited service
470 affiliates, respectively, and relating to affiliated
471 international trust entities; authorizing the
472 disclosure of the information by the office to
473 specified persons; providing construction; providing
474 criminal penalties; providing future legislative



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475 review and repeal of the exemptions; providing
476 statements of public necessity; amending s. 655.057,
477 F.S.; providing that certain exemptions from public
478 records requirements for information relating to
479 investigations, reports of examinations, operations,
480 or condition, including working papers, and certain
481 materials supplied by governmental agencies are exempt
482 from Section 24(a) of Article I of the State
483 Constitution, as a result of the expansion of such
484 exemptions to include the records of international
485 trust entities and qualified limited service
486 affiliates, as made by CS/CS/SB 736, 2017 Regular
487 Session; providing a statement of public necessity;
488 providing a contingent effective date.