

1 A bill to be entitled
 2 An act relating to public records; creating s.
 3 551.203, F.S.; providing definitions; providing an
 4 exemption from public records requirements for
 5 confidential and proprietary business information and
 6 trade secrets received by the Department of Gaming
 7 Control; providing an exemption from public records
 8 requirements for information held that would reveal
 9 investigation techniques and procedures used by the
 10 department; providing an exemption from public
 11 records requirements for federal employer
 12 identification numbers, unemployment compensation
 13 account numbers, and Florida sales tax registration
 14 numbers held by the department; providing an exception
 15 to the exemption for other governmental entities
 16 having oversight or regulatory or law enforcement
 17 authority; providing penalties for an employee of the
 18 department who violates the act; providing for future
 19 review and repeal of the exemption under the Open
 20 Government Sunset Review Act; providing a statement of
 21 public necessity; providing a contingent effective
 22 date.

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

26 Section 1. Section 551.203, Florida Statutes, is created
 27 to read:

28 551.203 Confidentiality of records.-

29 (1) DEFINITIONS.—As used in this section, the term:
 30 (a) "Proprietary confidential business information" means
 31 information that is owned or controlled by an applicant for a
 32 license or a licensee under this part who requests
 33 confidentiality under this section; that is intended to be and
 34 is treated by the applicant or licensee as private in that the
 35 disclosure of the information would cause harm to the business
 36 operations of the applicant or licensee; that has not been
 37 disclosed unless disclosed pursuant to a statute or rule, an
 38 order of a court or administrative body, or a private agreement
 39 providing that the information may be released to the public;
 40 and that is information concerning:
 41 1. Business plans;
 42 2. Internal auditing controls and reports of internal
 43 auditors; or
 44 3. Reports of external auditors for privately held
 45 companies.
 46 (b) "Trade secret" has the same meaning as in s. 688.002.
 47 (c) "Investigation techniques and procedures" means the
 48 methods, processes, and guidelines used to evaluate regulatory
 49 compliance and to collect and analyze data, records, and
 50 testimony for the purpose of documenting violations of this part
 51 and the rules adopted thereunder.
 52 (2) TRADE SECRETS.—Trade secrets held by the Department of
 53 Gaming Control are confidential and exempt from s. 119.07(1) and
 54 s. 24(a), Art. I of the State Constitution.
 55 (3) PROPRIETARY CONFIDENTIAL BUSINESS INFORMATION.—
 56 Proprietary confidential business information held by the

57 Department of Gaming Control is confidential and exempt from s.
 58 119.07(1) and s. 24(a), Art. I of the State Constitution until
 59 such information is otherwise publicly available or is no longer
 60 treated by an applicant for a license or a licensee under this
 61 part as proprietary confidential business information.

62 (4) IDENTIFICATION, ACCOUNT, AND REGISTRATION NUMBERS.—A
 63 federal employer identification number, unemployment
 64 compensation account number, or Florida sales tax registration
 65 number held by the Department of Gaming Control is confidential
 66 and exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 67 Constitution.

68 (5) INVESTIGATION TECHNIQUES AND PROCEDURES.—

69 (a) Information that would reveal investigation
 70 examination techniques or procedures used by the Department of
 71 Gaming Control pursuant to this part is confidential and exempt
 72 from s. 119.07(1) and s. 24(a), Art. I of the State
 73 Constitution.

74 (b) Confidential and exempt information that would reveal
 75 investigation examination techniques or procedures may be
 76 provided by the department to another governmental entity having
 77 oversight or regulatory or law enforcement authority.

78 (6) PENALTIES.—Any person who is an employee of the
 79 Department of Gaming Control who violates this section commits a
 80 misdemeanor of the second degree, punishable as provided in s.
 81 775.082 or s. 775.083.

82 (7) LEGISLATIVE REVIEW OF EXEMPTIONS.—This section is
 83 subject to the Open Government Sunset Review Act in accordance
 84 with s. 119.15 and shall stand repealed on October 2, 2017,

85 unless reviewed and saved from repeal through reenactment by the
 86 Legislature.

87 Section 2. (1) It is the finding of the Legislature that
 88 it is a public necessity that information relating to
 89 proprietary confidential business information and trade secrets
 90 under part II of chapter 551, Florida Statutes, be made
 91 confidential and exempt from s. 119.07(1), Florida Statutes, and
 92 s. 24(a), Article I of the State Constitution. This exemption is
 93 necessary to ensure that the best qualified applicants are not
 94 deterred from applying for licenses by the prospect of the
 95 disclosure of proprietary confidential business information and
 96 trade secrets.

97 (2) Part II of chapter 551, Florida Statutes, provides for
 98 a competitive process for the award of a destination resort
 99 license. The selection of the best qualified applicant for a
 100 license is critical for the state to ensure that the state
 101 receives the most economic benefits and greatest amount of tax
 102 revenues in granting a resort license.

103 (3) (a) It is the finding of the Legislature that it is a
 104 public necessity that information that would reveal
 105 investigation techniques or procedures used by the Department of
 106 Gaming Control pursuant to part II of chapter 551, Florida
 107 Statutes, be made confidential and exempt from s. 119.07(1),
 108 Florida Statutes, and s. 24(a), Article I of the State
 109 Constitution. This exemption is necessary to ensure the
 110 department's ability to effectively and efficiently enforce
 111 compliance with part II of chapter 551, Florida Statutes, which
 112 would be significantly impaired without the exemption.

113 (b) Investigations are an essential component of gaming
114 regulation. The mere existence of an investigation program
115 fosters regulatory compliance and deters fraud and abuse by
116 industry participants. Investigations often detect violations in
117 their early stages. Early detection allows corrective action to
118 be taken before significant harm can be done to the state. Due
119 to the importance of such investigations, state regulators
120 devote extensive resources to devising effective investigation
121 techniques and procedures.

122 (c) Allowing access to information revealing investigation
123 techniques or procedures would undermine the investigation
124 process and facilitate evasion of the law. Any advance notice of
125 the areas of inquiry to be explored during an examination might
126 prompt a person to conceal evidence of deficiencies or fabricate
127 evidence of compliance. Without the exemption, the Department of
128 Gaming Control's ability to uncover misconduct and evaluate
129 policies and procedures through the investigation process would
130 be significantly impaired.

131 (d) Additionally, without such an exemption, the
132 Department of Gaming Control's ability to participate in joint
133 investigations with other regulators would be impaired as
134 release of this information relating to investigations by other
135 regulators would compromise the integrity of such joint
136 investigations. The department also would not be able to accept
137 or use confidential examination techniques and procedures
138 developed by other regulators. Thus, the absence of an exemption
139 would create a situation that reduces the department's ability
140 to leverage its limited resources.

PCS for HB 491

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141 Section 3. This act shall take effect on the same date
142 that HB 487 or similar legislation takes effect, if such
143 legislation is enacted in the same legislative session, or an
144 extension thereof, and becomes law, and only if this act is
145 enacted by a two-thirds vote of the membership of each house of
146 the Legislature.