

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1280

SPONSOR: Banking and Insurance Committee and Senator Laurent

SUBJECT: Revises Certain Reporting Requirements For Financial Institutions

DATE: March 8, 1999 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Woodham</u>	<u>Deffenbaugh</u>	<u>BI</u>	<u>Favorable/CS</u>
2.	_____	_____	_____	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The Committee Substitute for Senate Bill 1280 revises certain reporting requirements for financial institutions. It authorizes the Department of Banking and Finance to exempt certain financial institutions acting in a safe and sound manner, as set forth in Departmental rules, from reporting requirements relating to directors and executive officers, and disclosure of significant events. It extends the number of days' advance notice certain state financial institutions must give to the Department regarding the proposed appointment of a board member or executive officer of a state financial institution, from 30 days to 60 days. It also authorizes certain financial institutions to establish branches by simply filing a written notice with the department.

The committee substitute amends the following sections of the Florida Statutes: 655.0385, 655.948, 658.26.

II. Present Situation:

Section 655.0385, F.S., requires state financial institutions to notify the Department of Banking and Finance of the proposed appointment of any individual to the board of directors or the employment of an executive officer or equivalent position at least 30 days before the appointment or employment of the director or officer if the state financial institution: (a) has been chartered for less than 2 years; (b) has undergone a change in control or conversion within the preceding 2 years; (c) is not in compliance with the minimum capital requirements applicable to such financial institutions; or (d) is otherwise operating in an unsafe and unsound condition, as determined by the department, on the basis of such financial institution's most recent report of condition or report of examination.

Section 655.948, F.S., requires financial institutions not exempted by the department to notify the department of the occurrence of certain specified "significant events" by filing a disclosure form with the department. These significant events include: (1) the addition, resignation, or termination of a director, executive officer, independent internal auditor, or independent credit review officer;

(2) the acquisition or divestiture of an asset or assets the value of which exceeds 20% of capital; (3) any change in general counsel or outside auditors who are used to certify financial statements; (4) any interruption of fidelity insurance coverage; (5) any credit extension to an executive officer and her or his related interests that, when aggregated with the amount of all other extensions of credit, exceeds 15 percent of the capital accounts of the financial institution; (6) the failure to meet the minimum daily liquidity required of s. 658.68, F.S.; (7) any suspected criminal act perpetrated against a financial institution, subsidiary, or service corporation; or (8) the acquisition or divestiture of a wholly owned or majority owned subsidiary or service corporation.

Subsection 4(a) of the statute currently allows the department to exempt a financial institution from the notice requirements if such financial institution is operating in a safe and sound manner. The department is not allowed to exempt a financial institution, prior to adopting rules defining the term “safe and sound” and setting forth criteria constituting a “safe and sound” manner of operation. In 1992, the Department enacted administrative rule 3C-100.948(2), which interprets the term “safe and sound manner.”

Pursuant to this rule, "safe and sound manner" means the state financial institution is operating in a fundamentally sound manner, but may reflect modest weaknesses or deficiencies which are correctable in the normal course of business, and are not considered material; therefore, the financial institution is stable and able to withstand normal business fluctuations. The supervisory response is limited to the extent that minor adjustments are timely resolved and the institution continues to operate in a satisfactory manner. All state financial institutions shall be presumed to be operating in a safe and sound manner, unless the state financial institution has been notified by the Department that it has engaged in unsafe and unsound practices or has operated in an unsafe and unsound condition.

Subsection (4)(b) requires newly chartered institutions and institutions which have undergone a change in ownership, not the result of a merger, consolidation or acquisition by a financial institution exempted by subsection (4)(a), to file the disclosure forms for a period of 3 years.

Section 658.26, F.S., addresses the branch application process. Currently, if a “strong, well-managed state bank or trust company” files a branch application with the Department which is not denied within 10 working days after receipt of the application, the branch application is deemed approved.

III. Effect of Proposed Changes:

Section 1. Amends s. 655.0385, F.S., relating to disapproval of directors and executive officers. A state financial institution which has been chartered for less than two years, has undergone a change in control or conversion within the preceding two years, is not in compliance with the minimum capital requirements applicable to such financial institutions, or is otherwise operating in an unsafe and unsound condition, must provide 60 days’ advance notice, rather than 30 days required under current law, before the appointment of a proposed member to the board of directors or executive officer of a state financial institution. The committee substitute also gives the department the discretionary authority to exempt a financial institution which has undergone a change in control or conversion within the preceding 2 years, and which is operating in a safe and sound manner, as set forth in departmental rules, from the requirement of notifying the

department of the proposed appointment of board members or executive officers. Subsection (4) is created to allow the department to adopt rules to implement this section.

The amendment does not provide a definition of “safe and sound manner” to be used in this subsection. However, in subsection (1)(d), an “unsafe and unsound condition” is determined by the department on the basis of the financial institution’s most recent report of condition or report of examination.

Section 2. Amends s. 655.948, F.S., regarding disclosure by financial institutions of significant events. Subsection (4)(a) is amended to allow the department to exempt a financial institution operating in a safe and sound manner, pursuant to departmental rules. Subsection (4)(b) is amended to require only newly chartered financial institutions to notify the department of certain specified “significant events” (see Present Situation) for 3 years.

Section 3. Amends s. 658.26, F.S., exempting financial institutions operating in a safe and sound manner, as provided by departmental rules, from filing an application and application fee to open a branch office. Instead, the institution is directed to file a written notice with the department 30 days prior to opening the branch.

Section 4. Provides for an effective date of July 1, 1999.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The committee substitute provides incentives for financial institutions to operate in a safe and sound manner, by exempting those institutions from certain disclosure, application and fee requirements. The elimination of the branch application requirement for safe and sound

financial institutions will save the industry an estimated \$72,000 annually, according to the departmen

C. Government Sector Impact:

The committee substitute reduces the regulatory burden on the Department, and decreases the paperwork which must be filed by financial institutions who operate in a safe and sound manner. State revenues for the department will be reduced by \$72,000 annually, as estimated by the department, due to the elimination of the branch application requirement for safe and sound financial institutions.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
