

By Senator Laurent

17-798-99

1 A bill to be entitled
2 An act relating to financial institutions;
3 amending s. 655.0385, F.S.; authorizing the
4 Department of Banking and Finance to exempt
5 certain financial institutions from reporting
6 requirements relating to directors and
7 executive officers; providing for the adoption
8 of rules; amending s. 655.948, F.S.; revising
9 notice and disclosure requirements; exempting
10 certain financial institutions from reporting
11 requirements; amending s. 658.26, F.S.;
12 providing for certain financial institutions to
13 establish branches by filing a written notice;
14 providing an effective date.

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

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18 Section 1. Section 655.0385, Florida Statutes, is
19 amended to read:

20 655.0385 Disapproval of directors and executive
21 officers.--

22 (1) Each state financial institution shall notify the
23 department of the proposed appointment of any individual to
24 the board of directors or the employment of any individual as
25 an executive officer or equivalent position at least 30 days
26 before such appointment or employment becomes effective, if
27 the state financial institution:

28 (a) Has been chartered for less than 2 years;

29 (b) Has undergone a change in control or conversion
30 within the preceding 2 years. The department may exempt a
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1 financial institution from this requirement if it operates in
2 a safe and sound manner;

3 (c) Is not in compliance with the minimum capital
4 requirements applicable to such financial institution; or

5 (d) Is otherwise operating in an unsafe and unsound
6 condition, as determined by the department, on the basis of
7 such financial institution's most recent report of condition
8 or report of examination.

9 (2) A state financial institution may not appoint any
10 individual to the board of directors, or employ any individual
11 as an executive officer or equivalent position, if the
12 department issues a notice of disapproval with respect to that
13 person.

14 (3) The department shall issue a notice of disapproval
15 if the competence, experience, character, or integrity of the
16 individual to be appointed or employed indicates that it is
17 not in the best interests of the depositors, the members, or
18 the public to permit the individual to be employed by or
19 associated with the state financial institution.

20 (4) The department may adopt rules to administer this
21 section.

22 Section 2. Section 655.948, Florida Statutes, is
23 amended to read:

24 655.948 Significant events; notice required.--

25 (1) Unless exempted by the department pursuant to
26 subsection (4), every financial institution shall notify the
27 department of the occurrence of any of the events listed in
28 subsection (2) by filing with the department a disclosure in a
29 form to be specified by the department. The form shall
30 include the number and caption of all applicable events, along
31 with a summary of each. Completed forms shall be certified

1 for authenticity and accuracy by the chief executive officer
2 of the financial institution.

3 (2) Events for which disclosure forms must be filed
4 and the filing schedule for each are as follows:

5 (a) To be disclosed within 30 days of the occurrence
6 of the event:

7 1. The addition, resignation, or termination of a
8 director, executive officer, independent internal auditor, or
9 independent credit review officer;

10 2. The acquisition or divestiture of an asset or
11 assets the value of which exceeds 20 percent of capital as of
12 the date of the most recent call report. Any assets listed in
13 s. 657.042(1) or s. 658.67(1) are excluded from such
14 disclosure requirements;

15 3. Any change in general counsel or outside auditors
16 who are used to certify financial statements;

17 4. Any interruption of fidelity insurance coverage;

18 5. Any credit extension to an executive officer and
19 his or her related interests that, when aggregated with the
20 amount of all other extensions of credit to that executive
21 officer and his or her related interests, exceeds 15 percent
22 of the capital accounts of the financial institution;

23 6. The failure to meet the minimum daily liquidity
24 required of s. 658.68;

25 7. Any suspected criminal act perpetrated against a
26 financial institution, subsidiary, or service corporation.
27 However, no liability shall be incurred by any financial
28 institution, subsidiary, service corporation, or financial
29 institution-affiliated party as a result of making a good
30 faith effort to fulfill this disclosure requirement; or

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1 8. The acquisition or divestiture of a wholly owned or
2 majority owned subsidiary or service corporation.

3 (b) Every financial institution shall notify the
4 department within 30 days of the existence of any asset which
5 is defined as a nonaccrual asset and which is in excess of 15
6 percent of total assets.

7 (3) A financial institution which fails to file a
8 disclosure form within 30 days after the occurrence shall be
9 subject to the fines provided in s. 655.041.

10 (4)(a) The department will exempt a financial
11 institution from any of the provisions of this section if the
12 department determines that such financial institution is
13 operating in a safe and sound manner pursuant to departmental
14 rules relating to safe and sound operations. The department,
15 prior to granting any such exemption, shall adopt rules
16 defining the term "safe and sound" and explicitly stating the
17 criteria which shall constitute operating in a safe and sound
18 manner.

19 (b) Notwithstanding paragraph(a)~~this section~~, all
20 newly chartered financial institutions ~~and financial~~
21 ~~institutions which have undergone a change in ownership which~~
22 ~~is not the result of a merger, consolidation or acquisition by~~
23 ~~a financial institution exempted in paragraph (a)~~, shall be
24 subject to the requirements of subsections (1) and (2)~~these~~
25 ~~provisions~~ for 3 years.

26 Section 3. Paragraph (c) of subsection (2) of section
27 658.26, Florida Statutes, is amended to read:

28 658.26 Places of transacting business; branches;
29 facilities.--

30 (2)

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1 (c) As provided by departmental rule, a financial
2 institution operating in a safe and sound manner may establish
3 a branch by filing a written notice with the department at
4 least 30 days before opening that branch. In such case, the
5 financial institution need not file a branch application or
6 pay a branch application fee.~~A branch application, filed by a~~
7 ~~strong, well-managed state bank or trust company, which is not~~
8 ~~denied within 10 working days after receipt of the application~~
9 ~~shall be deemed approved unless the department notifies the~~
10 ~~financial institution in writing that the application was not~~
11 ~~complete.~~

12 Section 4. This act shall take effect July 1, 1999.

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SENATE SUMMARY

Revises certain reporting requirements for financial institutions. Authorizes the Department of Banking and Finance to exempt certain financial institutions from reporting requirements relating to directors and executive officers. Exempts certain financial institutions that operate in a safe and sound manner from reporting requirements. Authorizes certain financial institutions to establish branches by filing a written notice.