

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 990

SPONSOR: Banking and Insurance Committee and Senator Grant

SUBJECT: Trust Powers of Banks, Trust Companies, and National Banking or Federal Associations

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:

Committee Substitute for Senate Bill 990 amends s. 660.41, F.S. to retain a provision scheduled for repeal on September 1, 1999, which exempts banks or associations and trust companies resulting from an interstate merger transaction with a Florida bank, pursuant to s. 658.2953, F.S., from a prohibition against corporations conducting trust business in Florida.

Additionally, the committee substitute incorporates the language of section 18, chapter 97-30, Laws of Florida, into a restatement of the existing statutory language which exempts from this prohibition, banks or associations and trust companies incorporated in Florida and national banking or federal associations authorized and qualified to exercise trust powers in Florida.

The committee substitute does not have a fiscal impact.

This committee substitute amends section 660.41 of the Florida Statutes.

II. Present Situation:

The current law under s. 660.41, F.S., allows banks or associations and trust companies incorporated under the laws of Florida, having trust powers, and national banking associations or federal associations located in Florida, having trust powers, to act as: (1) a personal representative for an estate; (2) a receiver or trustee under appointment of any court in Florida; (3) assignee, receiver or trustee of any insolvent person or corporation or under any assignment for the benefit of creditors; (4) fiscal agent, transfer agent or registrar of any municipal or private corporation. All other corporations, except those specifically provided for, are prohibited under s. 660.41, F.S., from exercising any of the trust powers listed in (1) - (4).

When Florida authorized interstate banking and branching 2 years ago under s. 658.2953, F.S., after the enactment of the federal Riegle-Neal Interstate Banking and Branching Efficiency Act of

1994, interstate bank mergers produced financial services entities with trust powers which were neither chartered in Florida nor nationally chartered, but were chartered in another state.

Since July 1, 1997, pursuant to section 18, chapter 97-30, Laws of Florida, banks or associations and trust companies resulting from an interstate merger transaction with a Florida bank pursuant to s. 658.2953, F.S., and having trust powers, have been authorized to exercise any of the powers or duties and to act in any of the capacities, within the state of Florida, provided for in s. 660.41, F.S. However, this section is scheduled to be repealed on September 1, 1999. The purpose of the repeal date was to give the Division of Banking an opportunity to review the trust laws, and recommend any necessary changes to the Legislature. The division has completed its review with no recommended changes to the trust statutes.

Under the current law, there is a possible conflict with federal law, since pursuant to federal law, a national bank based in another state, with no branches in Florida, is permitted to exercise fiduciary powers in Florida. The Florida statute appears to preclude this exercise, because if a bank is not authorized, qualified, located or chartered in Florida, it is limited in the fiduciary powers and duties it can exercise.

III. Effect of Proposed Changes:

Section 1. The changes to s. 660.41, F.S., would continue the authority provided by section 18 of chapter 97-30, allowing banks or associations and trust companies incorporated under Florida law resulting from an interstate merger transaction with a Florida bank, pursuant to s. 658.2953, F.S., to exercise trust powers. Specifically, this bill will continue the effect of the current law scheduled for repeal on September 1, 1999, to allow non-Florida state-chartered banks to merge with Florida state-chartered banks without losing their local trust powers.

The bill revises the statutory language of s. 660.41, F.S., but will continue the distinction from other corporations held by banks, associations and trust companies, and national banking associations or federal associations authorized and qualified to exercise trust powers in Florida, allowing them to perform the fiduciary functions set forth in s. 660.41(1)-(4), F.S.

The bill also resolves the potential conflict with federal law, by providing that a national bank, based in another state with no branches in Florida, be authorized and qualified to exercise trust powers in Florida in order to perform fiduciary duties prescribed by s. 660.41, F.S.

Section 2. Provides for an effective date of September 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 for Senate Bill 990 will benefit state-chartered banks resulting from the passage of interstate banking and branching laws, to have the same trust powers as those powers given to other out of state, nationally chartered banks. If the bill is not enacted, banks chartered in states other than Florida will not be able to continue the trust work they have been performing in Florida.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.