

By the Committee on Banking and Insurance; and Senator King

311-1551-01

1                                   A bill to be entitled  
2           An act relating to financial institutions;  
3           amending ss. 655.043, 655.411, and 658.23,  
4           F.S.; deleting provisions relating to  
5           reservation of proposed names of financial  
6           entities with the Department of State;  
7           providing legislative intent; specifying  
8           certain deposits as pay-on-death designated  
9           accounts under certain circumstances; amending  
10          s. 655.50, F.S.; clarifying certain exemption  
11          provisions relating to reports by financial  
12          institutions for money laundering purposes;  
13          amending s. 658.12, F.S.; revising a definition  
14          of the term banker's bank; amending s. 658.165,  
15          F.S.; providing criteria for formation of a  
16          banker's bank; providing application; amending  
17          s. 658.19, F.S.; providing for return and  
18          resubmission of certain applications under  
19          certain circumstances; amending s. 658.21,  
20          F.S.; revising application approval criteria  
21          relating to limitations on certain capital  
22          accounts and experience of certain officers;  
23          amending s. 658.235, F.S.; clarifying a  
24          requirement for subscriptions for stock;  
25          amending s. 658.25, F.S.; revising bank or  
26          trust company opening for business date  
27          criterion; amending s. 658.26, F.S.; clarifying  
28          provisions relating to branch places of  
29          transacting business; revising certain  
30          operational characteristics; renumbering s.  
31          663.066, F.S., as s. 658.285, F.S.; amending s.

1           658.34, F.S.; revising a condition for the  
2           issuance of authorized but unissued bank or  
3           trust company capital stock; amending s.  
4           658.73, F.S.; revising certain fees and  
5           assessments provisions; imposing an additional  
6           fee for certain certificates; amending s.  
7           663.09, F.S.; deleting an administrative fine  
8           provision for certain late audits; amending s.  
9           658.48, F.S.; revising limitations on the  
10          percentage of the capital accounts of the  
11          lending bank which apply to loans made to any  
12          one borrower on the security of shares of  
13          capital stock; revising the circumstances in  
14          which a bank may not make loans; repealing s.  
15          655.81, F.S., relating to deposits in trust;  
16          providing effective dates.

17

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

19

20           Section 1. Section 655.043, Florida Statutes, is  
21 amended to read:

22           655.043 Articles of incorporation; amendments;  
23 approval.--

24           (1) A bank, trust company, or association may not  
25 amend its articles of incorporation without the written  
26 approval of the department.

27           (2) ~~The department may not approve any amendment to~~  
28 ~~the articles of incorporation which requests a change in name~~  
29 ~~of the bank, trust company, or association without evidence~~  
30 ~~that the proposed new name has been reserved with the~~  
31 ~~Department of State.~~

1           Section 2. (1) Because deposits in trust are also  
2 accounts with a pay-on-death designation as described in  
3 section 655.82, Florida Statutes, it is the intent of the  
4 Legislature that the provisions of section 655.82, Florida  
5 Statutes, shall apply to and govern deposits in trust.  
6 References to section 655.81, Florida Statutes, in any  
7 depository agreement shall be interpreted after the effective  
8 date of this act as references to section 655.82, Florida  
9 Statutes.

10           (2) This section shall take effect July 1, 2001, and  
11 shall apply to deposits made to a depository account created  
12 after December 31, 1994.

13           Section 3. Paragraph (c) of subsection (1) of section  
14 655.411, Florida Statutes, is amended to read:

15           655.411 Conversion of charter.--

16           (1) Any financial entity may apply to the department  
17 for permission to convert its charter without a change of  
18 business form or convert its charter in order to do business  
19 as another type of financial entity in accordance with the  
20 following procedures:

21           (c) The department shall approve the plan if it finds  
22 that:

23           1. The resulting financial entity would have an  
24 adequate capital structure with regard to its activities and  
25 its deposit liabilities.

26           2. The proposed conversion would not cause a  
27 substantially adverse effect on the financial condition of any  
28 financial entity already established in the primary service  
29 area.

30           3. The officers and directors have sufficient  
31 experience, ability, and standing to indicate reasonable

1 promise for successful operation of the resulting financial  
2 entity.

3 ~~4. The proposed name of the resulting financial entity~~  
4 ~~has been reserved with the Department of State.~~

5 4.5. The schedule for termination of any nonconforming  
6 activities and disposition of any nonconforming assets and  
7 liabilities is reasonably prompt, and the plan for such  
8 termination and disposition does not include any unsafe or  
9 unsound practice.

10 5.6. None of the officers or directors has been  
11 convicted of, or pled guilty or nolo contendere to, a  
12 violation of s. 655.50, relating to the Florida Control of  
13 Money Laundering in Financial Institutions Act; chapter 896,  
14 relating to offenses related to financial transactions; or any  
15 similar state or federal law.

16  
17 If the department disapproves the plan, it shall state its  
18 objections and give an opportunity to the parties to amend the  
19 plan to overcome such objections. The department may deny an  
20 application by any financial entity which is subject to a  
21 cease and desist order or other supervisory restriction or  
22 order imposed by any state or federal supervisory authority,  
23 insurer, or guarantor.

24 Section 4. Subsection (6) and paragraph (d) of  
25 subsection (8) of section 655.50, Florida Statutes, are  
26 amended to read:

27 655.50 Florida Control of Money Laundering in  
28 Financial Institutions Act; reports of transactions involving  
29 currency or monetary instruments; when required; purpose;  
30 definitions; penalties.--

31

1           (6) ~~Unless otherwise provided by rule, a financial~~  
2 ~~institution may exempt from the reporting requirements of this~~  
3 ~~section deposits, withdrawals, exchanges, or payments exempted~~  
4 ~~from the reporting requirements of 31 U.S.C. s. 5313. Each~~  
5 financial institution shall maintain a record of each  
6 designation of a person granted exemption under the authority  
7 of 31 U.S.C. s. 5313 granted, including any ~~the~~ name, address,  
8 and type of business, taxpayer identification number of the  
9 exempt person, as well as the name and address of the  
10 financial institution, account number, and the signature of  
11 the financial institution official designating the exempt  
12 person customer granted the exemption; a written statement  
13 ~~describing in detail the customary conduct of the lawful~~  
14 ~~business of that customer and the reasons why such customer~~  
15 ~~qualified for such an exemption; the type of transactions~~  
16 ~~exempted; and the dollar limit of each exempt transaction.~~  
17 Such record of exemptions shall be made available to the  
18 department for inspection and copying and shall be submitted  
19 to the department within 15 days after request.

20           (8)

21           (d) The financial institution shall retain a copy of  
22 all records of exemption for each designation of exempt person  
23 made customer granted pursuant to subsection (6) for a minimum  
24 of 5 calendar years after termination of exempt status of such  
25 customer. However, if it is known by the financial institution  
26 that the customer or the transactions of the customer are the  
27 subject of an existing criminal proceeding, the records shall  
28 be retained for a minimum of 10 calendar years after  
29 termination of exempt status of such customer.

30           Section 5. Subsection (3) of section 658.12, Florida  
31 Statutes, is amended to read:

1           658.12 Definitions.--Subject to other definitions  
2 contained in the financial institutions codes and unless the  
3 context otherwise requires:

4           (3) "Banker's bank" means a bank insured by the  
5 Federal Deposit Insurance Corporation, or a holding company  
6 which owns or controls such an insured bank, when the stock of  
7 such bank or holding company is owned exclusively by other  
8 banks and such bank or holding company and all subsidiaries  
9 thereof are engaged exclusively in providing services for  
10 other financial ~~depository~~ institutions and their officers,  
11 directors, and employees.

12           Section 6. Present subsection (4) of section 658.165,  
13 Florida Statutes, is renumbered as subsection (6), and new  
14 subsections (4) and (5) are added to that section, to read:

15           658.165 Banker's banks; formation; applicability of  
16 financial institutions codes; exceptions.--

17           (4) A banker's bank may provide services at the  
18 request of financial institutions in organizations that have:

19           (a) Received conditional regulatory approval from the  
20 department in the case of a state bank or preliminary approval  
21 from the Office of the Comptroller of the Currency in the case  
22 of a national bank.

23           (b) Filed articles of incorporation pursuant to s.  
24 658.23 in the case of a state bank, or filed acceptable  
25 articles of incorporation and an organization certificate in  
26 the case of a national bank.

27           (c) Received capital funds in an amount not less than  
28 the minimum capitalization required in any notice of or order  
29 granting conditional regulatory approval.

30           (5) A banker's bank may provide services to the  
31 organizers of a proposed financial institution that has not

1 received conditional regulatory approval provided that such  
2 services are limited to the financing of the expenses of  
3 organizing such financial institution and expenses relating to  
4 the acquisition or construction of the institution's proposed  
5 operating facilities and associated fixtures and equipment.

6 Section 7. Subsection (3) is added to section 658.19,  
7 Florida Statutes, to read:

8 658.19 Application for authority to organize a bank or  
9 trust company.--

10 (3) Notwithstanding chapter 120, an application may be  
11 returned to the applicant, on a one-time basis, for correction  
12 of substantial deficiencies and may be resubmitted without  
13 payment of an additional fee if such resubmission takes place  
14 within 60 days after the date the department returns the  
15 application.

16 Section 8. Section 658.21, Florida Statutes, is  
17 amended to read:

18 658.21 Approval of application; findings  
19 required.--The department shall approve the application if it  
20 finds that:

21 (1) Local conditions indicate reasonable promise of  
22 successful operation for the proposed state bank or trust  
23 company. In determining whether an applicant meets the  
24 requirements of this subsection, the department shall consider  
25 all materially relevant factors, including:

26 (a) The purpose, objectives, and business philosophy  
27 of the proposed state bank or trust company.

28 (b) The projected financial performance of the  
29 proposed bank or trust company.

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1 (c) The feasibility of the proposed bank or trust  
2 company, as stated in the business plan, particularly with  
3 respect to asset and liability growth and management.

4 (2) The proposed capitalization is in such amount as  
5 the department deems adequate, but in no case may the total  
6 capital accounts at opening for a bank be less than ~~\$6~~\$4  
7 million if the proposed bank is to be located in any county  
8 which is included in a metropolitan statistical area, or ~~\$4~~\$2  
9 million if the proposed bank is to be located in any other  
10 county. The total capital accounts at opening for a trust  
11 company may not be less than \$2 million. Of total capital  
12 accounts at opening, as noted in the application or amendments  
13 or changes to the application, at least 25 percent of the  
14 capital shall be directly owned or controlled by the  
15 organizing directors of the bank. Directors of banks owned by  
16 single-bank holding companies shall have direct ownership or  
17 control of at least 25 percent of the bank holding company's  
18 capital accounts.The department may disallow illegally  
19 obtained currency, monetary instruments, funds, or other  
20 financial resources from the capitalization requirements of  
21 this section.

22 (3) The proposed capital structure is in such form as  
23 the department may require, but, at a minimum, every state  
24 bank or trust company hereafter organized shall establish+

25 ~~(a)~~ paid-in capital equal in amount to not less than  
26 50 percent of its total capital accounts and-

27 ~~(b)~~ a paid-in surplus equal in amount to not less than  
28 20 percent of its paid-in capital.

29 ~~(c) A fund to be designated as undivided profits equal~~  
30 ~~in amount to not less than 5 percent of its paid-in capital.~~

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1           (4) The proposed officers have sufficient financial  
2 institution experience, ability, standing, and reputation and  
3 the proposed directors have sufficient business experience,  
4 ability, standing, and reputation to indicate reasonable  
5 promise of successful operation, and none of the proposed  
6 officers or directors has been convicted of, or pled guilty or  
7 nolo contendere to, any violation of s. 655.50, relating to  
8 the Florida Control of Money Laundering in Financial  
9 Institutions Act; chapter 896, relating to offenses related to  
10 financial institutions; or any similar state or federal law.  
11 At least two ~~one~~ of the proposed directors who are ~~is~~ not also  
12 ~~a proposed officers officer~~ shall have had at least 1 year  
13 direct experience as an executive officer, regulator, or  
14 director of a financial institution within 3 years of the date  
15 of the application. ~~However, This requirement may be waived by~~  
16 ~~the department~~ if the applicant demonstrates that at least one  
17 of the proposed directors director has very substantial  
18 experience as an executive officer, director, or regulator of  
19 a financial institution more than 3 years before the date of  
20 the application, the department may modify the requirement and  
21 allow only one director to have direct financial institution  
22 experience within the last 3 years. The proposed president or  
23 chief executive officer shall have had at least 1 year of  
24 direct experience as an executive officer, director, or  
25 regulator of a financial institution within the last 3 years.

26           (5) The corporate name of the proposed state bank or  
27 trust company is approved by ~~reserved with~~ the department of  
28 State.

29           (6) Provision has been made for suitable quarters at  
30 the location in the application.

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1           Section 9. Subsection (6) of section 658.23, Florida  
2 Statutes, is amended to read:

3           658.23 Submission of articles of incorporation;  
4 contents; form; approval; filing; commencement of corporate  
5 existence; bylaws.--

6           (6) A bank or trust company may not amend its articles  
7 of incorporation without the prior written approval of the  
8 department. ~~The department may not approve any amendment to~~  
9 ~~the articles of incorporation which requests a change in name~~  
10 ~~of the bank or trust company without evidence that the~~  
11 ~~proposed name has been reserved with the Department of State.~~

12           Section 10. Subsection (1) of section 658.235, Florida  
13 Statutes, is amended to read:

14           658.235 Subscriptions for stock; approval of major  
15 shareholders.--

16           (1) Within 6 months after commencement of corporate  
17 existence, and at least 30 days prior to opening ~~the issuance~~  
18 ~~of stock~~, the directors shall have completed the stock  
19 offering and shall file with the department a final list of  
20 subscribers to all of the capital stock of the proposed bank  
21 or trust company showing the name and residence of each  
22 subscriber and the amount of stock of every class subscribed  
23 for by each.

24           Section 11. Subsection (1) of section 658.25, Florida  
25 Statutes, is amended to read:

26           658.25 Opening for business.--

27           (1) A bank or trust company corporation shall open and  
28 conduct a general commercial bank or trust business no later  
29 than 12 ~~6~~ months after the commencement of its corporate  
30 existence. ~~For good cause shown, the department may extend~~  
31 ~~the opening date for an additional period, not to exceed 6~~

1 ~~months, on its own motion or at the request of the bank or~~  
2 ~~trust company.~~

3 Section 12. Section 658.26, Florida Statutes, is  
4 amended to read:

5 658.26 Places of transacting business; branches;  
6 facilities.--

7 (1) Any bank or trust company heretofore or hereafter  
8 incorporated pursuant to this chapter shall have one main  
9 office, which shall be located within the state.

10 (2)(a) In addition, with the approval of the  
11 department and upon such conditions as the department  
12 prescribes, any bank or trust company may establish branches  
13 within or outside the state. With the approval of the  
14 department upon a determination that the resulting bank or  
15 trust company will be of sound financial condition, any bank  
16 or trust company incorporated pursuant to this chapter may  
17 establish branches by merger with any other bank or trust  
18 company.

19 (b) An application for a branch by a bank that does  
20 not meet the requirements for the branch notification process  
21 shall be in writing in such form as the department prescribes  
22 and be supported by such information, data, and records as the  
23 department may require to make findings necessary for  
24 approval. Applications filed pursuant to this subsection shall  
25 not be published in the Florida Administrative Weekly but  
26 shall otherwise be subject to the provisions of chapter 120.  
27 Upon the filing of an application and a nonrefundable filing  
28 fee for the establishment of any branch permitted by paragraph  
29 (a), the department shall make an investigation with respect  
30 to compliance with the requirements of paragraph (a) and shall  
31

1 investigate and consider all factors relevant to such  
2 requirements, including the following:

3       1. The sufficiency of capital accounts in relation to  
4 the deposit liabilities of the bank, or in relation to the  
5 number and valuation of fiduciary accounts of the trust  
6 company, including the proposed branch, and the additional  
7 fixed assets, if any, which are proposed for the branch and  
8 its operations, without undue risk to the bank or its  
9 depositors, or undue risk to the trust company or its  
10 fiduciary accounts;

11       2. The sufficiency of earnings and earning prospects  
12 of the bank or trust company to support the anticipated  
13 expenses and any anticipated operating losses of the branch  
14 during its formative or initial years;

15       3. The sufficiency and quality of management available  
16 to operate the branch;

17       4. The name of the proposed branch to determine if it  
18 reasonably identifies the branch as a branch of the main  
19 office and is not likely to unduly confuse the public; and

20       5. Substantial compliance by the applicants with  
21 applicable law governing their operations.

22       (3)(a) An office in this state may be relocated with  
23 prior written approval of the department. An application for  
24 relocation shall be in writing in such form as the department  
25 prescribes and shall be supported by such information, data,  
26 and records as the department may require to make findings  
27 necessary for approval.

28       (b) Applications filed pursuant to this subsection  
29 shall not be published in the Florida Administrative Weekly  
30 but shall otherwise be subject to the provisions of chapter  
31 ~~120. However, an application for the relocation of a main~~

1 ~~office that has not been in operation for at least 24 months~~  
2 ~~shall be published in the Florida Administrative Weekly.~~ Upon  
3 the filing of a relocation application and a nonrefundable  
4 filing fee, the department shall investigate to determine  
5 substantial compliance by the financial institution with  
6 applicable law governing its operations. Additional  
7 investments in land, buildings, leases, and leasehold  
8 improvements resulting from such relocation shall comply with  
9 the limitations imposed by s. 658.67(7)(a). A main office may  
10 not be moved outside this state unless expressly authorized by  
11 the financial institutions codes or by federal law.

12 (c) A relocation application, ~~filed by a strong,~~  
13 ~~well-managed~~ state bank or trust company that is operating in  
14 a safe and sound manner, which is not denied within 10 working  
15 days after receipt shall be deemed approved unless the  
16 department notifies the financial institution in writing that  
17 the application was not complete.

18 (d) In addition to the application required by  
19 paragraph (a), a financial institution whose main office in  
20 this state has been in operation less than 24 months must  
21 provide evidence that the criteria of s. 658.21(1) will be  
22 met.

23 ~~(e) With 30 days' prior written notice, an established~~  
24 ~~branch office may be consolidated with another established~~  
25 ~~branch office when the two offices are located within a 1-mile~~  
26 ~~radius. The notice shall include any information the~~  
27 ~~department may prescribe by rule.~~

28 (e)(f) A branch office may be closed with 30 days'  
29 prior written notice to the department. The notice shall  
30 include any information the department may prescribe by rule.

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1           (4) With prior written notification to the department,  
2 any bank may operate facilities which are not physically  
3 connected to the main or branch office of the bank, provided  
4 that the facilities are situated on the property of the main  
5 or branch office or property contiguous thereto. Property  
6 which is separated from the main or branch office of a bank by  
7 only a street, and one or more walkways and alleyways are  
8 determined to be, for purposes of this subsection, contiguous  
9 to the property of the main or branch office.

10           (5) A bank may provide, directly or through a contract  
11 with another company, off-premises armored car service to its  
12 customers. Armored car services shall not be considered a  
13 branch for the purposes of subsection (2).

14           (6)(a) Any state bank that is a subsidiary of a bank  
15 holding company may agree to receive deposits, renew time  
16 deposits, close loans, service loans, and receive payments on  
17 loans and other obligations, as an agent for an affiliated  
18 depository institution.

19           (b) The term "close loan" does not include the making  
20 of a decision to extend credit or the extension of credit.

21           (c) As used in this section, "receive deposits" means  
22 the taking of deposits to be credited to an existing account  
23 and does not include the opening or origination of new deposit  
24 accounts at an affiliated institution by the agent  
25 institution.

26           (d) Under this section, affiliated banks may act as  
27 agents for one another regardless of whether the institutions  
28 are located in the same or different states. This section  
29 applies solely to affiliated depository institutions acting as  
30 agents, and has no application to agency relationships  
31

1 concerning nondepositories as agent, whether or not affiliated  
2 with the depository institution.

3 (e) In addition, under this section, agent banks may  
4 perform ministerial functions for the principal bank making a  
5 loan. Ministerial functions include, but are not limited to,  
6 such activities as providing loan applications, assembling  
7 documents, providing a location for returning documents  
8 necessary for making the loan, providing loan account  
9 information, and receiving payments. It does not include such  
10 loan functions as evaluating applications or disbursing loan  
11 funds.

12  
13 ~~For the purposes of this section, a strong, well-managed state~~  
14 ~~bank or trust company is an institution that has been in~~  
15 ~~operation for at least 24 months, is well capitalized, has~~  
16 ~~received a satisfactory rating at the institution's most~~  
17 ~~recent state or federal safety and soundness examination, and~~  
18 ~~is not the object of any enforcement action.~~

19 Section 13. Section 663.066, Florida Statutes, is  
20 transferred and renumbered as section 658.285, Florida  
21 Statutes.

22 Section 14. Paragraph (b) of subsection (4) of section  
23 658.34, Florida Statutes, is amended to read:

24 658.34 Shares of capital stock.--

25 (4) With the approval of the department, a bank or  
26 trust company may issue less than all the number of shares of  
27 any of its capital stock authorized by its articles of  
28 incorporation. Such authorized but unissued shares may be  
29 issued only for the following purposes:

1           (b) To declare or pay a stock dividend, ~~with the~~  
2 ~~approval of the department~~; however, any such stock dividend  
3 must comply with the provisions of this section and s. 658.37.

4           Section 15. Section 658.73, Florida Statutes, is  
5 amended to read:

6           658.73 Fees and assessments.--

7           (1) Each state bank and state trust company shall pay  
8 to the department examination fees and assessments as follows:

9           (a) A semiannual fee of \$2,500; and

10           (b) A semiannual assessment, each in such amount as  
11 may be determined by the department, by rule, but not  
12 exceeding 15 cents for each \$1,000 of total assets as shown on  
13 the statement of condition of the bank or trust company as of  
14 the last business day in June and the last business day in  
15 December in each year. In its determination, the department  
16 may consider examination fees and application fees received  
17 from banks and trust companies in setting the semiannual  
18 assessment for purposes of meeting the cost of regulation of  
19 banks and trust companies subject to this chapter.

20           (2) Applications filed with the department shall be  
21 accompanied by payment of the following nonrefundable fees:

22           (a) Fifteen thousand dollars for each application for  
23 authority to organize a new state bank or state trust company.

24           (b) Two thousand five hundred dollars for each  
25 application by an existing bank or association for trust  
26 powers.

27           (c) Seven thousand five hundred dollars for each  
28 application for authority to acquire a controlling interest in  
29 a state bank or state trust company; however, if more than one  
30 bank or trust company is being acquired in any such  
31 application, the fee shall be increased by \$3,500 for each



1 additional bank or trust company. However, in no event shall  
2 the fee exceed \$15,000.

3 (d) Seven thousand five hundred dollars for each  
4 application for conversion of a national bank to a state bank.

5 (e) ~~Seven hundred fifty dollars for each application~~  
6 ~~to establish a branch of a strong, well-managed state bank or~~  
7 ~~trust company as defined in s. 658.26.~~ One thousand five  
8 hundred dollars for each application to establish a branch by  
9 any other state bank or state trust company that does not  
10 qualify for the branch notification process.

11 (f) One thousand five hundred dollars for each  
12 application for authority to establish a trust service office  
13 of a state trust company or of a trust department of a state  
14 bank or association, and a like amount for each application by  
15 a bank or association with trust powers which is not a state  
16 bank or state association for authority to establish a trust  
17 service office at a state bank, state association, or state  
18 credit union.

19 (g) Seven thousand five hundred dollars for each  
20 application for a merger or consolidation; however, if three  
21 or more banks or trust companies are involved in any such  
22 application, the fee shall be \$3,500 for each involved  
23 institution. However, in no event shall the fee exceed  
24 \$15,000.

25 (h) Two thousand five hundred dollars to establish a  
26 successor institution.

27 (i) Seven ~~Two~~ hundred fifty dollars for each  
28 application by a ~~strong, well-managed state bank or trust~~  
29 ~~company, as defined in s. 658.26, to relocate the main office~~  
30 ~~of a state bank or a state trust company.~~ Each other state  
31 bank or trust company not operating in a safe and sound manner

1 ~~shall pay a fee of \$750 for each application~~ for relocation of  
2 its main office.

3 (j) Two thousand five hundred dollars for each  
4 application for the purchase of assets and the assumption of  
5 liabilities. ~~If, as a result of such application, the~~  
6 ~~applicant will establish more than 10 branch offices within~~  
7 ~~this state, an application fee of \$100 is required for each~~  
8 ~~additional branch office.~~

9 (3)~~(a)~~ If, as a result of any application filed with  
10 the department, the department determines that an examination  
11 is necessary to assess the financial condition of any  
12 financial institution, the applying financial institution  
13 shall pay to the department a nonrefundable examination fee,  
14 pursuant to s. 655.045(1).

15 ~~(b) The department may refund up to one-half of the~~  
16 ~~fee submitted with an application if the application is~~  
17 ~~withdrawn by the applicant prior to publication in the Florida~~  
18 ~~Administrative Weekly.~~

19 (4) Each state bank and state trust company shall pay  
20 to the department \$25 for each "certificate of good standing"  
21 certifying that a state-chartered financial institution is  
22 licensed to conduct business in this state under the financial  
23 institutions codes. All such requests shall be in writing. The  
24 department shall waive this fee when the request is by a state  
25 or federal regulatory agency or law enforcement agency.

26 (5)~~(4)~~ The amounts of all fees and assessments  
27 provided for in this section shall be deemed to be maximum  
28 amounts; and the department has the authority to establish, by  
29 rule, and from time to time to change, fees and assessments in  
30 amounts less than the maximum amounts stated in this section.

31

1           Section 16. Subsection (2) of section 663.09, Florida  
2 Statutes, is amended to read:

3           663.09 Reports; records.--

4           (2) The international banking corporation of each  
5 state-licensed international bank agency or international  
6 branch shall perform or cause to be performed an audit of such  
7 international bank agency or international branch. The  
8 department shall, by rule, prescribe the minimum audit  
9 procedures including the audit reporting requirements which  
10 would satisfy the provisions of this subsection. ~~The late~~  
11 ~~submission of an audit shall be subject to the imposition of~~  
12 ~~the administrative fine prescribed by s. 655.045(2)(b).~~

13           Section 17. Subsection (5) of section 658.48, Florida  
14 Statutes, is amended to read:

15           658.48 Loans.--A state bank may make loans and  
16 extensions of credit, with or without security, subject to the  
17 following limitations and provisions:

18           (5) SPECIAL PROVISIONS.--

19           (a) A limitation of 25 percent of the capital accounts  
20 of the lending bank applies to the aggregate of all loans made  
21 to a corporation together with all loans secured by shares of  
22 stock, bonds, or other obligations of the same corporation,  
23 unless the stocks or bonds are listed and traded on a  
24 recognized stock exchange or are registered under the  
25 Securities Exchange Act of 1934 or are registered with the  
26 Board of Governors of the Federal Reserve System, with the  
27 Federal Deposit Insurance Corporation, or with the Comptroller  
28 of the Currency, in which case no aggregate loan limit  
29 applies.

30           (b) A limitation of 15 percent of the capital accounts  
31 of the lending bank applies to loans made to any one borrower

1 on the security of shares of capital stock listed and traded  
2 on a recognized exchange.A limitation of 10 percent of the  
3 capital accounts of the lending bank applies to loans made to  
4 any one borrower on the security of shares of capital stock  
5 not listed on a recognized exchange or the obligations  
6 subordinate to deposits of another bank. A limitation of 25  
7 percent of the capital accounts of the lending state bank  
8 applies to the aggregate of all loans secured by the shares of  
9 capital stock or the obligations subordinate to deposits of  
10 any one bank.

11 (c) No loan shall be made by a bank:

12 1. On the security of the shares of its own capital  
13 ~~stock, of stock of its own one-bank holding company,~~ or of its  
14 obligations subordinate to deposits.

15 2. On an unsecured basis for the purpose of the  
16 purchase of shares of its own capital stock, ~~stock of its own~~  
17 ~~one-bank holding company,~~ or its obligations subordinate to  
18 deposits.

19 3. On a secured or unsecured basis for the purpose of  
20 the purchase of shares of the stock of its one-bank holding  
21 company.

22 (d) Loans based upon the security of real estate  
23 mortgages shall be documented as first liens, except that  
24 liens other than first liens may be taken:

25 1. To protect a loan previously made in good faith;

26 2. To further secure a loan otherwise amply and  
27 entirely secured;

28 3. As additional security for Federal Housing  
29 Administration Title 1 loans or loans made with participation  
30 or guaranty by the Small Business Administration;

31

1           4. To secure a loan not in excess of 15 percent of the  
2 capital accounts of the bank; or

3           5. As provided by rules of the department.

4           (e) In computing the total liabilities of any person,  
5 there shall be included all loans endorsed or guaranteed as to  
6 repayment by such person and by any related interest of such  
7 person.

8           (f) All loan documentation shall be written in the  
9 English language or contain an English translation of foreign  
10 language provisions.

11           Section 18. Effective July 1, 2001, section 655.81,  
12 Florida Statutes, is repealed.

13           Section 19. Except as otherwise expressly provided in  
14 this act, this act shall take effect upon becoming a law.

15  
16                   STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
17                   COMMITTEE SUBSTITUTE FOR  
18                   SB 1260

- 19  
20           1. Increases the percent of capital stock a one-bank  
21 holding company may accept as collateral on a loan from  
22 any one borrower from 10 to 15 percent of the capital of  
23 the one-bank holding company, if the stock is listed and  
24 traded on a recognized exchange. If a loan is  
25 collateralized by capital stock that is not listed on a  
26 recognized exchange, the one-bank holding company would  
27 be permitted to accept loans with such collateral up to  
28 10 percent of the capital of the one-bank holding  
29 company.  
30  
31           2. Permits a one-bank holding company to make a loan using  
its stock as collateral, as long as the loan would not  
be used for the purchase of additional stock.