

1                                   A bill to be entitled  
2           An act relating to financial institutions;  
3           amending s. 68.065, F.S.; removing a  
4           requirement that a written demand be delivered  
5           as a requirement for certain recoveries on  
6           worthless checks, drafts, or orders of payment;  
7           amending ss. 655.043, 655.411, and 658.23,  
8           F.S.; deleting provisions relating to  
9           reservation of proposed names of financial  
10          entities with the Department of State;  
11          providing legislative intent; specifying  
12          certain deposits as pay-on-death designated  
13          accounts under certain circumstances; amending  
14          s. 655.059, F.S.; authorizing certain  
15          disclosures permitted by certain federal law;  
16          amending s. 655.50, F.S.; clarifying certain  
17          exemption provisions relating to reports by  
18          financial institutions for money laundering  
19          purposes; amending s. 658.12, F.S.; revising a  
20          definition of the term banker's bank; amending  
21          s. 658.165, F.S.; providing criteria for  
22          formation of a banker's bank; providing  
23          application; amending s. 658.19, F.S.;  
24          providing for return and resubmission of  
25          certain applications under certain  
26          circumstances; amending s. 658.21, F.S.;  
27          revising application approval criteria relating  
28          to limitations on certain capital accounts and  
29          experience of certain officers; amending s.  
30          658.235, F.S.; clarifying a requirement for  
31          subscriptions for stock; amending s. 658.25,

1 F.S.; revising bank or trust company opening  
2 for business date criterion; amending s.  
3 658.26, F.S.; clarifying provisions relating to  
4 branch places of transacting business; revising  
5 certain operational characteristics;  
6 renumbering s. 663.066, F.S., as s. 658.285,  
7 F.S.; amending s. 658.34, F.S.; revising a  
8 condition for the issuance of authorized but  
9 unissued bank or trust company capital stock;  
10 amending s. 658.73, F.S.; revising certain fees  
11 and assessments provisions; imposing an  
12 additional fee for certain certificates;  
13 amending s. 663.09, F.S.; deleting an  
14 administrative fine provision for certain late  
15 audits; amending s. 658.48, F.S.; revising  
16 limitations on the percentage of the capital  
17 accounts of the lending bank which apply to  
18 loans made to any one borrower on the security  
19 of shares of capital stock; revising the  
20 circumstances in which a bank may not make  
21 loans; repealing s. 655.81, F.S., relating to  
22 deposits in trust; amending s. 655.82, F.S.;  
23 prescribing survivorship rights among  
24 beneficiaries of pay-on-death accounts;  
25 providing effective dates.

26  
27 Be It Enacted by the Legislature of the State of Florida:

28  
29 Section 1. Subsection (3) of section 68.065, Florida  
30 Statutes, is amended to read:

31

1           68.065 Actions to collect worthless checks, drafts, or  
2 orders of payment; attorney's fees and collection costs.--

3           (3) Before recovery under subsection (1) ~~or subsection~~  
4 ~~(2)~~ may be claimed, a written demand shall be delivered by  
5 certified or registered mail, evidenced by return receipt, to  
6 the maker or drawer of the check, draft, or order of payment.  
7 The form of such notice shall be substantially as follows:

8  
9           "You are hereby notified that a check numbered .... in  
10 the face amount of \$.... issued by you on ...(date)..., drawn  
11 upon ...(name of bank)..., and payable to ....., has been  
12 dishonored. Pursuant to Florida law, you have 30 days from  
13 receipt of this notice to tender payment in cash of the full  
14 amount of the check plus a service charge of \$25, if the face  
15 value does not exceed \$50, \$30, if the face value exceeds \$50  
16 but does not exceed \$300, \$40, if the face value exceeds \$300,  
17 or 5 percent of the face amount of the check, whichever is  
18 greater, the total amount due being \$.... and .... cents.  
19 Unless this amount is paid in full within the 30-day period,  
20 the holder of the check or instrument may file a civil action  
21 against you for three times the amount of the check, but in no  
22 case less than \$50, in addition to the payment of the check  
23 plus any court costs, reasonable attorney fees, and any bank  
24 fees incurred by the payee in taking the action."

25           Section 2. Section 655.043, Florida Statutes, is  
26 amended to read:

27           655.043 Articles of incorporation; amendments;  
28 approval.--

29           ~~(1)~~ A bank, trust company, or association may not  
30 amend its articles of incorporation without the written  
31 approval of the department.

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

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

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

18           Section 4. Paragraph (b) of subsection (2) of section  
19 655.059, Florida Statutes, is amended to read:

20           655.059 Access to books and records; confidentiality;  
21 penalty for disclosure.--

22           (2)

23           (b) The books and records pertaining to the deposit  
24 accounts and loans of depositors, borrowers, members, and  
25 stockholders of any financial institution shall be kept  
26 confidential by the financial institution and its directors,  
27 officers, and employees and shall not be released except upon  
28 express authorization of the account holder as to her or his  
29 own accounts, loans, or voting rights. However, information  
30 relating to any loan made by a financial institution may be  
31 released without the borrower's authorization in a manner

1 prescribed by the board of directors for the purpose of  
2 meeting the needs of commerce and for fair and accurate credit  
3 information. Information may also be released, without the  
4 authorization of a member or depositor but in a manner  
5 prescribed by the board of directors, to verify or corroborate  
6 the existence or amount of a customer's or member's account  
7 when such information is reasonably provided to meet the needs  
8 of commerce and to ensure accurate credit information. In  
9 addition, a financial institution, affiliate, and its  
10 subsidiaries, and any holding company of the financial  
11 institution or subsidiary of such holding company, may furnish  
12 to one another information relating to their customers or  
13 members, subject to the requirement that each corporation  
14 receiving information that is confidential maintain the  
15 confidentiality of such information and not provide or  
16 disclose such information to any unaffiliated person or  
17 entity. Notwithstanding this paragraph, nothing in this  
18 subsection shall prohibit a financial institution from  
19 disclosing financial information as referenced in this  
20 subsection as permitted by Public Law 106-102(1999), as set  
21 forth in 15 U.S.C.A., s. 6802, as amended.

22 Section 5. Paragraph (c) of subsection (1) of section  
23 655.411, Florida Statutes, is amended to read:

24 655.411 Conversion of charter.--

25 (1) Any financial entity may apply to the department  
26 for permission to convert its charter without a change of  
27 business form or convert its charter in order to do business  
28 as another type of financial entity in accordance with the  
29 following procedures:

30 (c) The department shall approve the plan if it finds  
31 that:

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

4           2. The proposed conversion would not cause a  
5 substantially adverse effect on the financial condition of any  
6 financial entity already established in the primary service  
7 area.

8           3. The officers and directors have sufficient  
9 experience, ability, and standing to indicate reasonable  
10 promise for successful operation of the resulting financial  
11 entity.

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

14           4.5. The schedule for termination of any nonconforming  
15 activities and disposition of any nonconforming assets and  
16 liabilities is reasonably prompt, and the plan for such  
17 termination and disposition does not include any unsafe or  
18 unsound practice.

19           ~~5.6.~~ None of the officers or directors has been  
20 convicted of, or pled guilty or nolo contendere to, a  
21 violation of s. 655.50, relating to the Florida Control of  
22 Money Laundering in Financial Institutions Act; chapter 896,  
23 relating to offenses related to financial transactions; or any  
24 similar state or federal law.

25  
26 If the department disapproves the plan, it shall state its  
27 objections and give an opportunity to the parties to amend the  
28 plan to overcome such objections. The department may deny an  
29 application by any financial entity which is subject to a  
30 cease and desist order or other supervisory restriction or  
31

1 order imposed by any state or federal supervisory authority,  
2 insurer, or guarantor.

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

6 655.50 Florida Control of Money Laundering in  
7 Financial Institutions Act; reports of transactions involving  
8 currency or monetary instruments; when required; purpose;  
9 definitions; penalties.--

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

29 (8)

30 (d) The financial institution shall retain a copy of  
31 all records of exemption for each designation of exempt person

1 ~~made customer granted~~ pursuant to subsection (6) for a minimum  
2 of 5 calendar years after termination of exempt status of such  
3 customer. However, if it is known by the financial institution  
4 that the customer or the transactions of the customer are the  
5 subject of an existing criminal proceeding, the records shall  
6 be retained for a minimum of 10 calendar years after  
7 termination of exempt status of such customer.

8 Section 7. Subsection (3) of section 658.12, Florida  
9 Statutes, is amended to read:

10 658.12 Definitions.--Subject to other definitions  
11 contained in the financial institutions codes and unless the  
12 context otherwise requires:

13 (3) "Banker's bank" means a bank insured by the  
14 Federal Deposit Insurance Corporation, or a holding company  
15 which owns or controls such an insured bank, when the stock of  
16 such bank or holding company is owned exclusively by other  
17 banks and such bank or holding company and all subsidiaries  
18 thereof are engaged exclusively in providing services for  
19 other financial depository institutions and their officers,  
20 directors, and employees.

21 Section 8. Present subsection (4) of section 658.165,  
22 Florida Statutes, is renumbered as subsection (6), and new  
23 subsections (4) and (5) are added to that section, to read:

24 658.165 Banker's banks; formation; applicability of  
25 financial institutions codes; exceptions.--

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

28 (a) Received conditional regulatory approval from the  
29 department in the case of a state bank or preliminary approval  
30 from the Office of the Comptroller of the Currency in the case  
31 of a national bank.

1           (b) Filed articles of incorporation pursuant to s.  
2 658.23 in the case of a state bank, or filed acceptable  
3 articles of incorporation and an organization certificate in  
4 the case of a national bank.

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

8           (5) A banker's bank may provide services to the  
9 organizers of a proposed financial institution that has not  
10 received conditional regulatory approval provided that such  
11 services are limited to the financing of the expenses of  
12 organizing such financial institution and expenses relating to  
13 the acquisition or construction of the institution's proposed  
14 operating facilities and associated fixtures and equipment.

15           Section 9. Subsection (3) is added to section 658.19,  
16 Florida Statutes, to read:

17           658.19 Application for authority to organize a bank or  
18 trust company.--

19           (3) Notwithstanding chapter 120, an application may be  
20 returned to the applicant, on a one-time basis, for correction  
21 of substantial deficiencies and may be resubmitted without  
22 payment of an additional fee if such resubmission takes place  
23 within 60 days after the date the department returns the  
24 application.

25           Section 10. Section 658.21, Florida Statutes, is  
26 amended to read:

27           658.21 Approval of application; findings  
28 required.--The department shall approve the application if it  
29 finds that:

30           (1) Local conditions indicate reasonable promise of  
31 successful operation for the proposed state bank or trust

1 company. In determining whether an applicant meets the  
2 requirements of this subsection, the department shall consider  
3 all materially relevant factors, including:

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

6 (b) The projected financial performance of the  
7 proposed bank or trust company.

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

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

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

1           ~~(a)~~ paid-in capital equal in amount to not less than  
2 50 percent of its total capital accounts and-

3           ~~(b)~~ a paid-in surplus equal in amount to not less than  
4 20 percent of its paid-in capital.

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

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

1           (5) The corporate name of the proposed state bank or  
2 trust company is approved by ~~reserved with~~ the department of  
3 State.

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

6           Section 11. Subsection (6) of section 658.23, Florida  
7 Statutes, is amended to read:

8           658.23 Submission of articles of incorporation;  
9 contents; form; approval; filing; commencement of corporate  
10 existence; bylaws.--

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

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

19           658.235 Subscriptions for stock; approval of major  
20 shareholders.--

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

29           Section 13. Subsection (1) of section 658.25, Florida  
30 Statutes, is amended to read:

31           658.25 Opening for business.--

1           (1) A bank or trust company corporation shall open and  
2 conduct a general commercial bank or trust business no later  
3 than 12 ~~6~~ months after the commencement of its corporate  
4 existence. ~~For good cause shown, the department may extend~~  
5 ~~the opening date for an additional period, not to exceed 6~~  
6 ~~months, on its own motion or at the request of the bank or~~  
7 ~~trust company.~~

8           Section 14. Section 658.26, Florida Statutes, is  
9 amended to read:

10           658.26 Places of transacting business; branches;  
11 facilities.--

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

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

24           (b) An application for a branch by a bank that does  
25 not meet the requirements for the branch notification process  
26 shall be in writing in such form as the department prescribes  
27 and be supported by such information, data, and records as the  
28 department may require to make findings necessary for  
29 approval. Applications filed pursuant to this subsection shall  
30 not be published in the Florida Administrative Weekly but  
31 shall otherwise be subject to the provisions of chapter 120.

1 Upon the filing of an application and a nonrefundable filing  
2 fee for the establishment of any branch permitted by paragraph  
3 (a), the department shall make an investigation with respect  
4 to compliance with the requirements of paragraph (a) and shall  
5 investigate and consider all factors relevant to such  
6 requirements, including the following:

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

15         2. The sufficiency of earnings and earning prospects  
16 of the bank or trust company to support the anticipated  
17 expenses and any anticipated operating losses of the branch  
18 during its formative or initial years;

19         3. The sufficiency and quality of management available  
20 to operate the branch;

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

24         5. Substantial compliance by the applicants with  
25 applicable law governing their operations.

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

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

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

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

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

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

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

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

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

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

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

29           (d) Under this section, affiliated banks may act as  
30 agents for one another regardless of whether the institutions  
31 are located in the same or different states. This section

1 applies solely to affiliated depository institutions acting as  
2 agents, and has no application to agency relationships  
3 concerning nondepositories as agent, whether or not affiliated  
4 with the depository institution.

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

14

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

21 Section 15. Section 663.066, Florida Statutes, is  
22 transferred and renumbered as section 658.285, Florida  
23 Statutes.

24 Section 16. Paragraph (b) of subsection (4) of section  
25 658.34, Florida Statutes, is amended to read:

26 658.34 Shares of capital stock.--

27 (4) With the approval of the department, a bank or  
28 trust company may issue less than all the number of shares of  
29 any of its capital stock authorized by its articles of  
30 incorporation. Such authorized but unissued shares may be  
31 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 17. 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 18. 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 19. 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) A one-bank holding company bank may make loans on  
23 its own one-bank holding company stock. For capital stock that  
24 is listed and traded on a recognized exchange, the stock may  
25 not be valued at more than 70 percent of its current market  
26 value, and for capital stock that is not listed and traded on  
27 a recognized exchange, the stock may not be valued at more  
28 than 70 percent of its current book value.

29 (e)~~(d)~~ Loans based upon the security of real estate  
30 mortgages shall be documented as first liens, except that  
31 liens other than first liens may be taken:

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

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

4           3. As additional security for Federal Housing  
5 Administration Title 1 loans or loans made with participation  
6 or guaranty by the Small Business Administration;

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

9           5. As provided by rules of the department.

10          ~~(f)(e)~~ In computing the total liabilities of any  
11 person, there shall be included all loans endorsed or  
12 guaranteed as to repayment by such person and by any related  
13 interest of such person.

14          ~~(g)(f)~~ All loan documentation shall be written in the  
15 English language or contain an English translation of foreign  
16 language provisions.

17          Section 20. Effective July 1, 2001, section 655.81,  
18 Florida Statutes, is repealed.

19          Section 21. Paragraph (b) of subsection (3) of section  
20 655.82, Florida Statutes, is amended to read:

21          655.82 Pay-on-death accounts.--

22          (3) In an account with a pay-on-death designation:

23          (b) On the death of the sole party or the last  
24 survivor of two or more parties, sums on deposit belong to the  
25 surviving beneficiary or beneficiaries. If two or more  
26 beneficiaries survive, sums on deposit belong to them in equal  
27 and undivided shares, and, unless otherwise provided in a  
28 depository agreement written between December 31, 1994, and  
29 July 1, 2001, there is no right of survivorship in the event  
30 of death of a beneficiary thereafter. If no beneficiary  
31

1 survives, sums on deposit belong to the estate of the last  
2 surviving party.

3           Section 22. Except as otherwise expressly provided in  
4 this act, this act shall take effect upon becoming a law.

5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31