

1 A bill to be entitled

2 An act relating to banking; amending s. 494.0025, F.S.;

3 prohibiting the use of the name or logo of a financial

4 institution or its affiliates or subsidiaries under

5 certain circumstances without written consent; amending

6 ss. 516.07 and 520.995, F.S.; providing that the use of

7 the name or logo of a financial institution or its

8 affiliates or subsidiaries under certain circumstances

9 without written consent is grounds for denial of a license

10 or for disciplinary action; amending s. 626.9541, F.S.;

11 providing that deceptive use of a name is an unfair method

12 of competition and an unfair or deceptive act or practice;

13 amending ss. 655.005 and 655.0322, F.S.; including

14 international branches within the definitions of certain

15 financial institutions; amending s. 655.0385, F.S.;

16 clarifying an appointment notification requirement;

17 requiring a nonrefundable fee to accompany certain

18 notifications; amending s. 655.045, F.S.; exempting

19 certain financial institutions from certain audit

20 requirements; amending s. 655.059, F.S.; providing for

21 inspection and examination of a financial institution's

22 records and books pursuant to subpoena; requiring

23 reimbursement of reasonable costs and fees for compliance;

24 providing for setting reimbursement amount when certain

25 charges are contested; amending s. 655.921, F.S.;

26 providing an additional limitation on out-of-state

27 financial institution qualifications for certain exempt

28 transactions; removing language relating to authorization

29 to maintain an office in the state; amending s. 655.922,

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30 F.S.; including financial institutions authorized to do
31 business in this state pursuant to the financial
32 institutions codes of another state within an
33 authorization to engage in certain business in this state;
34 expanding a list of names or titles limited to use by
35 financial institutions; prohibiting the use of the name or
36 logo of a financial institution or its affiliates or
37 subsidiaries under certain circumstances; requiring the
38 Financial Services Commission to adopt certain
39 implementing rules; amending s. 655.94, F.S.; removing a
40 limitation on notary publics authorized to open a safety
41 deposit box under certain circumstances; specifying use of
42 certified mail for sending certain certificate copies;
43 amending s. 658.16, F.S.; providing criteria for certain
44 banks or trust companies to be considered incorporated
45 under the financial institutions codes; providing
46 definitions; amending s. 658.23, F.S.; deleting a bylaws
47 filing requirement; amending s. 658.26, F.S.; authorizing
48 certain financial institutions to establish or relocate an
49 office under certain circumstances; providing for waiver
50 of certain application, fee, and publication requirements;
51 providing application requirements to relocate a branch;
52 requiring an application filing fee; providing for
53 compliance investigations by the office; prohibiting
54 moving a main office outside the state under certain
55 circumstances; deleting certain office relocation
56 provisions; amending s. 658.33, F.S.; expanding the list
57 of persons required to meet certain qualification criteria
58 to be an officer of a bank or trust company; providing an

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59 additional criterion for granting a waiver of
 60 qualification requirements; amending s. 658.37, F.S.;
 61 prohibiting imminently insolvent banks from paying
 62 dividends; amending s. 658.48, F.S.; prohibiting
 63 imminently insolvent banks from making new loans or
 64 discounts; providing exceptions; amending s. 658.67, F.S.;
 65 providing an additional time criterion for determining the
 66 value of certain property acquired as security; amending
 67 s. 658.73, F.S.; limiting individuals or entities required
 68 to pay a fee for a "certificate of good standing";
 69 amending s. 663.16, F.S.; revising certain definitions;
 70 amending s. 663.304, F.S.; deleting a requirement to
 71 include evidence of a reservation of a proposed corporate
 72 name with certain applications; amending s. 665.034, F.S.;
 73 revising a minimum percentage requirement for designating
 74 control of an association; amending s. 674.406, F.S.;
 75 revising certain required time periods for purposes of
 76 protecting against unauthorized signatures or alterations;
 77 amending ss. 655.948, 658.60, 663.02, and 663.318, F.S.;
 78 deleting provisions relating to a repealed section;
 79 repealing s. 658.68, F.S., relating to liquidity
 80 requirements for a state bank; providing an effective
 81 date.

82
 83 Be It Enacted by the Legislature of the State of Florida:

84
 85 Section 1. Subsection (10) is added to section 494.0025,
 86 Florida Statutes, to read:

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87 494.0025 Prohibited practices.--It is unlawful for any
 88 person:

89 (10) To use the name or logo of a financial institution or
 90 its affiliates or subsidiaries when marketing or soliciting
 91 existing or prospective customers if such marketing materials
 92 are used without the express written consent of the financial
 93 institution and in a manner that would lead a reasonable person
 94 to believe that the material or solicitation originated from,
 95 was endorsed by, or is in any way related to or the
 96 responsibility of the financial institution or its affiliates or
 97 subsidiaries.

98 Section 2. Paragraph (o) is added to subsection (1) of
 99 section 516.07, Florida Statutes, to read:

100 516.07 Grounds for denial of license or for disciplinary
 101 action.--

102 (1) The following acts are violations of this chapter and
 103 constitute grounds for denial of an application for a license to
 104 make consumer finance loans and grounds for any of the
 105 disciplinary actions specified in subsection (2):

106 (o) Using the name or logo of a financial institution or
 107 its affiliates or subsidiaries when marketing or soliciting
 108 existing or prospective customers if such marketing materials
 109 are used without the express written consent of the financial
 110 institution and in a manner that would lead a reasonable person
 111 to believe that the material or solicitation originated from,
 112 was endorsed by, or is in any way related to or the
 113 responsibility of the financial institution or its affiliates or
 114 subsidiaries.

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115 Section 3. Paragraph (j) is added to subsection (1) of
 116 section 520.995, Florida Statutes, to read:

117 520.995 Grounds for disciplinary action.--

118 (1) The following acts are violations of this chapter and
 119 constitute grounds for the disciplinary actions specified in
 120 subsection (2):

121 (j) Using the name or logo of a financial institution or
 122 its affiliates or subsidiaries when marketing or soliciting
 123 existing or prospective customers if such marketing materials
 124 are used without the express written consent of the financial
 125 institution and in a manner that would lead a reasonable person
 126 to believe that the material or solicitation originated from,
 127 was endorsed by, or is in any way related to or the
 128 responsibility of the financial institution or its affiliates or
 129 subsidiaries.

130 Section 4. Paragraph (bb) is added to subsection (1) of
 131 section 626.9541, Florida Statutes, to read:

132 626.9541 Unfair methods of competition and unfair or
 133 deceptive acts or practices defined.--

134 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
 135 ACTS.--The following are defined as unfair methods of
 136 competition and unfair or deceptive acts or practices:

137 (bb) Deceptive use of name.--Using the name or logo of a
 138 financial institution or its affiliates or subsidiaries when
 139 marketing or soliciting existing or prospective customers if
 140 such marketing materials are used without the express written
 141 consent of the financial institution and in a manner that would
 142 lead a reasonable person to believe that the material or
 143 solicitation originated from, was endorsed by, or is in any way

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144 related to or the responsibility of the financial institution or
 145 its affiliates or subsidiaries.

146 Section 5. Paragraphs (h) and (p) of subsection (1) of
 147 section 655.005, Florida Statutes, are amended to read:

148 655.005 Definitions.--

149 (1) As used in the financial institutions codes, unless
 150 the context otherwise requires, the term:

151 (h) "Financial institution" means a state or federal
 152 association, bank, savings bank, trust company, international
 153 bank agency, international branch, representative office or
 154 international administrative office, or credit union.

155 (p) "State financial institution" means a state-chartered
 156 or state-organized association, bank, investment company, trust
 157 company, international bank agency, international branch,
 158 international representative office, international
 159 administrative office, or credit union.

160 Section 6. Subsection (1) of section 655.0322, Florida
 161 Statutes, is amended to read:

162 655.0322 Prohibited acts and practices; criminal
 163 penalties.--

164 (1) As used in this section, the term "financial
 165 institution" means a financial institution as defined in s.
 166 655.50 which includes a state trust company, state or national
 167 bank, state or federal association, state or federal savings
 168 bank, state or federal credit union, Edge Act or agreement
 169 corporation, international bank agency, international branch,
 170 representative office or administrative office, or other
 171 business entity as defined by the commission by rule, whether
 172 organized under the laws of this state, the laws of another

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173 state, or the laws of the United States, which institution is
 174 located in this state.

175 Section 7. Subsection (1) of section 655.0385, Florida
 176 Statutes, is amended, subsection (4) of said section is
 177 renumbered as subsection (5), and a new subsection (4) is added
 178 to said section, to read:

179 655.0385 Disapproval of directors and executive
 180 officers.--

181 (1) Each state financial institution shall notify the
 182 office of the proposed appointment of any individual to the
 183 board of directors or the appointment or employment of any
 184 individual as an executive officer or equivalent position at
 185 least 60 days before such appointment or employment becomes
 186 effective, if the state financial institution:

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

188 (b) Has undergone a change in control or conversion within
 189 the preceding 2 years. The office may exempt a financial
 190 institution from this paragraph if it operates in a safe and
 191 sound manner;

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

194 (d) Is otherwise operating in an unsafe and unsound
 195 condition, as determined by the office, on the basis of such
 196 financial institution's most recent report of condition or
 197 report of examination.

198 (4) Beginning 1 year after a financial institution opens,
 199 each notification of a proposed appointment of an individual to
 200 the board of directors must be accompanied by a nonrefundable
 201 fee of \$35.

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202 Section 8. Paragraph (c) is added to subsection (3) of
 203 section 655.045, Florida Statutes, to read:

204 655.045 Examinations, reports, and internal audits;
 205 penalty.--

206 (3)

207 (c) Any de novo state financial institution open for fewer
 208 than 4 months shall be exempt from the audit requirements of
 209 this section.

210 Section 9. Paragraph (e) of subsection (1) of section
 211 655.059, Florida Statutes, is amended to read:

212 655.059 Access to books and records; confidentiality;
 213 penalty for disclosure.--

214 (1) The books and records of a financial institution are
 215 confidential and shall be made available for inspection and
 216 examination only:

217 (e) As compelled by a court of competent jurisdiction or
 218 pursuant to a subpoena issued in accordance with and subject to
 219 the provisions of the Florida Rules of Civil or Criminal
 220 Procedure or the Federal Rules of Civil Procedure or pursuant to
 221 a subpoena issued in accordance with the provisions of the laws
 222 of this state or of the United States. Prior to the production
 223 of the books and records of a financial institution, the party
 224 seeking production shall reimburse the financial institution for
 225 the reasonable costs and fees incurred in compliance with the
 226 production. If the parties disagree regarding the amount of
 227 reimbursement, the party seeking the records may request the
 228 court or agency having jurisdiction over the matter to set the
 229 amount of the reimbursement;

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230 Section 10. Section 655.921, Florida Statutes, is amended
 231 to read:

232 655.921 Transaction of business by out-of-state financial
 233 institutions; exempt transactions in the financial institutions
 234 codes.--

235 (1) Nothing in the financial institutions codes shall be
 236 construed to prohibit a financial institution having its
 237 principal place of business outside this state, and not
 238 operating any branches in this state, from:

239 (a) Contracting in this state with any person to acquire
 240 from such person a part, or the entire, interest in a loan that
 241 such person proposes to make, has heretofore made, or hereafter
 242 makes, together with a like interest in any security instrument
 243 covering real or personal property in the state proposed to be
 244 given or hereafter or heretofore given to such person to secure
 245 or evidence such loan.

246 (b) Entering into mortgage servicing contracts with
 247 persons authorized to transact business in this state and
 248 enforcing in this state the obligations heretofore or hereafter
 249 acquired by it in the transaction of business outside this state
 250 or in the transaction of any business authorized by this
 251 section.

252 (c) Acquiring, holding, leasing, mortgaging, contracting
 253 with respect to, or otherwise protecting, managing, or conveying
 254 property in this state which has heretofore or may hereafter be
 255 assigned, transferred, mortgaged, or conveyed to it as security
 256 for, or in whole or in part in satisfaction of, a loan or loans
 257 made by it or obligations acquired by it in the transaction of
 258 any business authorized by this section.

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259 (d) Making loans or committing to make loans to any person
 260 located in this state and soliciting compensating deposit
 261 balances in connection therewith.

262 (2) No such financial institution shall be deemed to be
 263 transacting business in this state, or be required to qualify so
 264 to do, solely by reason of the performance of any of the acts or
 265 business authorized in this section. ~~This section does not~~
 266 ~~authorize or permit any such financial institution to maintain~~
 267 ~~an office within the state.~~

268 Section 11. Section 655.922, Florida Statutes, is amended
 269 to read:

270 655.922 Banking business by unauthorized persons; use of
 271 name.--

272 (1) No person other than a financial institution
 273 authorized to do business in this state pursuant to the
 274 financial institutions codes of this state or another state or
 275 federal law shall, in this state, engage in the business of
 276 soliciting or receiving funds for deposit or of issuing
 277 certificates of deposit or of paying checks; and no person shall
 278 establish or maintain a place of business in this state for any
 279 of the functions, transactions, or purposes mentioned in this
 280 subsection. Any person who violates the provisions of this
 281 subsection is guilty of a felony of the third degree, punishable
 282 as provided in s. 775.082, s. 775.083, or s. 775.084. This
 283 subsection does not prohibit the issuance or sale by a financial
 284 institution of traveler's checks, money orders, or other
 285 instruments for the transmission or payment of money, by or
 286 through employees or agents of the financial institution off the
 287 financial institution's premises.

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288 (2) No person other than a financial institution shall, in
 289 this state:

290 (a) Transact business under any name or title, including a
 291 corporate name, fictitious name, trademark, or in any other
 292 manner, that contains the words "bank," "banco," "banque,"
 293 "banc," "banker," "banking," "trust ~~company,~~" "savings and loan
 294 association," "savings bank," or "credit union," or words of
 295 similar import, in any context or in any manner;

296 (b) Use any name, word, sign, symbol, or device in any
 297 context or in any manner; or

298 (c) Circulate or use any letterhead, billhead, circular,
 299 paper, or writing of any kind or otherwise advertise or
 300 represent in any manner,

301
 302 which indicates or reasonably implies that the business being
 303 conducted or advertised is the kind or character of business
 304 transacted or conducted by a financial institution or which is
 305 likely to lead any person to believe that such business is that
 306 of a financial institution; however, the words "bank," "banco,"
 307 "banque," "banc," "banker," "banking," "trust ~~company,~~" "savings
 308 and loan association," "savings bank," or "credit union," or the
 309 plural of any thereof, may be used by, and in the corporate or
 310 other name or title of, any company which is or becomes a
 311 financial institution holding company pursuant to federal law;
 312 any subsidiary of any such financial institution holding company
 313 which includes as a part of its name or title all or any part,
 314 or abbreviations, of the name or title of the financial
 315 institution holding company of which it is a subsidiary; any
 316 trade organization or association, whether or not incorporated,

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317 functioning for the purpose of promoting the interests of
 318 financial institutions or financial institution holding
 319 companies, the active members of which are financial
 320 institutions or financial institution holding companies; and any
 321 international development bank chartered pursuant to part II of
 322 chapter 663.

323 (3) No person may use the name or logo of any financial
 324 institution or an affiliate or subsidiary of such institution,
 325 or use a name similar to that of a financial institution or an
 326 affiliate or subsidiary of such institution, to market or
 327 solicit business from a customer or prospective customer if:

328 (a) The solicitation is done without the express written
 329 consent of the financial institution or its affiliate or
 330 subsidiary; and

331 (b) A reasonable person would believe that the materials
 332 originated from, are endorsed by, or are in any way connected
 333 with the financial institution or its affiliates or
 334 subsidiaries.

335 (4)~~(3)~~ Any court, in a proceeding brought by the office,
 336 by any financial institution the principal place of business of
 337 which is in this state, or by any other person residing, or
 338 whose principal place of business is located, in this state and
 339 whose interests are substantially affected thereby, may enjoin
 340 any person from violating any of the provisions of this section.
 341 For the purposes of this subsection, the interests of a trade
 342 organization or association are deemed to be substantially
 343 affected if the interests of any of its members are so affected.
 344 In addition, the office may issue and serve upon any person who
 345 violates any of the provisions of this section a complaint

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346 seeking a cease and desist order in accordance with the
 347 procedures and in the manner prescribed by s. 655.033.

348 (5)~~(4)~~ Nothing in this section shall be construed to
 349 prohibit the lawful establishment or the lawful operations of a
 350 financial institution and nothing in this code shall be
 351 construed to prohibit any advertisement or other activity in
 352 this state by any person if such prohibition would contravene
 353 any applicable federal law which preempts the law of this state.

354 (6) The commission shall develop rules to implement this
 355 section.

356 Section 12. Subsection (1) of section 655.94, Florida
 357 Statutes, is amended to read:

358 655.94 Special remedies for nonpayment of rent.--

359 (1) If the rental due on a safe-deposit box has not been
 360 paid for 3 months, the lessor may send a notice by registered
 361 mail to the last known address of the lessee stating that the
 362 safe-deposit box will be opened and its contents stored at the
 363 expense of the lessee unless payment of the rental is made
 364 within 30 days. If the rental is not paid within 30 days from
 365 the mailing of the notice, the box may be opened in the presence
 366 of an officer of the lessor and of a notary public ~~who is not a~~
 367 ~~director, officer, employee, or stockholder of the lessor.~~ The
 368 contents shall be sealed in a package by a notary public who
 369 shall write on the outside the name of the lessee and the date
 370 of the opening. The notary public shall execute a certificate
 371 reciting the name of the lessee, the date of the opening of the
 372 box, and a list of its contents. The certificate shall be
 373 included in the package, and a copy of the certificate shall be
 374 sent by certified ~~registered~~ mail to the last known address of

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375 the lessee. The package shall then be placed in the general
 376 vaults of the lessor at a rental not exceeding the rental
 377 previously charged for the box. The lessor has a lien on the
 378 package and its contents to the extent of any rental due and
 379 owing plus the actual, reasonable costs of removing the contents
 380 from the safe-deposit box.

381 Section 13. Section 658.16, Florida Statutes, is amended
 382 to read:

383 658.16 Creation of banking or trust corporation.--

384 (1) When authorized by the office, as provided herein, a
 385 corporation may be formed under the laws of this state for the
 386 purpose of becoming a state bank or a state trust company and
 387 conducting a general banking or trust business.

388 (2) A bank or trust company that is chartered as a limited
 389 liability company under the laws of any state is deemed to be
 390 incorporated under the financial institutions codes if:

391 (a) The institution is not subject to automatic
 392 termination, dissolution, or suspension upon the occurrence of
 393 some event, other than the passage of time, including, but not
 394 limited to, the death, disability, bankruptcy, expulsion, or
 395 withdrawal of an owner of the institution.

396 (b) The exclusive authority to manage the institution is
 397 vested in a board of managers or directors that is elected or
 398 appointed by the owners and that operates in substantially the
 399 same manner as, and has substantially the same rights, powers,
 400 privileges, duties, and responsibilities as, a board of
 401 directors of a bank or trust company chartered as a corporation.

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402 (c) Neither the laws of the state of the institution's
403 organization nor the institution's operating agreement bylaws or
404 other organizational documents:

405 1. Provide that an owner of the institution is liable for
406 the debts, liabilities, and obligations of the institution in
407 excess of the amount of the owner's investment; or

408 2. Require the consent of any other owner of the
409 institution in order for an owner to transfer an ownership
410 interest in the institution, including voting rights.

411 (3) For purposes of the financial institutions codes:

412 (a) The terms "stockholder" and "shareholder" include an
413 owner of any interest in a bank or trust company chartered as a
414 limited liability company, including a member or participant.

415 (b) The term "director" includes a manager or director of
416 a bank or trust company chartered as a limited liability
417 company, or other person who has, with respect to such a bank or
418 trust company, authority substantially similar to that of a
419 director of a corporation.

420 (c) The term "officer" includes an officer of a bank or
421 trust company chartered as a limited liability company, or other
422 person who has, with respect to such a bank or trust company,
423 authority substantially similar to that of an officer of a
424 corporation.

425 (d) The terms "stock," "voting stock," "voting shares,"
426 and "voting securities" include similar ownership interests in a
427 bank or trust company chartered as a limited liability company,
428 as well as any certificates or other evidence of such ownership
429 interests.

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430 (e) The terms "articles of incorporation" and "bylaws" of
 431 a bank or trust company chartered as a limited liability company
 432 mean the institution's articles of organization and operating
 433 agreement or other such organizational documentation as is
 434 substantially similar to that of a corporation.

435 (f) The term "par value" when used with respect to any
 436 ownership interest in a bank or trust company chartered as a
 437 limited liability company means the amount of capital which must
 438 be invested for each unit of ownership.

439 (g) The term "dividend" includes distributions of earnings
 440 to the owners of a bank or trust company chartered as a limited
 441 liability company.

442 Section 14. Subsection (5) of section 658.23, Florida
 443 Statutes, is amended to read:

444 658.23 Submission of articles of incorporation; contents;
 445 form; approval; filing; commencement of corporate existence;
 446 bylaws.--

447 (5) Unless the articles of incorporation provide
 448 otherwise, the board of directors shall have authority to adopt
 449 or amend bylaws that do not conflict with bylaws that may have
 450 been adopted by the stockholders. The bylaws shall be for the
 451 governance ~~government~~ of the bank or trust company, subordinate
 452 only to the articles of incorporation and the laws of the United
 453 States and of this state. ~~A current copy of the bylaws shall be~~
 454 ~~filed with the office at all times.~~

455 Section 15. Section 658.26, Florida Statutes, is amended
 456 to read:

457 658.26 Places of transacting business; branches;
 458 facilities.--

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

462 (2)(a) In addition, with the approval of the office and
463 upon such conditions as the commission or office prescribes, any
464 state bank or trust company may establish branches or relocate
465 offices within or outside the state. With the approval of the
466 office upon a determination that the resulting bank or trust
467 company will be of sound financial condition, any bank or trust
468 company incorporated pursuant to this chapter may establish
469 branches by merger with any other bank or trust company.

470 (b) As provided by commission rules, a financial
471 institution operating in a safe and sound manner may establish
472 or relocate an office by filing a written notice with the office
473 at least 30 days before opening or relocating that office. In
474 such case, the financial institution need not file an
475 application or pay an application fee. The notification shall
476 specify the name and location of the office and effective date
477 of the change. The relocation of a main office to a location
478 outside this state shall be by application only.

479 (c) Applications filed pursuant to this subsection shall
480 not be published in the Florida Administrative Weekly but shall
481 otherwise be subject to the provisions of chapter 120.

482 (d)~~(b)~~ An application to establish ~~for~~ a branch by a bank
483 ~~ineligible that does not meet the requirements for the branch~~
484 ~~notification process~~ shall be in writing in such form as the
485 commission prescribes and be supported by such information,
486 data, and records as the commission or office may require to
487 make findings necessary for approval. ~~Applications filed~~

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488 ~~pursuant to this subsection shall not be published in the~~
 489 ~~Florida Administrative Weekly but shall otherwise be subject to~~
 490 ~~the provisions of chapter 120.~~ Upon the filing of an application
 491 and a nonrefundable filing fee for the establishment of any
 492 branch permitted by paragraph (a), the office ~~shall make an~~
 493 ~~investigation with respect to compliance with the requirements~~
 494 ~~of paragraph (a) and shall investigate and consider all factors~~
 495 ~~relevant to such requirements, including~~ the following:

496 1. The sufficiency of capital accounts in relation to the
 497 deposit liabilities of the bank, or in relation to the number
 498 and valuation of fiduciary accounts of the trust company,
 499 including the proposed branch, and the additional fixed assets,
 500 if any, which are proposed for the branch and its operations,
 501 without undue risk to the bank or its depositors, or undue risk
 502 to the trust company or its fiduciary accounts;

503 2. The sufficiency of earnings and earning prospects of
 504 the bank or trust company to support the anticipated expenses
 505 and any anticipated operating losses of the branch during its
 506 formative or initial years;

507 3. The sufficiency and quality of management ~~available to~~
 508 ~~operate the branch;~~

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

512 5. Substantial compliance by the applicants with
 513 applicable law governing their operations.

514 (e)~~(e)~~ As provided by commission rule, a financial
 515 institution operating in a safe and sound manner may establish a
 516 branch by filing a written notice with the office at least 30

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517 days before opening that branch. In such case, the financial
518 institution need not file a branch application or pay a branch
519 application fee.

520 (f) Upon the filing of a relocation application and
521 payment of a nonrefundable filing fee, the office shall
522 investigate to determine substantial compliance by the financial
523 institution with the applicable laws governing its operations.
524 Additional investments in land, buildings, leases, and leasehold
525 improvements resulting from such relocation shall comply with
526 the limitations imposed by s. 658.67(7)(a). A main office may
527 not be moved outside this state unless expressly authorized by
528 the financial institutions codes or by federal law. In addition,
529 a financial institution in operation for fewer than 24 months
530 must provide evidence that the criteria of s. 658.21(1) will be
531 met.

532 ~~(3)(a) An office in this state may be relocated with prior~~
533 ~~written approval of the office. An application for relocation~~
534 ~~shall be in writing in such form as the commission prescribes~~
535 ~~and shall be supported by such information, data, and records as~~
536 ~~the commission or office may require to make findings necessary~~
537 ~~for approval.~~

538 (g)(b) A state bank wanting to relocate a branch but
539 ineligible to do so by notification as provided in this
540 subsection shall file an application in the form required by the
541 commission. Applications filed pursuant to this subsection shall
542 not be published in the Florida Administrative Weekly but shall
543 otherwise be subject to the provisions of chapter 120. Upon the
544 filing of a relocation application and a nonrefundable filing
545 fee, the office shall investigate to determine substantial

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546 compliance by the financial institution with applicable law
 547 governing its operations. Additional investments in land,
 548 buildings, leases, and leasehold improvements resulting from
 549 such relocation shall comply with the limitations imposed by s.
 550 658.67(7)(a). A main office may not be moved outside this state
 551 unless expressly authorized by the financial institutions codes
 552 or by federal law.

553 ~~(c) A relocation application filed by a state bank or~~
 554 ~~trust company that is operating in a safe and sound manner which~~
 555 ~~is not denied within 10 working days after receipt shall be~~
 556 ~~deemed approved unless the office notifies the financial~~
 557 ~~institution in writing that the application was not complete.~~

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

562 ~~(e) A branch office may be closed with 30 days' prior~~
 563 ~~written notice to the office. The notice shall include any~~
 564 ~~information the commission prescribes by rule.~~

565 (3)(4) With prior written notification to the office, any
 566 bank may operate facilities which are not physically connected
 567 to the main or branch office of the bank, provided that the
 568 facilities are situated on the property of the main or branch
 569 office or property contiguous thereto. Property which is
 570 separated from the main or branch office of a bank by only a
 571 street, and one or more walkways and alleyways are determined to
 572 be, for purposes of this subsection, contiguous to the property
 573 of the main or branch office.

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574 (4)~~(5)~~ A bank may provide, directly or through a contract
575 with another company, off-premises armored car service to its
576 customers. Armored car services shall not be considered a branch
577 for the purposes of subsection (2).

578 (5)~~(6)~~(a) Any state bank that is a subsidiary of a bank
579 holding company may agree to receive deposits, renew time
580 deposits, close loans, service loans, and receive payments on
581 loans and other obligations, as an agent for an affiliated
582 depository institution.

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

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

589 (d) Under this section, affiliated banks may act as agents
590 for one another regardless of whether the institutions are
591 located in the same or different states. This section applies
592 solely to affiliated depository institutions acting as agents,
593 and has no application to agency relationships concerning
594 nondepositories as agent, whether or not affiliated with the
595 depository institution.

596 (e) In addition, under this section, agent banks may
597 perform ministerial functions for the principal bank making a
598 loan. Ministerial functions include, but are not limited to,
599 such activities as providing loan applications, assembling
600 documents, providing a location for returning documents
601 necessary for making the loan, providing loan account
602 information, and receiving payments. It does not include such

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603 loan functions as evaluating applications or disbursing loan
604 funds.

605 Section 16. Subsection (5) of section 658.33, Florida
606 Statutes, is amended to read:

607 658.33 Directors, number, qualifications; officers.--

608 (5) The president, the ~~or~~ chief executive officer, and any
609 other person, regardless of title, who has equivalent rank or
610 otherwise leads or directs the overall operations of a bank or
611 trust company must have had at least 1 year of direct experience
612 as an executive officer, director, or regulator of a financial
613 institution within the last 3 years. This requirement may be
614 waived by the office after considering the overall experience
615 and expertise of the proposed officer and the condition of the
616 bank or trust company as reflected in the most recent regulatory
617 report of examination and other data available to the office.

618 Section 17. Section 658.37, Florida Statutes, is amended
619 to read:

620 658.37 Dividends and surplus.--

621 (1) The directors of any bank or trust company, after
622 charging off bad debts, depreciation, and other worthless assets
623 if any, and making provision for reasonably anticipated future
624 losses on loans and other assets, may quarterly, semiannually,
625 or annually declare a dividend of so much of the aggregate of
626 the net profits of that period combined with its retained net
627 profits of the preceding 2 years as they shall judge expedient,
628 and, with the approval of the office, any bank or trust company
629 may declare a dividend from retained net profits which accrued
630 prior to the preceding 2 years, but each bank or trust company
631 shall, before the declaration of a dividend on its common stock,

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632 carry 20 percent of its net profits for such preceding period as
 633 is covered by the dividend to its surplus fund, until the same
 634 shall at least equal the amount of its common and preferred
 635 stock then issued and outstanding. No bank or trust company
 636 shall declare any dividend at any time at which its net income
 637 from the current year combined with the retained net income from
 638 the preceding 2 years is a loss or which would cause the capital
 639 accounts of the bank or trust company to fall below the minimum
 640 amount required by law, regulation, order, or any written
 641 agreement with the office or a state or federal regulatory
 642 agency. A bank or trust company may, however, split up or divide
 643 the issued shares of capital stock into a greater number of
 644 shares without increasing or decreasing the capital accounts of
 645 the bank or trust company, and such shall not be construed to be
 646 a dividend within the meaning of this section.

647 (2) No bank that has been determined to be imminently
 648 insolvent shall pay dividends.

649 Section 18. Subsection (10) of section 658.48, Florida
 650 Statutes, is renumbered as subsection (11), and a new subsection
 651 (10) is added to said section to read:

652 658.48 Loans.--A state bank may make loans and extensions
 653 of credit, with or without security, subject to the following
 654 limitations and provisions:

655 (10) When the office has determined that a state bank is
 656 imminently insolvent, the state bank may not make any new loans
 657 or discounts otherwise than by discounting or purchasing bills
 658 of exchange payable at sight.

659 Section 19. Paragraph (a) of subsection (9) of section
 660 658.67, Florida Statutes, is amended to read:

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661 658.67 Investment powers and limitations.--A bank may
 662 invest its funds, and a trust company may invest its corporate
 663 funds, subject to the following definitions, restrictions, and
 664 limitations:

665 (9) ACQUISITIONS OF PROPERTY AS SECURITY.--A bank or trust
 666 company may acquire property of any kind to secure, protect, or
 667 satisfy a loan or investment previously made in good faith, and
 668 such property shall be entered on the books of the bank or trust
 669 company and held and disposed of subject to the following
 670 conditions and limitations:

671 (a) The book entry shall be the lesser of the balance of
 672 the loan or investment plus acquisition costs and accrued
 673 interest or the appraisal value or market value of the property
 674 acquired which shall be determined and dated within 1 year prior
 675 or 90 days subsequent to the date of acquisition and in
 676 compliance with s. 655.60.

677 Section 20. Subsection (4) of section 658.73, Florida
 678 Statutes, is amended to read:

679 658.73 Fees and assessments.--

680 (4) Any individual or entity other than a financial
 681 institution chartered or licensed in this state ~~Each state bank~~
 682 ~~and state trust company~~ shall pay to the office \$25 for each
 683 "certificate of good standing" certifying that a state-chartered
 684 financial institution is licensed to conduct business in this
 685 state under the financial institutions codes. All such requests
 686 shall be in writing. The office shall waive this fee when the
 687 request is by a state or federal regulatory agency or law
 688 enforcement agency.

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689 Section 21. Subsections (4) and (7) of section 663.16,
690 Florida Statutes, are amended to read:

691 663.16 Definitions; ss. 663.17-663.181.--As used in ss.
692 663.17-663.181, the term:

693 (4) Except where the context otherwise requires,
694 "international banking corporation" or "corporation" means any
695 international bank agency or branch operating in this state.

696 (7) "Control" means any person or group of persons acting
697 in concert, directly or indirectly, owning, controlling, or
698 holding the power to 25 ~~vote more than 50~~ percent or more of the
699 voting stock of a company, or having the ability in any manner
700 to elect a majority of directors of a corporation, or otherwise
701 exercising a controlling influence over the management and
702 policies of a corporation as determined by the office.

703 Section 22. Paragraph (b) of subsection (1) of section
704 663.304, Florida Statutes, is amended to read:

705 663.304 Application for authority to organize an
706 international development bank.--

707 (1) A written application for authority to organize an
708 international development bank shall be filed with the office by
709 the proposed incorporator and shall include:

710 (b) The proposed corporate name ~~and evidence of~~
711 ~~reservation of the proposed corporate name with the Department~~
712 ~~of State.~~

713 Section 23. Paragraph (a) of subsection (4) of section
714 665.034, Florida Statutes, is amended to read:

715 665.034 Acquisition of assets of or control over an
716 association.--

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717 (4) For purposes of this section, a person or group of
 718 persons shall be deemed to have control of an association if
 719 such person or group of persons:

720 (a) Directly or indirectly, or acting in concert with one
 721 or more persons or through one or more subsidiaries, owns,
 722 controls, holds with powers to vote, or holds proxies
 723 representing ~~more than~~ 25 percent or more of the voting common
 724 stock of such association.

725 Section 24. Subsections (2) and (6) of section 674.406,
 726 Florida Statutes, are amended to read:

727 674.406 Customer's duty to discover and report
 728 unauthorized signature or alteration.--

729 (2) If the items are not returned to the customer, the
 730 person retaining the items shall either retain the items or, if
 731 the items are destroyed, maintain the capacity to furnish
 732 legible copies of the items until the expiration of 5 7 years
 733 after receipt of the items. A customer may request an item from
 734 the bank that paid the item, and that bank must provide in a
 735 reasonable time either the item or, if the item has been
 736 destroyed or is not otherwise obtainable, a legible copy of the
 737 item.

738 (6) Without regard to care or lack of care of either the
 739 customer or the bank, a customer who does not within 90 days ~~±~~
 740 ~~year~~ after the statement or items are made available to the
 741 customer (subsection (1)) discover and report the customer's
 742 unauthorized signature on or any alteration on the item or who
 743 does not within 1 year from that time discover and report any
 744 unauthorized endorsement is precluded from asserting against the
 745 bank the unauthorized signature or alteration. If there is a

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746 preclusion under this subsection, the payor bank may not recover
 747 for breach of warranty under s. 674.2081 with respect to the
 748 unauthorized signature or alteration to which the preclusion
 749 applies.

750 Section 25. Paragraph (a) of subsection (2) of section
 751 655.948, Florida Statutes, is amended to read:

752 655.948 Significant events; notice required.--

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

755 (a) To be disclosed within 30 days of the occurrence of
 756 the event:

757 1. The addition, resignation, or termination of a
 758 director, executive officer, independent internal auditor, or
 759 independent credit review officer;

760 2. The acquisition or divestiture of an asset or assets
 761 the value of which exceeds 20 percent of capital as of the date
 762 of the most recent call report. Any assets listed in s.
 763 657.042(1) or s. 658.67(1) are excluded from such disclosure
 764 requirements;

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

767 4. Any interruption of fidelity insurance coverage;

768 5. Any credit extension to an executive officer and his or
 769 her related interests that, when aggregated with the amount of
 770 all other extensions of credit to that executive officer and his
 771 or her related interests, exceeds 15 percent of the capital
 772 accounts of the financial institution;

773 ~~6. The failure to meet the minimum daily liquidity~~
 774 ~~required of s. 658.68;~~

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775 ~~6.7.~~ Any suspected criminal act perpetrated against a
 776 financial institution, subsidiary, or service corporation.
 777 However, no liability shall be incurred by any financial
 778 institution, subsidiary, service corporation, or financial
 779 institution-affiliated party as a result of making a good faith
 780 effort to fulfill this disclosure requirement; or

781 ~~7.8.~~ The acquisition or divestiture of a wholly owned or
 782 majority owned subsidiary or service corporation.

783 Section 26. Subsection (2) of section 658.60, Florida
 784 Statutes, is amended to read:

785 658.60 Depositories of public moneys and pledge of
 786 assets.--

787 (2) Notwithstanding any other provision of this section or
 788 the provisions of any other law requiring security for deposits
 789 of funds in the form of surety bond, in the form of the deposit
 790 or pledge of securities, or in any other form, security for such
 791 deposits shall not be required to the extent that such deposits
 792 are insured under the provisions of the Federal Deposit
 793 Insurance Act, as now or hereafter amended. Recognition is
 794 accorded to the custom and usage, and its practicality, of the
 795 deposit or pledge of securities by banks, as security for
 796 deposits, in an aggregate amount which, because of the
 797 fluctuation from time to time of the aggregate amount of the
 798 deposits secured thereby, may at times be in an amount in excess
 799 of the required amount of such security without withdrawing and
 800 redepositing securities with each decrease and increase of the
 801 aggregate amount of deposits secured thereby. In order to
 802 effectuate the provisions of the first sentence of this
 803 subsection, ~~and in recognition of the availability of such~~

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804 ~~excess securities for inclusion in the liquidity of state banks~~
 805 ~~as provided in s. 658.68,~~ whenever the amount of securities
 806 deposited or pledged exceeds the amount required for the
 807 deposits secured thereby, securities in an amount equal to such
 808 excess shall, for all purposes and laws, while such excess
 809 exists be, and be treated as, freed and discharged from such
 810 deposit and pledge even though not physically withdrawn or
 811 removed from such deposit or pledge, ~~and, in determining the~~
 812 ~~securities which are so freed and discharged, those securities~~
 813 ~~which are eligible for inclusion in a state bank's liquidity as~~
 814 ~~provided in s. 658.68 shall first be included in such~~
 815 ~~determination.~~ However, such excess securities which are not
 816 physically withdrawn or removed from deposit or from the pledge
 817 thereof shall immediately and automatically, for all purposes
 818 and laws, be, and be treated as, redeposited and repledged at
 819 such time or times as, and to the extent that, there is an
 820 increase in the amount of security required for funds deposited
 821 with the bank, and, in determining the securities which are so
 822 automatically and immediately redeposited and repledged, there
 823 shall first be included those securities which are not eligible
 824 for the aforesaid liquidity under s. 658.68.

825 Section 27. Subsection (1) of section 663.02, Florida
 826 Statutes, is amended to read:

827 663.02 Applicability of state banking laws.--

828 (1) International banking corporations having offices in
 829 this state shall be subject to all the provisions of the
 830 financial institutions codes and chapter 655 as though such
 831 international banking corporations were state banks, except
 832 where it may appear, from the context or otherwise, that such

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833 provisions are clearly applicable only to banks or trust
 834 companies organized under the laws of this state or the United
 835 States. Without limiting the foregoing general provisions, it is
 836 the intent of the Legislature that the following provisions
 837 shall be applicable to such banks or corporations: s. 655.031,
 838 relating to administrative enforcement guidelines; s. 655.032,
 839 relating to investigations, subpoenas, hearings, and witnesses;
 840 s. 655.0321, relating to hearings, proceedings, and related
 841 documents and restricted access thereto; s. 655.033, relating to
 842 cease and desist orders; s. 655.037, relating to removal by the
 843 office of an officer, director, committee member, employee, or
 844 other person; s. 655.041, relating to administrative fines and
 845 enforcement; and s. 658.49, relating to loans by banks not
 846 exceeding \$50,000. International banking corporations shall not
 847 have the powers conferred on domestic banks by the provisions of
 848 s. 658.60, relating to deposits of public funds. ~~International~~
 849 ~~banking corporations shall not be subject to the provisions of~~
 850 ~~s. 658.68, relating to liquidity.~~ The provisions of chapter 687,
 851 relating to interest and usury, shall apply to all loans not
 852 subject to s. 658.49.

853 Section 28. Subsection (3) of section 663.318, Florida
 854 Statutes, is amended to read:

855 663.318 Reserve requirements.--

856 (3) The amounts of liquidity reserves of an international
 857 development bank organized under chapter 607 as a corporation
 858 for profit shall be ~~subject to the provisions of s. 658.68,~~
 859 ~~relating to liquidity reserves, in the same manner and to the~~
 860 ~~same extent as a state bank, except that the amounts of such~~
 861 ~~reserves required to be maintained by an international~~

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862 ~~development bank shall be~~ those specified in Regulation D of the
863 Board of Governors of the Federal Reserve System.

864 Section 29. Section 658.68, Florida Statutes, is repealed.

865 Section 30. This act shall take effect upon becoming a
866 law.