

Bill No. CS for CS for SB 2994

Amendment No. ____ Barcode 813944

CHAMBER ACTION

Senate

House

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Senator Alexander moved the following amendment:

Senate Amendment (with title amendment)

On page 80, between lines 10 and 11,

insert:

Section 82. Subsection (10) is added to section 494.0025, Florida Statutes, to read:

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

(10) To use the name or logo of a financial institution, as defined in s. 655.005(1), or its affiliates or subsidiaries when marketing or soliciting existing or prospective customers if such marketing materials are used without the written consent of the financial institution and in a manner that would lead a reasonable person to believe that the material or solicitation originated from, was endorsed by, or is related to or the responsibility of the financial institution or its affiliates or subsidiaries.

Section 83. Paragraph (o) is added to subsection (1) of section 516.07, Florida Statutes, to read:

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1 516.07 Grounds for denial of license or for
2 disciplinary action.--

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

7 (o) Using the name or logo of a financial institution,
8 as defined in s. 655.005(1), or its affiliates or subsidiaries
9 when marketing or soliciting existing or prospective customers
10 if such marketing materials are used without the written
11 consent of the financial institution and in a manner that
12 would lead a reasonable person to believe that the material or
13 solicitation originated from, was endorsed by, or is related
14 to or the responsibility of the financial institution or its
15 affiliates or subsidiaries.

16 Section 84. Paragraph (j) is added to subsection (1)
17 of section 520.995, Florida Statutes, to read:

18 520.995 Grounds for disciplinary action.--

19 (1) The following acts are violations of this chapter
20 and constitute grounds for the disciplinary actions specified
21 in subsection (2):

22 (j) Using the name or logo of a financial institution,
23 as defined in s. 655.005(1), or its affiliates or subsidiaries
24 when marketing or soliciting existing or prospective customers
25 if such marketing materials are used without the written
26 consent of the financial institution and in a manner that
27 would lead a reasonable person to believe that the material or
28 solicitation originated from, was endorsed by, or is related
29 to or the responsibility of the financial institution or its
30 affiliates or subsidiaries.

31 Section 85. Paragraph (bb) is added to subsection (1)

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1 of section 626.9541, Florida Statutes, to read:

2 626.9541 Unfair methods of competition and unfair or
3 deceptive acts or practices defined.--

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

7 (bb) Deceptive use of name.--Using the name or logo of
8 a financial institution, as defined in s. 655.005(1), or its
9 affiliates or subsidiaries when marketing or soliciting
10 existing or prospective customers if such marketing materials
11 are used without the written consent of the financial
12 institution and in a manner that would lead a reasonable
13 person to believe that the material or solicitation originated
14 from, was endorsed by, or is related to or the responsibility
15 of the financial institution or its affiliates or
16 subsidiaries.

17 Section 86. Paragraphs (h) and (p) of subsection (1)
18 of section 655.005, Florida Statutes, are amended to read:

19 655.005 Definitions.--

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

22 (h) "Financial institution" means a state or federal
23 association, bank, savings bank, trust company, international
24 bank agency, international branch, representative office or
25 international administrative office, or credit union.

26 (p) "State financial institution" means a
27 state-chartered or state-organized association, bank,
28 investment company, trust company, international bank agency,
29 international branch, international representative office,
30 international administrative office, or credit union.

31 Section 87. Subsection (1) of section 655.0322,

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1 Florida Statutes, is amended to read:

2 655.0322 Prohibited acts and practices; criminal
3 penalties.--

4 (1) As used in this section, the term "financial
5 institution" means a financial institution as defined in s.
6 655.50 which includes a state trust company, state or national
7 bank, state or federal association, state or federal savings
8 bank, state or federal credit union, Edge Act or agreement
9 corporation, international bank agency, international branch,
10 representative office or administrative office or other
11 business entity as defined by the commission by rule, whether
12 organized under the laws of this state, the laws of another
13 state, or the laws of the United States, which institution is
14 located in this state.

15 Section 88. Section 655.0385, Florida Statutes, is
16 amended to read:

17 655.0385 Disapproval of directors and executive
18 officers.--

19 (1) Each state financial institution shall notify the
20 office of the proposed appointment of any individual to the
21 board of directors or the appointment or employment of any
22 individual as an executive officer or equivalent position at
23 least 60 days before such appointment or employment becomes
24 effective, if the state financial institution:

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

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

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

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

5 (2) A state financial institution may not appoint any
6 individual to the board of directors, or employ any individual
7 as an executive officer or equivalent position, if the office
8 issues a notice of disapproval with respect to that person.

9 (3) The office shall issue a notice of disapproval if
10 the competence, experience, character, or integrity of the
11 individual to be appointed or employed indicates that it is
12 not in the best interests of the depositors, the members, or
13 the public to permit the individual to be employed by or
14 associated with the state financial institution.

15 (4) Beginning 1 year after opening, each notification
16 of a proposed appointment of an individual to the board of
17 directors must be accompanied by a nonrefundable fee of \$35.

18 (5)(4) The commission may adopt rules to implement
19 this section.

20 Section 89. Subsection (3) of section 655.045, Florida
21 Statutes, is amended to read:

22 655.045 Examinations, reports, and internal audits;
23 penalty.--

24 (3)(a) The board of directors of each state financial
25 institution or, in the case of a credit union, the supervisory
26 committee or audit committee shall perform or cause to be
27 performed, within each calendar year, an internal audit of
28 each state financial institution, subsidiary, or service
29 corporation and to file a copy of the report and findings of
30 such audit with the office on a timely basis. Such internal
31 audit must include such information as the commission by rule

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1 requires for that type of institution.

2 (b) With the approval of the office, the board of
3 directors or, in the case of a credit union, the supervisory
4 committee may elect, in lieu of such periodic audits, to adopt
5 and implement an adequate continuous audit system and
6 procedure which must include full, adequate, and continuous
7 written reports to, and review by, the board of directors or,
8 in the case of a credit union, the supervisory committee,
9 together with written statements of the actions taken thereon
10 and reasons for omissions to take actions, all of which shall
11 be noted in the minutes and filed among the records of the
12 board of directors or, in the case of a credit union, the
13 supervisory committee. If at any time such continuous audit
14 system and procedure, including the reports and statements,
15 becomes inadequate, in the judgment of the office, the state
16 financial institution shall promptly make such changes as may
17 be required by the office to cause the same to accomplish the
18 purpose of this section.

19 (c) Any de novo state financial institution open less
20 than 4 months is exempt from the audit requirements of this
21 section.

22 Section 90. Subsection (1) of section 655.059, Florida
23 Statutes, is amended to read:

24 655.059 Access to books and records; confidentiality;
25 penalty for disclosure.--

26 (1) The books and records of a financial institution
27 are confidential and shall be made available for inspection
28 and examination only:

29 (a) To the office or its duly authorized
30 representative;

31 (b) To any person duly authorized to act for the

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1 financial institution;

2 (c) To any federal or state instrumentality or agency
3 authorized to inspect or examine the books and records of an
4 insured financial institution;

5 (d) With respect to an international banking
6 corporation, to the home-country supervisor of the
7 corporation, provided:

8 1. The supervisor provides advance notice to the
9 office that the supervisor intends to examine the Florida
10 office of the corporation.

11 2. The supervisor confirms to the office that the
12 purpose of the examination is to ensure the safety and
13 soundness of the corporation.

14 3. The books and records pertaining to customer
15 deposit, investment, and custodial accounts are not disclosed
16 to the supervisor.

17 4. At any time during the conduct of the examination,
18 the office reserves the right to have an examiner present or
19 to participate jointly in the examination.

20

21 For purposes of this paragraph, "home-country supervisor"
22 means the governmental entity in the corporation's home
23 country with responsibility for the supervision and regulation
24 of the corporation;

25 (e) As compelled by a court of competent jurisdiction,
26 pursuant to a subpoena issued pursuant to the Florida Rules of
27 Civil or Criminal Procedure or the Federal Rules of Civil
28 Procedure, or pursuant to a subpoena issued in accordance with
29 state or federal law. Prior to the production of the books and
30 records of a financial institution, the party seeking
31 production must reimburse the financial institution for the

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1 reasonable costs and fees incurred in compliance with the
2 production. If the parties disagree regarding the amount of
3 reimbursement, the party seeking the records may request the
4 court or agency having jurisdiction to set the amount of
5 reimbursement;

6 (f) As compelled by legislative subpoena as provided
7 by law, in which case the provisions of s. 655.057 apply;

8 (g) Pursuant to a subpoena, to any federal or state
9 law enforcement or prosecutorial instrumentality authorized to
10 investigate suspected criminal activity;

11 (h) As authorized by the board of directors of the
12 financial institution; or

13 (i) As provided in subsection (2).

14 Section 91. Section 655.921, Florida Statutes, is
15 amended to read:

16 655.921 Transaction of business by out-of-state
17 financial institutions; exempt transactions in the financial
18 institutions codes.--

19 (1) Nothing in the financial institutions codes shall
20 be construed to prohibit a financial institution having its
21 principal place of business outside this state and not
22 operating branches in this state from:

23 (a) Contracting in this state with any person to
24 acquire from such person a part, or the entire, interest in a
25 loan that such person proposes to make, has heretofore made,
26 or hereafter makes, together with a like interest in any
27 security instrument covering real or personal property in the
28 state proposed to be given or hereafter or heretofore given to
29 such person to secure or evidence such loan.

30 (b) Entering into mortgage servicing contracts with
31 persons authorized to transact business in this state and

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1 enforcing in this state the obligations heretofore or
2 hereafter acquired by it in the transaction of business
3 outside this state or in the transaction of any business
4 authorized by this section.

5 (c) Acquiring, holding, leasing, mortgaging,
6 contracting with respect to, or otherwise protecting,
7 managing, or conveying property in this state which has
8 heretofore or may hereafter be assigned, transferred,
9 mortgaged, or conveyed to it as security for, or in whole or
10 in part in satisfaction of, a loan or loans made by it or
11 obligations acquired by it in the transaction of any business
12 authorized by this section.

13 (d) Making loans or committing to make loans to any
14 person located in this state and soliciting compensating
15 deposit balances in connection therewith.

16 (2) No such financial institution shall be deemed to
17 be transacting business in this state, or be required to
18 qualify so to do, solely by reason of the performance of any
19 of the acts or business authorized in this section. ~~This~~
20 ~~section does not authorize or permit any such financial~~
21 ~~institution to maintain an office within the state.~~

22 Section 92. Section 655.922, Florida Statutes, is
23 amended to read:

24 655.922 Banking business by unauthorized persons; use
25 of name.--

26 (1) No person other than a financial institution
27 authorized to do business in this state pursuant to the
28 financial institutions codes of any state or federal law
29 shall, in this state, engage in the business of soliciting or
30 receiving funds for deposit or of issuing certificates of
31 deposit or of paying checks; and no person shall establish or

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1 maintain a place of business in this state for any of the
2 functions, transactions, or purposes mentioned in this
3 subsection. Any person who violates the provisions of this
4 subsection is guilty of a felony of the third degree,
5 punishable as provided in s. 775.082, s. 775.083, or s.
6 775.084. This subsection does not prohibit the issuance or
7 sale by a financial institution of traveler's checks, money
8 orders, or other instruments for the transmission or payment
9 of money, by or through employees or agents of the financial
10 institution off the financial institution's premises.

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

13 (a) Transact business under any name or title that
14 contains the words "bank," "banco," "banque," "banker,"
15 "banking," "trust company," "savings and loan association,"
16 "savings bank," or "credit union," or words of similar import,
17 in any context or in any manner;

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

20 (c) Circulate or use any letterhead, billhead,
21 circular, paper, or writing of any kind or otherwise advertise
22 or represent in any manner,

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24 which indicates or reasonably implies that the business being
25 conducted or advertised is the kind or character of business
26 transacted or conducted by a financial institution or which is
27 likely to lead any person to believe that such business is
28 that of a financial institution; however, the words "bank,"
29 "banker," "banking," "trust company," "savings and loan
30 association," "savings bank," or "credit union," or the plural
31 of any thereof, may be used by, and in the corporate or other

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1 name or title of, any company which is or becomes a financial
2 institution holding company pursuant to federal law; any
3 subsidiary of any such financial institution holding company
4 which includes as a part of its name or title all or any part,
5 or abbreviations, of the name or title of the financial
6 institution holding company of which it is a subsidiary; any
7 trade organization or association, whether or not
8 incorporated, functioning for the purpose of promoting the
9 interests of financial institutions or financial institution
10 holding companies, the active members of which are financial
11 institutions or financial institution holding companies; and
12 any international development bank chartered pursuant to part
13 II of chapter 663.

14 (3) No person may use the name or logo of any
15 financial institution or an affiliate or subsidiary thereof,
16 or use a name similar to that of a financial institution or an
17 affiliate or subsidiary thereof, to market or solicit business
18 from a customer or prospective customer of such institution
19 if:

20 (a) The solicitation is done without the written
21 consent of the financial institution or its affiliate or
22 subsidiary; and

23 (b) A reasonable person would believe that the
24 materials originated from, are endorsed by, or are connected
25 with the financial institution or its affiliates or
26 subsidiaries.

27 (4)(3) Any court, in a proceeding brought by the
28 office, by any financial institution the principal place of
29 business of which is in this state, or by any other person
30 residing, or whose principal place of business is located, in
31 this state and whose interests are substantially affected

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1 thereby, may enjoin any person from violating any of the
2 provisions of this section. For the purposes of this
3 subsection, the interests of a trade organization or
4 association are deemed to be substantially affected if the
5 interests of any of its members are so affected. In addition,
6 the office may issue and serve upon any person who violates
7 any of the provisions of this section a complaint seeking a
8 cease and desist order in accordance with the procedures and
9 in the manner prescribed by s. 655.033.

10 ~~(5)(4)~~ Nothing in this section shall be construed to
11 prohibit the lawful establishment or the lawful operations of
12 a financial institution and nothing in this code shall be
13 construed to prohibit any advertisement or other activity in
14 this state by any person if such prohibition would contravene
15 any applicable federal law which preempts the law of this
16 state.

17 (6) The commission shall adopt rules to administer
18 this section.

19 Section 93. Subsection (1) of section 655.94, Florida
20 Statutes, is amended to read:

21 655.94 Special remedies for nonpayment of rent.--

22 (1) If the rental due on a safe-deposit box has not
23 been paid for 3 months, the lessor may send a notice by
24 certified ~~registered~~ mail to the last known address of the
25 lessee stating that the safe-deposit box will be opened and
26 its contents stored at the expense of the lessee unless
27 payment of the rental is made within 30 days. If the rental
28 is not paid within 30 days from the mailing of the notice, the
29 box may be opened in the presence of an officer of the lessor
30 and of a notary public ~~who is not a director, officer,~~
31 ~~employee, or stockholder of the lessor.~~ The contents shall be

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1 sealed in a package by a notary public who shall write on the
2 outside the name of the lessee and the date of the opening.
3 The notary public shall execute a certificate reciting the
4 name of the lessee, the date of the opening of the box, and a
5 list of its contents. The certificate shall be included in
6 the package, and a copy of the certificate shall be sent by
7 certified ~~registered~~ mail to the last known address of the
8 lessee. The package shall then be placed in the general
9 vaults of the lessor at a rental not exceeding the rental
10 previously charged for the box. The lessor has a lien on the
11 package and its contents to the extent of any rental due and
12 owing plus the actual, reasonable costs of removing the
13 contents from the safe-deposit box.

14 Section 94. Section 658.16, Florida Statutes, is
15 amended to read:

16 658.16 Creation of banking or trust corporation.--

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

21 (2) A bank or trust company that is chartered as a
22 limited liability company under the law of any state is deemed
23 to be incorporated under the financial institutions codes if:

24 (a) The institution is not subject to automatic
25 termination, dissolution, or suspension upon the occurrence of
26 an event including the death, disability, bankruptcy,
27 expulsion, or withdrawal of an owner of the institution, other
28 than the passage of time;

29 (b) The exclusive authority to manage the institution
30 is vested in a board of managers or directors that is elected
31 or appointed by the owners which operates in substantially the

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1 same manner as, and has substantially the same rights, powers,
2 privileges, duties, and responsibilities, as a board of
3 directors of a bank or trust company chartered as a
4 corporation; and

5 (c) Neither the laws of the state of the institution's
6 organization nor the institution's operating agreement,
7 bylaws, or other organizational documents:

8 1. Provide that an owner of the institution is liable
9 for the debts, liabilities, or obligations of the institution
10 in excess of the amount of the owner's investment; or

11 2. Require the consent of any other owner of the
12 institution in order for an owner to transfer an ownership
13 interest in the institution, including voting rights.

14 (3) As used in the financial institutions codes, the
15 term:

16 (a) "Stockholder" or "shareholder" includes an owner
17 of any interest in a bank or trust company chartered as a
18 limited liability company, including a member or participant;

19 (b) "Director" includes a manager or director of a
20 bank or trust company chartered as a limited liability
21 company, or other person who has, with respect to such a bank
22 or trust company, authority substantially similar to that of a
23 director of a corporation;

24 (c) "Officer" includes an officer of a bank or trust
25 company chartered as a limited liability company, or other
26 person who has, with respect to such a bank or trust company,
27 authority substantially similar to that of an officer of a
28 corporation;

29 (d) "Stock," "voting stock," "voting shares," and
30 "voting securities" includes similar ownership interests in a
31 bank or trust company chartered as a limited liability

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1 company, including certificates or other evidence of ownership
2 interests;

3 (e) "Articles of incorporation" or "bylaws" of a bank
4 or trust company chartered as a limited liability company
5 means the institution's articles of organization and operating
6 agreement or other organizational documentation that is
7 substantially similar to that of a corporation;

8 (f) "Par value" of any ownership interest in a bank or
9 trust company chartered as a limited liability company means
10 the amount of capital which must be invested for each unit of
11 ownership; and

12 (g) "Dividend" includes distributions of earnings to
13 the owners of a bank or trust company chartered as a limited
14 liability company.

15 Section 95. Subsection (5) of section 658.23, Florida
16 Statutes, is amended to read:

17 658.23 Submission of articles of incorporation;
18 contents; form; approval; filing; commencement of corporate
19 existence; bylaws.--

20 (5) Unless the articles of incorporation provide
21 otherwise, the board of directors shall have authority to
22 adopt or amend bylaws that do not conflict with bylaws that
23 may have been adopted by the stockholders. The bylaws shall
24 be for the governance ~~government~~ of the bank or trust company,
25 subordinate only to the articles of incorporation and the laws
26 of the United States and of this state. ~~A current copy of the~~
27 ~~bylaws shall be filed with the office at all times.~~

28 Section 96. Section 658.26, Florida Statutes, is
29 amended to read:

30 658.26 Places of transacting business; branches;
31 facilities.--

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

4 (2)(a) In addition, with the approval of the office
5 and upon such conditions as the commission or office
6 prescribes, any state bank or trust company may establish
7 branches or relocate offices within or outside the state. With
8 the approval of the office upon a determination that the
9 resulting bank or trust company will be of sound financial
10 condition, any bank or trust company incorporated pursuant to
11 this chapter may establish branches by merger with any other
12 bank or trust company.

13 (b) As provided by commission rules, a financial
14 institution operating in a safe and sound manner may establish
15 or relocate an office by filing a written notice with the
16 office at least 30 days before opening or relocating that
17 office, without filing an application or paying an application
18 fee. The notification must specify the name and location of
19 the office and effective date of the change. The relocation of
20 a main office to a location outside this state must be by
21 application only.

22 (c) Applications filed pursuant to this subsection
23 need not be published in the Florida Administrative Weekly,
24 but shall otherwise be subject to chapter 120.

25 (d)(b) An application to establish ~~for~~ a branch by a
26 bank that is ineligible ~~does not meet the requirements for the~~
27 branch notification ~~process~~ shall be in writing in such form
28 as the commission prescribes and be supported by such
29 information, data, and records as the commission or office may
30 require to make findings necessary for approval. ~~Applications~~
31 ~~filed pursuant to this subsection shall not be published in~~

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1 ~~the Florida Administrative Weekly but shall otherwise be~~
 2 ~~subject to the provisions of chapter 120.~~ Upon the filing of
 3 an application and a nonrefundable filing fee for the
 4 establishment of any branch permitted by paragraph (a), the
 5 office shall ~~make an investigation with respect to compliance~~
 6 ~~with the requirements of paragraph (a) and shall investigate~~
 7 ~~and consider all factors relevant to such requirements,~~
 8 including the following:

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

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

21 3. The sufficiency and quality of management available
 22 to operate the branch;

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

26 5. Substantial compliance by the applicants with
 27 applicable law governing their operations.

28 ~~(e)(c)~~ A state bank that is not eligible for
 29 notification of a branch relocation must file an application
 30 in the form required by the commission. Upon the filing of a
 31 relocation application and a nonrefundable filing fee, the

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1 office shall investigate to determine whether the financial
2 institution has substantially complied with applicable law
3 governing its operations. Additional investments in land,
4 buildings, leases, and leasehold improvements resulting from
5 such relocation must comply with the limitations imposed by s.
6 658.67(7)(a). A main office may not be moved outside this
7 state unless the move is expressly authorized by the financial
8 institutions codes or by federal law. A financial institution
9 that has been in operation for less than 24 months must
10 provide evidence that the criteria of s. 658.21(1) will be
11 met. As provided by commission rule, a financial institution
12 operating in a safe and sound manner may establish a branch by
13 filing a written notice with the office at least 30 days
14 before opening that branch. In such case, the financial
15 institution need not file a branch application or pay a branch
16 application fee.

17 ~~(3)(a) An office in this state may be relocated with~~
18 ~~prior written approval of the office. An application for~~
19 ~~relocation shall be in writing in such form as the commission~~
20 ~~prescribes and shall be supported by such information, data,~~
21 ~~and records as the commission or office may require to make~~
22 ~~findings necessary for approval.~~

23 ~~(b) Applications filed pursuant to this subsection~~
24 ~~shall not be published in the Florida Administrative Weekly~~
25 ~~but shall otherwise be subject to the provisions of chapter~~
26 ~~120. Upon the filing of a relocation application and a~~
27 ~~nonrefundable filing fee, the office shall investigate to~~
28 ~~determine substantial compliance by the financial institution~~
29 ~~with applicable law governing its operations. Additional~~
30 ~~investments in land, buildings, leases, and leasehold~~
31 ~~improvements resulting from such relocation shall comply with~~

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1 ~~the limitations imposed by s. 658.67(7)(a). A main office may~~
2 ~~not be moved outside this state unless expressly authorized by~~
3 ~~the financial institutions codes or by federal law.~~

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

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

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

17 ~~(3)(4)~~ With prior written notification to the office,
18 any bank may operate facilities which are not physically
19 connected to the main or branch office of the bank, provided
20 that the facilities are situated on the property of the main
21 or branch office or property contiguous thereto. Property
22 which is separated from the main or branch office of a bank by
23 only a street, and one or more walkways and alleyways are
24 determined to be, for purposes of this subsection, contiguous
25 to the property of the main or branch office.

26 ~~(4)(5)~~ A bank may provide, directly or through a
27 contract with another company, off-premises armored car
28 service to its customers. Armored car services shall not be
29 considered a branch for the purposes of subsection (2).

30 ~~(5)(6)(a)~~ Any state bank that is a subsidiary of a
31 bank holding company may agree to receive deposits, renew time

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1 deposits, close loans, service loans, and receive payments on
2 loans and other obligations, as an agent for an affiliated
3 depository institution.

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

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

11 (d) Under this section, affiliated banks may act as
12 agents for one another regardless of whether the institutions
13 are located in the same or different states. This section
14 applies solely to affiliated depository institutions acting as
15 agents, and has no application to agency relationships
16 concerning nondepositories as agent, whether or not affiliated
17 with the depository institution.

18 (e) In addition, under this section, agent banks may
19 perform ministerial functions for the principal bank making a
20 loan. Ministerial functions include, but are not limited to,
21 such activities as providing loan applications, assembling
22 documents, providing a location for returning documents
23 necessary for making the loan, providing loan account
24 information, and receiving payments. It does not include such
25 loan functions as evaluating applications or disbursing loan
26 funds.

27 Section 97. Subsection (5) of section 658.33, Florida
28 Statutes, is amended to read:

29 658.33 Directors, number, qualifications; officers.--

30 (5) The president, or chief executive officer, or any
31 other person, regardless of title, who has equivalent rank or

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1 leads the overall operations of a bank or trust company must
2 have had at least 1 year of direct experience as an executive
3 officer, director, or regulator of a financial institution
4 within the last 3 years. This requirement may be waived by the
5 office after considering the overall experience and expertise
6 of the proposed officer and the condition of the bank or trust
7 company, as reflected in the most recent regulatory
8 examination report and other available data.

9 Section 98. Section 658.37, Florida Statutes, is
10 amended to read:

11 658.37 Dividends and surplus.--

12 (1) The directors of any bank or trust company, after
13 charging off bad debts, depreciation, and other worthless
14 assets if any, and making provision for reasonably anticipated
15 future losses on loans and other assets, may quarterly,
16 semiannually, or annually declare a dividend of so much of the
17 aggregate of the net profits of that period combined with its
18 retained net profits of the preceding 2 years as they shall
19 judge expedient, and, with the approval of the office, any
20 bank or trust company may declare a dividend from retained net
21 profits which accrued prior to the preceding 2 years, but each
22 bank or trust company shall, before the declaration of a
23 dividend on its common stock, carry 20 percent of its net
24 profits for such preceding period as is covered by the
25 dividend to its surplus fund, until the same shall at least
26 equal the amount of its common and preferred stock then issued
27 and outstanding. No bank or trust company shall declare any
28 dividend at any time at which its net income from the current
29 year combined with the retained net income from the preceding
30 2 years is a loss or which would cause the capital accounts of
31 the bank or trust company to fall below the minimum amount

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1 required by law, regulation, order, or any written agreement
 2 with the office or a state or federal regulatory agency. A
 3 bank or trust company may, however, split up or divide the
 4 issued shares of capital stock into a greater number of shares
 5 without increasing or decreasing the capital accounts of the
 6 bank or trust company, and such shall not be construed to be a
 7 dividend within the meaning of this section.

8 (2) A bank that has been determined to be imminently
 9 insolvent may not pay a dividend.

10 Section 99. Present subsection (10) of section 658.48,
 11 Florida Statutes, is redesignated as subsection (11), and a
 12 new subsection (10) is added to that section, to read:

13 658.48 Loans.--A state bank may make loans and
 14 extensions of credit, with or without security, subject to the
 15 following limitations and provisions:

16 (10) IMMINENTLY INSOLVENT BANK.--When the office has
 17 determined that a state bank is imminently insolvent, the bank
 18 may not make any new loans or discounts other than by
 19 discounting or purchasing bills of exchange payable at sight.

20 Section 100. Paragraph (a) of subsection (9) of
 21 section 658.67, Florida Statutes, is amended to read:

22 658.67 Investment powers and limitations.--A bank may
 23 invest its funds, and a trust company may invest its corporate
 24 funds, subject to the following definitions, restrictions, and
 25 limitations:

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

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1 (a) The book entry shall be the lesser of the balance
2 of the loan or investment plus acquisition costs and accrued
3 interest or the appraisal value or market value of the
4 property acquired which shall be determined and dated within 1
5 year prior to or 90 days after the date of acquisition and in
6 compliance with s. 655.60.

7 Section 101. Subsection (4) of section 658.73, Florida
8 Statutes, is amended to read:

9 658.73 Fees and assessments.--

10 (4) Any individual or entity other than a financial
11 institution chartered in this state must ~~Each state bank and~~
12 ~~state trust company shall~~ pay to the office \$25 for each
13 "certificate of good standing" certifying that a
14 state-chartered financial institution is licensed to conduct
15 business in this state under the financial institutions codes.
16 All such requests shall be in writing. The office shall waive
17 this fee when the request is by a state or federal regulatory
18 agency or law enforcement agency.

19 Section 102. Subsections (4) and (7) of section
20 663.16, Florida Statutes, are amended to read:

21 663.16 Definitions; ss. 663.17-663.181.--As used in
22 ss. 663.17-663.181, the term:

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

26 (7) "Control" means any person or group of persons
27 acting in concert, directly or indirectly, owning,
28 controlling, or holding the power to vote 25 more than 50
29 percent or more of the voting stock of a company, or having
30 the ability in any manner to elect a majority of directors of
31 a corporation, or otherwise exercising a controlling influence

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1 over the management and policies of a corporation as
 2 determined by the office.

3 Section 103. Subsection (1) of section 663.304,
 4 Florida Statutes, is amended to read:

5 663.304 Application for authority to organize an
 6 international development bank.--

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

10 (a) The name, residence, and occupation of each
 11 incorporator and proposed director.

12 ~~(b) The proposed corporate name and evidence of~~
 13 ~~reservation of the proposed corporate name with the Department~~
 14 ~~of State.~~

15 ~~(b)(c)~~ The total initial capital and the number of
 16 shares of capital stock to be authorized.

17 ~~(c)(d)~~ The location, by street and post-office address
 18 and county, of the principal office of the proposed
 19 international development bank.

20 ~~(d)(e)~~ If known, the name and residence of the
 21 proposed president and the proposed chief executive officer,
 22 if other than the proposed president.

23 ~~(e)(f)~~ Such detailed financial, business, and
 24 biographical information as the commission or office may
 25 reasonably require for each proposed director and for the
 26 proposed president and the proposed chief executive officer,
 27 if other than the president.

28 Section 104. Paragraph (a) of subsection (4) of
 29 section 665.034, Florida Statutes, is amended to read:

30 665.034 Acquisition of assets of or control over an
 31 association.--

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

4 (a) Directly or indirectly, or acting in concert with
 5 one or more persons or through one or more subsidiaries, owns,
 6 controls, holds with powers to vote, or holds proxies
 7 representing ~~more than~~ 25 percent or more of the voting common
 8 stock of such association.

9 Section 105. Subsections (2) and (6) of section
 10 674.406, Florida Statutes, are amended to read:

11 674.406 Customer's duty to discover and report
 12 unauthorized signature or alteration.--

13 (2) If the items are not returned to the customer, the
 14 person retaining the items shall either retain the items or,
 15 if the items are destroyed, maintain the capacity to furnish
 16 legible copies of the items until the expiration of 5 7 years
 17 after receipt of the items. A customer may request an item
 18 from the bank that paid the item, and that bank must provide
 19 in a reasonable time either the item or, if the item has been
 20 destroyed or is not otherwise obtainable, a legible copy of
 21 the item.

22 (6) Without regard to care or lack of care of either
 23 the customer or the bank, a customer who does not within 180
 24 days ~~1 year~~ after the statement or items are made available to
 25 the customer (subsection (1)) discover and report the
 26 customer's unauthorized signature on or any alteration on the
 27 item or who does not, within 1 year after that time, discover,
 28 and report any unauthorized endorsement is precluded from
 29 asserting against the bank the unauthorized signature or
 30 alteration. If there is a preclusion under this subsection,
 31 the payor bank may not recover for breach of warranty under s.

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1 674.2081 with respect to the unauthorized signature or
2 alteration to which the preclusion applies.

3 Section 106. Section 658.68, Florida Statutes, is
4 repealed.

5
6 (Redesignate subsequent sections.)

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9 ===== T I T L E A M E N D M E N T =====

10 And the title is amended as follows:

11 On page 4, line 30, after the semicolon,

12

13 insert:

14 amending s. 494.0025, F.S.; prohibiting the use
15 of the name or logo of a financial institution
16 or its affiliates or subsidiaries under certain
17 circumstances without written consent; amending
18 s. 516.07, F.S.; providing that the use of the
19 name or logo of a financial institution or its
20 affiliates or subsidiaries under certain
21 circumstances without written consent is
22 grounds for denial of license or for
23 disciplinary action; amending s. 520.995, F.S. ;
24 providing that the use of the name or logo of a
25 financial institution or its affiliates or
26 subsidiaries under certain circumstances
27 without written consent is grounds for
28 disciplinary action; amending s. 626.9541,
29 F.S.; providing that the deceptive use of a
30 name is an unfair method of competition and an
31 unfair or deceptive act or practice; amending

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1 s. 655.005, F.S.; revising certain definitions
2 relating to financial institutions to include
3 the term "international branch"; amending s.
4 655.0322, F.S.; revising the definition of the
5 term "financial institution" to include an
6 international branch; amending s. 655.0385,
7 F.S.; clarifying requirements for notification
8 of the appointment of an executive director or
9 equivalent by state financial institutions;
10 requiring a nonrefundable fee to accompany
11 notification; amending s. 655.045, F.S.;
12 providing an exemption from audit requirements;
13 amending s. 655.059, F.S.; providing for the
14 inspection and examination of financial
15 institution records and books pursuant to
16 subpoena; providing for reimbursement of
17 reasonable costs and fees for compliance;
18 providing for setting the reimbursement amount
19 when charges are contested; amending s.
20 655.921, F.S.; prohibiting certain out-of-state
21 financial institutions from locating branch
22 offices in the state in order to qualify for
23 certain exempt transactions; deleting
24 provisions relating to authorization of offices
25 in the state; amending s. 655.922, F.S.;
26 clarifying provisions authorizing financial
27 institutions under another state's financial
28 codes to transact business in this state;
29 expanding the names or titles under which only
30 a financial institution may transact business;
31 prohibiting the use of the name or logo of a

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1 financial institution or its affiliates or
2 subsidiaries under certain circumstances
3 without written consent; requiring the
4 Financial Services Commission to adopt rules;
5 amending s. 655.94, F.S.; deleting a
6 prohibition against certain notary publics
7 being involved in opening safety deposit boxes
8 for nonpayment of rent; requiring use of
9 certified mail instead of registered mail;
10 amending. s. 658.16, F.S.; providing criteria
11 for a bank or trust company chartered as a
12 limited liability company to be considered
13 "incorporated" under the financial institutions
14 codes; providing definitions; amending s.
15 658.23, F.S.; correcting terminology; deleting
16 a requirement for a current copy of the bylaws
17 of a bank or trust company to be on file with
18 the Office of Financial Regulation; amending s.
19 658.26, F.S.; providing for state banks to
20 relocate offices upon approval; providing that
21 certain financial institutions may establish or
22 relocate an office upon written notification;
23 providing requirements for notification and a
24 fee; requiring an application for relocation of
25 a main office outside the state; exempting
26 applications from publication in the Florida
27 Administrative Weekly; modifying requirements
28 for applications for branch offices by a bank
29 ineligible for branch notification; deleting a
30 requirement that such applications be published
31 in the Florida Administrative Weekly and be

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1 subject to ch. 120, F.S.; requiring a
2 relocation application to be filed with the
3 Office of Financial Regulation; providing for a
4 filing fee, investigations, and restrictions
5 relating to such applications; amending s.
6 658.33, F.S.; adding to the list of persons who
7 must meet certain qualification levels;
8 providing for a waiver of qualification
9 requirements; amending s. 658.37, F.S.;

10 prohibiting an imminently insolvent bank from
11 paying dividends; amending s. 658.48, F.S.;

12 specifying limitations on making loans and
13 extending credit by a bank declared to be
14 imminently insolvent; amending s. 658.67, F.S.;

15 providing multiple dates for the assessment of
16 the value of property acquisition as security;

17 amending s. 658.73, F.S.; delineating which
18 entities or individuals must pay a fee for a
19 certificate of good standing; amending s.
20 663.16, F.S.; revising definitions to include
21 the term "branch" and to reduce the percentage
22 of voting stock necessary for consideration as
23 control; amending s. 663.304, F.S.; deleting a
24 requirement for reservation of a proposed
25 corporate name with the Department of State;

26 amending s. 665.034, F.S.; revising a
27 percentage designating control of an
28 association; amending s. 674.406, F.S.;

29 reducing the time that banks must retain
30 receipts of items; reducing the time within
31 which one must report unauthorized signatures;

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1 providing a time limitation within which to
2 assert claims against a bank for an
3 unauthorized endorsement; repealing s. 658.68,
4 F.S., relating to liquidity requirements for a
5 state bank;

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