

ENROLLED
CS/HB 1121

2011 Legislature

1 A bill to be entitled
2 An act relating to financial institutions; amending s.
3 655.005, F.S.; revising definitions relating to the
4 financial institutions codes; amending s. 655.013, F.S.;
5 updating a reference; creating s. 655.03855, F.S.;
6 authorizing the office to appoint provisional directors or
7 executive officers; specifying the rights, qualifications,
8 and reporting requirements of such directors and officers;
9 clarifying the liability of such directors and officers
10 and of the office; amending s. 655.044, F.S.; specifying
11 which accounting principles must be followed by financial
12 institutions; amending s. 655.045, F.S.; authorizing the
13 office to conduct additional examinations of financial
14 institutions if warranted; providing for the use of
15 certain examination methods; amending s. 655.41, F.S.;
16 revising definitions to conform provisions to changes made
17 by the act; amending s. 655.411, F.S.; revising the
18 criteria for approval of a financial entity's plan of
19 conversion; amending s. 655.414, F.S.; providing for the
20 transfer of assets from a federally chartered or out-of-
21 state chartered institution; amending ss. 655.416,
22 655.417, and 655.418, F.S.; conforming provisions to
23 changes made by the act; amending s. 655.4185, F.S.;
24 revising provisions relating to emergency actions that may
25 be taken for a failing financial institution; authorizing
26 the office to provide prior approval for the chartering of
27 an entity acquiring control of a failing institution;
28 amending s. 655.419, F.S.; deleting a provision relating

Page 1 of 66

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb1121-02-er

ENROLLED
CS/HB 1121

2011 Legislature

29 | to actions conducted outside this state; amending s.
30 | 655.947, F.S.; conforming a cross-reference; amending s.
31 | 657.038, F.S.; specifying the loan factors that must be
32 | considered when computing a person's total obligations for
33 | purposes of extending credit; amending s. 657.042, F.S.;
34 | revising criteria that limit a credit union's investment
35 | of funds; requiring a credit union to establish policies
36 | and procedures for evaluating risk; amending ss. 657.063
37 | and 657.064, F.S.; conforming cross-references; amending
38 | s. 658.12, F.S.; revising the definition of "banker's
39 | bank"; conforming a cross-reference; deleting a provision
40 | relating to the application of definitions in the
41 | financial institutions codes; amending s. 658.165, F.S.;
42 | revising provisions relating to banker's banks; specifying
43 | the type of business that such bank may do with entities
44 | or individuals that are not banks; revising provisions
45 | relating to the services a banker's bank may provide to
46 | financial institutions in organization; repealing s.
47 | 658.20(3), F.S., relating to applications for prior
48 | approval of officers or directors; amending s. 658.28,
49 | F.S.; providing additional limitations on acquiring or
50 | controlling another bank; repealing s. 658.295, F.S.,
51 | relating to the Florida Interstate Banking Act; amending
52 | s. 658.2953, F.S.; revising and updating provisions
53 | relating to Florida bank mergers with out-of-state banks;
54 | deleting legislative intent; repealing s. 658.296, F.S.,
55 | relating to the control of deposit-taking institutions;
56 | amending s. 658.36, F.S.; authorizing the office to

ENROLLED
CS/HB 1121

2011 Legislature

57 | approve a special stock offering plan under certain
 58 | circumstances; amending s. 658.41, F.S.; clarifying that
 59 | state laws do not restrict the right of a state bank or
 60 | trust company to merge with an out-of-state bank; amending
 61 | s. 658.48, F.S.; revising provisions relating to bank
 62 | loans; specifying the process for computing the
 63 | liabilities of a person seeking a loan; amending s.
 64 | 658.53, F.S.; deleting a provision providing that unpaid
 65 | proceeds of sales are used to evaluate the adequacy of a
 66 | bank's capital; repealing ss. 658.65, 665.013(33), and
 67 | 667.003(35), F.S., relating to remote financial service
 68 | units; amending s. 658.67, F.S.; updating provisions
 69 | relating to the investment powers of a bank or trust
 70 | company; requiring banks and trust companies to establish
 71 | procedures for evaluating risk; amending ss. 288.772,
 72 | 288.99, 440.12, 440.20, 445.051, 489.503, 501.005,
 73 | 501.165, 624.605, 626.321, 626.730, and 626.9885, F.S.;
 74 | conforming cross-references; providing an effective date.

75 |
 76 | Be It Enacted by the Legislature of the State of Florida:

77 |
 78 | Section 1. Section 655.005, Florida Statutes, is reordered
 79 | and amended to read:

80 | 655.005 Definitions.—

81 | (1) As used in the financial institutions codes, unless
 82 | the context otherwise requires, the term:

83 | (a) "Affiliate" means a holding company of a ~~any~~ financial
 84 | institution established ~~holding company~~ pursuant to state or

ENROLLED
CS/HB 1121

2011 Legislature

85 federal law, ~~a or any~~ subsidiary or service corporation of such
86 ~~a~~ holding company, or a subsidiary or service corporation of a
87 financial institution.

88 (b) "Appropriate federal regulatory agency" means the
89 federal ~~financial institution~~ regulatory agency that has granted
90 ~~federal~~ statutory authority over a financial institution.

91 (c) "Bank holding company" means a business organization
92 that is a bank holding company under the Bank Holding Company
93 Act of 1956, as amended, 12 U.S.C. ss. 1841 et seq., or is
94 otherwise determined or authorized by the office to be a holding
95 company of a financial institution pursuant to ss. 658.27-
96 658.285.

97 (d)~~(e)~~ "Capital accounts" means the aggregate value of
98 unimpaired capital stock based on the par value of the shares,
99 plus any unimpaired surplus, and undivided profits or retained
100 earnings of a financial institution. For the purposes of
101 determining insolvency or imminent insolvency, the term does not
102 include allowances for loan or lease loss reserves, intangible
103 assets, subordinated debt, deferred tax assets, or similar
104 assets.

105 (e)~~(d)~~ "Capital stock" means the ~~aggregate of~~ shares of
106 stock issued to create nonwithdrawable capital ~~issued.~~

107 (f)~~(e)~~ "Commission" means the Financial Services
108 Commission.

109 (h)~~(f)~~ "Executive officer" means an individual, whether or
110 not the individual has an official title or receives a salary or
111 other compensation, who participates or has authority to
112 participate, other than in the capacity of a director, in the

ENROLLED
CS/HB 1121

2011 Legislature

113 major policymaking functions of a ~~the~~ financial institution.~~†~~
 114 The term does not include an individual who may have an official
 115 title and may exercise discretion in the performance of duties
 116 and functions, including discretion in the making of loans, but
 117 who does not participate in the determination of major policies
 118 of the financial institution and whose decisions are limited by
 119 policy standards established by other officers ~~other than such~~
 120 ~~individual~~, whether or not the ~~such~~ policy standards have been
 121 adopted by the board of directors. The chair of the board of of
 122 directors, the president, the chief executive officer, the chief
 123 financial officer, the senior loan officer, and every executive
 124 vice president of a financial institution, and the senior trust
 125 officer of a trust company, are presumed to be executive
 126 officers unless ~~any~~ such officer is excluded, by resolution of
 127 the board of directors or by the bylaws of the financial
 128 institution, from participating, other than in the capacity of a
 129 director, in major policymaking functions of the financial
 130 institution and the individual holding such office so excluded
 131 does not actually participate therein.

132 (i)~~(g)~~ "Federal financial institution" means a federally
 133 or nationally chartered or organized financial institution.

134 (j)~~(h)~~ "Financial institution" means a state or federal
 135 savings or thrift association, bank, savings bank, trust
 136 company, international bank agency, international banking
 137 corporation, international branch, international representative
 138 office, international administrative office, international trust
 139 company representative office, ~~or~~ credit union, or an agreement
 140 corporation operating pursuant to s. 25 of the Federal Reserve

ENROLLED
CS/HB 1121

2011 Legislature

141 Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation organized
142 pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss.
143 611 et seq.

144 (k)~~(i)~~ "Financial institution-affiliated party" means:

145 1. A ~~Any~~ director, officer, employee, or controlling
146 stockholder, ~~other than a financial institution holding~~
147 company, ~~of, or agent for, a financial institution, subsidiary,~~
148 or service corporation;

149 2. Any other person who has filed or is required to file a
150 change-of-control notice with the appropriate state or federal
151 regulatory agency;

152 3. A ~~Any~~ stockholder, ~~other than a financial institution~~
153 holding company, a ~~any~~ joint venture partner, or any other
154 person as determined by the office who participates in ~~the~~
155 ~~conduct of~~ the affairs of a financial institution, subsidiary,
156 or service corporation; or

157 4. An ~~Any~~ independent contractor, ~~(including an any~~
158 attorney, appraiser, consultant, or accountant, ~~)~~ who knowingly
159 or recklessly participates in:

160 a. A ~~Any~~ violation of any law or regulation;

161 b. A ~~Any~~ breach of fiduciary duty; or

162 c. An ~~Any~~ unsafe and unsound practice,

163

164 which caused or is likely to cause more than a minimal financial
165 loss to, or a significant adverse effect on, the financial
166 institution, subsidiary, or service corporation.

167 (l)~~(j)~~ "Financial institutions codes" means:

168 1. Chapter 655, relating to financial institutions

ENROLLED
CS/HB 1121

2011 Legislature

169 generally;

170 2. Chapter 657, relating to credit unions;

171 3. Chapter 658, relating to banks and trust companies;

172 4. Chapter 660, relating to trust business;

173 5. Chapter 663, relating to international banking

174 ~~corporations;~~

175 6. Chapter 665, relating to associations; and

176 7. Chapter 667, relating to savings banks.

177 (m) "Home state" means:

178 1. The state where a financial institution is chartered.

179 2. The state where the main office of a federal financial

180 institution is located.

181 3. The state determined to be the home state of an

182 international banking corporation pursuant to 12 U.S.C. s.

183 3103(c).

184 (n) "Home state regulator" means, with respect to an out-

185 of-state state financial institution, the financial institution

186 regulatory agency of the state in which the institution is

187 chartered.

188 (o) "Host state" means a state, other than the home state,

189 in which the financial institution seeks to establish or

190 maintains a branch or nonbranch office.

191 (p)-~~(k)~~ "Imminently insolvent" means a condition in which a

192 financial institution has total capital accounts, or equity in

193 the case of a credit union, of less than 2 percent of its total

194 assets, after adjustment for apparent losses.

195 (q)-~~(l)~~ "Insolvent" means a condition in which:

196 1. The capital accounts, or equity in the case of a credit

ENROLLED
CS/HB 1121

2011 Legislature

197 union, and all assets of a financial institution are
198 insufficient to meet liabilities;

199 2. The financial institution is unable to meet current
200 obligations as they mature, even though assets may exceed
201 liabilities; or

202 3. The capital accounts, ~~or equity in the case of a credit~~
203 ~~union,~~ of a financial institution, or equity in the case of a
204 credit union, are exhausted by losses and no immediate prospect
205 of replacement exists.

206 (r) ~~(m)~~ "Main office" or "principal office" of a financial
207 institution means the main business office designated ~~or~~
208 ~~provided for in its~~ the articles of incorporation or bylaws ~~of a~~
209 ~~financial institution at an such~~ identified location ~~as has been~~
210 ~~or is hereafter~~ approved by the office ~~of Financial Regulation,~~
211 in the case of a state financial institution, or by the
212 appropriate federal regulatory agency, ~~in the case of a federal~~
213 ~~financial institution.~~ ~~and,~~ With respect to the trust
214 department of a bank or association that has trust powers, the
215 ~~each of these terms mean~~ means the office or place of business
216 of the trust department at an such identified location, which
217 need not be the same location as the main office of the bank or
218 association ~~exclusive of the trust department, as has been or is~~
219 ~~hereafter~~ approved by the office ~~of Financial Regulation,~~ in the
220 case of a state bank or association ~~that has a trust department,~~
221 or by the appropriate federal regulatory agency, ~~in the case of~~
222 a national bank or federal association ~~that has a trust~~
223 ~~department.~~ The "main office" or "principal office" of a trust
224 company means the office designated or provided for ~~as such~~ in

ENROLLED
CS/HB 1121

2011 Legislature

225 | its articles of incorporation, at an ~~such~~ identified location as
226 | ~~has been or is hereafter~~ approved by the relevant chartering
227 | authority.

228 | (t) ~~(n)~~ "Officer" of a financial institution means an ~~any~~
229 | individual ~~duly~~ elected or appointed to, or otherwise performing
230 | the duties and functions appropriate to, any position or office
231 | having the designation or title of chair of the board of
232 | directors, vice chair of the board of directors, chair of the
233 | executive committee, president, vice president, assistant vice
234 | president, cashier or assistant cashier, comptroller, assistant
235 | comptroller, trust officer, assistant trust officer, secretary
236 | or assistant secretary ~~(of a trust company)~~, or any other office
237 | or officer designated in, or as provided by, the articles of
238 | incorporation or bylaws.

239 | (u) "Out-of-state financial institution" means a financial
240 | institution whose home state is a state other than this state.

241 | (v) "Related interest" means, with respect to any person,
242 | the person's spouse, partner, sibling, parent, child, or other
243 | individual residing in the same household as the person. With
244 | respect to any person, the term means a company, partnership,
245 | corporation, or other business organization controlled by the
246 | person. A person has control if the person:

247 | 1. Owns, controls, or has the power to vote 25 percent or
248 | more of any class of voting securities of the organization;

249 | 2. Controls in any manner the election of a majority of
250 | the directors of the organization; or

251 | 3. Has the power to exercise a controlling influence over
252 | the management or policies of the organization.

ENROLLED
CS/HB 1121

2011 Legislature

253 (w) ~~(e)~~ "Service corporation" means a corporation that is
254 organized to perform, for two or more financial institutions,
255 services related or incidental to the business of a financial
256 institution and that is wholly or partially owned or controlled
257 by one or more financial institutions.

258 (x) "State," when used in the context of a state other
259 than this state, means any other state of the United States, the
260 District of Columbia, and any territories of the United States.

261 (y) ~~(p)~~ "State financial institution" means a state-
262 chartered or state-organized financial institution association,
263 ~~bank, investment company, trust company, international bank~~
264 ~~agency, international branch, international representative~~
265 ~~office, international administrative office, international trust~~
266 ~~company representative office, or credit union.~~

267 (z) ~~(q)~~ "Subsidiary" means an ~~any~~ organization that
268 ~~permitted by the office which~~ is controlled by a financial
269 institution or a holding company of a financial institution.

270 (aa) ~~(r)~~ "Unsafe or unsound practice" means any practice or
271 conduct found by the office to be contrary to generally accepted
272 standards applicable to a ~~the specific~~ financial institution, or
273 a violation of any prior agreement in writing or order of a
274 state or federal regulatory agency, which practice, conduct, or
275 violation creates the likelihood of loss, insolvency, or
276 dissipation of assets or otherwise prejudices the interest of
277 the ~~specific~~ financial institution or its depositors or members.
278 In making this determination, the office must consider the size
279 and condition of the financial institution, the gravity of the
280 violation, and the prior conduct of the person or institution

ENROLLED
CS/HB 1121

2011 Legislature

281 involved.

282 ~~(bb)-(s)~~ "Office" means the Office of Financial Regulation.

283 ~~(cc)-(t)~~ "Debt cancellation products" means loan, lease, or

284 retail installment contract terms, or modifications or addenda

285 to such ~~loan, lease, or retail installment~~ contracts, under

286 which a creditor agrees to cancel or suspend all or part of a

287 customer's obligation to make payments upon the occurrence of

288 specified events and includes, but is not limited to, debt

289 cancellation contracts, debt suspension agreements, and

290 guaranteed asset protection contracts offered by financial

291 institutions, insured depository institutions as defined in 12

292 U.S.C. s. 1813(c), and subsidiaries of such institutions.

293 ~~However,~~ The term ~~"debt cancellation products"~~ does not include

294 title insurance as defined in s. 624.608.

295 (2) Terms used but not defined in the financial

296 institutions codes, but which are defined in Title XXXIX,

297 entitled Commercial Relations, as enacted in chapters 668

298 through 680, have the meanings ascribed to them in Title XXXIX.

299 ~~(2) Terms which are defined in the financial institutions~~

300 ~~codes, unless the context otherwise requires, have the meanings~~

301 ~~ascribed to them therein.~~

302 Section 2. Section 655.013, Florida Statutes, is amended

303 to read:

304 655.013 Effect on existing financial institutions.—The

305 charters of state financial institutions existing on July 1,

306 1992, at the time of the adoption of this act shall continue in

307 full force and effect. However, after that date, all state

308 financial institutions and, to the extent applicable, all

ENROLLED
CS/HB 1121

2011 Legislature

309 financial institutions shall operate ~~hereafter be operated~~ in
310 accordance with ~~the provisions of~~ the financial institutions
311 codes.

312 Section 3. Section 655.03855, Florida Statutes, is created
313 to read:

314 655.03855 Provisional directors and executive officers.-

315 (1) If a state financial institution has an insufficient
316 number of directors to meet the minimum requirements of s.
317 657.021 or s. 658.33 for 30 days or longer, there are an
318 insufficient number of executive officers, or the qualifications
319 of the executive officers are insufficient to operate the
320 financial institution in a safe and sound manner, the office may
321 appoint one or more provisional directors or executive officers
322 by order.

323 (2) A provisional director has all the rights and powers
324 of a duly elected director, including the right to notice of and
325 to vote at meetings of directors. A provisional executive
326 officer has all the rights and powers provided in the financial
327 institution's articles of incorporation or bylaws, or as
328 specified by the office in the appointment order. A provisional
329 director or executive officer must be an impartial person and
330 may not be a shareholder, member, or creditor of the financial
331 institution or its affiliate. Additional qualifications, if any,
332 may be determined by the office consistent with the financial
333 institutions codes. Provisional directors and executive officers
334 shall serve until the provisional director's or executive
335 officer's tenure is ended by order of the office.

336 (3) A provisional director or executive officer is not

ENROLLED
CS/HB 1121

2011 Legislature

337 liable for any action taken or decision made, except as provided
 338 in the financial institutions codes and s. 607.0831. If directed
 339 by the office, provisional directors and executive officers must
 340 submit reports to the office as to the financial and operating
 341 condition of the financial institution and recommendations as to
 342 appropriate corrective actions to be taken by the institution.

343 (4) The office shall allow reasonable compensation, if
 344 applicable, to a provisional director or executive officer
 345 appointed under this section for services rendered, and
 346 reimbursement or direct payment of all reasonable costs and
 347 expenses, which shall be paid by the financial institution. The
 348 office is not liable for any appointment, action, or decision
 349 made pursuant to this section.

350 Section 4. Subsection (1) of section 655.044, Florida
 351 Statutes, is amended to read:

352 655.044 Accounting practices; bad debts ineligible to be
 353 carried as assets.—

354 (1) Except as otherwise provided by law, a state financial
 355 institution shall observe United States generally accepted
 356 accounting principles ~~and practices~~. The commission may
 357 authorize ~~by rule~~ exceptions to such accounting principles by
 358 rule ~~practices as necessary~~.

359 Section 5. Subsections (1) and (4) of section 655.045,
 360 Florida Statutes, are amended to read:

361 655.045 Examinations, reports, and internal audits;
 362 penalty.—

363 (1)~~(a)~~ The office shall conduct an examination of the
 364 condition of each state financial institution during each 18-

ENROLLED

CS/HB 1121

2011 Legislature

365 ~~month period, beginning July 1, 1981. The office may conduct~~
366 ~~more frequent examinations based upon the risk profile of the~~
367 ~~financial institution, prior examination results, or significant~~
368 ~~changes in the institution or its operations. The office may use~~
369 ~~continuous, phase, or other flexible scheduling examinations~~
370 ~~methods for very large or complex state financial institutions~~
371 ~~and financial institutions owned or controlled by a multi-~~
372 ~~financial institution holding company. The office shall consider~~
373 ~~examination guidelines from federal regulatory agencies in order~~
374 ~~to facilitate, coordinate, and standardize examination~~
375 ~~processes. The office may accept an examination made by the~~
376 ~~appropriate federal regulator, insuring or guaranteeing~~
377 ~~corporation, or agency with respect to the condition of the~~
378 ~~state financial institution or may make a joint or concurrent~~
379 ~~examination with the appropriate federal regulator, insuring or~~
380 ~~guaranteeing corporation, or agency. However, at least once~~
381 ~~during each 36-month period beginning on July 3, 1992, the~~
382 ~~office shall conduct an examination of each state financial~~
383 ~~institution in such a manner as to allow the preparation of a~~
384 ~~complete examination report not subject to the right of any~~
385 ~~federal or other non-Florida entity to limit access to the~~
386 ~~information contained therein.~~

387 (a) With respect to, and examination of, the condition of
388 a state institution, the office may accept an examination made
389 by an appropriate federal regulatory agency, or may make a joint
390 or concurrent examination with the federal agency. The office
391 may furnish a copy of all examinations or reviews made of
392 financial institutions or their affiliates to the state or

ENROLLED
CS/HB 1121

2011 Legislature

393 federal agencies participating in the examination,
394 investigation, or review, or as otherwise authorized by s.
395 655.057.

396 (b) If, as a part of an examination or investigation of a
397 state financial institution, subsidiary, or service corporation,
398 the office has reason to believe that ~~an affiliate is engaged in~~
399 ~~an unsafe or unsound practice or that~~ the conduct or business
400 operations of an affiliate may have ~~has~~ a negative impact on the
401 state financial institution, subsidiary, or service corporation,
402 ~~then~~ the office may conduct such ~~review such books and records~~
403 ~~as are reasonably related to the examination or investigation of~~ of
404 the affiliate as the office deems necessary. ~~The office may~~
405 ~~furnish a copy of all examinations or reviews made of such~~
406 ~~financial institutions or their affiliates to the state or~~
407 ~~federal financial institution regulators participating in the~~
408 ~~examination of a bank holding company; an association holding~~
409 ~~company; or any of their subsidiaries, service corporations, or~~
410 ~~affiliates; an insuring or guaranteeing corporation or agency or~~
411 ~~its representatives; or state financial institution regulators~~
412 ~~participating in the examination of a holding company or its~~
413 ~~subsidiaries.~~

414 (c) ~~(b)~~ The office may recover the costs of examination and
415 supervision of a state financial institution, subsidiary, or
416 service corporation that is determined by the office to be
417 engaged in an unsafe or unsound practice. The office may also
418 recover the costs of any review conducted pursuant to paragraph
419 (b) ~~(a)~~ of any affiliate of a state financial institution
420 determined by the office to have contributed to an unsafe or

ENROLLED
CS/HB 1121

2011 Legislature

421 | unsound practice at a state financial institution, subsidiary,
422 | or service corporation.

423 | ~~(d)-(e)~~ For the purposes of this section, the term "costs"
424 | means the salary and travel expenses directly attributable to
425 | the field staff examining the state financial institution,
426 | subsidiary, or service corporation, and the travel expenses of
427 | any supervisory staff required as a result of examination
428 | findings. The mailing of any costs incurred under this
429 | subsection must be postmarked within ~~not later than~~ 30 days
430 | after the date of receipt of a notice stating that such costs
431 | are due. The office may levy a late payment of up to \$100 per
432 | day or part thereof that a payment is overdue, unless ~~it is~~
433 | excused for good cause. However, for intentional late payment of
434 | costs, the office may levy an administrative fine of up to
435 | \$1,000 per day for each day the payment is overdue.

436 | ~~(e)-(d)~~ The office may require an audit of a ~~any~~ state
437 | financial institution, subsidiary, or service corporation by an
438 | independent certified public accountant, or other person
439 | approved by the office, if ~~whenever~~ the office, after conducting
440 | an examination of the ~~such~~ state financial institution,
441 | subsidiary, or service corporation, or after accepting an
442 | examination of such state financial institution by an ~~the~~
443 | appropriate state or federal regulatory agency, determines that
444 | ~~such~~ an audit is necessary in order to ascertain the condition
445 | of the financial institution, subsidiary, or service
446 | corporation. The cost of such audit shall be paid by the state
447 | financial institution, subsidiary, or state service corporation.

448 | (4) A copy of the report of each examination must be

ENROLLED
CS/HB 1121

2011 Legislature

449 furnished to the entity ~~financial institution~~ examined. Such
450 report ~~of examination~~ shall be presented to the board of
451 directors at its next regular or special meeting.

452 Section 6. Section 655.41, Florida Statutes, is amended to
453 read:

454 655.41 ~~Cross-industry Conversions, mergers,~~
455 ~~consolidations, and acquisitions;~~ Definitions used in ss.
456 ~~655.41-655.419.~~—As used in ss. 655.41-655.419, the term:

457 (1) "Financial entity" means a financial institution whose
458 ~~an association, bank, credit union, savings bank, Edge Act or~~
459 ~~agreement corporation, or trust company organized under the laws~~
460 ~~of this state or organized under the laws of the United States~~
461 ~~and having its principal office is place of business in this~~
462 state.

463 (2) "Capital stock financial institution" means a
464 financial institution that ~~entity which~~ is authorized to issue
465 capital stock.

466 (3) "Mutual financial institution" means a financial
467 institution that ~~entity which~~ is not authorized to issue stock
468 and the assets of which are owned by its members.

469 Section 7. Paragraphs (a) and (c) of subsection (1) of
470 section 655.411, Florida Statutes, are amended to read:

471 655.411 Conversion of charter.—

472 (1) A ~~Any~~ financial entity may apply to the office for
473 permission to convert its charter without changing its ~~a change~~
474 ~~of business form or convert its charter in order~~ to do business
475 as another type of financial entity in accordance with the
476 following procedures:

ENROLLED
CS/HB 1121

2011 Legislature

477 (a) The board of directors must approve a plan of
478 conversion by a majority vote ~~of a majority~~ of all the
479 directors. The plan must include a statement of:

480 1. The type of financial entity which would result if the
481 application were approved and the proposed name under which it
482 would do business.

483 2. The method and schedule for terminating any activities
484 and disposing of any assets or liabilities that ~~which~~ would not
485 conform to the requirements of ~~applicable to~~ the resulting
486 financial entity.

487 3. The ~~competitive~~ impact of such change on the financial
488 entity's business plan and operations, including any effect on
489 the availability of particular financial services in the market
490 area served by the financial entity.

491 4. Such financial data as may be required to determine
492 compliance with the capital, reserve, and liquidity requirements
493 applicable to the resulting financial entity.

494 5. Such other information as the commission may by rule
495 require.

496 (c) The office shall approve the plan if it finds that:

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

500 2. The proposed conversion would not cause a substantially
501 adverse effect on the financial condition of the ~~any~~ financial
502 entity ~~already established in the primary service area~~.

503 3. The officers and directors have sufficient experience,
504 ability, and standing to indicate a reasonable promise for the

ENROLLED
CS/HB 1121

2011 Legislature

505 successful operation of the resulting financial entity.

506 4. The schedule for termination of any nonconforming
507 activities and disposition of any nonconforming assets and
508 liabilities is reasonably prompt, and the plan for such
509 termination and disposition does not include an ~~any~~ unsafe or
510 unsound practice.

511 5. ~~None of~~ The officers or directors have not ~~has~~ been
512 convicted of, or pled guilty or nolo contendere to, a violation
513 of s. 655.50, relating to ~~the Florida Control of~~ money
514 laundering in financial institutions ~~Act~~; chapter 896, relating
515 to offenses related to financial transactions; or any similar
516 state or federal law.

517 6. The resulting financial entity is able to comply with
518 the applicable terms of any regulatory action in effect before
519 the date of the conversion.

520 7. The current and resulting primary federal regulatory
521 agencies do not object to the proposed conversion.

522
523 If the office disapproves the plan, it shall state its
524 objections and give the financial entity an opportunity ~~to the~~
525 ~~parties~~ to amend the plan to overcome such objections. The
526 office may deny an application by an ~~any~~ financial entity that
527 ~~which~~ is subject to a cease and desist order or other
528 supervisory restriction or order imposed by a ~~any~~ state or
529 federal supervisory authority, insurer, or guarantor.

530 Section 8. Section 655.414, Florida Statutes, is amended
531 to read:

532 655.414 Acquisition of assets; assumption of liabilities.—

ENROLLED
CS/HB 1121

2011 Legislature

533 With prior approval of the office and upon such conditions as
534 the commission prescribes by rule, a ~~any~~ financial entity may
535 acquire all or substantially all of the assets of, or assume all
536 or any part of the liabilities of, any other financial
537 institution ~~entity~~ in accordance with the procedures and subject
538 to the following conditions and limitations:

539 (1) ADOPTION OF A PLAN.—The board of directors of the
540 acquiring or assuming financial entity and the board of
541 directors of the transferring financial institution ~~entity~~ must
542 adopt, by a majority vote, a plan for such acquisition,
543 assumption, or sale on ~~such~~ terms that ~~as~~ are mutually agreed
544 upon. The plan must include:

545 (a) The names and types of financial institutions ~~entities~~
546 involved.

547 (b) A statement setting forth the material terms of the
548 proposed acquisition, assumption, or sale, including the plan
549 for disposition of all assets and liabilities not subject to the
550 plan.

551 (c) A provision for liquidation, if applicable, of the
552 transferring financial institution ~~entity~~ upon execution of the
553 plan, or a provision setting forth the business plan for the
554 continued operation of each financial institution after the
555 execution of the plan.

556 (d) A statement that the entire transaction is subject to
557 written approval of the office and approval of the members or
558 stockholders of the transferring financial institution ~~entity~~.

559 (e) If a stock financial institution is the transferring
560 financial institution ~~entity~~ and the proposed sale is not ~~to be~~

ENROLLED
CS/HB 1121

2011 Legislature

561 for cash, a clear and concise statement that dissenting
562 stockholders of the institution ~~such financial entity~~ are
563 entitled to the rights set forth in s. 658.44(4) and (5).

564 (f) The proposed effective date of the ~~such~~ acquisition,
565 assumption, or sale and such other information and provisions as
566 ~~may be~~ necessary to execute the transaction or as ~~may be~~
567 required by the office.

568 (2) APPROVAL OF OFFICE.—Following approval by the board of
569 directors of each participating financial institution ~~entity~~,
570 the plan, together with certified copies of the authorizing
571 resolutions adopted by the boards and a completed application
572 with a nonrefundable filing fee, must be forwarded to the office
573 for ~~its~~ approval or disapproval. The office shall approve the
574 plan of acquisition, assumption, or sale if it appears that:

575 (a) The resulting financial entity or entities would have
576 an adequate capital structure in relation to its activities and
577 its deposit liabilities;

578 (b) The plan is fair to all parties; and

579 (c) The plan is not contrary to the public interest.

580

581 If the office disapproves the plan, it shall state its
582 objections and give the parties an opportunity ~~to the parties~~ to
583 amend the plan to overcome such objections.

584 (3) VOTE OF MEMBERS OR STOCKHOLDERS.—If the office
585 approves the plan, it may be submitted to the members or
586 stockholders of the transferring financial institution ~~entity~~ at
587 an annual meeting or at a ~~any~~ special meeting called to consider
588 such action. Upon a majority ~~favorable~~ vote of ~~51 percent~~ or

ENROLLED
CS/HB 1121

2011 Legislature

589 ~~more~~ of the total number of votes eligible to be cast or, in the
590 case of a credit union, a majority vote ~~51 percent or more~~ of
591 the members present at the meeting, the plan is adopted.

592 (4) ADOPTED PLAN; CERTIFICATE; ABANDONMENT.—

593 (a) If the plan is adopted by the members or stockholders
594 of the transferring financial institution ~~entity~~, the president
595 or vice president and the cashier, manager, or corporate
596 secretary of such institution ~~financial entity~~ shall submit the
597 adopted plan to the office, together with a certified copy of
598 the resolution of the members or stockholders approving it.

599 (b) Upon receipt of the certified copies and evidence that
600 the participating financial institutions ~~entities~~ have complied
601 with all applicable state and federal law and rules ~~regulations~~,
602 the office shall certify, in writing, to the participants that
603 the plan has been approved.

604 (c) Notwithstanding approval of the members or
605 stockholders or certification by the office, the board of
606 directors of the transferring financial institution ~~entity~~ may,
607 ~~in its discretion~~, abandon such a transaction without further
608 action or approval by the members or stockholders, subject to
609 the rights of third parties under any contracts relating
610 thereto.

611 (5) FEDERALLY CHARTERED OR OUT-OF-STATE INSTITUTION AS A
612 PARTICIPANT.—If one of the participants in a transaction under
613 this section is a federally chartered financial institution or
614 an out-of-state financial institution ~~entity~~, all participants
615 must also comply with ~~such~~ requirements ~~as may be~~ imposed by
616 federal and other state law for the ~~such an~~ acquisition,

ENROLLED
CS/HB 1121

2011 Legislature

617 assumption, or sale and provide evidence of such compliance to
618 the office as a condition precedent to the issuance of a
619 certificate authorizing the transaction; however, if the
620 purchasing or assuming financial institution ~~entity~~ is a federal
621 or out-of-state state-chartered ~~federally chartered~~ financial
622 institution and the transferring state financial entity will be
623 liquidated, approval of the office is not required.

624 (6) STOCK INSTITUTION ACQUIRING MUTUAL INSTITUTION.—A
625 mutual financial institution may not sell all or substantially
626 all of its assets to a stock financial institution ~~entity~~ until
627 it has first converted into a capital stock financial
628 institution in accordance with s. 665.033(1) and (2). For this
629 purpose, references in s. 665.033(1) and (2) to associations ~~are~~
630 ~~deemed to refer~~ also refer to credit unions; but, in the case of
631 a credit union, the provision ~~therein~~ concerning proxy
632 statements does not apply.

633 Section 9. Section 655.416, Florida Statutes, is amended
634 to read:

635 655.416 Book value of assets.—Upon the effective date of a
636 merger, consolidation, conversion, or acquisition pursuant to
637 ss. 655.41–655.419, an asset may not be carried on the books of
638 the resulting financial entity at a valuation higher than that
639 at which it was carried on the books of a participating or
640 converting financial institution ~~entity~~ at the time of its last
641 examination by a state or federal examiner before such ~~the~~
642 ~~effective date of such merger, consolidation, conversion, or~~
643 ~~acquisition~~, without written approval from the office.

644 Section 10. Section 655.417, Florida Statutes, is amended

ENROLLED
CS/HB 1121

2011 Legislature

645 to read:

646 655.417 Effect of merger, consolidation, conversion, or
647 acquisition.—From and after the effective date of a merger,
648 consolidation, conversion, or acquisition, the resulting
649 financial entity or entities may conduct business in accordance
650 with the terms of the plan as approved, subject to the following
651 conditions and limitations; ~~provided that:~~

652 (1) CONTINUING ENTITY.—Even though the charter of a
653 participating or converting financial institution may have
654 ~~entity has~~ been terminated, the resulting financial entity is
655 deemed to be a continuation of the participating or converting
656 financial institution ~~entity~~ such that all acquired property of
657 the participating or converting institution ~~financial entity~~,
658 including rights, titles, and interests in and to all property
659 of whatsoever kind, whether real, personal, or mixed, and things
660 in action, and all rights, privileges, interests, and assets of
661 any conceivable value or benefit which are then existing, or
662 pertaining to it, or which would inure to it, are immediately
663 vested in and continue to be the property of the resulting
664 financial entity, by act of law and without any conveyance or
665 transfer and without further act or deed. The resulting; ~~and~~
666 ~~such~~ financial entity has, holds, and enjoys the same in its own
667 right as fully and to the same extent as the same was possessed,
668 held, and enjoyed by the participating or converting financial
669 institution ~~entity;~~ and, at the time ~~of the taking effect of~~
670 such merger, consolidation, conversion, or acquisition takes
671 effect, the resulting financial entity has and succeeds to all
672 the rights, obligations, and relations of the participating or

ENROLLED
CS/HB 1121

2011 Legislature

673 converting institution ~~financial entity~~.

674 (2) EFFECT ON JUDICIAL PROCEEDINGS.—Any pending action or
675 other judicial proceeding to which the participating or
676 converting financial institution ~~entity~~ is a party is not abated
677 by reason of such merger, consolidation, conversion, or
678 acquisition but may be prosecuted to final judgment, order, or
679 decree ~~in the same manner~~ as if such action had not been taken,[†]
680 ~~and~~ The resulting financial entity ~~resulting from such merger,~~
681 ~~consolidation, conversion, or acquisition~~ may continue such
682 action in its new name,[†] and any judgment, order, or decree that
683 ~~may be rendered for or against it which~~ might have been rendered
684 for or against the participating or converting institution ~~may~~
685 be rendered for or against the resulting financial entity
686 ~~previously involved in such judicial proceeding.~~

687 (3) CREDITORS' RIGHTS.—The resulting financial entity in a
688 merger, consolidation, conversion, or acquisition is liable for
689 all obligations of the participating or converting financial
690 institution ~~entity~~ which existed before ~~prior to~~ such action,[†]
691 and the action taken does not prejudice the right of a creditor
692 of the participating or converting financial institution
693 ~~financial entity~~ to have his or her debts paid out of the assets
694 thereof, nor may such creditor be deprived of, or prejudiced in,
695 any action against the officers, directors, members, or other
696 persons participating in the conduct of the affairs of a
697 participating or converting financial institution ~~entity~~ for any
698 neglect or misconduct.

699 (4) EXCEPTION.—In the case of an acquisition of assets or
700 assumption of liabilities pursuant to s. 655.414, ~~the provisions~~

ENROLLED
CS/HB 1121

2011 Legislature

701 ~~of~~ subsections (1), (2), and (3) apply only to the assets
702 acquired and the liabilities assumed by the resulting financial
703 entity if, ~~provided~~ sufficient assets to satisfy all liabilities
704 not assumed by the resulting financial entity are retained by
705 the transferring financial institution entity.

706 Section 11. Section 655.418, Florida Statutes, is amended
707 to read:

708 655.418 Nonconforming activities; cessation.—If, as a
709 result of a merger, consolidation, conversion, or acquisition
710 ~~pursuant to ss. 655.41–655.419~~, the resulting financial entity
711 is to be of a different type or of a different character than
712 any one or all of the participating or converting financial
713 institutions ~~entities~~, such resulting financial entity is ~~will~~
714 ~~be~~ subject to the following conditions and limitations:

715 (1) PLAN FOR TERMINATION.—The plan of merger,
716 consolidation, conversion, or acquisition must set forth the
717 method and schedule for terminating those activities that are
718 not permitted by the laws of this state for the resulting
719 financial entity but ~~that~~ were authorized for ~~any~~ of the
720 participating or converting financial institutions ~~entities~~.

721 (2) EFFECTIVE DATE.—The plan of merger, consolidation,
722 conversion, or acquisition must state that, from the effective
723 date of such action, the resulting financial entity will not
724 engage in any nonconforming activities, except to the extent
725 necessary to fulfill obligations existing before ~~prior to~~ the
726 merger, consolidation, conversion, or acquisition, pursuant to
727 subsection (4).

728 (3) COMPLIANCE WITH LENDING AND INVESTMENT LIMITATIONS.—

ENROLLED
CS/HB 1121

2011 Legislature

729 If, as a result of such merger, consolidation, conversion, or
730 acquisition, the resulting financial entity will exceed any
731 lending, investment, or other limitations imposed by law, the
732 financial entity must ~~shall~~ conform to such limitations within
733 such period of time as is established by the office.

734 (4) DIVESTITURE.—The office may, as a condition to such
735 merger, consolidation, conversion, or acquisition, require a
736 nonconforming activity to be divested in accordance with such
737 additional requirements as it considers appropriate under the
738 circumstances.

739 Section 12. Section 655.4185, Florida Statutes, is amended
740 to read:

741 655.4185 Emergency action.—

742 (1) Notwithstanding any other provision of the financial
743 institutions codes or ~~of~~ chapter 120, if the office or the
744 appropriate federal regulatory agency, or the appropriate home
745 state regulatory agency for an out-of-state state financial
746 institution, finds that immediate action is necessary ~~in order~~
747 to prevent the probable failure of one or more financial
748 institutions, aid in the resolution of a receivership,
749 conservatorship, or liquidation of a financial institution, or
750 otherwise protect the depositors of a failing financial
751 institution, which in this subsection may be referred to as a
752 "failing financial entity," the office may, ~~with the concurrence~~
753 ~~of the appropriate federal regulatory agency in the case of any~~
754 ~~financial institution the deposits of which are insured by the~~
755 ~~Federal Deposit Insurance Corporation or the National Credit~~
756 ~~Union Administration,~~ issue an emergency order authorizing:

ENROLLED
CS/HB 1121

2011 Legislature

757 (a) The merger of ~~any~~ such failing institution ~~financial~~
758 ~~entity~~ with an appropriate state financial institution ~~entity~~;

759 (b) An appropriate state financial institution ~~entity~~ to
760 acquire any of the assets ~~or~~ ~~and~~ assume any of the liabilities,
761 or any combination thereof, of the ~~any such~~ failing institution
762 ~~financial~~ ~~entity~~, including all rights, powers, and
763 responsibilities as fiduciary in an instance in which the
764 failing ~~financial~~ institution is actively engaged in the
765 exercise of trust powers;

766 (c) The conversion of a ~~any such~~ failing institution
767 ~~financial~~ ~~entity~~ into a state financial institution that is not
768 failing ~~entity~~; ~~or~~

769 (d) The chartering of a new state financial institution
770 ~~entity~~ to acquire any of the assets ~~or~~ ~~and~~ assume any of the
771 liabilities, or any combination thereof, of a ~~any such~~ failing
772 institution ~~financial~~ ~~entity~~ and to assume rights, powers, and
773 responsibilities as fiduciary in a case in which such failing
774 institution ~~financial~~ ~~entity~~ is engaged in the exercise of trust
775 powers; ~~-~~

776 (e) The direct or indirect acquisition of control of the
777 failing institution;

778 (f) The appointment of provisional directors, executive
779 officers, or other employees for the failing institution
780 pursuant to s. 655.03855; or

781 (g) Any other capital or liquidity restoration plan or
782 action deemed prudent by the office.

783 (2) Any ~~such~~ finding by the office must be based upon
784 reports or other information furnished to it by the failing

ENROLLED
CS/HB 1121

2011 Legislature

785 financial institution, by a state or federal financial
786 institution examiner or regulatory entity, or upon other
787 evidence from which it is reasonable to conclude that the
788 failing ~~such financial~~ institution is insolvent, ~~or~~ is
789 threatened with imminent insolvency, or lacks a board of
790 directors or executive management that can operate the entity in
791 a safe and sound manner. The office may disallow intangible
792 assets, deferred tax assets, loan or lease loss reserves,
793 subordinated debt, and illegally obtained currency, monetary
794 instruments, funds, or other financial resources from the
795 capitalization requirements of the financial institutions codes.
796 The stockholders of a failing institution ~~bank, association, or~~
797 ~~trust company~~ that is acquired by another financial institution
798 ~~bank or trust company under this section~~ are entitled to the
799 same procedural rights and ~~to~~ compensation for the remaining
800 value of their shares as is provided for dissenters in s.
801 658.44, except that they may not ~~have no right to~~ vote against
802 the transaction. Any transaction authorized by this section may
803 be accomplished through the organization of a successor
804 financial institution.

805 (3) The office may provide prior approval of business
806 entities or individuals who, pursuant to this section, may
807 charter a new state financial institution or acquire control of,
808 purchase, merge with, or become directors and executive officers
809 of, a failing financial institution. The application for prior
810 approval must be in the form prescribed by the commission by
811 rule and be accompanied by a nonrefundable filing fee of \$7,500.

812 Section 13. Section 655.419, Florida Statutes, is amended

ENROLLED
CS/HB 1121

2011 Legislature

813 to read:
814 655.419 Effect.—The provisions of ss. 655.41- 655.419
815 relating to merger, consolidation, conversion, or acquisition of
816 assets of any financial institution ~~entity~~ are cumulative with
817 all other provisions of the financial institutions codes and do
818 not modify, limit, or repeal any ~~of such~~ other provisions except
819 as expressly provided in the codes or as stated in an emergency
820 order issued by the office pursuant to s. 655.4185 ~~stated~~
821 ~~herein. Additionally, the provisions of ss. 655.41- 655.419~~
822 ~~do not grant any authority, directly or indirectly, for any~~
823 ~~bank, association, trust company, association holding company,~~
824 ~~or bank holding company, the operations of which are principally~~
825 ~~conducted outside this state, to acquire, convert to, or merge~~
826 ~~or consolidate with any financial entity.~~

827 Section 14. Subsection (1) of section 655.947, Florida
828 Statutes, is amended to read:

829 655.947 Debt cancellation products.—

830 (1) Debt cancellation products may be offered, and a fee
831 may be charged, by financial institutions and subsidiaries of
832 financial institutions subject to ~~the provisions of~~ this section
833 and the rules and orders of the commission or office. As used in
834 this section, the term "financial institutions" includes those
835 defined in s. 655.005-~~(1)-(h)~~, insured depository institutions as
836 defined in 12 U.S.C. s. 1813, and subsidiaries of such
837 institutions.

838 Section 15. Present subsections (8) through (16) of
839 section 657.038, Florida Statutes, are redesignated as
840 subsections (7) through (15), respectively, and subsections (6)

ENROLLED
CS/HB 1121

2011 Legislature

841 and (7) of that section are amended, to read:

842 657.038 Loan powers.—

843 ~~(6) As used in this section, the term "related interest"~~
844 ~~means a person's interest in a partnership as a general partner,~~
845 ~~and any limited partnership, corporation, or other business~~
846 ~~organization controlled by that person. A limited partnership,~~
847 ~~corporation, or other business organization is controlled by a~~
848 ~~person who:~~

849 ~~(a) Owns, controls, or has the power to vote 25 percent or~~
850 ~~more of any class of voting securities of any such business~~
851 ~~organization;~~

852 ~~(b) Controls in any manner the election of a majority of~~
853 ~~the directors of any such business organization; or~~

854 ~~(c) Has the power to exercise a controlling influence over~~
855 ~~the management or policies of such business organization.~~

856 ~~(6)-(7)~~ In computing a person's the total obligations
857 outstanding liabilities of any person, all loans endorsed or
858 guaranteed as to repayment by that such person and ~~by~~ any
859 related interest of such person must be included. The credit
860 union must also include all of the person's potential
861 liabilities and obligations resulting from the person's
862 derivatives transactions, repurchase agreements, securities
863 lending and borrowing transactions, credit default swaps, and
864 similar contracts.

865 Section 16. Subsection (7) of section 657.042, Florida
866 Statutes, is amended to read:

867 657.042 Investment powers and limitations.—A credit union
868 may invest its funds subject to the following definitions,

ENROLLED
CS/HB 1121

2011 Legislature

869 restrictions, and limitations:

870 (7) SPECIAL PROVISIONS.—

871 (a) A credit union may not invest its funds in ~~None of the~~
872 ~~bonds or other obligations described in this section shall be~~
873 ~~eligible for investment by credit unions in any amount unless~~
874 the bonds or other obligations are current as to all payments of
875 principal and interest and unless rated in one of the four
876 ~~highest classifications, or, in the case of commercial paper,~~
877 ~~unless it is of prime quality and of the highest letter and~~
878 ~~numerical rating, as established by a nationally recognized~~
879 ~~investment rating service, or any comparable rating as~~
880 ~~determined by the office.~~

881 (b) A credit union shall establish written policies and
882 procedures for evaluating the systemic and specific risks and
883 benefits associated with investments authorized under this
884 section before making such investments and must conduct
885 appropriate risk management and monitoring for the duration of
886 the investment. An investment decision may not be based solely
887 on the rating of the bond or other obligation by an investment
888 rating service. The office may require a credit union to divest
889 itself of an investment that the office determines creates
890 excessive risk or the associated risk exceeds the ability of the
891 credit union to properly evaluate and manage.

892 (c) ~~(b)~~ With prior office approval ~~of the office~~, any
893 investment permitted in this section may also be made indirectly
894 by investment in a trust or mutual fund, the investments of
895 which are limited as set forth in this section., ~~provided that~~
896 The credit union must maintain a current file on each investment

ENROLLED
CS/HB 1121

2011 Legislature

897 | which contains sufficient information to determine whether the
898 | investment complies with the requirements of this section. If
899 | the investment fails to comply ~~with the requirements of this~~
900 | ~~section~~, the credit union must divest itself of its investment,
901 | unless otherwise approved by the office.

902 | Section 17. Subsection (5) of section 657.063, Florida
903 | Statutes, is amended to read:

904 | 657.063 Involuntary liquidation.—

905 | (5) When the liquidating agent of the credit union has
906 | been appointed, the office may waive or deem inapplicable the
907 | fees required by this chapter and the examination required by s.
908 | 655.045(1) ~~(a) if, provided~~ the liquidating agent submits
909 | periodic reports to the office on the status of the liquidation.

910 | Section 18. Subsection (8) of section 657.064, Florida
911 | Statutes, is amended to read:

912 | 657.064 Voluntary liquidation.—A credit union may elect to
913 | dissolve voluntarily and liquidate its affairs in the following
914 | manner:

915 | (8) When the liquidating agent of the credit union has
916 | been appointed, the office may waive or hold inapplicable the
917 | fees required by this chapter and the examination required by s.
918 | 655.045(1) ~~(a) if, provided~~ the liquidating agent submits
919 | periodic reports to the office on the status of the liquidation.

920 | Section 19. Subsections (3), (4), and (25) of section
921 | 658.12, Florida Statutes, are amended to read:

922 | 658.12 Definitions.—Subject to other definitions contained
923 | in the financial institutions codes and unless the context
924 | otherwise requires:

ENROLLED
CS/HB 1121

2011 Legislature

925 (3) "Banker's bank" means a bank insured by the Federal
926 Deposit Insurance Corporation, or a holding company which owns
927 or controls such an insured bank, if a minimum of 75 percent of
928 ~~when~~ the stock of such bank or holding company is owned
929 exclusively by other banks, the bank is organized solely to do
930 business with other financial institutions, and the bank does
931 not do business with the general public ~~and such bank or holding~~
932 ~~company and all subsidiaries thereof are engaged exclusively in~~
933 ~~providing services for other financial institutions and their~~
934 ~~officers, directors, and employees.~~

935 (4) "Branch" or "branch office" of a bank means any office
936 or place of business of a bank, other than its main office and
937 the facilities and operations authorized by ss. 658.26(4),
938 ~~658.65~~, and 660.33, at which deposits are received, checks are
939 paid, or money is lent. With respect to a bank that ~~which~~ has a
940 trust department, the terms "~~branch~~" and "~~branch office~~" have
941 the meanings herein ascribed to a branch or a branch office of a
942 trust company and mean. "~~Branch~~" or "~~branch office~~" of a trust
943 ~~company means~~ any office or place of business of a trust
944 company, other than its main office and its trust service
945 offices established pursuant to s. 660.33, where trust business
946 is transacted with its customers.

947 ~~(25) Terms used but not defined in this code, but which~~
948 ~~are defined in Revised Article 3 or Article 4 of the Uniform~~
949 ~~Commercial Code as enacted in chapters 673 and 674 shall, in~~
950 ~~this code, unless the context otherwise requires, have the~~
951 ~~meanings ascribed to them in chapters 673 and 674.~~

952 Section 20. Section 658.165, Florida Statutes, is amended

ENROLLED
CS/HB 1121

2011 Legislature

953 to read:

954 658.165 Banker's banks; formation; applicability of
955 financial institutions codes; exceptions.-

956 (1) If ~~When~~ authorized by the office, a corporation may be
957 formed under the laws of this state for the purpose of becoming
958 a banker's bank. An application for authority to organize a
959 banker's bank is subject to ~~the provisions of~~ ss. 658.19,
960 658.20, and 658.21, except that s. the provisions of ss.
961 658.20(1)(b) and (c) and the minimum stock ownership
962 requirements for the organizing directors provided in s.
963 658.21(2) do not apply.

964 (2) A banker's bank chartered pursuant to subsection (1)
965 is shall be subject to the ~~provisions of the~~ financial
966 institutions codes and rules adopted thereunder; and, except as
967 otherwise specifically provided herein or by rule or order of
968 the commission or office, a banker's bank is shall be vested
969 with or subject to the same rights, privileges, duties,
970 restrictions, penalties, liabilities, conditions, and
971 limitations that would apply to a state bank. A banker's bank is
972 organized solely to do business with other financial
973 institutions and is not deemed to be doing business with the
974 general public even if, as an incidental part of its activities,
975 it does business to a limited extent with entities and persons
976 other than financial institutions as follows:

977 (a) The range of customers with which the banker's bank
978 does business is limited to financial institutions, including
979 subsidiaries or organizations owned by financial institutions;
980 directors, officers, or employees of the same or other financial

ENROLLED
CS/HB 1121

2011 Legislature

981 institutions; individuals whose accounts are acquired at the
 982 request of a financial institution's supervisory authority due
 983 to the actual or impending failure of a financial institution;
 984 and financial institution trade associations; and

985 (b) The banker's bank does not make loans to, or
 986 investments in, entities and persons other than financial
 987 institutions which exceed 10 percent of the banker's bank's
 988 total assets, and the banker's bank does not receive deposits
 989 from, or issue other liabilities to, entities and persons other
 990 than financial institutions which exceed 10 percent of the
 991 banker's bank total liabilities.

992 (3) Notwithstanding any other provision of this chapter, a
 993 banker's bank may repurchase, for its own account, shares of its
 994 own capital stock; however, the outstanding capital stock may
 995 not be reduced below the minimum required by this chapter
 996 without the prior approval of the office.

997 (4) A banker's bank may provide services at the request of
 998 financial institutions in organization ~~organizations~~ that have:

999 (a) Received conditional regulatory approval from the
 1000 office in the case of a state bank or trust company, or from the
 1001 appropriate state regulatory agency in the case of an out-of-
 1002 state bank or trust company, or received preliminary approval
 1003 from the Office of the Comptroller of the Currency in the case
 1004 of a national bank.

1005 (b) Filed articles of incorporation or organization
 1006 pursuant to s. 658.23 in the case of a state bank or trust
 1007 company, or pursuant to applicable state law in the case of an
 1008 out-of-state bank or trust company, or filed acceptable articles

ENROLLED
CS/HB 1121

2011 Legislature

1009 of incorporation and an organization certificate in the case of
1010 a national bank.

1011 (c) Received capital funds in an amount not less than the
1012 minimum capitalization required in any notice of or order
1013 granting conditional regulatory approval.

1014 (5) A banker's bank may provide services to the organizers
1015 of a ~~proposed~~ financial institution in organization which ~~that~~
1016 has not received conditional regulatory approval if ~~provided~~
1017 ~~that~~ such services are limited to the financing of the expenses
1018 of organizing such proposed financial institution and expenses
1019 relating to the acquisition or construction of the institution's
1020 proposed operating facilities and associated fixtures and
1021 equipment.

1022 (6) If the commission or office finds that any provision
1023 of this chapter is inconsistent with the purpose for which a
1024 banker's bank is organized and that the welfare of the public or
1025 any financial institution would not be jeopardized thereby, the
1026 commission, by rule, or the office, by order, may exempt a
1027 banker's bank from such provision or limit the application
1028 thereof.

1029 Section 21. Subsection (3) of section 658.20, Florida
1030 Statutes, is repealed.

1031 Section 22. Subsection (1) of section 658.28, Florida
1032 Statutes, is amended to read:

1033 658.28 Acquisition of control of a bank or trust company.—

1034 (1) If ~~In any case in which~~ a person or a group of
1035 persons, directly or indirectly or acting by or through one or
1036 more persons, proposes to purchase or acquire a controlling

ENROLLED
CS/HB 1121

2011 Legislature

1037 interest in a any state bank or state trust company, and ~~thereby~~
1038 ~~to~~ change the control of that bank or trust company, such ~~each~~
1039 ~~person or group of persons~~ must ~~shall~~ first submit an ~~make~~
1040 application to the office for a certificate of approval of such
1041 proposed change ~~of control of the bank or trust company~~.

1042 (a) The application must ~~shall~~ contain the name and
1043 address, and such other relevant information as the commission
1044 or office requires, including information relating to other and
1045 former addresses and the reputation, character, responsibility,
1046 and business affiliations, ~~of the proposed new owner or each of~~
1047 ~~the proposed~~ new owners of the controlling interest.

1048 (b) The office shall issue a certificate of approval only
1049 after it has made an investigation and determined that the
1050 proposed new ~~owner or~~ owners of the interest are qualified by
1051 reputation, character, experience, and financial responsibility
1052 to control and operate the bank or trust company in a legal and
1053 proper manner and that the interests of the other stockholders,
1054 if any, ~~and~~ the depositors and creditors of the bank or trust
1055 company, ~~and the interests of the public generally~~ will not be
1056 jeopardized by the proposed change in ownership, controlling
1057 interest, or management.

1058 (c) ~~A~~ No person who has been convicted of, or pled guilty
1059 or nolo contendere to, a violation of s. 655.50, relating to ~~the~~
1060 ~~Florida Control of~~ money laundering in financial institutions
1061 ~~Act~~; chapter 896, relating to offenses related to financial
1062 transactions; or any similar state or federal law may not
1063 receive ~~shall be given~~ a certificate of approval ~~by the office~~.

1064 (d) A business organization that is not a bank holding

ENROLLED
CS/HB 1121

2011 Legislature

1065 company authorized by the office or the federal Bank Holding
1066 Company Act of 1956, as amended, 12 U.S.C. ss. 1841 et seq., may
1067 not control a bank.

1068 Section 23. Section 658.295, Florida Statutes, is
1069 repealed.

1070 Section 24. Section 658.2953, Florida Statutes, is amended
1071 to read:

1072 658.2953 Interstate branching.—

1073 (1) SHORT TITLE.—This section may be cited as the "Florida
1074 Interstate Branching Act."

1075 (2) PURPOSE.—The purpose of this section is to provide for
1076 the regulation of ~~permit~~ interstate branching, ~~effective May 31,~~
1077 ~~1997, by a merger transaction under s. 102 of the Riegle-Neal~~
1078 ~~Interstate Banking and Branching Efficiency Act of 1994, Pub. L.~~
1079 ~~No. 103-328,~~ in accordance with this section and consistent with
1080 the Federal Deposit Insurance Act, as amended, 12 U.S.C. ss.
1081 1811 et seq.; the Bank Holding Company Act of 1956, as amended,
1082 12 U.S.C. ss. 1841 et seq., and 12 U.S.C. s. 5451; and Pub. L.
1083 No. 111-203.

1084 ~~(3) LEGISLATIVE INTENT. The Legislature finds it is in the~~
1085 ~~interest of the citizens of this state, and declares it to be~~
1086 ~~the intent of this section, to:~~

1087 ~~(a) Supervise, regulate, and examine persons, firms,~~
1088 ~~corporations, associations, and other business entities~~
1089 ~~furnishing depository, lending, and associated financial~~
1090 ~~services in this state.~~

1091 ~~(b) Protect the interests of shareholders, members,~~
1092 ~~depositors, and other customers of financial institutions~~

ENROLLED
CS/HB 1121

2011 Legislature

1093 ~~operating in this state.~~

1094 ~~(c) Preserve the competitive equality of state financial~~
 1095 ~~institutions as compared with federal financial institutions.~~

1096 ~~(d) Promote the availability, efficiency, and~~
 1097 ~~profitability of financial services in the communities of this~~
 1098 ~~state.~~

1099 ~~(e) Preserve the advantages of the dual banking system.~~

1100 ~~(f) Cooperate with federal regulators and regulators from~~
 1101 ~~other states in regulating financial institutions, in improving~~
 1102 ~~the quality of regulation, and in promoting the interests of~~
 1103 ~~this state in interstate matters.~~

1104 ~~(g) Provide the commission and office sufficient powers~~
 1105 ~~and responsibilities to carry out such purposes.~~

1106 (3) ~~(4)~~ DEFINITIONS.—As used in this section, the term
 1107 ~~unless a different meaning is required by the context:~~

1108 ~~(a) "Bank" has the meaning set forth in 12 U.S.C. s.~~
 1109 ~~1813(h), provided the term "bank" does not include any "foreign~~
 1110 ~~bank" as defined in 12 U.S.C. s. 3101(7), except such term~~
 1111 ~~includes any foreign bank organized under the laws of a~~
 1112 ~~territory of the United States, Puerto Rico, Guam, American~~
 1113 ~~Samoa, or the Virgin Islands, the deposits of which are insured~~
 1114 ~~by the Federal Deposit Insurance Corporation.~~

1115 ~~(b) "Bank holding company" has the meaning set forth in 12~~
 1116 ~~U.S.C. s. 1841(a)(1).~~

1117 ~~(c) "Bank regulatory agency" means:~~

1118 ~~1. Any agency of another state with primary responsibility~~
 1119 ~~for chartering and regulating banks.~~

1120 ~~2. The Office of the Comptroller of the Currency, the~~

ENROLLED
CS/HB 1121

2011 Legislature

1121 ~~Federal Deposit Insurance Corporation, the Board of Governors of~~
 1122 ~~the Federal Reserve System, and any successor to such agencies.~~
 1123 ~~(d) "Branch" has the meaning set forth in s. 658.12.~~
 1124 ~~(e) "De novo branch" means a branch of a bank located in a~~
 1125 ~~host state which:~~
 1126 ~~1. Is originally established by the bank as a branch.~~
 1127 ~~2. Does not become a branch of the bank as a result of:~~
 1128 ~~a. The acquisition of another bank or a branch of another~~
 1129 ~~bank; or~~
 1130 ~~b. The merger, consolidation, or conversion involving any~~
 1131 ~~such bank or branch.~~
 1132 ~~(f) "Control" shall be construed consistently with the~~
 1133 ~~provisions of 12 U.S.C. s. 1841(a)(2).~~
 1134 ~~(g) "Failing financial entity" means an out-of-state state~~
 1135 ~~bank that has been determined by its home state regulator or the~~
 1136 ~~appropriate federal regulatory agency to be imminently insolvent~~
 1137 ~~or to require immediate action to prevent its probable failure.~~
 1138 ~~(h) "Home state" means:~~
 1139 ~~1. With respect to a state bank, the state by which the~~
 1140 ~~bank is chartered.~~
 1141 ~~2. With respect to a national bank, the state in which the~~
 1142 ~~main office of the bank is located.~~
 1143 ~~3. With respect to a foreign bank, the state determined to~~
 1144 ~~be the home state of such foreign bank under 12 U.S.C. s.~~
 1145 ~~3103(e).~~
 1146 ~~(i) "Home state regulator" means, with respect to an out-~~
 1147 ~~of-state state bank, the bank's regulatory agency of the state~~
 1148 ~~in which such bank is chartered.~~

ENROLLED
CS/HB 1121

2011 Legislature

1149 ~~(j) "Host state" means a state, other than the home state~~
1150 ~~of a bank, in which the bank maintains or seeks to establish and~~
1151 ~~maintain a branch.~~

1152 ~~(k) "Insured depository institution" has the meaning set~~
1153 ~~forth in 12 U.S.C. s. 1813(c) (2) and (3).~~

1154 (a)(1) "Interstate merger transaction" means the merger or
1155 consolidation of banks with different home states, and the
1156 conversion of branches of any bank involved in the merger or
1157 consolidation into branches of the resulting bank.

1158 ~~(m) "Out of state bank" means a bank whose home state is a~~
1159 ~~state other than this state.~~

1160 ~~(n) "Out of state state bank" means a bank chartered under~~
1161 ~~the laws of any state other than this state.~~

1162 (b)(e) "Resulting bank" means a bank that results ~~has~~
1163 ~~resulted~~ from an interstate merger transaction under this
1164 section.

1165 ~~(p) "State" means any state of the United States, the~~
1166 ~~District of Columbia, any territory of the United States, Puerto~~
1167 ~~Rico, Guam, American Samoa, the Trust Territory of the Pacific~~
1168 ~~Islands, the Virgin Islands, and the Northern Mariana Islands.~~

1169 (c)(e) "Florida bank" means a bank whose home state is
1170 this state.

1171 ~~(r) "State bank" means a bank chartered under the laws of~~
1172 ~~this state.~~

1173 ~~(5) INTERSTATE BRANCHING BY DE NOVO ENTRY PROHIBITED. An~~
1174 ~~out of state bank that does not operate a branch in this state~~
1175 ~~is prohibited from establishing a de novo branch in this state.~~

1176 (4)(6) AUTHORITY OF STATE BANKS TO ESTABLISH INTERSTATE

ENROLLED
CS/HB 1121

2011 Legislature

1177 BRANCHES BY MERGER.—With the prior written approval of the
1178 office, a state bank may establish, maintain, and operate one or
1179 more branches in a state other than this state pursuant to an
1180 interstate merger transaction in which the state bank is the
1181 resulting bank. No later than the date on which the required
1182 application for the interstate merger transaction is filed with
1183 the appropriate ~~responsible~~ federal bank regulatory agency, the
1184 applicant state bank shall file an application on a form
1185 prescribed by the commission accompanied by the required fee
1186 pursuant to s. 658.73. The applicant must ~~shall~~ also comply with
1187 the provisions of ss. 658.40-658.45.

1188 (5) ~~(7)~~ INTERSTATE MERGER TRANSACTIONS AND BRANCHING
1189 PERMITTED.—

1190 (a) One or more Florida banks may enter into an interstate
1191 merger transaction with one or more out-of-state banks. An out-
1192 of-state bank resulting from such transaction may maintain and
1193 operate the branches of a Florida bank that participated in such
1194 transaction if, ~~provided that~~ the conditions and filing
1195 requirements of this section are met.

1196 (b) Except as otherwise expressly provided in this
1197 section, an interstate merger transaction is ~~shall~~ not be
1198 permitted if, upon consummation of such transaction, the
1199 resulting bank, including all insured depository institutions
1200 that would be "affiliates," as defined in 12 U.S.C. s. 1841(k),
1201 of the resulting bank, would control 30 percent or more of the
1202 total amount of deposits held by all insured depository
1203 institutions in this state. However, this paragraph does not
1204 apply to initial entry into this state by an out-of-state bank

ENROLLED
CS/HB 1121

2011 Legislature

1205 or bank holding company.

1206 ~~(c) An interstate merger transaction resulting in the~~
1207 ~~acquisition by an out-of-state bank of a Florida bank shall not~~
1208 ~~be permitted under this section unless such Florida bank has~~
1209 ~~been in existence and continuously operating, on the date of~~
1210 ~~such acquisition, for more than 3 years.~~

1211 (6)~~(8)~~ NOTICE AND FILING REQUIREMENTS.—An Any out-of-state
1212 bank that will be the resulting bank pursuant to an interstate
1213 merger transaction involving a Florida bank must ~~shall~~ notify
1214 the office of the proposed merger within 15 days after the date
1215 ~~on which~~ it files an application for an interstate merger
1216 transaction with the appropriate federal regulatory agency and
1217 the home state regulatory agency, if applicable. Thereafter, the
1218 out-of-state bank and the Florida bank must, upon request of the
1219 office, submit status updates with such information as the
1220 office specifies until the merger transaction is completed or
1221 the merger application is withdrawn or denied.

1222 (7)~~(9)~~ EXAMINATIONS; PERIODIC REPORTS; COOPERATIVE
1223 AGREEMENTS; ASSESSMENT OF FEES.—

1224 (a) The office may examine any Florida branch of an out-
1225 of-state state bank which the office deems necessary for the
1226 purpose of determining whether the branch is being operated in
1227 compliance with the laws of this state and in accordance with
1228 safe and sound banking practices.

1229 (b) The office may enter into cooperative, coordinating,
1230 or information-sharing agreements with other bank regulatory
1231 agencies or any organization affiliated with or representing one
1232 or more bank regulatory agencies to facilitate the regulation of

ENROLLED
CS/HB 1121

2011 Legislature

1233 out-of-state state branches doing business in this state.

1234 (c) The office may accept reports of examinations or
1235 investigations, or other records from other regulatory agencies
1236 having concurrent jurisdiction over a state bank or a bank
1237 holding company that controls out-of-state state banks that
1238 operate branches in this state in lieu of conducting its own
1239 examinations or investigations.

1240 (d) The office may assess supervisory and examination fees
1241 that are ~~shall be~~ payable by state banks and out-of-state state
1242 bank holding companies doing business in this state in
1243 connection with the office's performance of its duties under
1244 this section and as prescribed by the commission. Such fees may
1245 be shared with other bank regulatory agencies or ~~any~~
1246 organizations affiliated with or representing one or more bank
1247 regulatory agencies in accordance with agreements between them
1248 and the office.

1249 (8) ~~(10)~~ LAWS APPLICABLE TO INTERSTATE BRANCHING
1250 OPERATIONS.—Laws of this state regarding consumer protection,
1251 fair lending, and establishment of intrastate branches apply to
1252 any out-of-state bank branch doing business in this state to the
1253 same extent as the laws of this state apply to a state bank,
1254 unless ~~except~~:

1255 (a) ~~When~~ Federal law preempts the application of the laws
1256 of this state.

1257 (b) ~~When~~ The Comptroller of the Currency determines that
1258 the application of the ~~such~~ laws of this state would have a
1259 discriminatory effect on the branch of a national bank in
1260 comparison with the effect the application of such state laws

ENROLLED
CS/HB 1121

2011 Legislature

1261 would have with respect to branches of a state bank.

1262 (9)~~(11)~~ ENFORCEMENT.—

1263 (a) If the office determines that a branch maintained by
1264 an out-of-state state bank in this state is being operated in
1265 violation of any ~~provision of~~ law of this state, or that such
1266 branch is being operated in an unsafe and unsound manner, the
1267 office may take all such enforcement actions as it would be
1268 empowered to take if the branch were a state bank if, provided
1269 ~~that~~ the office ~~shall~~ promptly gives ~~give~~ notice to the home
1270 state regulator of each enforcement action taken against the an
1271 out-of-state state bank and, to the extent practicable, consults
1272 and cooperates ~~shall consult and cooperate~~ with the home state
1273 regulator in pursuing and resolving the said enforcement action.

1274 (b) The office may take any action jointly with other
1275 regulatory agencies having concurrent jurisdiction over out-of-
1276 state banks and bank holding companies that operate branches in
1277 this state, or take such action independently, to carry out its
1278 responsibilities.

1279 (10)~~(12)~~ NOTICE OF SUBSEQUENT MERGER.—

1280 (a) Each out-of-state state bank that has established and
1281 maintains a branch in this state must ~~pursuant to this section~~
1282 ~~shall~~ give at least 30 days' prior written notice to the office
1283 of any merger, consolidation, or other transaction that would
1284 cause a change of control pursuant to home state or federal law
1285 with respect to such bank or any bank holding company that
1286 controls such bank.

1287 (b) ~~Notwithstanding any other provisions of the financial~~
1288 ~~institutions codes or of chapter 120,~~ In the case of a failing

ENROLLED
CS/HB 1121

2011 Legislature

1289 financial institution entity, the office ~~shall have the power,~~
 1290 with the concurrence of the appropriate regulatory agencies
 1291 ~~agency,~~ may ~~to~~ issue an emergency order authorizing any
 1292 necessary interstate banking or branching transaction pursuant
 1293 to s. 655.4185.÷

1294 ~~1. The merger or interstate merger transaction of any such~~
 1295 ~~failing financial entity with a state bank or bank holding~~
 1296 ~~company that controls a state bank;~~

1297 ~~2. Any bank to acquire assets and assume liabilities of~~
 1298 ~~the Florida branches of any such failing financial entity;~~

1299 ~~3. The conversion of any such failing financial entity~~
 1300 ~~into a state bank or trust company;~~

1301 ~~4. The chartering of a new state bank to acquire the~~
 1302 ~~Florida branches of any such failing financial entity; or~~

1303 ~~5. The chartering of a new state trust company to acquire~~
 1304 ~~assets and assume liabilities and rights, powers, and~~
 1305 ~~responsibilities as fiduciary of such failing financial entity.~~

1306 ~~(11)-(13)~~ DE NOVO INTERSTATE BRANCHING BY STATE BANKS.—

1307 (a) With the prior approval of the office, a ~~any~~ state
 1308 bank may establish and maintain a de novo branch or acquire a
 1309 branch in a state other than this state by submitting an
 1310 application with the office pursuant to s. 658.26.

1311 (b) A state bank desiring to establish and maintain a
 1312 branch in another state ~~pursuant to s. 658.26~~ shall pay the
 1313 branch application fee set forth in s. 658.73. In acting on the
 1314 application, the office shall consider the views of the
 1315 appropriate bank regulatory agencies.

1316 (c) An out-of-state bank may establish and maintain a de

ENROLLED
CS/HB 1121

2011 Legislature

1317 novo branch or acquire a branch in this state upon compliance
1318 with chapter 607 or chapter 608 relating to doing business in
1319 this state as a foreign business entity, including maintaining a
1320 registered agent for service of process and other legal notice
1321 pursuant to s. 655.0201.

1322 ~~(12)-(14)~~ ADDITIONAL BRANCHES; POWERS.-

1323 (a) An out-of-state bank that has lawfully acquired or
1324 established a branch in this state ~~or bank holding company that~~
1325 ~~has acquired a bank in this state pursuant to s. 658.295, or by~~
1326 ~~interstate merger pursuant to this section,~~ may establish an
1327 ~~additional branch or~~ additional branches in this state to the
1328 same extent that any Florida bank may establish ~~a branch or~~
1329 branches in this state.

1330 (b) An out-of-state bank may conduct only those activities
1331 at its Florida branch or branches which ~~that~~ are authorized
1332 under the laws of this state or of the United States. However,
1333 an out-of-state bank with trust powers ~~resulting from an~~
1334 ~~interstate merger transaction with one or more Florida banks~~
1335 ~~with trust powers shall be entitled to and~~ may exercise all
1336 trust powers in this state as a Florida bank with trust powers
1337 ~~that participated in the transaction.~~

1338 Section 25. Section 658.296, Florida Statutes, is
1339 repealed.

1340 Section 26. Section 658.36, Florida Statutes, is amended
1341 to read:

1342 658.36 Changes in capital.-

1343 (1) A ~~No~~ state bank or trust company may not ~~shall~~ reduce
1344 the number of shares of its outstanding capital stock without

ENROLLED
CS/HB 1121

2011 Legislature

1345 first obtaining the approval of the office., ~~and such~~ Approval
1346 shall be withheld if the reduction will cause ~~the outstanding~~
1347 capital accounts ~~stock~~ to be less than the minimum required
1348 pursuant to the financial institutions codes.

1349 (2) A ~~Any~~ state bank or trust company may provide for an
1350 increase in its number of outstanding shares of capital stock
1351 after filing a written notice with the office at least 15 days
1352 before ~~prior to~~ making such increase. The office may waive the
1353 time requirement upon a demonstration of good cause.

1354 (3) If a bank or trust company's capital accounts have
1355 been diminished by losses to less than the minimum required
1356 pursuant to the financial institutions codes, the market value
1357 of its shares of capital stock is less than the present par
1358 value, and the bank or trust company cannot reasonably issue and
1359 sell new shares of stock to restore its capital accounts at a
1360 share price of par value or greater of the previously issued
1361 capital stock, the office, notwithstanding any other provisions
1362 of chapter 607 or the financial institutions codes, may approve
1363 special stock offering plans.

1364 (a) Such plans may include, but are not limited to,
1365 mechanisms for stock splits including reverse splits;
1366 revaluations of par value of outstanding stock; changes in
1367 voting rights, dividends, or other preferences; and creation of
1368 new classes of stock.

1369 (b) The plan must be approved by majority vote of the bank
1370 or trust company's entire board of directors and by holders of
1371 two-thirds of the outstanding shares of stock.

1372 (c) The office shall disapprove a plan that provides

ENROLLED
CS/HB 1121

2011 Legislature

1373 unfair or disproportionate benefits to existing shareholders,
1374 directors, executive officers, or their related interests. The
1375 office shall also disapprove any plan that is not likely to
1376 restore the capital accounts to sufficient levels to achieve a
1377 sustainable, safe, and sound financial institution.

1378 (d) For any bank or trust company that the office
1379 determines to be a failing financial institution pursuant to s.
1380 655.4185, the office may approve special stock offering plans
1381 without a vote of the shareholders.

1382 Section 27. Subsection (2) of section 658.41, Florida
1383 Statutes, is amended to read:

1384 658.41 Merger; resulting state or national bank.—

1385 (2) ~~Nothing in~~ The laws ~~law~~ of this state do not shall
1386 restrict the right of a state bank or state trust company to
1387 merge with a resulting national bank or out-of-state bank. In
1388 such case the action to be taken by a constituent state bank or
1389 state trust company, and its rights and liabilities and those of
1390 its shareholders, are shall be the same as those prescribed for
1391 constituent national banks at the time of the action by the
1392 applicable federal law ~~of the United States~~ and not ~~by~~ the law
1393 of this state.

1394 Section 28. Subsections (3) through (11) of section
1395 658.48, Florida Statutes, are amended to read:

1396 658.48 Loans.—A state bank may make loans and extensions
1397 of credit, with or without security, subject to the following
1398 limitations and provisions:

1399 (3) LOANS TO OTHER PERSONS.—A ~~No~~ bank may not shall extend
1400 credit, including the granting of a line of credit, to any ~~other~~

ENROLLED
CS/HB 1121

2011 Legislature

1401 person ~~not included in subsection (2)~~, including a any related
 1402 interest of that person, which ~~that~~, if ~~when~~ aggregated with the
 1403 amount of all other extensions of credit to that person and any
 1404 related interest of that person, exceeds 15 percent of the
 1405 capital accounts of the lending bank, unless the extension of
 1406 credit has been approved in advance by a majority of the entire
 1407 board of directors or by all members of an authorized committee
 1408 thereof within ~~not more than~~ 1 year before ~~prior to~~ the time
 1409 ~~when~~ such credit is extended.

1410 ~~(4) RELATED INTERESTS. As used in this section, the term~~
 1411 ~~"related interest" means, with respect to any person, any~~
 1412 ~~partnership, corporation, or other business organization~~
 1413 ~~controlled by that person. A corporation is controlled by a~~
 1414 ~~person who:~~

1415 ~~(a) Owns, controls, or has the power to vote 25 percent or~~
 1416 ~~more of any class of voting securities of the corporation;~~

1417 ~~(b) Controls in any manner the election of a majority of~~
 1418 ~~the directors of the corporation; or~~

1419 ~~(c) Has the power to exercise a controlling influence over~~
 1420 ~~the management or policies of the corporation.~~

1421 ~~(4) (5) SPECIAL PROVISIONS.—~~

1422 (a) A limitation of 25 percent of the capital accounts of
 1423 the lending bank applies to the aggregate of all loans made to a
 1424 corporation, together with all loans secured by shares of stock,
 1425 bonds, or other obligations of the same corporation, unless the
 1426 stocks or bonds are listed and traded on a recognized stock
 1427 exchange, or ~~are~~ registered under the Securities Exchange Act of
 1428 1934, or ~~are~~ registered with the Board of Governors of the

ENROLLED
CS/HB 1121

2011 Legislature

1429 Federal Reserve System, ~~with~~ the Federal Deposit Insurance
1430 Corporation, or ~~with~~ the Comptroller of the Currency, in which
1431 case no aggregate loan limit applies.

1432 (b) A limitation of 15 percent of the capital accounts of
1433 the lending bank applies to loans made to any one borrower on
1434 the security of shares of capital stock listed and traded on a
1435 recognized exchange. A limitation of 10 percent of the capital
1436 accounts of the lending bank applies to loans made to any one
1437 borrower on the security of shares of capital stock not listed
1438 on a recognized exchange or the obligations subordinate to
1439 deposits of another bank. A limitation of 25 percent of the
1440 capital accounts of the lending state bank applies to the
1441 aggregate of all loans secured by the shares of capital stock or
1442 the obligations subordinate to deposits of any one bank.

1443 (c) A ~~Ne~~ loan may not ~~shall~~ be made by a bank:

1444 1. On the security of the shares of its own capital stock
1445 or of its obligations subordinate to deposits.

1446 2. On an unsecured basis for the purpose of purchasing ~~the~~
1447 ~~purchase of~~ shares of its own capital stock or its obligations
1448 subordinate to deposits.

1449 3. On a secured or unsecured basis for the purpose of
1450 purchasing ~~the purchase of~~ shares of the stock of its one-bank
1451 holding company.

1452 (d) A one-bank holding company bank may make loans on its
1453 own one-bank holding company stock. For capital stock that is
1454 listed and traded on a recognized exchange, the stock may not be
1455 valued at more than 70 percent of its current market value, and
1456 for capital stock that is not listed and traded on a recognized

ENROLLED
CS/HB 1121

2011 Legislature

1457 exchange, the stock may not be valued at more than 70 percent of
1458 its current book value.

1459 ~~(c) Loans based upon the security of real estate mortgages~~
1460 ~~shall be documented as first liens, except that liens other than~~
1461 ~~first liens may be taken:~~

1462 ~~1. To protect a loan previously made in good faith;~~

1463 ~~2. To further secure a loan otherwise amply and entirely~~
1464 ~~secured;~~

1465 ~~3. As additional security for Federal Housing~~
1466 ~~Administration Title 1 loans or loans made with participation or~~
1467 ~~guaranty by the Small Business Administration;~~

1468 ~~4. To secure a loan not in excess of 15 percent of the~~
1469 ~~capital accounts of the bank; or~~

1470 ~~5. As provided by rules of the commission.~~

1471 ~~(e)(f)~~ In computing the total liabilities of any person,
1472 ~~there shall be included all loans or lines of credit~~ endorsed or
1473 guaranteed as to repayment by such person and ~~by~~ any related
1474 interest of such person must be included. Purchased
1475 participations in pools of loans which are carried as loans
1476 subject to the limits of this section must be aggregated when
1477 computing the total liabilities of a person who is a borrower,
1478 originator, seller, broker, or guarantor, or has a repurchase
1479 agreement obligation for the individual and pooled loans. The
1480 computation of total liabilities must also include all potential
1481 liabilities and obligations of the person, and any related
1482 interest, resulting from the person's derivatives transactions,
1483 repurchase agreements, securities lending and borrowing
1484 transactions, credit default swaps, and similar contracts.

ENROLLED
CS/HB 1121

2011 Legislature

1485 (f) ~~(g)~~ All loan documentation must ~~shall~~ be written in the
1486 English ~~language~~ or contain an English translation of foreign
1487 language provisions.

1488 (5) ~~(6)~~ APPLICABILITY OF LOAN LIMITATIONS.—The loan
1489 limitations ~~otherwise~~ provided in this section do not apply to:

1490 (a) Loans that ~~which~~ are fully secured by assignment of a
1491 savings account or certificate of deposit of the lending bank;

1492 (b) Loans that ~~which~~ are fully secured by notes, bonds, or
1493 other evidences of indebtedness issued by the United States
1494 Government or fully guaranteed as to repayment by the United
1495 States Government or its agencies, bureaus, boards, or
1496 commissions; ~~or~~

1497 (c) Loans made to district school boards if ~~when~~ such
1498 loans are secured by the assignment of revenues reasonably
1499 expected to be received from the state and are otherwise made in
1500 compliance with statutes governing borrowings by such boards;
1501 or—

1502 (d) Purchased participations in pools of loans which are
1503 carried as investments subject to the limitations of s. 658.67.

1504 (6) ~~(7)~~ APPROVAL BY BOARD.—The requirements of this section
1505 concerning approval of lending activities by the board of
1506 directors or an authorized committee therefrom are ~~have been~~ met
1507 only if ~~when~~ such approvals are recorded in the formal minutes
1508 of the actions of the board and its committees by name of
1509 borrower, amount of loan, maturity of loan, and general type of
1510 collateral. If, at the time of approval of a line of credit,
1511 such information is not available, the name of the borrower and
1512 the amount of the approved line of credit must ~~shall~~ be recorded

ENROLLED
CS/HB 1121

2011 Legislature

1513 in the minutes. Any action required by this section ~~to be taken~~
 1514 ~~by the board of directors or an authorized committee therefrom~~
 1515 may be taken pursuant to s. 607.0820(4) if the minutes of the
 1516 proceedings of the board or of the committee reflect such action
 1517 and each director taking such action signs the minutes
 1518 reflecting such action at the next regular meeting of the board
 1519 or committee attended by such director.

1520 (7)~~(8)~~ LIABILITY OF OFFICERS AND DIRECTORS.—Officers and
 1521 directors are personally liable, jointly and severally, for any
 1522 loss that may be occasioned by a ~~any~~ willful violation of this
 1523 section.

1524 (8)~~(9)~~ If ~~When~~ a bank's capital has been diminished by
 1525 losses so that its ability to honor legally binding written loan
 1526 commitments is impaired, the office may approve limited
 1527 expansion of the lending limitations set forth in this section.

1528 ~~(10) IMMEDIATELY INSOLVENT BANK.—When the office has~~
 1529 ~~determined that a state bank is imminently insolvent, the bank~~
 1530 ~~may not make any new loans or discounts other than by~~
 1531 ~~discounting or purchasing bills of exchange payable at sight.~~

1532 (9)~~(11)~~ FEDERAL RESTRICTIONS AND LIMITATIONS.—~~Nothing in~~
 1533 This section does not expand, enlarge ~~shall be construed as~~
 1534 ~~expanding, enlarging,~~ or otherwise affect ~~affecting~~ any lending
 1535 limits, restrictions, or procedures now provided by federal law
 1536 applicable to state banks in conjunction with any loan or loans
 1537 to any borrower or class of borrowers.

1538 Section 29. Subsection (4) of section 658.53, Florida
 1539 Statutes, is amended to read:

1540 658.53 Borrowing; limits of indebtedness.—

ENROLLED
CS/HB 1121

2011 Legislature

1541 (4) Unrepaid proceeds of sales of capital notes and
1542 capital debentures are, ~~as provided herein,~~ shall be considered
1543 ~~as a~~ part of the aggregate amount of capital and surplus in
1544 computing loan and investment limitations ~~and in evaluating~~
1545 ~~adequacy of capital of the issuing bank~~ if the issuing bank is
1546 not in default ~~thereunder~~.

1547 Section 30. Section 658.65, subsection (33) of section
1548 665.013, and subsection (35) of section 667.003, Florida
1549 Statutes, are repealed.

1550 Section 31. Paragraph (c) of subsection (5) and
1551 subsections (6) and (10) of section 658.67, Florida Statutes,
1552 are amended to read:

1553 658.67 Investment powers and limitations.—A bank may
1554 invest its funds, and a trust company may invest its corporate
1555 funds, subject to the following definitions, restrictions, and
1556 limitations:

1557 (5) INVESTMENTS IN RELATED COMPANIES.—A bank or trust
1558 company may invest in the stock of incorporated companies to the
1559 extent hereinafter defined:

1560 (c) Up to 10 percent of the capital accounts of a bank may
1561 be invested in a clearing corporation as defined in s. 678.1021
1562 ~~678.102(3)~~.

1563 (6) INVESTMENTS IN CORPORATIONS.—Up to an aggregate of 10
1564 percent of the total assets of a bank may be invested in the
1565 stock, obligations, or other securities of subsidiary
1566 corporations or other corporations or entities, except as
1567 limited or prohibited by federal law, and except that during the
1568 first 3 years of existence of a bank, such investments are

ENROLLED
CS/HB 1121

2011 Legislature

1569 | limited to 5 percent of the total assets. ~~Any bank whose~~
 1570 | ~~aggregate investment on June 30, 1992, exceeds the limitation in~~
 1571 | ~~this subsection has 5 years within which to achieve compliance;~~
 1572 | ~~additional time may be approved by the office if the office~~
 1573 | ~~finds that compliance with this subsection will result in more~~
 1574 | ~~than a minimal loss to the bank. The commission may, by rule, or~~
 1575 | ~~the office by order, may further limit any type of investment~~
 1576 | made pursuant to this subsection if it finds that such
 1577 | investment would constitute an unsafe or unsound practice.

1578 | (10) SPECIAL PROVISIONS.—

1579 | (a) ~~None of~~ The bonds or other obligations described in
 1580 | this section are not ~~shall be~~ eligible for investment in any
 1581 | ~~amount~~ unless current as to all payments of principal and
 1582 | interest and ~~unless rated in one of the four highest~~
 1583 | ~~classifications, or, in the case of commercial paper, unless it~~
 1584 | ~~is of prime quality and of the highest letter and numerical~~
 1585 | ~~rating, as established by a nationally recognized rating service~~
 1586 | ~~or any comparable rating as determined by the office. Bonds or~~
 1587 | ~~other obligations which are unrated shall not be eligible for~~
 1588 | ~~investment unless~~ otherwise supported as to investment quality
 1589 | and marketability by a credit rating file compiled and
 1590 | maintained in current status by the purchasing bank or trust
 1591 | company. Banks and trust companies shall establish written
 1592 | policies and procedures to evaluate the systemic and specific
 1593 | risks and benefits associated with all investments authorized in
 1594 | this section before making such investments and must provide for
 1595 | appropriate risk management and monitoring for the duration of
 1596 | the investment. An investment decision may not be based solely

ENROLLED
CS/HB 1121

2011 Legislature

1597 on the rating of the bond or other obligation by an investment
 1598 rating service. The office may require a bank or trust company
 1599 to divest itself of any investment that the office determines
 1600 creates excessive risk or that has an associated risk that
 1601 exceeds the ability of the bank or trust company to properly
 1602 evaluate and manage.

1603 (b) Investment securities shall be entered on the books of
 1604 the bank or trust company at the fair market value on the date
 1605 of acquisition. Premiums paid in excess of par value shall be
 1606 amortized ~~either~~ over the life of the security or to the first
 1607 call date at its call price and thereafter to subsequent call
 1608 dates at their respective call prices until maturity. Discount
 1609 may be accredited over the life of the security.

1610 Section 32. Subsection (5) of section 288.772, Florida
 1611 Statutes, is amended to read:

1612 288.772 Definitions.—For purposes of ss. 288.771-288.778:

1613 (5) "Financial institution" shall have the same meaning as
 1614 that term is defined in s. 655.005~~(1)(h)~~.

1615 Section 33. Paragraph (b) of subsection (5) of section
 1616 288.99, Florida Statutes, is amended to read:

1617 288.99 Certified Capital Company Act.—

1618 (5) INVESTMENTS BY CERTIFIED CAPITAL COMPANIES.—

1619 (b) All capital not invested in qualified investments by
 1620 the certified capital company:

1621 1. Must be held in a financial institution as defined in
 1622 ~~by~~ s. 655.005~~(1)(h)~~ or held by a broker-dealer registered under
 1623 s. 517.12, except as set forth in sub-subparagraph 3.g.

1624 2. Must not be invested in a certified investor of the

ENROLLED
CS/HB 1121

2011 Legislature

1625 certified capital company or any affiliate of the certified
1626 investor of the certified capital company, except for an
1627 investment permitted by sub-subparagraph 3.g. if, ~~provided~~
1628 repayment terms do not permit the obligor to directly or
1629 indirectly manage or control the investment decisions of the
1630 certified capital company.

1631 3. Must be invested only in:

1632 a. ~~Any~~ United States Treasury obligations;

1633 b. Certificates of deposit or other obligations, maturing
1634 within 3 years after acquisition of such certificates or
1635 obligations, issued by any financial institution or trust
1636 company incorporated under the laws of the United States;

1637 c. Marketable obligations, maturing within 10 years or
1638 less after the acquisition of such obligations, which are rated
1639 "A" or better by any nationally recognized credit rating agency;

1640 d. Mortgage-backed securities that have, ~~with~~ an average
1641 life of 5 years or less, after the acquisition of such
1642 securities, which are rated "A" or better by a ~~any~~ nationally
1643 recognized credit rating agency;

1644 e. Collateralized mortgage obligations and real estate
1645 mortgage investment conduits that are direct obligations of an
1646 agency of the United States Government; are not private-label
1647 issues; are in book-entry form; and do not include the classes
1648 of interest only, principal only, residual, or zero;

1649 f. Interests in money market funds, the portfolio of which
1650 is limited to cash and obligations described in sub-
1651 subparagraphs a.-d.; or

1652 g. Obligations that are issued by an insurance company

ENROLLED
CS/HB 1121

2011 Legislature

1653 that is not a certified investor of the certified capital
1654 company making the investment, that has provided a guarantee
1655 indemnity bond, insurance policy, or other payment undertaking
1656 in favor of the certified capital company's certified investors
1657 as permitted by subparagraph (3)(1)1. or an affiliate of such
1658 insurance company as defined by subparagraph (3)(a)3. that is
1659 not a certified investor of the certified capital company making
1660 the investment, provided that such obligations are:

1661 (I) Issued or guaranteed as to principal by an entity
1662 whose senior debt is rated "AA" or better by Standard & Poor's
1663 Ratings Group or such other nationally recognized credit rating
1664 agency as the commission may determine by rule ~~determine~~.

1665 (II) Not subordinated to other unsecured indebtedness of
1666 the issuer or the guarantor.

1667 (III) Invested by such issuing entity in accordance with
1668 sub-subparagraphs 3.a.-f.

1669 (IV) Readily convertible into cash within 5 business days
1670 for the purpose of making a qualified investment unless such
1671 obligations are held to provide a guarantee, indemnity bond,
1672 insurance policy, or other payment undertaking in favor of the
1673 certified capital company's certified investors as permitted by
1674 subparagraph (3)(1)1.

1675 Section 34. Subsection (1) of section 440.12, Florida
1676 Statutes, is amended to read:

1677 440.12 Time for commencement and limits on weekly rate of
1678 compensation.—

1679 (1) ~~No~~ Compensation is not ~~shall be~~ allowed for the first
1680 7 days of the disability, except for benefits provided for in s.

ENROLLED

CS/HB 1121

2011 Legislature

1681 440.13. However, if the injury results in ~~disability~~ of more
 1682 than 21 days of disability, compensation is ~~shall be~~ allowed
 1683 from the commencement of the disability. All weekly compensation
 1684 payments, except for the first payment, must ~~shall~~ be paid by
 1685 check or, if authorized by the employee, deposited directly into
 1686 the employee's account at a financial institution. ~~As used in~~
 1687 ~~this subsection, the term "financial institution" means a~~
 1688 ~~financial institution~~ as defined in s. 655.005(1)(h).

1689 Section 35. Paragraph (a) of subsection (1) of section
 1690 440.20, Florida Statutes, is amended to read:

1691 440.20 Time for payment of compensation and medical bills;
 1692 penalties for late payment.—

1693 (1) (a) Unless the carrier ~~it~~ denies compensability or
 1694 entitlement to benefits, the carrier shall pay compensation
 1695 directly to the employee as required by ss. 440.14, 440.15, and
 1696 440.16, in accordance with those ~~the obligations set forth in~~
 1697 ~~such~~ sections. If authorized by the employee, the carrier's
 1698 obligation to pay compensation directly to the employee is
 1699 satisfied when the carrier directly deposits, by electronic
 1700 transfer or other means, compensation into the employee's
 1701 account at a financial institution. ~~As used in this paragraph,~~
 1702 ~~the term "financial institution" means a financial institution~~
 1703 as defined in s. 655.005(1)(h). Compensation by direct deposit
 1704 is considered paid on the date the funds become available for
 1705 withdrawal by the employee.

1706 Section 36. Paragraph (c) of subsection (2) of section
 1707 445.051, Florida Statutes, is amended to read:

1708 445.051 Individual development accounts.—

ENROLLED
CS/HB 1121

2011 Legislature

1709 (2) As used in this section, the term:
 1710 (c) "Financial institution" has the same meaning ~~means a~~
 1711 ~~financial institution~~ as defined in s. 655.005(1)(h).
 1712 Section 37. Subsection (18) of section 489.503, Florida
 1713 Statutes, is amended to read:
 1714 489.503 Exemptions.—This part does not apply to:
 1715 (18) The monitoring of an alarm system by a direct
 1716 employee of any state or federally chartered financial
 1717 institution, as defined in s. 655.005(1)(h), or any parent,
 1718 affiliate, or subsidiary thereof, so long as:
 1719 (a) The institution is subject to, and in compliance with,
 1720 s. 3 of the Federal Bank Protection Act of 1968, 12 U.S.C. s.
 1721 1882;
 1722 (b) The alarm system is in compliance with all applicable
 1723 firesafety standards as set forth in chapter 633; and
 1724 (c) The monitoring is limited to an alarm system
 1725 associated with:
 1726 1. The commercial property where banking operations are
 1727 housed or ~~where~~ other operations are conducted by a state or
 1728 federally chartered financial institution, ~~as defined in s.~~
 1729 ~~655.005(1)(h)~~, or any parent, affiliate, or subsidiary thereof;
 1730 or
 1731 2. The private property occupied by the institution's
 1732 executive officers, as defined in s. 655.005(1)(f),
 1733
 1734 and does not otherwise extend to the monitoring of residential
 1735 systems.
 1736 Section 38. Paragraph (b) of subsection (15) of section

ENROLLED
CS/HB 1121

2011 Legislature

1737 501.005, Florida Statutes, is amended to read:
 1738 501.005 Consumer report security freeze.—
 1739 (15) The provisions of this section do not apply to the
 1740 following entities:
 1741 (b) A deposit account information service company that,
 1742 ~~which~~ issues reports regarding account closures due to fraud,
 1743 substantial overdrafts, automatic teller machine abuse, or
 1744 similar negative information regarding a consumer to an
 1745 inquiring ~~banks or other~~ financial institution as defined in s.
 1746 655.005 institutions for use only in reviewing a consumer
 1747 request for a deposit account at the inquiring ~~bank or~~ financial
 1748 institution, as defined in s. 655.005(1)(g) ~~or (h)~~, or in
 1749 federal law.
 1750 Section 39. Paragraph (d) of subsection (2) of section
 1751 501.165, Florida Statutes, is amended to read:
 1752 501.165 Automatic renewal of service contracts.—
 1753 (2) SERVICE CONTRACTS WITH AUTOMATIC RENEWAL PROVISIONS.—
 1754 (d) This subsection does not apply to:
 1755 1. A financial institution as defined in s. 655.005(1)(h)
 1756 or any depository institution as defined in 12 U.S.C. s.
 1757 1813(c)(2).
 1758 2. A foreign bank maintaining a branch or agency licensed
 1759 under the laws of any state of the United States.
 1760 3. Any subsidiary or affiliate of an entity described in
 1761 subparagraph 1. or subparagraph 2.
 1762 4. A health studio as defined in s. 501.0125(1).
 1763 5. Any entity licensed under chapter 624, chapter 627,
 1764 chapter 634, chapter 636, or chapter 641.

ENROLLED
CS/HB 1121

2011 Legislature

- 1765 6. Any electric utility as defined in s. 366.02~~(2)~~.
 1766 7. Any private company as defined in s. 180.05 providing
 1767 services described in chapter 180 which ~~that~~ is competing
 1768 against a governmental entity or has a governmental entity
 1769 providing billing services on its behalf.

1770 Section 40. Paragraph (r) of subsection (1) of section
 1771 624.605, Florida Statutes, is amended to read:

1772 624.605 "Casualty insurance" defined.—

1773 (1) "Casualty insurance" includes:

1774 (r) *Insurance for debt cancellation products*.—Insurance
 1775 that a creditor may purchase against the risk of financial loss
 1776 from the use of debt cancellation products with consumer loans
 1777 or leases or retail installment contracts. Insurance for debt
 1778 cancellation products is not liability insurance but is ~~shall be~~
 1779 considered credit insurance only for the purposes of s.
 1780 631.52(4).

1781 1. For purposes of this paragraph, the term "debt
 1782 cancellation products" means loan, lease, or retail installment
 1783 contract terms, or modifications to loan, lease, or retail
 1784 installment contracts, under which a creditor agrees to cancel
 1785 or suspend all or part of a customer's obligation to make
 1786 payments upon the occurrence of specified events and includes,
 1787 but is not limited to, debt cancellation contracts, debt
 1788 suspension agreements, and guaranteed asset protection
 1789 contracts. However, the term "~~debt cancellation products~~" does
 1790 not include title insurance as defined in s. 624.608.

1791 2. Debt cancellation products may be offered by financial
 1792 institutions~~7~~ as defined in s. 655.005~~(1)(h)~~, insured depository

ENROLLED
CS/HB 1121

2011 Legislature

1793 institutions as defined in 12 U.S.C. s. 1813(c), and
 1794 subsidiaries of such institutions, as provided in the financial
 1795 institutions codes; by sellers as defined in s. 721.05, or by
 1796 the parents, subsidiaries, or affiliated entities of sellers, in
 1797 connection with the sale of timeshare interests; or by other
 1798 business entities as ~~may be~~ specifically authorized by law, and
 1799 such products are ~~shall not constitute~~ insurance for purposes of
 1800 the Florida Insurance Code.

1801 Section 41. Paragraph (g) of subsection (1) of section
 1802 626.321, Florida Statutes, is amended to read:

1803 626.321 Limited licenses.—

1804 (1) The department shall issue to a qualified individual,
 1805 or a qualified individual or entity under paragraphs (c), (d),
 1806 (e), and (i), a license as agent authorized to transact a
 1807 limited class of business in any of the following categories:

1808 (g) *Credit property insurance.*—A license covering only
 1809 credit property insurance may be issued to any individual except
 1810 an individual employed by or associated with a ~~lending or~~
 1811 financial institution as defined in s. 655.005 ~~(1) (g), (h), or~~
 1812 ~~(p)~~ and authorized to sell such insurance only with respect to a
 1813 borrower or debtor, not to exceed the amount of the loan.

1814 Section 42. Subsection (4) of section 626.730, Florida
 1815 Statutes, is amended to read:

1816 626.730 Purpose of license.—

1817 (4) This section does not ~~shall not be deemed to~~ prohibit
 1818 the licensing under a limited license as to motor vehicle
 1819 physical damage and mechanical breakdown insurance or ~~the~~
 1820 ~~licensing under a limited license for~~ credit property insurance

ENROLLED
CS/HB 1121

2011 Legislature

1821 of any person employed by or associated with a motor vehicle
1822 sales or financing agency, a retail sales establishment, or a
1823 consumer loan office, other than a consumer loan office owned by
1824 or affiliated with a financial institution as defined in s.
1825 655.005(1)(g), ~~(h)~~, ~~or (p)~~, with respect to insurance of the
1826 interest of such agency in a motor vehicle sold or financed by
1827 it or in personal property if ~~when~~ used as collateral for a
1828 loan. This section does not apply with respect to the interest
1829 of a real estate mortgagee in or as to insurance covering such
1830 interest or in the real estate subject to such mortgage.

1831 Section 43. Section 626.9885, Florida Statutes, is amended
1832 to read:

1833 626.9885 Financial institutions conducting insurance
1834 transactions.—A financial institution, as defined in s.
1835 655.005(1)(g), ~~(h)~~, ~~or (p)~~, may conduct insurance transactions
1836 only through Florida-licensed insurance agents representing
1837 Florida-authorized insurers or representing Florida-eligible
1838 surplus lines insurers.

1839 Section 44. This act shall take effect July 1, 2011.