

1                   A bill to be entitled  
 2           An act relating to banking; amending s. 655.005, F.S.;  
 3           adding and revising definitions; amending s. 655.041,  
 4           F.S.; prohibiting the Office of Financial Regulation  
 5           from initiating an administrative proceeding while the  
 6           person is subject to a federal proceeding on the same  
 7           grounds; amending s. 655.85, F.S.; clarifying that an  
 8           institution may impose a fee for the settlement of a  
 9           check under certain circumstances; providing  
 10          legislative intent; amending s. 655.968, F.S.;  
 11          conforming a cross-reference; providing an effective  
 12          date.

13  
 14   Be It Enacted by the Legislature of the State of Florida:

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 16          Section 1. Present paragraphs (g) through (aa) of  
 17          subsection (1) of section 655.005, Florida Statutes, are  
 18          redesignated as paragraphs (h) through (bb), respectively, a new  
 19          paragraph (g) is added to that subsection, and present paragraph  
 20          (t) of that subsection is amended, to read:

21          655.005 Definitions.—

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

24          (g) "Control of a company or bank" means that a person,  
 25          directly or indirectly, or acting through or in concert with one  
 26          or more persons, owns, controls, or has the power to vote 25  
 27          percent or more of any class of voting securities of the company  
 28          or bank; controls, in any manner, the election of a majority of

29 | the directors of the company or bank; or, has the power to  
 30 | exercise a controlling influence over the management or policies  
 31 | of the company or bank.

32 | 1. A person is presumed to have control, including the  
 33 | power to exercise a controlling influence over the management or  
 34 | policies, of a company or bank, if:

35 | a. The person:

36 | (I) Is an executive officer or director of the company or  
 37 | bank; and

38 | (II) Directly or indirectly owns, controls, or has the  
 39 | power to vote more than 10 percent of any class of voting  
 40 | securities of the company or bank; or

41 | b.(I) The person directly or indirectly owns, controls, or  
 42 | has the power to vote more than 10 percent of any class of  
 43 | voting securities of the company or bank; and

44 | (II) No other person owns, controls, or has the power to  
 45 | vote a greater percentage of that class of voting securities.

46 | 2. An individual is not considered to have control,  
 47 | including the power to exercise a controlling influence over the  
 48 | management or policies of a company or bank, solely by virtue of  
 49 | the individual's position as an officer or director of the  
 50 | company or bank.

51 | (u)~~(t)~~ "Related interest" means, with respect to any  
 52 | ~~person, the person's spouse, partner, sibling, parent, child, or~~  
 53 | ~~other individual residing in the same household as the person.~~  
 54 | ~~With respect to any person, the term means a company,~~  
 55 | ~~partnership, corporation, or other business organization~~  
 56 | ~~controlled by the person. A person has control if the person:~~

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

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

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

63 | Section 2. Subsection (1) of section 655.041, Florida  
 64 | Statutes, is amended to read:

65 | 655.041 Administrative fines; enforcement.—

66 | (1) The office may, by complaint, initiate a proceeding  
 67 | pursuant to chapter 120 to impose an administrative fine against  
 68 | any person found to have violated any provision of the financial  
 69 | institutions codes or a cease and desist order of the office or  
 70 | any written agreement with the office. ~~No~~ Such proceeding may  
 71 | not shall be initiated and fines do not ~~no fine shall~~ accrue  
 72 | ~~pursuant to this section~~ until after such person has been  
 73 | notified in writing of the nature of the violation and ~~has~~ been  
 74 | afforded a reasonable period of time, as set forth in the  
 75 | notice, to correct the violation and ~~has~~ failed to do so.  
 76 | However, such proceeding may not be initiated while the person  
 77 | is subject to a federal proceeding on the same or similar  
 78 | grounds.

79 | Section 3. Section 655.85, Florida Statutes, is amended to  
 80 | read:

81 | 655.85 Settlement of checks.—Whenever a ~~any~~ check is  
 82 | forwarded or presented to a financial ~~an~~ institution for  
 83 | payment, except when presented by the payee in person, the  
 84 | paying institution or remitting institution shall settle the

85 amount of the check at par and may pay or remit the same, at its  
 86 option, either in money or in exchange drawn on its reserve  
 87 agent or agents in the City of New York or in any reserve city  
 88 within the Sixth Federal Reserve District; however, an  
 89 institution may not settle any check drawn on it otherwise than  
 90 at par. The term "at par" applies only to the settlement of  
 91 checks between collecting and paying or remitting institutions  
 92 and does not apply to, or prohibit an institution from,  
 93 deducting from the face amount of the check drawn on it a fee  
 94 for paying the check if the check is presented to the  
 95 institution by the payee in person. The provisions of this  
 96 section do not apply with respect to the settlement of a check  
 97 sent to such institution as a special collection item.

98 Section 4. It is the Legislature's intent that the  
 99 amendment to s. 655.85, Florida Statutes, made by this act  
 100 clarify the relevant portions of the financial institutions  
 101 codes as defined in s. 655.005, Florida Statutes, relating to  
 102 fees imposed by a financial institution for the payment of  
 103 checks presented in person without requiring further amendment.

104 Section 5. Paragraph (b) of subsection (1) of section  
 105 655.968, Florida Statutes, is amended to read:

106 655.968 Financial institutions; transactions relating to  
 107 Iran or terrorism.—

108 (1) As used in this section, the term:

109 (b) "Financial institution" has the same meaning as  
 110 provided defined in s. 655.005(1) ~~(i)~~.

111 Section 6. This act shall take effect July 1, 2013.