

1 A bill to be entitled
 2 An act relating to banking; amending s. 655.005, F.S.;
 3 revising a definition; s. 655.033, F.S.; prohibiting
 4 the Office of Financial Regulation from pursuing a
 5 cease and desist order while the person or entity is
 6 subject to a federal proceeding on the same grounds;
 7 providing exceptions; amending s. 655.85, F.S.;
 8 clarifying that an institution may impose a fee for
 9 the settlement of a check under certain circumstances;
 10 providing legislative intent; creating s. 655.955,
 11 F.S.; providing that a financial institution is not
 12 civilly liable solely for extending a loan or line of
 13 credit; providing an effective date.

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 15 Be It Enacted by the Legislature of the State of Florida:

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 17 Section 1. Paragraph (t) of subsection (1) of section
 18 655.005, Florida Statutes, is amended to read:

19 655.005 Definitions.—

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

22 (t) "Related interest" means, with respect to any person,
 23 ~~the person's spouse, partner, sibling, parent, child, or other~~
 24 ~~individual residing in the same household as the person. With~~
 25 ~~respect to any person, the term means a company, partnership,~~
 26 corporation, or other business organization controlled by the
 27 person. A person has control if the person:

28 1. Owns, controls, or has the power to vote 25 percent or

29 | more of any class of voting securities of the organization;

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

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

34 | Section 2. Subsection (7) is added to section 655.033,
35 | Florida Statutes, to read:

36 | 655.033 Cease and desist orders.—

37 | (7) The office may not issue and serve a cease and desist
38 | order under subsection (1) while the state financial
39 | institution, subsidiary, service corporation, financial
40 | institution-affiliated party, or individual is subject to a
41 | federal proceeding under 12 U.S.C. s. 1818(b), (c)(1), or (e) on
42 | the same grounds, except when such order is issued subsequent to
43 | an emergency cease and desist order under subsection (6).

44 | However, nothing in this subsection limits:

45 | (a) The office's ability to enter into a joint
46 | administrative action with a federal regulator.

47 | (b) The office's ability to effectuate corrective action
48 | under 12 U.S.C. s. 1818(m) before a federal banking regulator
49 | issues a Notice of Charges.

50 | (c) The office's examination authority under s. 655.045.

51 | Section 3. Section 655.85, Florida Statutes, is amended to
52 | read:

53 | 655.85 Settlement of checks.—Whenever a ~~any~~ check is
54 | forwarded or presented to a financial ~~an~~ institution for
55 | payment, except when presented by the payee in person, the
56 | paying institution or remitting institution shall settle the

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57 amount of the check at par and may pay or remit the same, at its
58 option, either in money or in exchange drawn on its reserve
59 agent or agents in the City of New York or in any reserve city
60 within the Sixth Federal Reserve District; however, an
61 institution may not settle any check drawn on it otherwise than
62 at par. The term "at par" applies only to the settlement of
63 checks between collecting and paying or remitting institutions
64 and does not apply to, or prohibit an institution from,
65 deducting from the face amount of the check drawn on it a fee
66 for paying the check if the check is presented to the
67 institution by the payee in person. The provisions of this
68 section do not apply with respect to the settlement of a check
69 sent to such institution as a special collection item.

70 Section 4. It is the Legislature's intent that the
71 amendment to s. 655.85, Florida Statutes, made by this act
72 clarify the relevant portions of the financial institutions
73 codes as defined in s. 655.005, Florida Statutes, relating to
74 fees imposed by a financial institution for the payment of
75 checks presented in person without requiring further amendment.

76 Section 5. Section 655.955, Florida Statutes, is created
77 to read:

78 655.955 Liability of financial institutions to third
79 parties.—A financial institution is not civilly liable and may
80 not be sued by a third party for the actions or operations of a
81 business, corporation, or person, solely by virtue of extending
82 a loan or a line of credit to such business, corporation, or
83 person.

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