

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Raulerson offered the following:

2  
3 **Amendment (with title amendment)**

4 Remove lines 1626-1916 and insert:

5 (d) "Nonresident" has the same meaning as in s. 663.01.

6 (e) "Professional" means an accountant, attorney, or other  
7 financial services and wealth planning professional who is  
8 licensed by a governing body or affiliated with a licensed,  
9 chartered, or similarly authorized entity.

10 (f) "Qualified limited service affiliate" means a person  
11 or entity that is qualified under this part to perform the  
12 permissible activities outlined in s. 663.531 related to or for  
13 the benefit of an affiliated international trust entity.

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14        (2) As used in ss. 663.531-663.539, the terms "affiliate,"  
15 "commission," "executive officer," "financial institution,"  
16 "financial institution-affiliated party," "financial  
17 institutions codes," "office," "officer," "state," and  
18 "subsidiary" have the same meaning as provided in s. 655.005.

19        Section 40. Section 663.531, Florida Statutes, is created  
20 to read:

21        663.531 Permissible activities; prohibited activities.-

22        (1) Qualification as a qualified limited service affiliate  
23 under this part does not provide any exemption from licensure,  
24 registration, application, and requirements to conduct licensed  
25 business activities in this state. A qualified limited service  
26 affiliate may engage in any of the following permissible  
27 activities, which are not meant to be restrictive unless an  
28 activity is prohibited under subsection (2):

29        (a) Marketing and liaison services related to or for the  
30 benefit of the affiliated international trust entities, directed  
31 exclusively at professionals and current or prospective  
32 nonresident clients of an affiliated international trust entity;

33        (b) Advertising and marketing at trade, industry, or  
34 professional events;

35        (c) Transmission of documents between the international  
36 trust entity and its current or prospective clients or a  
37 designee of such clients; and

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38 (d) Transmission of information about the trust or trust  
39 holdings of current clients between current clients or their  
40 designees and the international trust entity.

41 (2) A qualified limited service affiliate may not engage  
42 in any of the following activities:

43 (a) Advertising and marketing related to or for the  
44 benefit of the international trust entity which are directed to  
45 the general public;

46 (b) Acting as a fiduciary, including, but not limited to,  
47 accepting the fiduciary appointment, executing the fiduciary  
48 documents that create the fiduciary relationship, or making  
49 discretionary decisions regarding the investment or distribution  
50 of fiduciary accounts;

51 (c) Accepting custody of any trust property or any other  
52 good, asset, or thing of value on behalf of the affiliated  
53 international trust entity, its subsidiaries or affiliates, or  
54 subsidiaries and affiliates of the qualified limited service  
55 affiliate;

56 (d) Soliciting business within this state from the general  
57 public related to or for the benefit of an affiliated  
58 international trust entity;

59 (e) Adding a director, an executive officer, a principal  
60 shareholder, a manager, a managing member, or an equivalent  
61 position to the qualified limited service affiliate without  
62 prior written notification to the office;

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63 (f) Commencing services for an international trust entity  
64 without complying with the requirements of s. 663.532;

65 (g) Providing services for any international trust entity  
66 that is in bankruptcy, conservatorship, receivership,  
67 liquidation, or a similar status under the laws of any country;  
68 or

69 (h) Otherwise conducting banking or trust business.

70 (3) The provisions of subsection (2) are not deemed to  
71 prevent the qualified limited service affiliate's use of an  
72 international trust entity's website, or its own website, if the  
73 posted information or communication includes the following:

74 (a) The following statement: "Certain described services  
75 are not offered to the general public in Florida, but are  
76 marketed by ... (insert name of qualified limited service  
77 affiliate)... exclusively to professionals and current or  
78 prospective non-U.S. resident clients of the affiliated  
79 international trust entity or entities."

80 (b) The notice required by s. 663.535.

81 (4) In addition to any other power conferred upon it to  
82 enforce and administer this chapter and the financial  
83 institutions codes, the office may impose any remedy or penalty  
84 pursuant to s. 655.033, relating to cease and desist orders; s.  
85 655.034, relating to injunctions; s. 655.037, relating to  
86 removal of a financial institution-affiliated party by the  
87 office; or s. 655.041, relating to administrative fines and

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88 enforcement, if a qualified limited service affiliate engages in  
89 any of the impermissible activities in subsection (2).

90 Section 41. Effective upon this act becoming a law,  
91 section 663.532, Florida Statutes, is created to read:

92 663.532 Qualification.—No later than March 31, 2018, a  
93 person or entity that previously qualified under the moratorium  
94 in s. 663.041 must seek qualification as a qualified limited  
95 service affiliate or cease doing business in this state.

96 Notwithstanding the expiration of the moratorium under s.

97 663.041, a person or entity that previously qualified under such  
98 moratorium may remain open and in operation but shall refrain  
99 from engaging in new lines of business in this state until  
100 qualified as a qualified limited service affiliate under this  
101 part.

102 Section 42. Section 663.532, Florida Statutes, as created  
103 by this act, is amended to read:

104 663.532 Qualification.—

105 (1) To qualify as a qualified limited service affiliate  
106 under this part, a proposed qualified limited service affiliate  
107 must file a written notice with the office, in the manner and on  
108 a form prescribed by the commission. Such written notice must  
109 include:

110 (a) The name under which the proposed qualified limited  
111 service affiliate will conduct business in this state.

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112 (b) A copy of the articles of incorporation or articles of  
113 organization, or the equivalent, of the proposed qualified  
114 limited service affiliate.

115 (c) The physical address where the proposed qualified  
116 limited service affiliate will conduct business.

117 (d) The mailing address of the proposed qualified limited  
118 service affiliate.

119 (e) The name and biographical information of each  
120 director, executive officer, manager, managing member, or  
121 equivalent position of the proposed qualified limited service  
122 affiliate, to be submitted on a form prescribed by the  
123 commission.

124 (f) The number of officers and employees of the proposed  
125 qualified limited service affiliate.

126 (g) A detailed list and description of the activities to  
127 be conducted by the proposed qualified limited service  
128 affiliate. The detailed list and description must include:

129 1. The services and activities of the proposed qualified  
130 limited service affiliate;

131 2. An explanation of how the services and activities of  
132 the proposed qualified limited service affiliate serve the  
133 business purpose of each international trust entity; and

134 3. An explanation of how the services and activities of  
135 the proposed qualified limited service affiliate are  
136 distinguishable from those of the permissible activities of an

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137 international trust company representative office described  
138 under s. 663.409.

139 (h) Disclosure of any instance occurring within the prior  
140 10 years when the proposed qualified limited service affiliate's  
141 director, executive officer, principal shareholder, manager,  
142 managing member, or equivalent position was:

143 1. Arrested for, charged with, or convicted of, or who  
144 pled guilty or nolo contendere to, regardless of adjudication,  
145 any offense that is punishable by imprisonment for a term  
146 exceeding 1 year, or to any offense that involves money  
147 laundering, currency transaction reporting, tax evasion,  
148 facilitating or furthering terrorism, fraud, theft, larceny,  
149 embezzlement, fraudulent conversion, misappropriation of  
150 property, dishonesty, breach of trust, breach of fiduciary duty,  
151 or moral turpitude, or that is otherwise related to the  
152 operation of a financial institution;

153 2. Fined or sanctioned as a result of a complaint to the  
154 office or any other state or federal regulatory agency; or

155 3. Ordered to pay a fine or penalty in a proceeding  
156 initiated by a federal, state, foreign, or local law enforcement  
157 agency or an international agency related to money laundering,  
158 currency transaction reporting, tax evasion, facilitating or  
159 furthering terrorism, fraud, theft, larceny, embezzlement,  
160 fraudulent conversion, misappropriation of property, dishonesty,  
161 breach of trust, breach of fiduciary duty, or moral turpitude,

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162 or that is otherwise related to the operation of a financial  
163 institution.

164 (i) A declaration under penalty of perjury signed by the  
165 executive officer, manager, or managing member of the proposed  
166 qualified limited service affiliate that, to the best of his or  
167 her knowledge:

168 1. No employee, representative, or agent provides, or will  
169 provide, banking services; promotes or sells, or will promote or  
170 sell, investments; or accepts, or will accept, custody of  
171 assets.

172 2. No employee, representative, or agent acts, or will  
173 act, as a fiduciary in this state, which includes, but is not  
174 limited to, accepting the fiduciary appointment, executing the  
175 fiduciary documents that create the fiduciary relationship, or  
176 making discretionary decisions regarding the investment or  
177 distribution of fiduciary accounts.

178 3. The jurisdiction of the international trust entity or  
179 its offices, subsidiaries, or any affiliates that are directly  
180 involved in or facilitate the financial services functions,  
181 banking, or fiduciary activities of the international trust  
182 entity is not listed on the Financial Action Task Force Public  
183 Statement or on its list of jurisdictions with deficiencies in  
184 anti-money laundering or counterterrorism.

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185 (j) For each international trust entity that the proposed  
186 qualified limited service affiliate will provide services for in  
187 this state, the following:

188 1. The name of the international trust entity;

189 2. A list of the current officers and directors of the  
190 international trust entity;

191 3. Any country where the international trust entity is  
192 organized or authorized to do business;

193 4. The name of the home-country regulator;

194 5. Proof that the international trust entity has been  
195 authorized by charter, license, or similar authorization by its  
196 home-country regulator to engage in trust business;

197 6. Proof that the international trust entity lawfully  
198 exists and is in good standing under the laws of the  
199 jurisdiction where it is chartered, licensed, or organized;

200 7. A statement that the international trust entity is not  
201 in bankruptcy, conservatorship, receivership, liquidation, or in  
202 a similar status under the laws of any country;

203 8. Proof that the international trust entity is not  
204 operating under the direct control of the government or the  
205 regulatory or supervisory authority of the jurisdiction of its  
206 incorporation, through government intervention or any other  
207 extraordinary actions, and confirmation that it has not been in  
208 such a status or under such control at any time within the prior  
209 3 years;

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210 9. Proof and confirmation that the proposed qualified  
211 limited service affiliate is affiliated with the international  
212 trust entities provided in the notice; and

213 10. Proof that the jurisdictions where the international  
214 trust entity or its offices, subsidiaries, or any affiliates  
215 that are directly involved in or that facilitate the financial  
216 services functions, banking, or fiduciary activities of the  
217 international trust entity are not listed on the Financial  
218 Action Task Force Public Statement or on its list of  
219 jurisdictions with deficiencies in anti-money laundering or  
220 counterterrorism.

221 (k) A declaration under penalty of perjury, signed by an  
222 executive officer, manager, or managing member of each  
223 affiliated international trust entity, declaring that the  
224 information provided to the office is true and correct to the  
225 best of his or her knowledge.

226  
227 The proposed qualified limited service affiliate may provide  
228 additional information in the form of exhibits when attempting  
229 to satisfy any of the qualification requirements. All  
230 information that the proposed qualified limited service  
231 affiliate desires to present to support the written notice must  
232 be submitted with the notice.

233 (2) The office may request additional information as the  
234 office reasonably requires. Any request for additional

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235 information must be made by the office within 30 days after  
236 initial receipt of the written notice. Additional information  
237 must be submitted within 60 days after a request has been made  
238 by the office. Failure to respond to such request within 60 days  
239 after the date of the request is a ground for denial of the  
240 qualification. A notice is not deemed complete until all  
241 requested information has been submitted to the office. Upon  
242 deeming the notice complete, the office has 120 days to qualify  
243 the proposed qualified limited service affiliate or issue a  
244 denial. An order denying a qualification must contain notice of  
245 opportunity for a hearing pursuant to ss. 120.569 and 120.57.

246 (3) A qualification under this part must be summarily  
247 suspended by the office if the qualified limited service  
248 affiliate made a material false statement in the written notice.  
249 The summary suspension must remain in effect until a final order  
250 is entered by the office. For purposes of s. 120.60(6), a  
251 material false statement made in the qualified limited service  
252 affiliate's written notice constitutes an immediate and serious  
253 danger to the public health, safety, and welfare. If a qualified  
254 limited service affiliate made a material false statement in the  
255 written notice, the office must enter a final order revoking the  
256 qualification and may issue a fine as prescribed by s. 655.041  
257 or issue an order of suspension, removal, or prohibition under  
258 s. 655.037 to a financial institution-affiliated party of the  
259 qualified limited service affiliate.

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260       (4) Upon the filing of a completed qualification notice  
261 under this section, the office shall make an investigation of  
262 the character, reputation, business experience, and business  
263 qualifications of the proposed qualified limited service  
264 affiliate's proposed directors, executive officers, principal  
265 shareholder, managers, managing members, or equivalent  
266 positions. The office shall approve the qualification only if it  
267 has determined that such persons are qualified by reason of  
268 their ability, reputation, and integrity and have sufficient  
269 experience to manage and direct the affairs of the qualified  
270 limited service affiliate in a lawful manner and in accordance  
271 with the requirements for obtaining and maintaining a  
272 qualification under this part. When evaluating a qualification  
273 notice, the office may consider factors reasonably related to an  
274 offense or related to a violation, fine, or penalty, such as  
275 mitigating factors, history of multiple violations, severity of  
276 the offense, and showings of rehabilitation.

277       (5) A qualification is not transferable or assignable.

278       (6) No later than March 31, 2018, a person or entity that  
279 previously qualified under the moratorium in s. 663.041 must  
280 seek qualification as a qualified limited service affiliate or  
281 cease doing business in this state. Notwithstanding the  
282 expiration of the moratorium under s. 663.041, a person or  
283 entity that previously qualified under such moratorium may  
284 remain open and in operation but shall refrain from engaging in

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285 | new lines of business in this state until qualified as a  
286 | qualified limited service affiliate under this part.

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289 | **T I T L E A M E N D M E N T**

290 | Remove lines 187-190 and insert:

291 | not transferable or assignable; creating s. 663.5325, F.S.;

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