

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: CS/SB 958

INTRODUCER: Banking and Insurance Committee and Senator Thurston

SUBJECT: Financial Institutions

DATE: April 4, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	Fav/CS
2.			RI	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 958 amends the Financial Institution Codes to expand the pool of eligible individuals who may qualify to serve as a director, president, or chief executive officer of a new or existing bank or trust company that is subject to regulation by the Office of Financial Regulation (OFR). The OFR charters, licenses, and regulates various entities that engage in financial institution business in Florida, including state-chartered banks and trust companies.

For existing and new state-chartered banks and trust companies, the bill extends the period from 3 to 5 years for certain officers and directors to have met the minimum 1 year of financial institution experience. Under current law, at least two of the proposed directors, who are not also proposed officers, must have had at least 1 year of financial institution experience within 3 years prior to the submission of a bank or trust company application to the OFR. Likewise, for existing state-chartered banks or trust companies, the president, chief executive officer, or any other person with an equivalent rank, must have had at least 1 year of experience within the last 3 years.

Lastly, the bill requires that at least a majority, rather than three-fifths, of the directors of a state-chartered bank or trust company must have resided in this state for at least 1 year preceding their election and must continue their residency in Florida for the duration of their time in office. This change will align the residency requirement for Florida state-chartered banks with the residency requirement for national banks.

The bill has an indeterminate fiscal impact on the Office of Financial Regulation.

II. Present Situation:

Office of Financial Regulation

The Office of Financial Regulation (OFR) regulates state-chartered depository and non-depository financial institutions and financial service companies. One of the OFR's primary goals is to protect consumers while preserving the integrity of Florida's markets and financial service industries. To achieve this goal, Florida law provides the OFR with regulatory authority over entities regulated under the Financial Institutions Codes (codes). The codes include:

- Ch. 655, F.S., relating to financial institutions generally;
- Ch. 657, F.S., relating to credit unions;
- Ch. 658, F.S., relating to banks and trust companies;
- Ch. 660, F.S., relating to trust business;
- Ch. 663, F.S., relating to international banking;
- Ch. 665, F.S., relating to associations; and
- Ch. 667, F.S., relating to savings banks.¹

Qualifications of Officers and Directors for New or De Novo State Chartered Bank or Trust Company

Section 658.19, F.S., prescribes the information required of an applicant to the OFR for authority to organize a bank or trust company, which includes financial, business, and biographical information the commission or the OFR may reasonably require for each proposed director, executive officer, and, if applicable, each trust officer. The OFR must approve the application if it finds the proposed bank or trust company meets certain criteria including the qualifications of the proposed officers and directors.²

In regards to the background and experience of proposed officers and directors, proposed officers must have sufficient financial experience, ability, standing, and reputation and the proposed directors have sufficient business experience, ability, standing and reputation to indicate reasonable promise of successful operation. Further, as a condition, none of the proposed officers and directors may not have been convicted of, or pled guilty or nolo contendere to, any violation of s. 655.50, F.S., relating to the control of money laundering and terrorist financing; and ch. 896, F.S., relating to offenses against financial institutions.

At least two of the proposed directors who are not also proposed officers must have had at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the 3 years before the application date. However, if the applicant demonstrates that at least one of the proposed directors has very substantial experience as an executive officer, director, or regulator of a financial institution more than 3 years before the date of the application, the office may modify the requirement and allow only one director to have direct financial institution experience within the last 3 years. The proposed president or chief executive

¹ Section 655.005(1)(k), F.S.

² Section 658.21, F.S.

officer must have had at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 3 years.³

Qualifications of Officers and Directors for an Existing State-Chartered Bank or Trust Company

A state-chartered bank or trust company must have at least five directors and at least a majority of the directors must be citizens of the United States.⁴ At least three-fifths of the directors must have resided in this state for at least 1 year preceding their election and must continue their residency in Florida for the duration of their time in office.⁵

In contrast, the Office of the Comptroller of Currency (Comptroller) has different requirements relating to the directors or officers of a nationally chartered bank or trust company. Every director must be a citizen of the United States. At least a majority of the directors must have resided in the state, territory, or district in which the association is located, or within 100 miles of the location of the office of the association, for at least 1 year immediately preceding their election, and must be residents of such state or within 100-mile territory of the location of the association during their continuance in office. However, the Comptroller has the discretion to waive the requirement of residency, and waive the requirement of citizenship in the case of not more than a minority of the total number of directors.⁶

Further, s. 658.33(5), F.S., requires a bank or trust company, with total assets of less than \$150 million, to have at least one director who is not also an officer of the bank or trust company, and must have at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the preceding 3 years.⁷ For a bank or trust company with total assets of more than \$150 million, at least two directors who are not also officers of the bank or trust company must have at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the last 3 years.⁸ The president, chief executive officer, or other person who has equivalent rank or leads the overall operations of a bank or trust company must have at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 3 years.⁹

III. Effect of Proposed Changes:

Section 1 amends s. 658.21, F.S., to provide that a proposed president or chief executive officer must have at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within 5 years, rather than 3 years, of the application date for a state chartered bank or trust company.

Further, the bill provides that at least two of the proposed directors who are not also proposed officers must have at least 1 year of direct financial institution experience within 5 years, rather

³ Section 658.21(4), F.S.

⁴ Section 658.33(2), F.S.

⁵ *Id.*

⁶ 12 U.S.C. s. 72.

⁷ *Id.*

⁸ *Id.*

⁹ s. 658.33(5), F.S.

than 3 years, prior to the application. However, the OFR may require only one director to have such experience if at least one of the proposed directors has very substantial experience as an executive officer, director, or regulator of a financial institution within the last 5 years rather than the last 3 years.

Section 2 amends s. 658.33, F.S., to increase the period within which a president or chief executive officer and a certain number of directors must have 1 year of relevant financial institution experience in order to serve at an existing state-chartered bank or trust company. The bill expands the period to satisfy the required experience from 3 years to 5 years, as follows:

- The president, chief executive officer, or other person who has equivalent rank or leads the overall operations of a bank or trust company must have at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 5 years.
- For a bank or trust company with total assets of less than \$150 million, at least one director who is not also an officer of the bank or trust company must have at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the last 5 years.
- For a bank or trust company with total assets of more than \$150 million, at least two directors who are not also officers of the bank or trust company must have at least 1 year of direct experience as an executive officer, regulator, or director of a financial institution within the last 5 years.

The bill also requires that at least a majority, rather than three-fifths, of the directors must have resided in Florida for at least 1 year preceding their election and must continue their residency in Florida for the duration of their time in office. This change will align the residency requirement for Florida state-chartered banks with the residency requirement for national banks.

Section 3 provides the act will take effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill would expand the pool of eligible individuals who may qualify to serve as a director, president, or chief executive officer of a proposed or existing state chartered bank or trust company.

C. Government Sector Impact:

The bill has an indeterminate impact on the Office of Financial Regulation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 658.21 and 658.30.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Banking and Insurance on April 3, 2017:**

The CS revises the residency requirements of certain directors of an existing bank or trust company and revises requirements relating to the financial institution experience of certain directors and officers of a new or existing bank or trust company. The CS removes provisions that would have allowed a state-chartered bank or trust company to organize as a benefit corporation under part III of ch. 607, F.S.

B. Amendments:

None.