

By Senator Taddeo

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1                                   A bill to be entitled  
2       An act relating to banking services for medical  
3       marijuana treatment centers; providing legislative  
4       findings and intent; amending s. 655.005, F.S.;  
5       revising the definition of the term "financial  
6       institution" to include a medical marijuana limited  
7       charter bank or credit union licensed under the  
8       Marijuana Limited Charter Banking and Credit Union  
9       Law; creating s. 655.97, F.S.; providing a short  
10      title; defining terms; creating s. 655.971, F.S.;  
11      establishing the Medical Marijuana Limited Charter  
12      Bank and Credit Union Advisory Board within the Office  
13      of Financial Regulation; specifying the composition of  
14      the board; specifying requirements for the board;  
15      requiring the Department of Health and the office to  
16      submit certain reports to the board; requiring the  
17      board to submit certain recommendations to the  
18      Financial Services Commission and the Legislature;  
19      creating s. 655.972, F.S.; prohibiting persons from  
20      providing banking services to medical marijuana  
21      treatment centers without a medical marijuana limited  
22      charter bank or credit union license; prohibiting the  
23      transfer or assignment of licenses; providing  
24      application requirements; requiring the commission to  
25      adopt rules, and authorizing the commission to adopt  
26      emergency rules; creating s. 655.973, F.S.; providing  
27      requirements for medical marijuana limited charter  
28      banks and credit unions; specifying requirements,  
29      limitations, and authorized actions relating to

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30 special purpose checks issued by medical marijuana  
31 limited charter banks and credit unions; providing  
32 authorized and prohibited acts by medical marijuana  
33 limited charter banks and credit unions; requiring the  
34 commission and the department to adopt certain rules;  
35 authorizing the commission and the department to adopt  
36 emergency rules; providing an effective date.

37  
38 Be It Enacted by the Legislature of the State of Florida:

39  
40 Section 1. Legislative findings and intent.—

41 (1) In November 2016, Florida voters passed Amendment 2,  
42 creating s. 29, Article X of the State Constitution, authorizing  
43 the medical use of marijuana for individuals with debilitating  
44 medical conditions as determined by a licensed Florida  
45 physician. Under the amendment, medical marijuana treatment  
46 centers are created to serve the needs of the medical marijuana  
47 community.

48 (2) Cannabis remains illegal under federal law. The United  
49 States Drug Enforcement Administration classifies cannabis as a  
50 Schedule I drug. As a result, the majority of financial  
51 institutions that take deposits, including banks, thrifts, and  
52 credit unions, do not serve medical marijuana treatment centers.  
53 This status precludes medical marijuana treatment centers from  
54 depositing income in, or engaging in other banking-related  
55 activities with, federally insured and regulated financial  
56 institutions and from using a federal clearinghouse to process  
57 their payments.

58 (3) Since the majority of financial institutions will not

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59 serve medical marijuana treatment centers because of the  
60 conflict of federal law with state law, the centers are unable  
61 to open and use checking accounts, make or receive electronic  
62 payments, or accept credit or debit cards.

63 (4) While income from the sale of cannabis products is  
64 deemed ill-gotten gains by the federal government, the income is  
65 still taxable. The Internal Revenue Service specifically states  
66 in Publication 525, Taxable and Nontaxable Income, that "Income  
67 from illegal activities, such as money from dealing illegal  
68 drugs, must be included in your income on Schedule 1 (Form  
69 1040), line 21, or on Schedule C (Form 1040) or Schedule C-EZ  
70 (Form 1040) if from your self-employment activity."

71 (5) The lack of banking services has created both  
72 regulatory and public safety issues. This state must be able to  
73 audit and perform accounting and other accountability functions  
74 affecting medical marijuana treatment centers. This is made  
75 significantly more difficult when the majority of transactions  
76 are completed with cash.

77 (6) Because of the unavailability of financial services,  
78 medical marijuana treatment centers are less able to pay taxes  
79 and follow regulations governing medical marijuana in this  
80 state.

81 (7) Additionally, the lack of access to financial services  
82 has created public safety issues for medical marijuana treatment  
83 centers that need to pay high security costs to safeguard their  
84 income and their employees, who risk being robbed when managing  
85 and transporting cash.

86 (8) Florida voters have spoken in support of medical  
87 marijuana laws. In furtherance of the will of the voters, the

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88 Legislature has a responsibility to enact appropriate  
89 legislation implementing s. 29, Article X of the State  
90 Constitution. The current conflict with federal law creates a  
91 significant problem requiring legislative attention. The  
92 Legislature has a duty to provide a mechanism to help medical  
93 marijuana treatment centers gain access to banking services  
94 which is consistent with the will of Florida voters.

95 Section 2. Paragraph (i) of subsection (1) of section  
96 655.005, Florida Statutes, is amended to read:

97 655.005 Definitions.—

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

100 (i) "Financial institution" means a state or federal  
101 savings or thrift association, bank, savings bank, trust  
102 company, international bank agency, international banking  
103 corporation, international branch, international representative  
104 office, international administrative office, international trust  
105 entity, international trust company representative office,  
106 qualified limited service affiliate, credit union, ~~or~~ an  
107 agreement corporation operating pursuant to s. 25 of the Federal  
108 Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act corporation  
109 organized pursuant to s. 25(a) of the Federal Reserve Act, 12  
110 U.S.C. ss. 611 et seq., or a medical marijuana limited charter  
111 bank or credit union licensed under the Marijuana Limited  
112 Charter Banking and Credit Union Law.

113 Section 3. Section 655.97, Florida Statutes, is created to  
114 read:

115 655.97 Medical Marijuana Limited Charter Banking and Credit  
116 Union Law; definitions.—

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117       (1) SHORT TITLE.—Sections 655.97-655.973 may be cited as  
118 the “Medical Marijuana Limited Charter Banking and Credit Union  
119 Law.”

120       (2) DEFINITIONS.—As used in ss. 655.97-655.973, the term:

121       (a) “Applicant” means an entity that submits an application  
122 to the office pursuant to s. 655.972 to be licensed as a medical  
123 marijuana limited charter bank or credit union.

124       (b) “Banking services” means the provision of depository  
125 services with respect to cash or other funds and the issuance  
126 and acceptance of special purpose checks, including the  
127 acceptance and maintenance of deposit proceeds, consistent with  
128 the requirements and limitations under the financial  
129 institutions codes.

130       (c) “Board” means the Medical Marijuana Limited Charter  
131 Bank and Credit Union Advisory Board established under s.  
132 655.971.

133       (d) “Medical marijuana limited charter bank or credit  
134 union” means an entity that is licensed by the office pursuant  
135 to s. 655.972.

136       (e) “Medical marijuana treatment center” means an entity  
137 licensed by the Department of Health pursuant to s. 381.986(8).

138       Section 4. Section 655.971, Florida Statutes, is created to  
139 read:

140       655.971 Medical Marijuana Limited Charter Bank and Credit  
141 Union Advisory Board.—

142       (1) The Medical Marijuana Limited Charter Bank and Credit  
143 Union Advisory Board is established within the office. The board  
144 shall be composed of a member designated by the Chief Financial  
145 Officer, a member designated by the State Surgeon General, and a

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146 member designated by the Commissioner of Agriculture. The  
147 Commissioner of Financial Regulation, or his or her designee,  
148 shall serve as an ex officio nonvoting member. Board members may  
149 not be compensated for their services.

150 (2) The board shall ensure that the Medical Marijuana  
151 Limited Charter Banking and Credit Union Law provides a safe and  
152 efficient way for medical marijuana treatment centers to pay  
153 state and local taxes and fees, to pay rent on the medical  
154 marijuana treatment center, to issue special purpose checks, and  
155 to legally invest in the economy of this state, while reducing  
156 burdens placed on local government resulting from collecting and  
157 managing large sums of cash.

158 (3) The Department of Health and the office shall submit  
159 reports of enforcement activities under s. 381.986 and the  
160 financial institutions codes to the board for review annually or  
161 as the board may require. The board shall meet at its  
162 discretion, but at least once a year, to review enforcement  
163 activity reports from the Department of Health and the office.  
164 Meetings must be noticed and open to public comment in  
165 accordance with chapter 286. The board shall evaluate the  
166 reports and the comments of the public and draft recommendations  
167 for legislation or rules. Such recommendations must be submitted  
168 to the Financial Services Commission, the President of the  
169 Senate, and the Speaker of the House of Representatives.

170 (4) The board shall provide guidance and education to  
171 dealers and investment advisers registered under chapter 517 to  
172 accommodate account holders at medical marijuana limited charter  
173 banks and credit unions in purchasing, holding, and selling any  
174 of the investments described in s. 655.973(2)(b)4.

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175 Section 5. Section 655.972, Florida Statutes, is created to  
176 read:

177 655.972 Medical marijuana limited charter banks or credit  
178 unions; licensing.-

179 (1) A person may not provide banking services to a medical  
180 marijuana treatment center unless licensed as a medical  
181 marijuana limited charter bank or credit union under this  
182 section. A license issued under this section may not be  
183 transferred or assigned.

184 (2) An applicant shall submit a completed application to  
185 the office in a form prescribed by commission rule. The  
186 applicant shall elect to form as a state bank or state trust  
187 company under chapter 658 or a state credit union under chapter  
188 657 and is subject to the licensing requirements and procedures  
189 of those chapters as applicable.

190 (3) The commission shall adopt rules to administer this  
191 section. The commission may, and all conditions are deemed met  
192 to, adopt emergency rules pursuant to s. 120.54(4) to administer  
193 this section.

194 Section 6. Section 655.973, Florida Statutes, is created to  
195 read:

196 655.973 Medical marijuana limited charter banks or credit  
197 unions; requirements; special purpose checks; authorized and  
198 prohibited acts; rulemaking.-

199 (1) REQUIREMENTS.-

200 (a) A medical marijuana limited charter bank or credit  
201 union shall comply with all requirements imposed by this  
202 chapter, chapter 657, and chapter 658, as applicable. However,  
203 to the extent that any provision in the financial institutions

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204 codes is inconsistent with the Medical Marijuana Limited Charter  
205 Banking and Credit Union Law, the Medical Marijuana Limited  
206 Charter Banking and Credit Union Law shall control.

207 (b) A medical marijuana limited charter bank or credit  
208 union shall adopt policies and practices to achieve the  
209 principles and goals outlined in the Bank Secrecy Act of 1970,  
210 Pub. L. No. 91-508, as amended, and must cooperate with the  
211 Financial Crimes Enforcement Network.

212 (c) A medical marijuana limited charter bank or credit  
213 union shall obtain and maintain private insurance in an amount  
214 acceptable to the commissioner for the medical marijuana limited  
215 charter bank or credit union and its assets at all times while  
216 it is engaged in providing banking services. Private insurance  
217 may not be unsatisfactory to the commissioner. In seeking and  
218 retaining private insurance, a medical marijuana limited charter  
219 bank or credit union may act and assume and discharge all  
220 obligations required of it in accordance with state law.

221 (2) SPECIAL PURPOSE CHECKS.—

222 (a) A medical marijuana limited charter bank or credit  
223 union may issue to an account holder special purpose checks that  
224 must be valid for only the purposes specified in paragraph (b).  
225 The following text must be printed on each check in at least 12-  
226 point type, with the name of the issuing bank included: "This  
227 check is issued by ...(insert name of bank)... and may only be  
228 deposited or cashed at this medical marijuana limited charter  
229 bank or credit union or another medical marijuana limited  
230 charter bank or credit union that agrees to accept the check."

231 (b) Subject to the limitations of paragraph (d), a special  
232 purpose check issued by a medical marijuana limited charter bank



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233 or credit union may be used only for any of the following  
234 purposes:

235 1. To pay fees or taxes to the state or a local  
236 jurisdiction.

237 2. To pay rent on property that is leased by, or on behalf  
238 of, the account holder's medical marijuana treatment center.

239 3. To pay a vendor that is physically located in this state  
240 for expenses related to goods and services associated with the  
241 account holder's medical marijuana treatment center.

242 4. To purchase any of the following:

243 a. Bonds, interest-bearing notes, or interest-bearing  
244 warrants of this state for which the full faith and credit of  
245 this state are pledged for the payment of principal and  
246 interest.

247 b. Bonds issued by counties, school boards, districts,  
248 authorities, municipalities, and agencies of municipalities in  
249 this state.

250 (c) Subject to the limitations of paragraph (d), state and  
251 local government offices may accept a special purpose check  
252 issued by a medical marijuana limited charter bank or credit  
253 union.

254 (d) An individual or entity, private or public, is not  
255 required to accept a special purpose check issued by a medical  
256 marijuana limited charter bank or credit union pursuant to this  
257 section.

258 (e) A medical marijuana limited charter bank or credit  
259 union may cash a special purpose check presented to it by a  
260 person or entity that is not an account holder if the medical  
261 marijuana limited charter bank or credit union previously issued

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262 the special purpose check to an account holder and the check was  
263 used for one of the authorized purposes specified in paragraph  
264 (b).

265 (3) AUTHORIZED ACTS.—A medical marijuana limited charter  
266 bank or credit union may:

267 (a) Enter into an agreement with one or more other medical  
268 marijuana limited charter banks or credit unions in order to  
269 form a banking network. The agreement is subject to the approval  
270 of the commissioner. The network must be for the purpose of  
271 assisting in providing services to medical marijuana treatment  
272 centers and assisting medical marijuana limited charter banks or  
273 credit unions in the network. A network formed under this  
274 paragraph may not include an institution that is not a medical  
275 marijuana limited charter bank or credit union.

276 (b) Provide accounts to individuals and entities other than  
277 medical marijuana treatment centers, pursuant to commission  
278 rule.

279 (c) Charge fees for the banking services it provides. Each  
280 medical marijuana limited charter bank and credit union shall  
281 provide to the office a fee schedule listing the types and  
282 amounts or rates of fees it charges for the services it  
283 provides. The office shall compile the information received  
284 under this paragraph and post the information on its website in  
285 a format intended to provide transparency. The office may, if  
286 requested by any person or if the office deems appropriate,  
287 review any fee charged by a medical marijuana limited charter  
288 bank or credit union under this paragraph.

289 (4) PROHIBITED ACTS.—A medical marijuana limited charter  
290 bank or credit union may not:

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291 (a) Engage in banking, trust company, or credit union  
292 business with any other financial institution that is not  
293 licensed as a medical marijuana limited charter bank or credit  
294 union.

295 (b) Engage in any activity under the financial institutions  
296 codes except for activity required to accept deposits and  
297 perform actions authorized under the Medical Marijuana Limited  
298 Charter Banking and Credit Union Law.

299 (5) RULES.—

300 (a) The commission and the Department of Health shall adopt  
301 rules specifying:

302 1. Best practices for medical marijuana limited charter  
303 banks and credit unions and medical marijuana treatment centers  
304 to comply with the Medical Marijuana Limited Charter Banking and  
305 Credit Union Law; and

306 2. Technical assistance the office and the Department of  
307 Health shall provide to medical marijuana limited charter banks  
308 and credit unions and medical marijuana treatment centers to  
309 facilitate such compliance.

310 (b) The commission and the Department of Health may, and  
311 all conditions are deemed met to, adopt emergency rules pursuant  
312 to s. 120.54(4) to administer this section.

313 Section 7. This act shall take effect July 1, 2019.