

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
 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; providing an
 34 | effective date.

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36 | Be It Enacted by the Legislature of the State of Florida:

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38 | Section 1. Legislative findings and intent.—

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

46 | (2) Cannabis remains illegal under federal law. The United
 47 | States Drug Enforcement Administration classifies cannabis as a
 48 | Schedule I drug. As a result, the majority of financial
 49 | institutions that take deposits, including banks, thrifts, and
 50 | credit unions, do not serve medical marijuana treatment centers.

51 This status precludes medical marijuana treatment centers from
52 depositing income in, or engaging in other banking-related
53 activities with, federally insured and regulated financial
54 institutions and from using a federal clearinghouse to process
55 their payments.

56 (3) Since the majority of financial institutions will not
57 serve medical marijuana treatment centers because of the
58 conflict of federal law with state law, the centers are unable
59 to open and use checking accounts, make or receive electronic
60 payments, or accept credit or debit cards.

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

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

75 (6) Because of the unavailability of financial services,

76 medical marijuana treatment centers are less able to pay taxes
77 and follow regulations in this state governing medical
78 marijuana.

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

84 (8) Florida voters have spoken in support of medical
85 marijuana laws. In furtherance of the will of the voters, the
86 Legislature has a responsibility to enact appropriate
87 legislation implementing Art. X, s. 29 of the State
88 Constitution. The current conflict with federal law creates a
89 significant problem requiring legislative attention. The
90 Legislature has a duty to provide a mechanism to help medical
91 marijuana treatment centers gain access to banking services
92 which is consistent with the will of Florida voters.

93 Section 2. Paragraph (i) of subsection (1) of section
94 655.005, Florida Statutes, is amended to read:

95 655.005 Definitions.—

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

98 (i) "Financial institution" means a state or federal
99 savings or thrift association, bank, savings bank, trust
100 company, international bank agency, international banking

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

111 Section 3. Section 655.97, Florida Statutes, is created to
112 read:

113 655.97 Medical Marijuana Limited Charter Banking and
114 Credit Union Law; definitions.-

115 (1) SHORT TITLE.-Sections 655.97-655.973 may be cited as
116 the "Medical Marijuana Limited Charter Banking and Credit Union
117 Law."

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

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

122 (b) "Banking services" means the provision of depository
123 services with respect to cash or other funds and the issuance
124 and acceptance of special purpose checks, including the
125 acceptance and maintenance of deposit proceeds, consistent with

126 the requirements and limitations under the financial
 127 institutions codes.

128 (c) "Board" means the Medical Marijuana Limited Charter
 129 Bank and Credit Union Advisory Board established under s.
 130 655.971.

131 (d) "Medical marijuana limited charter bank or credit
 132 union" means an entity that is licensed by the office pursuant
 133 to s. 655.972.

134 (e) "Medical marijuana treatment center" means an entity
 135 licensed by the Department of Health pursuant to s. 381.986(8).

136 Section 4. Section 655.971, Florida Statutes, is created
 137 to read:

138 655.971 Medical Marijuana Limited Charter Bank and Credit
 139 Union Advisory Board.—

140 (1) The Medical Marijuana Limited Charter Bank and Credit
 141 Union Advisory Board is established within the office. The board
 142 shall be composed of a member designated by the Chief Financial
 143 Officer, a member designated by the State Surgeon General, and a
 144 member designated by the Commissioner of Agriculture. The
 145 Commissioner of Financial Regulation, or his or her designee,
 146 shall serve as an ex officio nonvoting member. Board members may
 147 not be compensated for their services.

148 (2) The board shall ensure that the Medical Marijuana
 149 Limited Charter Banking and Credit Union Law provides a safe and
 150 efficient way for medical marijuana treatment centers to pay

151 state and local taxes and fees, to pay rent on the medical
152 marijuana treatment center, to issue special purpose checks, and
153 to legally invest in the economy of this state, while reducing
154 burdens placed on local government resulting from collecting and
155 managing large sums of cash.

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

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

173 Section 5. Section 655.972, Florida Statutes, is created
174 to read:

175 655.972 Medical marijuana limited charter banks or credit

176 | unions; licensing.-

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

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

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

192 | Section 6. Section 655.973, Florida Statutes, is created
 193 | to read:

194 | 655.973 Medical marijuana limited charter banks or credit
 195 | unions; requirements; special purpose checks; authorized and
 196 | prohibited acts.-

197 | (1) REQUIREMENTS.-

198 | (a) A medical marijuana limited charter bank or credit
 199 | union shall comply with all requirements imposed by this
 200 | chapter, chapter 657, and chapter 658, as applicable. However,

201 to the extent that any provision in the financial institutions
202 codes is inconsistent with the Medical Marijuana Limited Charter
203 Banking and Credit Union Law, the Medical Marijuana Limited
204 Charter Banking and Credit Union Law shall control.

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

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

219 (2) SPECIAL PURPOSE CHECKS.—

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

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226 deposited or cashed at this medical marijuana limited charter
227 bank or credit union or another medical marijuana limited
228 charter bank or credit union that agrees to accept the check."

229 (b) Subject to the limitations of paragraph (d), a special
230 purpose check issued by a medical marijuana limited charter bank
231 or credit union may be used only for any of the following
232 purposes:

233 1. To pay fees or taxes to the state or a local
234 jurisdiction.

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

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

240 4. To purchase any of the following:

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

244 b. Bonds issued by counties, school boards, districts,
245 authorities, municipalities, and agencies of municipalities in
246 this state.

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

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

255 (e) A medical marijuana limited charter bank or credit
256 union may cash a special purpose check presented to it by a
257 person or entity that is not an account holder if the medical
258 marijuana limited charter bank or credit union previously issued
259 the special purpose check to an account holder and the check was
260 used for one of the authorized purposes specified in paragraph
261 (b).

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

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

273 (b) Provide accounts to individuals and entities other
274 than medical marijuana treatment centers, pursuant to commission
275 rule.

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

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

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

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

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