

By Senator Martin

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1 A bill to be entitled
2 An act relating to access to financial institution
3 customer accounts; amending s. 280.051, F.S.;
4 providing additional grounds for qualified public
5 depositories to be suspended and disqualified;
6 amending s. 280.054, F.S.; providing additional acts
7 deemed knowing and willful violations by qualified
8 public depositors which are subject to certain
9 penalties; creating s. 655.49, F.S.; requiring
10 financial institutions that take actions to restrict
11 customers' and members' account access to file
12 termination-of-access reports with the Office of
13 Financial Regulation; providing exceptions from the
14 reporting requirements; requiring such reports to be
15 filed at such time and to contain such information as
16 required by the Financial Services Commission;
17 providing duties of the Office of Financial
18 Regulation; providing reporting requirements for the
19 office; providing violations and penalties;
20 authorizing the office to provide the reports and
21 certain information to specified entities under
22 certain circumstances; providing that the financial
23 institutions' customers and members have a cause of
24 action under certain circumstances; authorizing such
25 customers and members to recover damages, together
26 with costs and attorney fees; providing a time limit
27 for initiating causes of action; providing an
28 effective date.
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30 Be It Enacted by the Legislature of the State of Florida:

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32 Section 1. Subsection (16) is added to section 280.051,
33 Florida Statutes, to read:

34 280.051 Grounds for suspension or disqualification of a
35 qualified public depository.—A qualified public depository may
36 be suspended or disqualified or both if the Chief Financial
37 Officer determines that the qualified public depository has:

38 (16) Pursuant to a determination notice reported by the
39 Office of Financial Regulation under s. 655.49, acted in bad
40 faith when terminating, suspending, or taking similar action
41 restricting a customer's or member's account, or failed to
42 timely file a termination-of-access report with the office as
43 required under s. 655.49.

44 Section 2. Paragraph (b) of subsection (1) of section
45 280.054, Florida Statutes, is amended to read:

46 280.054 Administrative penalty in lieu of suspension or
47 disqualification.—

48 (1) If the Chief Financial Officer finds that one or more
49 grounds exist for the suspension or disqualification of a
50 qualified public depository, the Chief Financial Officer may, in
51 lieu of suspension or disqualification, impose an administrative
52 penalty upon the qualified public depository.

53 (b) With respect to any knowing and willful violation of a
54 lawful order or rule, the Chief Financial Officer may impose a
55 penalty upon the qualified public depository in an amount not
56 exceeding \$1,000 for each violation. If restitution is due, the
57 qualified public depository shall make restitution upon the
58 order of the Chief Financial Officer and shall pay interest on

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59 such amount at the legal rate. Each day a violation continues
60 constitutes a separate violation. Each of the following Failure
61 ~~to timely file the attestation required under s. 280.025~~ is
62 deemed a knowing and willful violation by the qualified public
63 depository:

64 1. Failure to timely file the attestation required under s.
65 280.025.

66 2. Bad faith termination, suspension, or similar action
67 restricting a customer's or member's account access, as
68 determined by the Office of Financial Regulation pursuant to s.
69 655.49.

70 3. Failure to timely file a termination-of-access report
71 required under s. 655.49.

72 Section 3. Section 655.49, Florida Statutes, is created to
73 read:

74 655.49 Termination-of-access reports by financial
75 institutions; investigations by the Office of Financial
76 Regulation.—

77 (1) A financial institution that terminates, suspends, or
78 takes similar action restricting a customer's or member's
79 account access must file a termination-of-access report with the
80 Office of Financial Regulation, unless the termination,
81 suspension, or similar action restricting access was due to:

82 (a) The customer or member initiating the access change;

83 (b) A lack of activity in the account; or

84 (c) The account is presumed unclaimed pursuant to chapter
85 717.

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87 The termination-of-access report shall be filed at such time and

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88 must contain such information as the commission requires by
89 rule.

90 (2) The Office of Financial Regulation must:

91 (a) Within 90 days after receipt of a termination-of-access
92 report, investigate the financial institution's action and
93 determine whether the action was taken in bad faith as
94 substantiated by competent and substantial evidence that was
95 known or should have been known to the financial institution at
96 the time of the termination, suspension, or similar action; and

97 (b) Within 30 days after making the determination required
98 under paragraph (a), report to the Attorney General and the
99 Chief Financial Officer a determination of a bad faith
100 termination, suspension, or similar action restricting a
101 customer's or member's account access. The report to the
102 Attorney General must describe the findings of the
103 investigation, provide a summary of the evidence, and state
104 whether an alleged violation of the financial institutions codes
105 by the financial institution occurred. Upon sending the report
106 to the Attorney General pursuant to this paragraph, the office
107 must send a copy of the report to the customer or member by
108 certified mail, return receipt requested.

109 (3) A financial institution's termination, suspension, or
110 similar action restricting a customer's or member's account
111 access, or a financial institution's failure to timely file a
112 termination-of-access report as required under subsection (1),
113 constitutes a violation of the financial institutions codes and
114 subjects the financial institution to the applicable sanctions
115 and penalties provided for in the financial institutions codes.

116 (4) The office shall provide any report filed pursuant to

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117 this section, or information contained therein, to any federal,
118 state, or local law enforcement or prosecutorial agency, and any
119 federal or state agency responsible for the regulation or
120 supervision of financial institutions, if the provision of such
121 report is otherwise required by law.

122 (5) If the office determines that a financial institution
123 has acted in bad faith pursuant to subsection (2), the aggrieved
124 customer or member of the financial institution has a cause of
125 action against such financial institution for damages and may
126 recover damages therefor in any court of competent jurisdiction,
127 together with costs and reasonable attorney fees to be assessed
128 by the court. To recover damages under this subsection, the
129 customer or member must establish that, beyond a reasonable
130 doubt, the financial institution acted in bad faith in
131 terminating, suspending, or taking similar action restricting
132 access to the customer's or member's account. A customer's or
133 member's failure to initiate a cause of action under this
134 subsection within 12 months after the office's finding of bad
135 faith pursuant to subsection (2) shall bar recovery of any filed
136 claims thereafter.

137 Section 4. This act shall take effect July 1, 2024.