

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.

29
 30 Be It Enacted by the Legislature of the State of Florida:

31
 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
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
65 s. 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, unless the termination, suspension, or similar action
 81 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.

86
 87 The termination-of-access report shall be filed at such time and
 88 must contain such information as the commission requires by
 89 rule.

90 (2) The office must:

- 91 (a) Within 90 days after receipt of a termination-of-
 92 access report, investigate the financial institution's action
 93 and 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 bad faith termination,
110 suspension, or similar action restricting a customer's or
111 member's account access, as determined by the office pursuant to
112 subsection (2), or a financial institution's failure to timely
113 file a termination-of-access report as required under subsection
114 (1), constitutes a violation of the financial institutions codes
115 and subjects the financial institution to the applicable
116 sanctions and penalties provided for in the financial
117 institutions codes.

118 (4) The office shall provide any report filed pursuant to
119 this section, or information contained therein, to any federal,
120 state, or local law enforcement or prosecutorial agency, and any
121 federal or state agency responsible for the regulation or
122 supervision of financial institutions, if the provision of such
123 report is otherwise required by law.

124 (5) If the office determines that a financial institution
125 has acted in bad faith pursuant to subsection (2), the aggrieved

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

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