

26 | circumstances; authorizing such customers and members
27 | to recover damages, together with costs and attorney
28 | fees; providing a time limit for initiating causes of
29 | action; requiring the office to make available
30 | information necessary for filing complaints on its
31 | website; providing an effective date.

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

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35 | Section 1. Subsection (16) is added to section 280.051,
36 | Florida Statutes, to read:

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

41 | (16) Pursuant to a determination notice reported by the
42 | Office of Financial Regulation under s. 655.49, acted in bad
43 | faith when terminating, suspending, or taking similar action
44 | restricting a customer's or member's account, or failed to
45 | cooperate in an investigation conducted pursuant to s.
46 | 655.49(3), including, without limitation, failing to timely file
47 | a termination-of-access report with the office.

48 | Section 2. Paragraph (b) of subsection (1) of section
49 | 280.054, Florida Statutes, is amended to read:

50 | 280.054 Administrative penalty in lieu of suspension or

51 | disqualification.—

52 | (1) If the Chief Financial Officer finds that one or more
53 | grounds exist for the suspension or disqualification of a
54 | qualified public depository, the Chief Financial Officer may, in
55 | lieu of suspension or disqualification, impose an administrative
56 | penalty upon the qualified public depository.

57 | (b) With respect to any knowing and willful violation of a
58 | lawful order or rule, the Chief Financial Officer may impose a
59 | penalty upon the qualified public depository in an amount not
60 | exceeding \$1,000 for each violation. If restitution is due, the
61 | qualified public depository shall make restitution upon the
62 | order of the Chief Financial Officer and shall pay interest on
63 | such amount at the legal rate. Each day a violation continues
64 | constitutes a separate violation. Each of the following ~~Failure~~
65 | ~~to timely file the attestation required under s. 280.025~~ is
66 | deemed a knowing and willful violation by the qualified public
67 | depository:

68 | 1. Failure to timely file the attestation required under
69 | s. 280.025.

70 | 2. Bad faith termination, suspension, or similar action
71 | restricting a customer's or member's account access, as
72 | determined by the Office of Financial Regulation pursuant to s.
73 | 655.49.

74 | 3. Failure to cooperate in an investigation conducted
75 | pursuant to s. 655.49(3), including, without limitation, failure

76 | to timely file a termination-of-access report with the office.

77 | Section 3. Section 655.49, Florida Statutes, is created to
78 | read:

79 | 655.49 Bad faith termination or restriction of account
80 | access; investigations by the office.-

81 | (1) A customer or member of a financial institution who
82 | reasonably believes that a financial institution has terminated,
83 | suspended, or taken similar action restricting access to the
84 | customer's or member's account in bad faith may file, within 30
85 | calendar days after such termination, suspension, or similar
86 | action restricting account access, a complaint with the office
87 | alleging a violation of this section. Such complaint is barred
88 | if not timely filed.

89 | (2) This section does not apply if a financial
90 | institution's termination, suspension, or similar action
91 | restricting a customer's or member's account access was due to
92 | one or more of the following:

93 | (a) The customer or member initiated the change in access;

94 | (b) There is a lack of activity in the account; or

95 | (c) The account is presumed unclaimed property pursuant to
96 | chapter 717.

97 | (3) Upon receipt of a customer's or member's complaint
98 | under subsection (1):

99 | (a) Within 30 calendar days, the office must notify the
100 | financial institution that a complaint has been filed.

101 (b) Within 30 calendar days after receiving the notice
102 from the office, the financial institution must file with the
103 office a termination-of-access report containing such
104 information as the commission requires by rule.

105 (c) Within 90 calendar days after receiving the
106 termination-of-access report from the financial institution, the
107 office must investigate the financial institution's action and
108 determine whether the action was taken in bad faith as
109 substantiated by competent and substantial evidence that was
110 known or should have been known to the financial institution at
111 the time of the termination, suspension, or similar action
112 restricting a customer's or member's account access.

113 (d) Within 30 calendar days after making the determination
114 required under paragraph (c), the office must report to the
115 Attorney General and the Chief Financial Officer the
116 determination of a bad faith termination, suspension, or similar
117 action restricting a customer's or member's account access. The
118 report to the Attorney General must describe the findings of the
119 investigation, provide a summary of the evidence, and state
120 whether an alleged violation of the financial institutions codes
121 by the financial institution occurred. Upon reporting to the
122 Attorney General pursuant to this paragraph, the office must
123 send a copy of the report to the customer or member by certified
124 mail, return receipt requested.

125 (4) A financial institution's bad faith termination,

126 suspension, or similar action restricting access to a customer's
127 or member's account, as determined by the office pursuant to
128 subsection (3), or a financial institution's failure to
129 cooperate in an investigation conducted pursuant to subsection
130 (3), including, without limitation, failure to timely file a
131 termination-of-access report with the office, constitutes a
132 violation of the financial institutions codes and subjects the
133 financial institution to the applicable sanctions and penalties
134 provided for in the financial institutions codes.

135 (5) The office shall provide any report filed pursuant to
136 this section, or any information contained therein, to any
137 federal, state, or local law enforcement or prosecutorial
138 agency, and any federal or state agency responsible for the
139 regulation or supervision of financial institutions, if the
140 provision of such report is otherwise required by law.

141 (6) If the office determines under subsection (3) that a
142 financial institution has acted in bad faith, the aggrieved
143 customer or member of the financial institution has a cause of
144 action against the financial institution for damages and may
145 recover damages therefor in any court of competent jurisdiction,
146 together with costs and reasonable attorney fees to be assessed
147 by the court. To recover damages under this subsection, the
148 customer or member must establish that, beyond a reasonable
149 doubt, the financial institution acted in bad faith in
150 terminating, suspending, or taking similar action restricting

151 access to the customer's or member's account. The office's
152 determination that the financial institution has acted in bad
153 faith pursuant to subsection (3) does not, in and of itself,
154 establish beyond a reasonable doubt that the financial
155 institution acted in bad faith in the termination, suspension,
156 or similar action restricting access to the customer's or
157 member's account. A customer's or member's failure to initiate a
158 cause of action under this subsection within 12 months after the
159 office's finding of bad faith pursuant to subsection (3) bars
160 recovery of any filed claims thereafter.

161 (7) By July 1, 2024, the office shall make available on
162 its website the information necessary for a customer or member
163 of a financial institution to file a complaint with the office
164 under subsection (1).

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