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LEGISLATIVE ACTION

Senate	.	House
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Floor: 2/AD/2R	.	Floor: CA
03/06/2024 05:37 PM	.	03/07/2024 09:51 PM
	.	

Senator DiCeglie moved the following:

Senate Amendment (with title amendment)

Delete lines 1570 - 1672

and insert:

Section 39. Effective July 1, 2024, section 655.0323,
Florida Statutes, is amended to read:

655.0323 Unsafe and unsound practices.—

(1) Financial institutions must make determinations about
the provision or denial of services based on an analysis of risk
factors unique to each current or prospective customer or member
and may not engage in an unsafe and unsound practice as provided



12 in subsection (2). This subsection does not restrict a financial
13 institution that claims a religious purpose from making such
14 determinations based on the current or prospective customer's or
15 member's religious beliefs, religious exercise, or religious
16 affiliations.

17 (2) It is an unsafe and unsound practice for a financial
18 institution to deny or cancel its services to a person, or to
19 otherwise discriminate against a person in making available such
20 services, including, but not limited to, the suspension of a
21 customer's or member's account or the restriction of a
22 customer's or member's ability to withdraw the available balance
23 of such customer's or member's depository account for a period
24 in excess of that allowable by law or in excess of that provided
25 in the financial institution's policies, procedures, or
26 processes, or in the terms or conditions of such services, on
27 the basis of:

28 (a) The person's political opinions, speech, or
29 affiliations;

30 (b) Except as provided in subsection (1), the person's
31 religious beliefs, religious exercise, or religious
32 affiliations;

33 (c) Any factor if it is not a quantitative, impartial, and
34 risk-based standard, including any such factor related to the
35 person's business sector; or

36 (d) The use of any rating, scoring, analysis, tabulation,
37 or action that considers a social credit score based on factors
38 including, but not limited to:

39 1. The person's political opinions, speech, or
40 affiliations.



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41 2. The person's religious beliefs, religious exercise, or
42 religious affiliations.

43 3. The person's lawful ownership of a firearm.

44 4. The person's engagement in the lawful manufacture,
45 distribution, sale, purchase, or use of firearms or ammunition.

46 5. The person's engagement in the exploration, production,
47 utilization, transportation, sale, or manufacture of fossil
48 fuel-based energy, timber, mining, or agriculture.

49 6. The person's support of the state or Federal Government
50 in combating illegal immigration, drug trafficking, or human
51 trafficking.

52 7. The person's engagement with, facilitation of,
53 employment by, support of, business relationship with,
54 representation of, or advocacy for any person described in this
55 paragraph.

56 8. The person's failure to meet or commit to meet, or
57 expected failure to meet, any of the following as long as such
58 person is in compliance with applicable state or federal law:

59 a. Environmental standards, including emissions standards,
60 benchmarks, requirements, or disclosures;

61 b. Social governance standards, benchmarks, or
62 requirements, including, but not limited to, environmental or
63 social justice;

64 c. Corporate board or company employment composition
65 standards, benchmarks, requirements, or disclosures based on
66 characteristics protected under the Florida Civil Rights Act of
67 1992; or

68 d. Policies or procedures requiring or encouraging employee
69 participation in social justice programming, including, but not



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70 limited to, diversity, equity, or inclusion training.

71 (3) Beginning July 1, 2023, and by July 1 of each year
72 thereafter, financial institutions as defined in s. 655.005
73 ~~subject to the financial institutions codes~~ must attest, under
74 penalty of perjury, on a form prescribed by the commission
75 whether the entity is acting in compliance with subsections (1)
76 and (2).

77 (4) If a person who is a customer or member of a financial
78 institution suspects that such financial institution has acted
79 in violation of subsection (2), the aggrieved customer or member
80 may submit a complaint to the office on a form prescribed by the
81 commission within 30 days after such action. A complaint is
82 barred if not timely submitted. The complaint must, at a
83 minimum, contain the name and address of the customer or member;
84 the name of the financial institution; and the facts upon which
85 the customer or member bases his or her allegation.

86 (a) Within 90 calendar days after receiving a complaint
87 submitted pursuant to this subsection, the office must determine
88 whether the allegations made in the complaint constitute a
89 violation of subsection (2) and, if so, must begin an
90 investigation of the alleged violation. A complaint submitted
91 pursuant to this subsection which is a result of a financial
92 institution taking action due to suspicious activity, as defined
93 in s. 655.50(3), without any basis for finding a violation under
94 this section, must be handled in accordance with s. 655.50.

95 (b) After the investigation is completed or ceases to be
96 active, the office shall:

97 1. Within 30 calendar days after the completion or
98 cessation of the investigation, create a report detailing the



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99 findings of the investigation. Such report, however, may not
100 contain or must redact any information that remains confidential
101 and exempt from s. 119.07(1). If the office determines that no
102 violation of subsection (2) has occurred, the report must only:

103 a. Identify the complaint for which the report is made; and
104 b. State that a determination has been made that no
105 violation of subsection (2) has occurred.

106 2. Except as otherwise provided or prohibited by law,
107 within 45 calendar days after the completion or cessation of the
108 investigation, send such report to the customer or member who
109 submitted the complaint pursuant to this subsection, via
110 certified mail, return receipt requested, delivery restricted to
111 the addressee; and to the subject financial institution.

112 (c) If the office determines that a violation of subsection
113 (2) has occurred, the office must provide notice of such
114 violation to the Department of Financial Services and the
115 enforcing authority, as defined in s. 501.203(2), and provide a
116 copy of the report created pursuant to this subsection. A
117 violation does not include an action related to the presumption
118 that the account in question is presumed to be unclaimed
119 property pursuant to chapter 717.

120 (5)~~(4)~~ Engaging in a practice described in subsection (2)
121 or failing to timely provide the attestation under subsection
122 (3) is a failure to comply with this chapter, constitutes a
123 violation of the financial institutions codes, and is subject to
124 the applicable sanctions and penalties provided for in the
125 financial institutions codes.

126 (6)~~(5)~~ Notwithstanding ss. 501.211 and 501.212, a failure
127 to comply with subsection (1) or engaging in a practice



128 described in subsection (2) constitutes a violation of the
129 Florida Deceptive and Unfair Trade Practices Act under part II
130 of chapter 501. Violations must be enforced only by the
131 enforcing authority, as defined in s. 501.203(2), and subject
132 the violator to the sanctions and penalties provided for in that
133 part. If such action is successful, the enforcing authority is
134 entitled to reasonable attorney fees and costs.

135 (7) ~~(6)~~ The office and the commission may not exercise
136 authority pursuant to s. 655.061 in relation to this section.

137 (8) The commission may adopt rules to administer this
138 section.

139

140 ===== T I T L E A M E N D M E N T =====

141 And the title is amended as follows:

142 Delete lines 149 - 177

143 and insert:

144 applications; amending s. 655.0323, F.S.; providing
145 that certain actions are included as an unsafe and
146 unsound practice for financial institutions; making a
147 technical change; authorizing certain aggrieved
148 customers or members to make a complaint to the Office
149 of Financial Regulation on a specified form within a
150 specified timeframe; providing that complaints are
151 barred if not timely submitted; requiring the office
152 to make certain determinations and begin an
153 investigation within a specified timeframe after
154 receiving a complaint; requiring that certain claims
155 be handled in accordance with certain provisions;
156 requiring the office to take certain actions after an



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157 investigation is completed or ceases to be active;
158 authorizing the Financial Services Commission to adopt
159 rules to administer this section; amending s. 717.101,
160 F.S.; providing and