

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Committee on Agriculture, Environment, and General Government

BILL: CS/SB 1612

INTRODUCER: Banking and Insurance Committee and Senator Grall

SUBJECT: Financial Institutions

DATE: April 9, 2025

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Moody</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Sanders</u>	<u>Betta</u>	<u>AEG</u>	<u>Pre-meeting</u>
3.	<u> </u>	<u> </u>	<u>FP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1612 provides various amendments to the financial institutions code. The bill:

- Amends the due dates by which time a financial institution must pay semiannual assessments and specifies the method and timing of when the semiannual assessments must be made.
- Authorizes the Office of Financial Regulation (OFR) to issue a certificate of acquisition to an acquiring financial institution after specified circumstances are met.
- Authorizes a credit union elected officer, director, or committee member to be reimbursed for certain necessary incidental expenses.
- Repeals the requirement for credit unions to maintain a regular reserve and modifies the definition of the term “equity” to remove reference to “regular reserve.”
- Removes a timeframe for certain requirements by directors of a proposed new bank or trust company.
- Modifies the period in which a proposed bank or trust company must open and conduct a general commercial bank or trust company business.

The bill has an insignificant negative fiscal impact on state revenues expenditures. See Section V., Fiscal Impact Statement.

The bill provides an effective date of July 1, 2025.

II. Present Situation:

Financial Institutions

A financial institution must have a federal or state charter to accept deposits. Banks are chartered and regulated as national banks by the Office of the Comptroller of the Currency (OCC) within the U.S. Department of the Treasury or as state banks by a state regulator.¹

The Florida Financial Institutions Codes apply to all state-authorized or state-chartered financial banks, trust companies, and related entities.² The OFR licenses and regulates 196 financial entities, including 57 state-chartered banks.³ There are also 30 federally-chartered banks operating in Florida.⁴

Banks and Trusts

Creation and Opening of a New Bank of Trust Company – Federal Law

Federally-chartered banks, publicly or privately held, must comply with rigorous regulatory requirements to become chartered.⁵ No person is allowed to offer any national bank issued security unless certain registration requirements are filed with the OCC,⁶ unless an exemption applies, such as nonpublic offerings.⁷ The OCC grants approval of a charter application in two phases: preliminary approval and final approval.⁸ Preliminary approval expires if the proposed national bank:

- Fails to raise the required capital within 12 months from the date the OCC grants preliminary approval.
- Does not commence business within 18 months from the date of preliminary approval, unless the OCC grants an extension.⁹

A national bank is required to raise its capital before business commences. For the OCC to issue final approval, organizers must complete all key phases of organizing the bank. Final approval means a charter for the bank has been issued and the bank can begin conducting business.¹⁰

¹ Congressional Research Service, *Introduction to Financial Services: Banking*, p. 1 (January 5, 2023; Updated January 13, 2025), Congress.gov, Library of Congress, <https://crsreports.congress.gov/product/pdf/IF/IF10035> (last visited March 21, 2025).

² Section 655.005(1)(k), F.S., states that the Financial Institutions Codes includes: Ch. 655, financial institutions generally; Ch. 657, credit unions; Ch. 658, banks and trust companies; Ch. 660, trust business; Ch. 662, family trust companies; Ch. 663, international banking; Ch. 665, relating to associations; and Ch. 667, savings banks.

³ The Office of Financial Regulation (OFR), *Fast Facts* (12th Ed., January 2025), <https://flofr.gov/docs/default-source/documents/fast-facts.pdf> (last visited March 21, 2025).

⁴ The Office of the Comptroller of Currency (OCC), U.S. Department of Treasury, *National Banks Active As of 2/28/2025*, <https://www.occ.gov/topics/charters-and-licensing/financial-institution-lists/national-by-state.pdf> (March 21, 2025).

⁵ See 12 CFR 16; Office of the Comptroller of the Currency, *Comptroller's Licensing Manual Charters*, p. 4 (December 2021), <https://www.occ.gov/publications-and-resources/publications/comptrollers-licensing-manual/files/licensing-booklet-charters.html> (last visited March 21, 2025).

⁶ 12 CFR 16.3

⁷ 12 CFR 16.7

⁸ The OCC, *Comptroller's Licensing Manual Charters*, p. 3 (December 2021), <https://www.occ.gov/publications-and-resources/publications/comptrollers-licensing-manual/files/licensing-booklet-charters.html> (last visited March 21, 2025).

⁹ 12 CFR 5.20(i)(6)(iv)

¹⁰ The OCC, *Comptroller's Licensing Manual Charters*, p. 3 (December 2021), <https://www.occ.gov/publications-and-resources/publications/comptrollers-licensing-manual/files/licensing-booklet-charters.html> (last visited March 21, 2025).

Creation and Opening of a New Bank of Trust Company – Florida Law

State laws specify requirements that a proposed new bank or trust company must comply with to be chartered. Directors are required to complete the stock offering and file with the OFR a list of subscribers of a proposed bank or trust company detailing specified information within six months of corporate existence and at least 30 days prior to opening for business.¹¹ The OFR reports “[t]he 6-month time requirement has been a problem for recent bank start-ups and is more restrictive than [the 12-month requirement] federally.”¹² Directors must also provide the OFR with any additional information relating to finances, business, or biography as the commission or the OFR may reasonably require for certain subscribers of stock,¹³ and the OFR must conduct an investigation of their character and certain financial criteria.¹⁴

Banks and trust companies are required to open and conduct a general commercial bank or trust company no later than 12 months after it commences its corporate existence.¹⁵ The corporation must notify the OFR, within a specified time, of its intended opening date and confirm its compliance with any orders issued by the OFR.¹⁶ The OFR must conduct a preopening examination and issue a certificate of authorization to transact a general commercial bank or trust business if certain requirements are met.¹⁷

Financial Institutions Assessments

Financial institutions are required to pay semiannual assessments based on the total assets as of the last business day of June and December of each year,¹⁸ covering the six-month period following the first day of the month in which they are due.¹⁹ The semiannual assessments must be calculated and sent to the OFR within a 30-day period. They must be received (if by mail) or transmitted (if by wire transfer, an automated clearinghouse, or other electronic means approved by the OFR) by January and July 31 of each year. The OFR may levy late penalties of up to \$100 per day or any part of the day that a semiannual assessment is overdue unless the OFR excuses the overdue payment for good cause. The OFR may levy an administrative fine of up to \$1,000 per day for an intentional late payment of a semiannual assessment.²⁰

Certificate of Acquisition

Florida law allows a financial institution to acquire 50 percent or more of the assets, liabilities, or a combination of both of any financial institution subject to the OFR approval and other specified conditions. For instance, both financial institutions must adopt a plan for the acquisition, assumption, or sale which must contain specified information.²¹ The OFR is required

¹¹ Section 658.235(1), F.S.

¹² Office of Financial Regulation, *Senate Bill 1612 Legislative Bill Analysis* (March 10, 2025) (on file with the Senate Committee on Banking and Insurance).

¹³ Section 658.235(2), F.S.

¹⁴ *Id.*

¹⁵ Section 658.25(1), F.S.

¹⁶ Section 658.25(2), F.S.

¹⁷ Section 658.25(3), F.S.

¹⁸ Section 655.047(1), F.S.

¹⁹ Section 655.047(3), F.S.

²⁰ Section 655.047(2), F.S.

²¹ Section 655.414(2), F.S.

to approve or disapprove of the plan and, following adoption of the plan by the transferring financial institution, must certify in writing that the plan has been approved.²² The transferring financial institution may abandon the transaction despite the members' or stockholders' approval and the OFR's certification of the plan.²³ Unlike the OFR's authority to issue a Certificate of Merger when two credit unions merge,²⁴ the OFR does not have authority to issue a Certificate of Acquisition when a financial institution purchases or wholly acquires another financial institution.²⁵

Credit Unions

A credit union must have a federal or state charter to operate in Florida. Credit unions are chartered and regulated as a national credit union by the National Credit Union Association (NCUA).²⁶ Such membership is limited to a group or groups with a common bond of occupation or association within a defined community. Deposits into a federal credit union allow members to become owners of the credit union, run to become a credit union official, and vote on certain matters.²⁷

The Florida Financial Institutions Codes apply to all state-chartered credit unions.²⁸ There are approximately 138 credit unions in Florida²⁹ with 67 of them being state-chartered.³⁰ Florida law provides that any person may be admitted to a credit union upon payment of any required fee, payment of shares, and compliance with the credit union bylaws.³¹ State-chartered credit unions operate as financial institutions except for exercising certain incidental powers authorized by law.³²

Compensation

A credit union's elected officer, director, or committee member, except for the chief executive officer, may not be compensated for his or her service.³³ Such individuals may not, directly or indirectly, participate in the deliberation or determination of any issues relating to his or her pecuniary interest or the pecuniary interest of any corporation, partnership, or association in which he or she or a member of his or her immediate family is directly or indirectly interested.³⁴

²² Section 655.414(4) and (5), F.S.

²³ *Id.*

²⁴ Section 657.065, F.S.

²⁵ Section 655.414(5), F.S.

²⁶ National Credit Union Administration (NCUA), *Overview of the Charter Application Process* (April 14, 2022), <https://ncua.gov/regulation-supervision/manuals-guides/federal-credit-union-charter-application-guide/overview-charter-application-process> (last visited March 21, 2025).

²⁷ National Credit Union Administration, *Overview of Federal Credit Unions* (April 14, 2022), <https://ncua.gov/regulation-supervision/manuals-guides/federal-credit-union-charter-application-guide/overview-federal-credit-unions> (last visited March 21, 2025).

²⁸ Section 655.005(1)(k), F.S., states that the Financial Institutions Codes includes ch. 657, credit unions.

²⁹ National Credit Union Service Organization, Credit Unions, *Florida Credit Unions*, <https://ncuso.org/credit-union/fl/> (last visited March 21, 2025).

³⁰ The Office of Financial Regulation (OFR), *Fast Facts* (12th Ed., January 2025), p. 4, <https://flofr.gov/docs/default-source/documents/fast-facts.pdf> (last visited March 21, 2025).

³¹ Section 657.023(1), F.S.

³² Section 657.031(3), F.S.

³³ Section 657.028(2), F.S.

³⁴ Section 657.028(5), F.S.

Reserve Accounts

Florida law requires credit unions to maintain the following reserve accounts:

- Allowance for loan and lease losses;
- Regular reserve to meet losses which must not be decreased unless the OFR approves the decrease or as provided by rule of the commission;³⁵
- Allowance for investment losses; and
- Special reserves to protect members against losses from risk assets or extended credit when required by rule or other specified circumstances.³⁶

In 2022, the NCUA amended federal regulations and removed the requirement for federal credit unions to maintain a regular reserve account.³⁷

III. Effect of Proposed Changes:

This bill makes various revisions to the financial institutions code.

Section 1 amends s. 655.047, F.S., relating to assessments; financial institutions. The bill modifies the deadlines for when financial institutions must pay semiannual assessments from January 31 and July 31 to March 31 and September 30 of each year. The bill removes the distinction of the method and time for which electronic payments must be transmitted, and provides that all payments whether sent by mail, wire transfer, or automated clearinghouse, or other electronic means approved by the OFR must be received by the due date. The bill also removes the provision that specifies the assessment covers a six-month period following the first day of the month in which they are due and instead provides that the payments are for the six-month periods beginning January 1 and July 1.

The OFR reports that financial institutions are often forced to make asset estimates when determining their semiannual assessment because of the short deadlines provided for under current law. The OFR and financial institutions must recalculate the semiannual assessments once the institutions' actual total assets are determined. The bill provides for two additional months to calculate and pay the assessment which should allow for more efficiency by reducing the need for subsequent adjustments and saving the OFR and financial institutions' staff time.³⁸

Section 2 amends s. 655.414, F.S., relating to the acquisition of assets and assumption of liabilities, to authorize the OFR to issue a certificate of acquisition to an acquiring financial institution confirming that the acquisition, assumption, or sale transaction has been completed. The OFR suggests that issuing certificates of acquisition is "valuable to institutions for several

³⁵ Section 657.043(2), F.S.

³⁶ Section 657.043, F.S.

³⁷ The NCUA, *Risk-Based Capital Frequently Asked Questions: Is Prompt Corrective Action (PCA) for Credit Unions Changing with the Revised Capital Adequacy Standards?* (April 14, 2022), <https://ncua.gov/regulation-supervision/regulatory-compliance-resources/risk-based-capital-rule-resources/risk-based-capital-faqs> (last visited March 21, 2025).

³⁸ Office of Financial Regulation, *Senate Bill 1612 Legislative Bill Analysis* (March 10, 2025) (on file with the Senate Committee on Banking and Insurance).

reasons including filing with local municipalities as proof of a transaction.”³⁹ Authorizing the OFR with this statutory authority would give the agency a similar power that it has with respect to issuing certificates of mergers for credit unions.

Section 3 amends s. 657.002, F.S., relating to definitions, to amend the definition of “equity” to remove reference to “regular reserve.”

Section 4 amends s. 657.028, F.S., relating to activities of directors, officers, committee members, employees and agents, to authorize a credit union’s elected officer, director, or committee member to be reimbursed for necessary expenses incidental to performing official credit union business.

Section 5 amends s. 657.043 F.S., relating to reserves, to repeal the provision requiring credit unions to maintain a regular reserve to meet losses and prohibiting such reserve from being decreased without the prior written approval of the OFR or as prescribed by rule. This amendment is consistent with the removal of the regular reserve requirement from federal regulation, and allows state credit unions to close their regular reserve into undivided earnings without prior OFR approval.⁴⁰ Given that credit unions must still comply with the requirement to have an allowance for loan losses reserve account and given OFR’s ability to require a credit union to establish special reserves in certain circumstances, a regular reserve account has become unnecessary.⁴¹ **Section 3** amends the definition of equity to remove reference to “regular reserve” since the requirement to maintain such reserve was repealed.

Section 6 amends s. 658.235, F.S., relating to subscriptions of stock and approval of major stakeholders. The bill removes directors’ time requirement to complete a stock offering and file with the OFR a final list of subscribers with certain information within six months after commencement of corporate existence. Such offering and submission of the list must still be completed at least 30 days before the proposed bank or trust company opens. This allows more time for organizing groups to raise capital needed to start a new bank or trust company.⁴²

Section 7 amends s. 658.25, F.S., relating to opening for business, to modify the timeframe in which a new bank or trust company must open and conduct general commercial bank or trust business to within 18 months after the issuance of a final order of approval by the OFR, rather than no later than 12 months after the commencement of its corporate existence. This change “facilitates *de novo* bank and trust company start-ups and eliminates Florida’s disadvantage compared to federal regulations.”⁴³

Section 8 of the bill provides for the effective date of July 1, 2025.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Office of Financial Regulation, *Senate Bill 1612 Legislative Bill Analysis* (March 10, 2025) (on file with the Senate Committee on Banking and Insurance).

⁴² *Id.*

⁴³ *Id.*

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill has a minimal impact to state revenues or expenditures.⁴⁴ Any expenses related to rulemaking can be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Rules 69U-120.730, 69U-110.053, and 69U-140.020, F.A.C., need to be amended to update financial institutions' new deadlines for payment of semiannual assessments.⁴⁵

⁴⁴ *Id.*

⁴⁵ *Id.*

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 655.047, 655.414, 657.002, 657.043, 658.235, 658.25, and 657.028.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Banking and Insurance on March 17, 2025:

- Reinstates current law that restricts credit unions from investing more than five percent of their capital in fixed assets; and
- Allows credit union elected officers, directors, or committee members to be reimbursed for certain necessary incidental expenses.

B. Amendments:

None.