

# FLORIDA HOUSE OF REPRESENTATIVES

## BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [CS/HB 381](#)

**TITLE:** Office of Financial Regulation

**SPONSOR(S):** Barnaby

**COMPANION BILL:** [CS/SB 540](#) (Martin)

**LINKED BILLS:** [HB 777](#) Barnaby

**RELATED BILLS:** None

### Committee References

[Insurance & Banking](#)

16 Y, 0 N, As CS

[Information Technology Budget &](#)

Policy

[Commerce](#)

## SUMMARY

### Effect of the Bill:

The bill creates cybersecurity requirements for mortgage and money services businesses. The bill excludes certain investment advisers from registration requirements. The bill specifies that the rights and obligations of parties with respect to a surrendered or repossessed motor vehicle are exclusively governed by Florida's Uniform Commercial Code. The bill modifies disciplinary actions and penalties for money services businesses. The bill clarifies that all licensees must comply with the Florida Consumer Collection Practices Act, while the federal Fair Debt Collection Practices Act applies only to third-party debt collectors. The bill provides that a debit card shall be treated the same as cash when used to pay off deferred presentment transactions and prohibits the use of credit cards to pay off said transactions. The bill relaxes minimum qualifications for certain directors and officers of financial institutions. The bill modifies credit union member qualifications and meeting requirements and eliminates a fixed asset investment limit. The bill also provides financial institutions and certain family trust companies with additional time to pay fees.

### Fiscal or Economic Impact:

There may be an indeterminate fiscal impact on the state government and private sector.

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## ANALYSIS

### **EFFECT OF THE BILL:**

#### Cybersecurity requirements:

The bill requires mortgage and money services businesses to develop and maintain comprehensive cybersecurity programs designed to protect nonpublic personal information of customers. (Sections [1](#) and [7](#)).

The bill defines "nonpublic personal information" as:

- Personally identifiable financial information; and
- Any list, description, or other grouping of customers that is derived using any personally identifiable financial information that is not publicly available, such as account numbers, including any list of individuals' names and street addresses that is derived, in whole or in part, using personally identifiable financial information that is not publicly available. (Sections [1](#) and [7](#)).

#### Information security program requirements:

The bill requires each mortgage and money service business licensee to develop, implement, and maintain a comprehensive written information security program<sup>1</sup> that contains administrative, technical, and physical

<sup>1</sup> The bill defines "information security program" as the administrative, technical, or physical safeguards used to access, collect, distribute, process, protect, store, use, transmit, dispose of, or otherwise handle customer information. (Sections [1](#) and [7](#)).

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safeguards for the protection of the licensee's information system and nonpublic personal information. Each licensee must ensure that the information security program meets all of the following criteria:

- Be commensurate with the following measures:
  - Size and complexity of the licensee.
  - Nature and scope of the licensee's activities.
  - Sensitivity of nonpublic personal information that is used by the licensee or that is in the licensee's possession, custody, or control.
- Be designed to do all of the following:
  - Protect the security and confidentiality of nonpublic personal information and the security of the licensee's information system.
  - Protect against threats or hazards to the security or integrity of nonpublic personal information and the licensee's information system.
  - Protect against unauthorized access to or the use of nonpublic personal information and minimize the likelihood of harm to any customer.
- Define and periodically reevaluate the retention schedule and the mechanism for the destruction of nonpublic personal information if retention is no longer necessary for the licensee's business operations or required by law.
- Regularly test and monitor systems and procedures for the detection of actual and attempted attacks on, or intrusions into, the licensee's information system.
- Be monitored, evaluated, and adjusted to meet the following requirements:
  - Determine whether the licensee's program is consistent with relevant changes in technology.
  - Confirm the licensee's program accounts for the sensitivity of nonpublic personal information.
  - Identify changes that may be necessary to the licensee's information system.
  - Mitigate any internal or external threats to nonpublic personal information.
  - Amend the licensee's program for any of the licensee's changing business arrangements, such as mergers and acquisitions, alliances and joint ventures, and outsourcing arrangements. (Sections [1](#) and [7](#)).

#### Written response plan requirements:

The bill requires a mortgage or money services business licensee to establish a written incident response plan designed to promptly respond to, and recover from, a cybersecurity event<sup>2</sup> that includes:

- The confidentiality, integrity, or availability of nonpublic personal information in the licensee's possession;
- The licensee's information system; or
- The continuing functionality of any aspect of the licensee's operations. (Sections [1](#) and [7](#)).

The written incident response plan must address all of the following:

- The licensee's internal process for responding to a cybersecurity event.
- The licensee's incident response plan goals.
- The assignment of clear roles, responsibilities, and levels of decision-making authority for the licensee's personnel that participate in the incident response plan.
- External communications, internal communications, and information sharing related to a cybersecurity event.
- The identification of remediation requirements for weaknesses identified in information systems and associated controls.
- The documentation and reporting regarding cybersecurity events and related incident response activities.
- The evaluation and revision of the incident response plan following a cybersecurity event.
- The process by which any required notice must be given. (Sections [1](#) and [7](#)).

<sup>2</sup> The bill defines "cybersecurity event" as an event resulting in unauthorized access to, or disruption or misuse of, an information system, information stored on such information system, or customer information held in physical form. (Sections [1](#) and [7](#)).

The bill authorizes OFR to adopt rules allowing a mortgage or money services business compliant with the [Federal Trade Commission's Standards for Safeguarding Customer Information](#), 16 C.F.R. part 314, to be deemed in compliance with the bill's information security program and written response plan requirements. (Sections [1](#) and [7](#)).

A mortgage or money services business that has fewer than twenty employees or independent contractors on its workforce or fewer than five hundred customers during a calendar year, are not subject to the information technology program requirements created in the bill. A licensee that no longer qualifies for such an exemption has 180 calendar days to comply with the requirements after the date of the disqualification. Each licensee shall maintain a copy of the information security program for a minimum of 5 years and must make it available to the office upon request or as part of an examination. (Sections [1](#) and [7](#)).

**Cybersecurity notice requirement:**

The bill requires each mortgage or money services business licensee to provide notice as prescribed by the Florida [Financial Services Commission \("Commission"\)](#) rule to OFR of any security breach affecting 500 or more individuals. Upon OFR's request, each licensee must provide a quarterly update of a cybersecurity event investigation until conclusion of the investigation. (Sections [1](#) and [7](#)).

**Investment adviser exemptions:**

The bill revises the qualifications for being exempt from having to register as an investment advisor. Under the bill, a person with fewer than six clients who are Florida residents during the preceding 12 months is exempt from registering as an investment adviser if:

- The person does not have a place of business in Florida; or
- The person has a place of business in Florida and during the preceding 12 months, has no clients who are not Florida residents. (Section [3](#)).

The bill defines "place of business" as an office at which the person regularly provides investment advisory services, solicits, meets with, or otherwise communicates with clients, as well as any locations the person holds out to the general public as a location in which they do these things. (Section [3](#)).

The bill also adds an exemption from registration as an investment advisor for family offices, as defined by Securities and Exchange Commission Rule 202(a)(11)(G)-1(b) and (d) under the [Investment Advisers Act of 1940](#).<sup>3</sup> (Sections [3](#) and [4](#)).

**Surrendered or repossessed vehicles:**

The bill provides that, with respect to [motor vehicle retail installment sales](#), the rights and obligations of parties with respect to a surrendered or repossessed motor vehicle are exclusively governed by Florida's Uniform Commercial Code—Secured Transactions.<sup>4</sup> (Section [5](#)).

<sup>3</sup> 17 C.F.R. 275.202(a)(11)(G)-1.

<sup>4</sup> Ch. 679, F.S.

### Disciplinary actions for Money Services Businesses:

The bill provides that a money services business can be disciplined for actions committed by a party that was affiliated with the money services business at the time of the act. (Section [6](#)).

The bill adds the following to the list of actions that constitute grounds for discipline:

- Having been convicted of, or entered a plea of guilty or nolo contendere to, federal crimes related to money-laundering and the [Bank Secrecy Act](#), regardless of adjudication.
- Having been convicted of, or entered a plea of guilty or nolo contendere to, a violation of federal rules promulgated by the [Financial Crimes Enforcement Network \(FinCEN\)](#) applicable to money services businesses, regardless of adjudication.
- Failing to provide notice of a security breach to the Florida Department of Legal Affairs and to affected individuals. (Section [6](#)).

### Emergency Suspension Order:

The bill provides that OFR is not required to follow requirements contained in Florida's Administrative Procedure Act to summarily suspend the license of a money services business, and repeals the requirement for OFR to hold a proceeding to issue a final order for a summary suspension. (Section [6](#)).

Instead, the bill requires OFR to issue an emergency suspension order if OFR finds that a licensee poses an immediate and serious danger to the public health, safety, and welfare. (Section [6](#)).

The bill also provides that OFR may issue an emergency suspension order without prior notice or an opportunity to be heard. An emergency suspension order is effective as soon as the licensee against whom the order is issued has actual or constructive knowledge of the issuance of the order. (Section [6](#))

The bill requires OFR to immediately suspend a license, without making further findings of immediate danger, necessity, or procedural fairness, if any of the following occur:

- The money services business fails to provide OFR with required records upon written request;
- The money services business fails to maintain a federally insured depository account; or
- If a control person of the business (directors, officers, partners, and certain shareholders) is criminally charged with certain crimes. (Section [6](#)).

Under current law, OFR is permitted, but not required to suspend a licensee upon making the aforesaid findings.<sup>5</sup>

The bill provides that when OFR issues an emergency suspension order, the order must:

- State the grounds on which the order is based;
- Advise the licensee against whom the order is directed that the order takes effect immediately;
- Require, to the extent applicable, the licensee to immediately cease and desist from the conduct or violation that is the subject of the order, or to take affirmative action to correct a condition resulting from the conduct or violation;
- Be delivered by personal delivery or sent by certified mail, return receipt requested, to the licensee against whom the order is directed; and
- Include a notice that the licensee may seek judicial review. (Section [6](#)).

The bill requires OFR to institute proceedings under Florida's Administrative Procedure Act within 20 days after issuance of an emergency suspension order. (Section [6](#)).

The bill provides that a licensee subject to an emergency suspension order may seek judicial review pursuant to Florida's Administrative Procedure Act. (Section [6](#)).

<sup>5</sup> S. 560.114, F.S.

### Applicability of Fair Debt Collection Practices Act to money services businesses:

The bill provides that the federal Fair Debt Collection Practices Act only applies to a money services business licensee if the licensee is utilizing a third-party debt collector or any name other than its own to collect debts. (Sections [8](#) and [10](#)).

The bill clarifies that a licensee acting as an original creditor who is collecting their own debts under their own name is not subject to the Fair Debt Collection Practices Act. However, a licensee acting as an original creditor remains subject to the [Florida Consumer Collection Practices Act](#). (Sections [8](#) and [10](#)).

### Redemption of deferred presentment transactions:

The bill provides that when redeeming a deferred presentment transaction, a debit card used for payment will be treated the same as cash, meaning that it will immediately satisfy the transaction. The bill also prohibits the use of credit card transactions to redeem deferred presentment transactions. (Section [9](#)).

### Notice requirements for financial Institutions:

The bill requires financial institutions to take reasonable measures to protect and secure electronic data containing personal information. (Section [11](#)).

The bill requires financial institutions to notify OFR upon the occurrence or detection of a data breach of security<sup>6</sup> affecting 500 or more people in which personal information may have been compromised, gathered, or distributed. (Section [11](#)).

The written notice must be provided no later than 30 days after a determination that a breach has occurred or after the financial institution has reason to believe a breach occurred. The financial institution may receive an additional 15 days to provide the notice if good cause for the delay is provided in writing to OFR within 30 days after determination of the breach or after the institution has reason to believe that a breach occurred. (Section [11](#)).

The written notice of the breach must contain:

- A synopsis of the events surrounding the breach at the time notice is provided.
- The number of individuals in this state who were or potentially have been affected by the breach.
- Any services related to the breach being offered or scheduled to be offered, without charge, by the covered entity to individuals, and instructions as to how to use such services.
- A copy or explanation of the notice required to individuals, if applicable.
- The name, address, telephone number, and e-mail address of the employee or agent of the covered entity from whom additional information may be obtained about the breach.
- Steps the institution has taken to rectify the breach.
- If requested, a police report, incident report, or computer forensics report and copy of the policies in place regarding breaches. (Section [11](#)).

The bill defines “personal information” as:

- An individual’s first name, or first initial, and last name, in combination with any of the following data for that individual.
  - A social security number.
  - A driver license or identification card number, passport number, military identification number, or other similar number issued on a government document.
  - A financial account number or credit or debit card number, in combination with any required security code, access code, or password that is necessary to permit access to the individual’s financial account

<sup>6</sup> The bill defines “Breach of security” or “breach” as the unauthorized access of data in electronic form containing personal information. Good faith access of personal information by an employee or agent of the covered entity does not constitute a breach of security, provided that the information is not used for a purpose unrelated to the business or subject to further unauthorized use. [S. 501.171, F.S.](#)

- The individual's biometric data.
- Any information regarding the individual's geolocation.
- A username or e-mail address, in combination with a password or security question and answer that would permit access to an online account. (Section [11](#)).

The bill requires financial institutions to notify individuals whose personal information was accessed as a result of a breach. (Section [11](#)).

The bill also requires financial institutions to notify all consumer reporting agencies that maintain files on consumers on a nationwide basis, if more than 1,000 individuals are affected by a security breach at a single time. (Section [11](#)).

#### [Examination fee deadlines for financial institutions and family trusts:](#)

The bill increases the timeframe that financial institutions and family trusts have to remit payment to OFR for examination costs from 30 days to 45 days. (Sections [12](#) and [18](#)).

#### [Credit union requirements:](#)

The bill changes the residency requirement for forming a credit union from requiring all members to be residents of Florida to instead requiring only a majority to be residents. (Section [13](#)).

The bill permits members to hold meetings virtually and without an in-person quorum, subject to the credit union's bylaws. (Section [14](#)).

The bill repeals the current law provision that limits the amount that credit unions can invest in fixed assets such as real estate or equipment to 5%. Under the bill, credit unions are no longer subject to a limit. (Section [15](#)).

#### [Experience requirements for directors and officers of banks and trust companies:](#)

The bill changes the requirement for CEOs, presidents, and directors of banks and trust companies to have had at least 1 year of experience as an executive officer, regulator, or director of a financial institution from within the last 5 years to within the last 10 years. (Sections [16](#) and [17](#)).

The bill also requires OFR to consider the following factors when deciding whether to approve a proposed president or chief executive officer (currently, OFR is only permitted to consider these factors when waiving the experience requirement):

- Adequacy of overall experience or expertise;
- Likelihood of successful operation of the proposed state bank or trust company;
- Adequacy of proposed capitalization;
- Proposed capital structure;
- Experience of other proposed officers and directors; and
- Any other relevant information. (Section [16](#)).

#### **Effective date:**

The bill provides an effective date of July 1, 2026. (Section [20](#)).

#### **RULEMAKING:**

The bill grants OFR rulemaking authority to adopt rules to implement the bill's cybersecurity requirements for mortgage and money services businesses. The bill authorizes OFR to adopt rules allowing a mortgage or money services business compliant with the Federal Trade Commission's Standards for Safeguarding Customer Information, 16 C.F.R. part 314, to be deemed in compliance with the bill's information security program requirements. (Sections [1](#) and [7](#)).

*Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.*

## **FISCAL OR ECONOMIC IMPACT:**

### **STATE GOVERNMENT:**

There may be an indeterminate impact on state government, to the extent that OFR may incur costs to implement the bill.

### **PRIVATE SECTOR:**

There may be an indeterminate impact on the private sector, to the extent that the regulated businesses incur compliance costs.

## **RELEVANT INFORMATION**

### **SUBJECT OVERVIEW:**

#### Office of Financial Regulation

OFR is responsible for all activities of the Financial Services Commission relating to the regulation of banks, credit unions, other financial institutions, finance companies, and the securities industry.<sup>7</sup> The Division of Consumer Finance within OFR licenses and regulates various aspects of the non-depository financial services industries, including mortgage and money services businesses.<sup>8</sup>

The Financial Services Commission (“Commission”) is an executive agency within the Department of Financial Services and is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.<sup>9</sup>

#### Cybersecurity requirements for mortgage and money services businesses:

Under Florida's consumer protection laws, businesses must take reasonable measures to protect and secure electronic data containing personal information.<sup>10</sup> Businesses are also required to notify the Florida Department of Legal Affairs of any data breaches affecting 500 or more individuals in Florida.<sup>11</sup> However, current law does not require OFR to be notified of such data breaches or provide OFR with authority to enforce any violation of the data security provisions in the consumer protection laws.<sup>12</sup>

Financial institutions<sup>13</sup> that are subject to the Federal Trade Commission's (FTC) jurisdiction are regulated under the Federal Standards for Safeguarding Customer Information (Safeguard Rules).<sup>14</sup> Financial institutions subject to the Safeguard Rules are required to develop, implement, and maintain a comprehensive written information security program that must be tailored to the size and complexity of the institution's system and activities, and

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<sup>7</sup> S. 20.121(3)(a)(2), F.S.

<sup>8</sup> The OFR, Division of Consumer Finance, <https://flofr.gov/divisions-offices/division-of-consumerfinance> (last visited Jan. 14, 2026).

<sup>9</sup> S. 20.121(3), F.S.

<sup>10</sup> S. 501.171(2), F.S.

<sup>11</sup> S. 501.171(3), F.S.

<sup>12</sup> S. 501.171(9)(a), F.S.

<sup>13</sup> 16 C.F.R. 314.2 defines “financial institution” as any institution the business of which is engaging in activity that is financial in nature or incidental to such financial activities as described in section 4(k) of the Bank Holding Company Act of 1956, 12 U.S.C. 1843(k). An institution that is significantly engaged in financial activities, or significantly engaged in activities incidental to such financial activities, is a financial institution.

<sup>14</sup> 16 C.F.R. 314.1(b).

must meet other specified criteria.<sup>15</sup> However, several of the Safeguard Rules do not apply to financial institutions that maintain customer information for fewer than 5,000 customers.<sup>16</sup>

#### Investment adviser registration:

Under the Florida Securities and Investor Protection Act, investment advisers must register with OFR, unless exempt.<sup>17</sup> “Investment adviser” means a person, other than an associated person of an investment adviser or a federal covered adviser,<sup>18</sup> that receives compensation, directly or indirectly, and engages for all or part of the person’s time, directly or indirectly, or through publications or writings, in the business of advising others as to the value of securities or as to the advisability of investments in, purchasing of, or selling of securities.<sup>19</sup>

Under the federal Investment Advisers Act of 1940, states may not require the registration of an investment adviser who:

- does not have a place of business within the state; and
- during the preceding 12 months, has had fewer than 6 clients who are residents of the state.<sup>20</sup>

Under current Florida law, persons are exempt from registering as an investment adviser if they have fewer than 6 clients who are residents of Florida, regardless of whether the person has a place of business in Florida or how many clients they have who are not residents of Florida.<sup>21</sup>

The [Investment Advisers Act of 1940](#) excludes “family offices” from the definition of investment adviser for registration purposes.<sup>22</sup> A family office is an entity that has no other clients other than “family clients,” is wholly owned or controlled by family clients, and does not hold itself out to the public as an investment adviser.<sup>23</sup> Family clients include family members, certain key employees, family trusts, and charities funded by the family.<sup>24</sup>

#### Motor Vehicle Retail Sales:

Florida’s Motor Vehicle Retail Sales Finance Act<sup>25</sup> regulates sellers who enter into retail installment contracts<sup>26</sup> with buyers for the purchase or lease of a motor vehicle.<sup>27</sup> Except for certain businesses such as banks or trust companies, sellers are required to apply for and obtain a license from OFR in order to engage in the business of a motor vehicle retail installment seller.<sup>28</sup>

While the Motor Vehicle Retail Sales Finance Act regulates many aspects of the installment contracts, it does not comprehensively address the process or consequences of a buyer’s default resulting in surrender or repossession of a vehicle.<sup>29</sup> Under current law, the rights and obligations of parties arising from the surrender or repossession of

<sup>15</sup> 16 C.F.R. 314.3, 16 C.F.R. 314.4.

<sup>16</sup> 16 C.F.R. 314.6.

<sup>17</sup> [S. 517.12, F.S.](#)

<sup>18</sup> [S. 517.021\(14\), F.S.](#)

<sup>19</sup> [S. 517.021\(20\)\(a\), F.S.](#)

<sup>20</sup> 15 U.S.C. 80b-18a(d)

<sup>21</sup> [S. 517.021\(2\)\(b\), F.S.](#)

<sup>22</sup> 17 C.F.R. 275.202(a)(11)(G)-1(a).

<sup>23</sup> 17 C.F.R. 275.202(a)(11)(G)-1(b).

<sup>24</sup> 17 C.F.R. 275.202(a)(11)(G)-1(d)(4).

<sup>25</sup> SS. 520.01-520.10, F.S., [520.12, F.S.](#), [520.125, F.S.](#) and [520.13, F.S.](#)

<sup>26</sup> A “retail installment contract” is an agreement, entered into in this state, pursuant to which the title to, or a lien upon the motor vehicle, which is the subject matter of a retail installment transaction, is retained or taken by a seller from a retail buyer as security, in whole or in part, for the buyer’s obligation. The term includes a conditional sales contract and a contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become, or for no further or a merely nominal consideration, has the option of becoming, the owner of the motor vehicle upon full compliance with the provisions of the contract. [S. 520.02, F.S.](#)

<sup>27</sup> See Ch. 520, F.S.

<sup>28</sup> [S. 520.02, F.S.](#)

<sup>29</sup> See Ch. 520, F.S.

a motor vehicle are primarily governed by Florida's Uniform Commercial Code—Secured Transactions, which addresses default, repossession, disposition of collateral and deficiency balances.<sup>30</sup>

#### Florida's Uniform Commercial Code:

Florida's Uniform Commercial Code—Secured Transactions, governs security interests in personal property, including motor vehicles.<sup>31</sup> A security interest arises when, in exchange for a loan, a borrower pledges specified assets owned by the borrower that the lender may take if the borrower defaults on the loan.<sup>32</sup> A security interest also assures the lender that, if the borrower enters bankruptcy, the lender may be able to recover the loan's value by taking possession of the specified assets.<sup>33</sup>

#### Disciplinary actions for Money Services Businesses:

ORF regulates money services businesses under ch. 560, F.S. A “money service business” is defined as any person located in or doing business in this state, from this state, or into this state from locations outside this state or country who acts as a payment instrument seller, foreign currency exchanger, check casher, or money transmitter.<sup>34</sup>

ORF has authority to discipline money services business for specified actions, such as failing to comply with the provisions of ch. 560, F.S., certain fraud or misrepresentation conduct, and refusing to allow the examination or inspection of books or files.<sup>35</sup> Section [560.114, F.S.](#), provides for the following disciplinary actions:<sup>36</sup>

- Issuing a cease and desist order;
- Issuing a removal order; or
- Denying, suspending, or revoking a license.<sup>37</sup>

The federal [Bank Secrecy Act](#)<sup>38</sup> establishes reporting, recordkeeping, and related requirements for federal and state-chartered financial institutions to help detect and prevent money laundering.<sup>39</sup>

Specifically, the Bank Secrecy Act and other anti-money laundering regulations (BSA/AML) require financial institutions to, among other things, keep records of cash purchases of negotiable instruments and file reports of cash transactions exceeding \$10,000 (daily aggregate amount).<sup>40</sup>

The [Financial Crimes Enforcement Network \(“FinCEN”\)](#), a bureau of the United States Department of Treasury is responsible for safeguarding the financial system from illegal use, combatting money laundering and related crimes, and promoting national security.<sup>41</sup> Unless an exception applies, a money services business must register with FinCEN.<sup>42</sup>

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<sup>30</sup> See Ch. 679, F.S.

<sup>31</sup> See Ch. 520, F.S.

<sup>32</sup> Legal Information Institute, Secured Transactions, [https://www.law.cornell.edu/wex/secured\\_transactions](https://www.law.cornell.edu/wex/secured_transactions) (last visited Jan. 22, 2026).

<sup>33</sup> *Id.*

<sup>34</sup> [S. 560.103\(23\), F.S.](#)

<sup>35</sup> [S. 560.114, F.S.](#)

<sup>36</sup> [S. 120.60\(6\), F.S.](#)

<sup>37</sup> *Id.*

<sup>38</sup> 31 U.S.C. 5311 et seq.

<sup>39</sup> U.S. Treasury Financial Crimes Enforcement Network, FinCEN's Legal Authorities, <https://www.fincen.gov/resources/fincens-legalAuthorities> (last visited Jan. 16, 2026).

<sup>40</sup> *Id.*

<sup>41</sup> 31 U.S.C. §. 310.

<sup>42</sup> 31 C.F.R. §. 1022.380(a).

### Emergency suspension order:

Under current law, OFR must issue emergency suspension orders in compliance with Florida's Administrative Procedure Act, which requires:<sup>43</sup>

- The agency to find an immediate serious danger to the public health, safety, or welfare that requires emergency suspension, restriction, or limitation of a license;
- The procedure to provide at least the same procedural protection as is given by other statutes, the State Constitution, or the United States Constitution;
- The agency to only take action that is necessary to protect the public interest under the emergency procedure;
- The agency to state in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. (The agency's findings of immediate danger, necessity, and procedural fairness are judicially reviewable); and
- An agency to promptly institute and act upon an administrative action if a summary suspension, restriction, or limitation is ordered.

Under Florida's Administrative Procedure Act, a party adversely affected by final agency action, including an emergency suspension order, is entitled to judicial review of the action.<sup>44</sup> Judicial review occurs in the appellate district where the agency maintains its headquarters or where a party resides.<sup>45</sup>

### Deferred presentment transactions:

A deferred presentment provider must obtain a money services business license and file a declaration of intent to engage in deferred presentment transactions with OFR.<sup>46</sup> Deferred presentment transactions<sup>47</sup> are transactions in which a provider gives a borrower currency in exchange for the customer signing a post-dated check.<sup>48</sup> The provider is entitled to cash the check on an agreed upon future date.<sup>49</sup>

Under OFR's current rules, if a customer redeems a deferred presentment transaction with a debit card, there is a five-day waiting period before the deferred presentment transaction is deemed to be cleared.<sup>50</sup> Additionally, OFR's rules prohibit the use of credit cards to redeem deferred presentment transactions.<sup>51</sup>

### Debt collection:

Check cashers and deferred presentment providers are two specific types of money services businesses.<sup>52</sup> A check casher is a person who sells currency in exchange for payment instruments (e.g. checks or money orders).<sup>53</sup> As described in the preceding paragraph, deferred presentment providers give currency to customers in exchange for a post-dated check.<sup>54</sup> Under Florida's money services business laws, if a check is returned to a check casher or deferred presentment provider due to a lack of funds, a closed account, or a stop-payment order, the business may seek collection to pursue any funds owed to the business.<sup>55</sup> If a business seeks collection, the business must comply with the [Florida Consumer Collection Practices Act \(FCCPA\)](#) which establishes standards to prevent parties

<sup>43</sup> [S. 120.60, F.S.](#)

<sup>44</sup> [S. 120.68, F.S.](#)

<sup>45</sup> *Id.*

<sup>46</sup> [S. 560.403, F.S.](#)

<sup>47</sup> Commonly referred to as "payday loans."

<sup>48</sup> [S. 560.402\(4\), F.S.](#)

<sup>49</sup> [S. 560.402\(4\), F.S.](#)

<sup>50</sup> R. 69V-560.903, F.A.C.

<sup>51</sup> *Id.*

<sup>52</sup> Ch. 560, F.S.

<sup>53</sup> [S. 560.103\(6\), F.S.](#)

<sup>54</sup> [S. 560.402\(4\), F.S.](#)

<sup>55</sup> [S. 560.309\(10\), F.S.](#) and [S. 560.406, F.S.](#)

collecting debt from engaging in abuse, harassment, and unfair practices.<sup>56</sup> In addition to the FCCPA, the federal [Fair Debt Collections Practices Act \(FDCPA\)](#) also establishes standards for debt collectors that prohibit abusive, deceptive, and unfair practices.<sup>57</sup> The FDCPA only applies to third-party debt collectors and does not apply to original creditors collecting their own debts in their own name.<sup>58</sup> In contrast, the FCCPA applies to third-party debt collectors as well as creditors collecting their own debt in their own name.<sup>59</sup> The FDCPA and FCCPA are very similar in terms of requirements.<sup>60</sup>

#### [Notice requirements for financial institutions:](#)

Financial institutions that are subject to the Federal Trade Commission's (FTC) jurisdiction are regulated under the Federal Standards for Safeguarding Customer Information (Safeguard Rules).<sup>61</sup> A financial institution must notify the FTC of a notification event that involves information of 5,000 or more consumers.<sup>62</sup>

Section [501.171, F.S.](#), provides covered entities, governmental entities, and third-party agents are required to take reasonable measures to protect and secure electronic data containing personal information.<sup>63</sup> When the security of a data system is breached, a covered entity must provide notice to the Department of Legal Affairs, affected individuals, and credit reporting agencies in certain circumstances.<sup>64</sup>

Under current law, financial institutions are not required to notify OFR of a security breach.

#### [Examination fee deadlines for financial institutions and family trusts:](#)

Under current law, OFR examines financial institutions at least every 18-months but is permitted to investigate them more frequently based on risk factors.<sup>65</sup>

The institutions are required to pay a fee for the costs of OFR's examination, including the salary and travel expenses of staff attributable to the examination.<sup>66</sup> Any costs a financial institution pays by mail must be postmarked within 30 days after the date of receipt of the notice stating that such costs are due.<sup>67</sup>

Under current law, OFR is permitted to conduct an examination of a licensed family trust company at any time it deems necessary.<sup>68</sup> The family trust companies are required to pay a fee for the costs of OFR's examination, including the salary and travel expenses of staff attributable to the examination.<sup>69</sup> Any costs mailed by a trust company must be postmarked within 30 days after the receipt of a notice stating that the costs are due.<sup>70</sup>

A family trust company is a corporation or limited liability company that is exclusively owned by family members, acts as a fiduciary to serve family members, and generally may not serve as a fiduciary for a person that is not a family.<sup>71</sup>

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<sup>56</sup> [S. 559.72, F.S.](#)

<sup>57</sup> 15 U.S.C. 1692a.

<sup>58</sup> 15 U.S.C. 1692a(6).

<sup>59</sup> [S. 560.309\(10\), F.S.](#) and [S. 560.406, F.S.](#)

<sup>60</sup> *Shaffer v. Servis One, Inc.*, 347 F. Supp. 3d 1039, 1044 (M.D. Fla. 2018) (providing that the FDCPA and the FCCPA are largely similar and the FCCPA is construed in accordance with the FDCPA).

<sup>61</sup> 16 C.F.R. 314.1(b).

<sup>62</sup> 16 C.F.R. 314.4(j)(1).

<sup>63</sup> [S. 501.171\(2\), F.S.](#)

<sup>64</sup> [S. 501.171\(3\), F.S.](#), [S. 501.171\(4\), F.S.](#)

<sup>65</sup> [S. 655.045, F.S.](#)

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> [S. 662.141, F.S.](#)

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> [S. 662.111\(12\), F.S.](#)

### Credit union requirements:

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).<sup>72</sup> The Florida Financial Institutions Codes apply to all state-chartered credit unions.<sup>73</sup>

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.<sup>74</sup> State-chartered credit unions operate as financial institutions except for exercising certain incidental powers authorized by law.<sup>75</sup> An application must be filed with OFR to organize a credit union.<sup>76</sup>

Any five or more residents of Florida who represent a limited field of membership may apply for permission to organize a credit union.<sup>77</sup> All members must be Florida residents. Members are required to notice and hold the annual meeting and any special meetings of the members at the time, place, and in the manner provided in the bylaws.<sup>78</sup>

Florida law regulates how credit unions may invest funds. There are no limits with respect to investing in some assets, for instance United States Treasury bonds. However, Florida does have investment limits on other asset classes including:<sup>79</sup>

- Up to 5% of capital in fixed-assets such as real estate, improvements, furniture, fixtures, and equipment used for business. Credit unions may exceed the 5% limit with OFR approval, if:
  - The investment is necessary and appropriate for the credit union's size and needs;
  - The investment benefits members; and
  - A plan exists to reduce the investment to statutory limits over time.

In 2015, the NCUA removed the federal regulation that restricted federal credit unions from investing more than five percent aggregate in fixed-asset investments.<sup>80</sup>

### Experience requirements for directors and officers of banks and trust companies:

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.<sup>81</sup> The Florida Financial Institutions Codes apply to all state-authorized or state-chartered financial banks, trust companies, and related entities.<sup>82</sup>

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<sup>72</sup> The NCUA, Overview of the Charter Application Process, April 14, 2022, available at <https://ncua.gov/regulation-supervision/manuals-guides/federal-credit-union-charter-application-guide/overview-charter-application-process> (last visited Jan. 6, 2026).

<sup>73</sup> [S. 655.005\(1\)\(k\), F.S.](#)

<sup>74</sup> [S. 657.023\(1\), F.S.](#)

<sup>75</sup> [S. 657.031\(3\), F.S.](#)

<sup>76</sup> [S. 657.005\(1\), F.S.](#)

<sup>77</sup> [S. 657.005\(2\), F.S.](#)

<sup>78</sup> [S. 657.024\(1\), F.S.](#)

<sup>79</sup> [S. 657.042, F.S.](#)

<sup>80</sup> The NCUA, Fixed-Asset Rule Provides Relief to More than 3,800 Federal Credit Unions, July 2015, available at <https://ncua.gov/newsroom/news/2015/fixed-asset-rule-provides-relief-more-3800-federal-credit-unions> (last visited Jan. 13, 2026).

<sup>81</sup> Congressional Research Service, Introduction to Financial Services: Banking, p. 1, January 5, 2023, available at: <https://crsreports.congress.gov/product/pdf/IF/IF10035> (last visited Jan. 6, 2026).

<sup>82</sup> [S. 655.005\(1\)\(k\), F.S.](#)

OFR is required to make certain findings before approving an application to organize a bank or trust company.<sup>83</sup> One such finding is that the proposed directors and officers must have sufficient financial institution experience, ability, standing, and reputation to indicate a reasonable promise of successful operation.<sup>84</sup>

## BILL HISTORY

COMMITTEE REFERENCE	ACTION	DATE	STAFF DIRECTOR/ POLICY CHIEF	ANALYSIS PREPARED BY
<a href="#">Insurance &amp; Banking Subcommittee</a>	16 Y, 0 N, As CS	1/21/2026	Brackett	Highsmith
THE CHANGES ADOPTED BY THE COMMITTEE:	<ul style="list-style-type: none"> <li>Removed the requirements to perform cybersecurity investigations for mortgage and money services businesses, in order to maintain consistency with the Federal Trade Commission Safeguard Rules.</li> <li>Removed the provisions related to the financial technology sandbox.</li> <li>Revised the definition of “family office” to have the same meaning as in Securities and Exchange Commission rules.</li> <li>Provided that the rights and obligations of parties with respect to surrendered or repossessed motor vehicles are exclusively governed Florida’s Uniform Commercial Code.</li> <li>Provided that debit cards shall be treated the same as cash when used to pay off deferred presentment transactions, meaning that debit cards shall immediately satisfy a transaction.</li> <li>Provided that credit cards cannot be used to pay off deferred presentment transactions.</li> <li>Provided that all licensees must comply with the Florida Consumer Collection Practices Act, while the federal Fair Debt Collection Practices Act only applies only to third-party debt collectors.</li> <li>Clarified that when OFR issues an emergency suspension order against a money services business licensee: the order must state the grounds on which the order is based along with other information about the business’s rights; OFR must institute an administrative action within 20 days; and business may seek judicial review of the emergency suspension order.</li> </ul>			
<a href="#">Information Technology Budget &amp; Policy Subcommittee</a> <a href="#">Commerce Committee</a>				

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THIS BILL ANALYSIS HAS BEEN UPDATED TO INCORPORATE ALL OF THE CHANGES DESCRIBED ABOVE.  
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<sup>83</sup> [S. 658.21, F.S.](#)

<sup>84</sup> [S. 658.21\(4\)\(a\), F.S.](#)