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1 A bill to be entitled
2 An act relating to financial services; amending s.
3 655.005, F.S.; revising the definition of "related
4 interest"; creating s. 655.017, F.S.; preempting to
5 the state the regulation of certain financial or
6 lending activities of entities subject to the
7 jurisdiction of the office or other regulatory
8 agencies; providing that counties and municipalities
9 may engage in investigations and proceedings against
10 financial institutions that are not preempted;
11 requiring a financial institution to notify the office
12 if such local action is commenced; providing for the
13 office's sole and exclusive jurisdiction in certain
14 cases; providing applicability; amending s. 655.0322,
15 F.S.; revising provisions relating to prohibited acts
16 and practices by a financial institution; applying
17 certain provisions to affiliates; amending s. 655.034,
18 F.S.; authorizing the circuit court to issue an
19 injunction in order to protect the interests of the
20 depositors, members, creditors, or stockholders of a
21 financial institution and the public's interest in the
22 safety and soundness of the financial institution
23 system; defining "formal enforcement action"; amending
24 s. 655.037, F.S.; conforming a cross-reference;
25 amending s. 655.0385, F.S.; prohibiting a director or
26 executive officer from concurrently serving as a
27 director or officer in a financial institution or
28 affiliate in the same geographical area or the same
29 major business market area unless waived by the Office

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30 of Financial Regulation; amending s. 655.041, F.S.;

31 revising provisions relating to administrative fines;

32 clarifying that the office may initiate administrative

33 proceedings for violations of rules; providing that

34 fines for violations begin accruing immediately upon

35 the service of a complaint; applying certain

36 provisions to affiliates; revising the applications

37 for imposing a fine; amending s. 655.045, F.S.;

38 requiring the office to conduct an examination of a

39 financial institution within a specified period;

40 amending s. 655.057, F.S.; conforming a cross-

41 reference; providing that specified records are not

42 considered a waiver of privileges or legal rights in

43 certain proceedings; clarifying who has a right to

44 copy member or shareholder records; creating s.

45 655.0591, F.S.; providing notice requirements and

46 procedures that allow a financial institution to

47 protect trade secrets included in documents submitted

48 to the office; amending s. 655.50, F.S.; revising

49 provisions relating to the control of money laundering

50 to also include terrorist financing; adding and

51 revising definitions; requiring a financial

52 institution to have a BSA/AML compliance officer;

53 revising records requirements; updating cross-

54 references; amending s. 655.85, F.S.; clarifying that

55 an institution may impose a fee for the settlement of

56 a check under certain circumstances; providing

57 legislative intent; amending s. 655.921, F.S.;

58 revising provisions relating to business transactions

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59 by an out-of-state financial institution; providing
60 that such institution may file suit to collect a
61 security interest in collateral; amending s. 655.922,
62 F.S.; revising provisions relating to the name of a
63 financial institution; prohibiting certain financial
64 institutions from using a name that may mislead
65 consumers; authorizing the office to seek court orders
66 to annul or dissolve a business entity for certain
67 violations and to issue emergency cease and desist
68 orders; amending s. 655.948, F.S.; requiring a
69 financial institution to notify the office of any
70 investigations or proceedings initiated by a county or
71 municipality against the institution within a
72 specified timeframe; creating s. 655.955, F.S.;
73 providing that a financial institution is not civilly
74 liable solely by virtue of extending credit to a
75 person; providing applicability; amending s. 657.008,
76 F.S.; requiring certain credit unions seeking to
77 establish a branch office to submit an application to
78 the office for examination and approval; providing the
79 criteria for the examination; amending s. 657.028,
80 F.S.; revising provisions relating to prohibited
81 activities of directors, officers, committee members,
82 employees, and agents of credit unions; requiring the
83 name and address of the credit manager to be submitted
84 to the office; amending s. 657.041, F.S.; authorizing
85 a credit union to pay health and accident insurance
86 premiums and to fund employee benefit plans under
87 certain circumstances; amending s. 658.12, F.S.;

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88 revising the definition of "trust business"; amending
89 ss. 658.21 and 658.235, F.S.; conforming cross-
90 references; repealing s. 658.49, F.S., relating to
91 requirements for bank loans up to \$50,000; amending
92 ss. 663.02 and 663.09, F.S.; conforming provisions to
93 changes made by the act; amending s. 663.12, F.S.;
94 deleting an annual assessment imposed on certain
95 international offices; amending s. 663.306, F.S.;
96 conforming provisions to changes made by the act;
97 amending ss. 665.013, 665.033, 665.034, 667.003,
98 667.006, and 667.008, F.S.; conforming cross-
99 references; amending s. 494.001, F.S.; providing and
100 revising definitions; amending s. 494.0012, F.S.;
101 authorizing the Office of Financial Regulation to
102 conduct joint or concurrent examinations of licensees;
103 amending s. 494.00255, F.S.; providing that violating
104 specified rules is grounds for disciplinary action;
105 repealing s. 494.0028, F.S., relating to arbitration
106 of disputes involving certain agreements; amending ss.
107 494.00313 and 494.00322, F.S.; providing for change in
108 license status if a licensed loan originator or
109 mortgage broker fails to meet certain requirements for
110 annual license renewal by specified dates; amending s.
111 494.0036, F.S.; providing guidelines for renewal of a
112 mortgage broker branch office license; providing for
113 change in license status if a licensed branch office
114 fails to meet certain requirements for annual license
115 renewal by specified dates; amending s. 494.0038,
116 F.S.; deleting certain requirements regarding loan

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117 origination and disclosure; amending s. 494.004, F.S.;
118 deleting a requirement that a licensee provide certain
119 notice to a borrower in mortgage loan transactions;
120 authorizing the Financial Services Commission to adopt
121 rules prescribing the time by which a mortgage broker
122 must file a report of condition; amending s. 494.0042,
123 F.S.; conforming a cross-reference; repealing s.
124 494.00421, F.S., relating to required disclosures to
125 borrowers in mortgage broker agreements by mortgage
126 brokers receiving loan origination fees; amending s.
127 494.00611, F.S.; revising a cross-reference; amending
128 s. 494.00612, F.S.; providing for change in license
129 status if a licensed mortgage lender fails to meet
130 certain requirements for annual license renewal by
131 specified dates; amending s. 494.0066, F.S.; providing
132 guidelines for renewal of a mortgage lender branch
133 office license; providing for change in license status
134 if a licensed branch office fails to meet certain
135 requirements for annual license renewal by specified
136 dates; amending s. 494.0067, F.S.; deleting
137 requirements that a mortgage lender provide an
138 applicant for a mortgage loan a good faith estimate of
139 costs and written disclosures related to adjustable
140 rate mortgages; deleting requirement that mortgage
141 lender provide notice of material changes in terms of
142 a mortgage loan to a borrower in mortgage loan
143 transactions; revising period during which mortgage
144 lenders may service loans without meeting certain
145 requirements; authorizing the commission to adopt

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146 rules prescribing the time by which a mortgage lender
147 must file a report of condition; repealing s.
148 494.0068, F.S., relating to required disclosures to
149 borrowers by mortgage lenders before the borrower
150 accepts certain fees; amending s. 494.007, F.S.;
151 deleting the requirement that a mortgage lender
152 disclose a certain fee and whether the fee is
153 refundable; amending s. 494.0073, F.S.; conforming a
154 cross-reference; repealing part IV of chapter 494,
155 F.S., relating to the Florida Fair Lending Act;
156 repealing s. 494.008, F.S., relating to conditions for
157 mortgage loans of specified amounts secured by vacant
158 land; providing an effective date.

159
160 Be It Enacted by the Legislature of the State of Florida:

161
162 Section 1. Paragraph (t) of subsection (1) of section
163 655.005, Florida Statutes, is amended to read:

164 655.005 Definitions.—

165 (1) As used in the financial institutions codes, unless the
166 context otherwise requires, the term:

167 (t) "Related interest" means, with respect to a ~~any~~
168 person:~~r~~

169 1. The person's spouse, ~~partner, sibling, parent,~~ child, or
170 other dependent individual residing in the same household as the
171 person; ~~With respect to any person, the term means~~

172 2. A company, partnership, corporation, or other business
173 organization controlled by the person. A person has control if
174 the person:

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175 ~~a.1.~~ Owns, controls, or has the power to vote 25 percent or
176 more of any class of voting securities of the organization;

177 ~~b.2.~~ Controls in any manner the election of a majority of
178 the directors of the organization; or

179 ~~c.3.~~ Has the power to exercise a controlling influence over
180 the management or policies of the organization; ~~or.~~

181 3. An individual, company, partnership, corporation, or
182 other business organization that engages in a common business
183 enterprise with that person. A common business enterprise exists
184 if:

185 a. The expected source for repayment of a loan or extension
186 of credit is the same for each borrower and neither borrower has
187 another source of income from which the loan, together with the
188 borrower's other obligations, may be fully repaid. An employer
189 will not be treated as a source of repayment under this
190 paragraph because of wages and salaries paid to an employee,
191 unless the standards of sub-subparagraph b. are met;

192 b. Loans or extensions of credit are made:

193 (I) To borrowers who are directly or indirectly related
194 through common control, including where one borrower is directly
195 or indirectly controlled by another borrower; and

196 (II) Substantial financial interdependence exists between
197 or among the borrowers. Substantial financial interdependence
198 exists if 50 percent or more of one borrower's gross receipts or
199 gross expenditures on an annual basis are derived from
200 transactions with the other borrower. Gross receipts and
201 expenditures include gross revenues and expenses, intercompany
202 loans, dividends, capital contributions, and similar receipts or
203 payments;

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204 c. Separate persons borrow from a financial institution to
205 acquire a business enterprise such that those borrowers will own
206 more than 50 percent of the voting securities or voting
207 interests of the enterprise, in which case a common enterprise
208 is deemed to exist between the borrowers for purposes of
209 combining the acquisition loans; or

210 d. The office determines, based upon an evaluation of the
211 facts and circumstances of particular transactions, that a
212 common enterprise exists.

213 Section 2. Section 655.017, Florida Statutes, is created to
214 read:

215 655.017 Local regulation preempted.—

216 (1) A county or municipality may not enact or enforce a
217 resolution, ordinance, or rule that regulates financial or
218 lending activities, including a resolution, ordinance, or rule
219 that disqualifies persons from doing business with a county or
220 municipality based on lending interest rates, or that imposes
221 reporting requirements or other obligations regarding the
222 financial services or lending practices of persons or entities,
223 and subsidiaries or affiliates thereof which:

224 (a) Are subject to the jurisdiction of the office pursuant
225 to the financial institutions codes;

226 (b) Are subject to the jurisdiction of the Board of
227 Governors of the Federal Reserve System, the Office of the
228 Comptroller of the Currency, the National Credit Union
229 Administration, the Federal Deposit Insurance Corporation, the
230 Federal Trade Commission, or the United States Department of
231 Housing and Urban Development;

232 (c) Originate, purchase, sell, assign, secure, or service

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233 property interests or obligations created by financial
234 transactions or loans made, executed, or originated by persons
235 referred to in paragraph (a) or paragraph (b) which assist or
236 facilitate such transactions;

237 (d) Are chartered by the United States Congress to engage
238 in secondary market mortgage transactions; or

239 (e) Are acting on behalf of the Florida Housing Finance
240 Corporation.

241 (2) This section does not prevent a county or municipality
242 from engaging in a civil investigation, initiating an
243 administrative proceeding, or commencing a civil proceeding to
244 determine compliance with or to enforce a state law, a rule or
245 order of a state agency, or an ordinance or rule of a county or
246 municipality which is not preempted pursuant to this section.

247 (3) Notwithstanding subsection (2), a financial institution
248 shall notify the office of any civil investigation or
249 administrative or civil proceeding initiated by a county or
250 municipality in accordance with s. 655.948. The office shall
251 have sole and exclusive jurisdiction to initiate appropriate
252 administrative or civil proceedings to enforce such laws, rules,
253 or orders if the office determines that such investigation or
254 proceeding:

255 (a) Is based on a local resolution, ordinance, or rule that
256 is preempted pursuant to subsection (1); or

257 (b) Directly and specifically regulates the manner,
258 content, or terms and conditions of a financial transaction or
259 account related thereto, that a financial institution is
260 authorized to engage in, or prevents, significantly interferes
261 with, or alters the exercise of powers granted to a financial

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262 institution under the financial institutions codes or any
263 applicable federal law or regulation.

264 (4) This section does not limit or restrict the powers of
265 the Department of Legal Affairs or the law enforcement agencies
266 of this state to commence a civil or criminal action, as
267 applicable.

268 Section 3. Section 655.0322, Florida Statutes, is amended
269 to read:

270 655.0322 Prohibited acts and practices; criminal
271 penalties.—

272 (1) As used in this section, the term "financial
273 institution" means a financial institution as defined in s.
274 655.005 ~~s. 655.50 which includes a state trust company, state or~~
275 ~~national bank, state or federal association, state or federal~~
276 ~~savings bank, state or federal credit union, Edge Act or~~
277 ~~agreement corporation, international bank agency, international~~
278 ~~branch, representative office or administrative office or other~~
279 business entity as defined by the commission by rule, whether
280 organized under the laws of this state, the laws of another
281 state, or the laws of the United States, which ~~institution~~ is
282 located in this state.

283 (2) ~~A~~ It is unlawful for any financial institution-
284 affiliated party may not ~~to~~ ask for, or willfully and knowingly
285 receive or consent to receive for himself or herself or any
286 related interest, ~~a~~ any commission, emolument, gratuity, money,
287 property, or thing of value for:

288 (a) Procuring, or endeavoring to procure, for any person a
289 loan or extension of credit from such financial institution,
290 affiliate, subsidiary, or service corporation; or

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291 (b) Procuring, or endeavoring to procure, the purchase or
292 discount of any note, draft, check, bill of exchange, or other
293 obligation by such financial institution, affiliate, subsidiary,
294 or service corporation.

295

296 Any person who violates this subsection commits ~~is guilty of~~ a
297 felony of the third degree, punishable as provided in s.
298 775.082, s. 775.083, or s. 775.084.

299 (3) ~~A It is unlawful for any~~ financial institution-
300 affiliated party may not ~~to~~:

301 (a) Knowingly receive or possess ~~himself or herself~~ of any
302 of such financial institution's ~~its~~ property other ~~otherwise~~
303 than in payment of a just demand, or ~~and~~, with intent to deceive
304 or defraud, to omit to make or cause to be made a full and true
305 entry thereof in the financial institution's ~~its~~ books and
306 accounts, or concur in omitting to make any material entry
307 thereof;

308 (b) Embezzle, abstract, or misapply any money, property, or
309 thing of value of such ~~the~~ financial institution, affiliate,
310 subsidiary, or service corporation with intent to deceive or
311 defraud the ~~such~~ financial institution, affiliate, subsidiary,
312 or service corporation;

313 (c) Knowingly make, draw, issue, put forth, or assign any
314 certificate of deposit, draft, order, bill of exchange,
315 acceptance, note, debenture, bond or other obligation, mortgage,
316 judgment, or decree without authority from the board of
317 directors of such financial institution;

318 (d) Make a ~~any~~ false entry in any book, report, or
319 statement of such financial institution, affiliate, subsidiary,

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320 or service corporation with intent to deceive or defraud the
321 ~~such~~ financial institution, affiliate, subsidiary, or service
322 corporation, or another person, firm, or corporation, or with
323 intent to deceive the office, any other appropriate federal or
324 state regulatory agency, or an ~~any~~ authorized representative
325 appointed to examine the affairs of the ~~such~~ financial
326 institution, affiliate, subsidiary, or service corporation; or

327 (e) Deliver or disclose to the office or ~~any of~~ its
328 employees any application, ~~any~~ examination report, report of
329 condition, report of income and dividends, internal audit,
330 account, statement, or other document known by him or her to be
331 fraudulent or false as to any material matter.

332
333 Any person who violates this subsection commits ~~is guilty of~~ a
334 felony of the third degree, punishable as provided in s.
335 775.082, s. 775.083, or s. 775.084.

336 (4) ~~A It is unlawful for any~~ financial institution-
337 affiliated party may not ~~to~~ knowingly place among the assets of
338 such financial institution, affiliate, subsidiary, or service
339 corporation any note, obligation, or security that ~~which~~ the
340 financial institution, affiliate, subsidiary, or service
341 corporation does not own or that, ~~which~~ to the party's
342 ~~individual's~~ knowledge, is fraudulent or otherwise worthless or
343 for the financial institution-affiliated party ~~any such~~
344 ~~individual~~ to represent to the office that any note, obligation,
345 or security carried as an asset of such financial institution,
346 affiliate, subsidiary, or service corporation is the property of
347 the financial institution, affiliate, subsidiary, or service
348 corporation and is genuine if it is known to such party

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349 ~~individual~~ that such representation is false or that the ~~such~~
350 note, obligation, or security is fraudulent or otherwise
351 worthless. Any person who violates this subsection commits ~~is~~
352 ~~guilty of~~ a felony of the third degree, punishable as provided
353 in s. 775.082, s. 775.083, or s. 775.084.

354 (5) Any person who willfully makes a ~~any~~ false statement or
355 report, or willfully overvalues any land, property, or security,
356 for the purposes of influencing in any way the action of a ~~any~~
357 financial institution, affiliate, subsidiary, or service
358 corporation or any other entity authorized by law to extend
359 credit, upon an ~~any~~ application, advance, discount, purchase,
360 purchase agreement, repurchase agreement, commitment, or loan,
361 or any change or extension of ~~any of~~ the same, by renewal,
362 deferment of action or otherwise, or the acceptance, release, or
363 substitution of security therefor, commits ~~is guilty of~~ a felony
364 of the second degree, punishable as provided in s. 775.082, s.
365 775.083, or s. 775.084.

366 (6) Any person who knowingly executes, or attempts to
367 execute, a scheme or artifice to defraud a financial
368 institution, affiliate, subsidiary, or service corporation or
369 any other entity authorized by law to extend credit, or to
370 obtain ~~any of~~ the moneys, funds, credits, assets, securities, or
371 other property owned by, or under the custody or control of, a
372 financial institution, affiliate, subsidiary, service
373 corporation, or ~~any~~ other entity authorized by law to extend
374 credit, by means of false or fraudulent pretenses,
375 representations, or promises, commits ~~is guilty of~~ a felony of
376 the second degree, punishable as provided in s. 775.082, s.
377 775.083, or s. 775.084.

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378 Section 4. Section 655.034, Florida Statutes, is amended to
379 read:

380 655.034 Injunctions.—

381 (1) If the office determines that ~~Whenever~~ a violation of
382 the financial institutions codes or a violation of a formal
383 enforcement action has occurred or is threatened or impending
384 ~~and such violation will cause substantial injury to a state~~
385 ~~financial institution or to the depositors, members, creditors,~~
386 ~~or stockholders thereof,~~ the circuit court has jurisdiction to
387 hear a ~~any~~ complaint filed by the office and, upon proper
388 showing, to issue an injunction restraining such violation or
389 granting other ~~such~~ appropriate relief. Upon proper showing, the
390 circuit court may also issue an injunction restraining any
391 conduct or other act in order to protect the interests of
392 depositors, members, creditors, or stockholders of a financial
393 institution or the interests of the public in the safety and
394 soundness of the financial institution system in this state and
395 the proper conduct of fiduciary functions.

396 (2) As used in this section, the term "formal enforcement
397 action" means:

398 (a) With respect to a financial institution, a supervisory
399 action subject to enforcement pursuant to s. 655.033, s.
400 655.037, or s. 655.041 which directs the financial institution
401 to take corrective action to address violations of law or safety
402 and soundness deficiencies.

403 (b) With respect to a person or entity that is not a
404 financial institution, an order issued by the office pursuant
405 the financial institutions codes which is directed to such
406 person or entity.

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407 Section 5. Subsection (1) of section 655.037, Florida
408 Statutes, is amended to read:

409 655.037 Removal of a financial institution-affiliated party
410 by the office.—

411 (1) The office may issue and serve upon any financial
412 institution-affiliated party and upon the ~~state~~ financial
413 institution, subsidiary, or service corporation involved, a
414 complaint stating charges if ~~whenever~~ the office has reason to
415 believe that the financial institution-affiliated party is
416 engaging or has engaged in conduct that is:

417 (a) An unsafe or unsound practice;

418 (b) A prohibited act or practice;

419 (c) A willful violation of any law relating to financial
420 institutions;

421 (d) A violation of any other law involving fraud or moral
422 turpitude which constitutes a felony;

423 (e) A violation of s. 655.50, relating to the ~~Florida~~
424 control of money laundering and terrorist financing ~~in Financial~~
425 ~~Institutions Act~~; chapter 896, relating to offenses related to
426 financial transactions; or ~~any~~ similar state or federal law;

427 (f) A willful violation of any rule of the commission;

428 (g) A willful violation of any order of the office;

429 (h) A willful breach of any written agreement with the
430 office; or

431 (i) An act of commission or omission or a practice which is
432 a breach of trust or a breach of fiduciary duty.

433 Section 6. Present subsections (4) and (5) of section
434 655.0385, Florida Statutes, are redesignated as subsections (5)
435 and (6), respectively, and a new subsection (4) is added to that

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436 section, to read:

437 655.0385 Disapproval of directors and executive officers.-

438 (4) A director or executive officer of a state financial
439 institution or affiliate may not concurrently serve as a
440 director, or be employed as an officer, of a nonaffiliated
441 financial institution or affiliate whose principal place of
442 business is located in the same metropolitan statistical area in
443 this state. A person affected by this prohibition may provide
444 written notice to the office of the proposed appointment or
445 employment. Such notice may provide information that such
446 concurrent service does not present a conflict of interest and
447 that neither institution is competitively disadvantaged in the
448 common market area. The office may waive this prohibition if the
449 information provided demonstrates that the individual's proposed
450 concurrent service does not present a conflict of interest and
451 neither institution is competitively disadvantaged in the common
452 market area. A person who violates this subsection is subject to
453 suspension, removal, or prohibition under s. 655.037.

454 Section 7. Section 655.041, Florida Statutes, is amended to
455 read:

456 655.041 Administrative fines; enforcement.-

457 (1) The office may, by complaint, initiate a proceeding
458 pursuant to chapter 120 to impose an administrative fine against
459 any person found to have violated a any provision of the
460 financial institutions codes or the rules adopted thereunder, an
461 ~~or a cease and desist~~ order of the office, or a any written
462 agreement with the office. Such ~~No such~~ proceeding may not shall
463 be initiated and ~~no fine shall accrue pursuant to this section~~
464 until after such person has been notified in writing of the

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465 nature of the violation and ~~has been~~ afforded a reasonable
466 period of time, as set forth in the notice, to correct the
467 violation and has failed to do so. If the office provided such
468 notice, a fine for a violation of an office order or written
469 agreement begins to accrue immediately upon service of the
470 complaint and continues to accrue until the violation is
471 corrected.

472 (2) ~~Any~~ Such fine may not exceed \$2,500 per a day for each
473 violation except as provided in this section.

474 (a) If the office determines that ~~any~~ such person has
475 recklessly violated a ~~any~~ provision of the financial
476 institutions codes, an ~~or a cease and desist~~ order of the
477 office, or a ~~any~~ written agreement with the office, which
478 violation results in more than a minimal loss to a financial
479 institution, affiliate, subsidiary, or service corporation, or
480 in a pecuniary benefit to such person, the office may impose a
481 fine of up to ~~not exceeding~~ \$10,000 per a day for each day the
482 violation continues.

483 (b) If the office determines that ~~any~~ such person has
484 knowingly violated a ~~any~~ provision of the financial institutions
485 codes, an ~~or a cease and desist~~ order of the office, or a ~~any~~
486 written agreement with the office, which violation results in
487 more than a minimal loss to a financial institution, affiliate,
488 subsidiary, or service corporation, or in a pecuniary benefit to
489 such a person, the office may impose a fine of up to ~~not~~
490 ~~exceeding~~ the lesser of \$500,000 per day or 1 percent of the
491 total assets in the case of a financial institution, or \$50,000
492 per day in any other case for each day the violation continues.

493 (c) The office may by complaint impose an administrative

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494 fine of up to, not exceeding \$10,000 per a day on a, upon any
495 financial institution-affiliated party, on ~~and upon~~ a state
496 financial institution, subsidiary, service corporation, or
497 affiliate, or on a person subject to supervision by the office
498 pursuant to s. 655.0391 which ~~who~~ refuses to permit an examiner
499 to examine a state financial institution, subsidiary, or service
500 corporation; ~~who~~ refuses to permit an examiner to review the
501 books and records of an affiliate or a contracting service
502 entity subject to supervision by the office pursuant to s.
503 655.0391; ~~or who~~ refuses to give an examiner any information
504 required in the course of an ~~any~~ examination or review of the
505 books and records.

506 (3) An ~~Any~~ administrative fine levied by the office may be
507 enforced by the office ~~by appropriate proceedings~~ in the circuit
508 court of the county in which such person resides or in which the
509 principal office of a state financial institution, affiliate,
510 subsidiary, service corporation, or contracting service entity
511 is located or does business in the state. In any administrative
512 or judicial proceeding arising under this section, a party may
513 elect to correct the violation asserted by the office and, upon
514 doing so, any fine ceases to accrue; however, an election to
515 correct the violation does not render an ~~any~~ administrative or
516 judicial proceeding moot.

517 Section 8. Section 655.045, Florida Statutes, is amended to
518 read:

519 655.045 Examinations, reports, and internal audits;
520 penalty.—

521 (1) The office shall conduct an examination of the
522 condition of each state financial institution at least every 18

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523 ~~months during each 18-month period.~~ The office may conduct more
524 frequent examinations based upon the risk profile of the
525 financial institution, prior examination results, or significant
526 changes in the institution or its operations. The office may use
527 continuous, phase, or other flexible scheduling examination
528 methods for very large or complex state financial institutions
529 and financial institutions owned or controlled by a multi-
530 financial institution holding company. The office shall consider
531 examination guidelines from federal regulatory agencies in order
532 to facilitate, coordinate, and standardize examination
533 processes.

534 (a) ~~With respect to, and examination of, the condition of a~~
535 ~~state institution,~~ The office may accept an examination of a
536 state financial institution made by an appropriate federal
537 regulatory agency, ~~or may~~ conduct ~~make~~ a joint or concurrent
538 examination of the institution with the federal agency. However,
539 at least once during each 36-month period beginning July 1,
540 2014, the office shall conduct an examination of each state
541 financial institution in a manner that allows the preparation of
542 a complete examination report not subject to the right of a
543 federal or other non-Florida entity to limit access to the
544 information contained therein. The office may furnish a copy of
545 all examinations or reviews made of financial institutions or
546 their affiliates to the state or federal agencies participating
547 in the examination, investigation, or review, or as otherwise
548 authorized under ~~by~~ s. 655.057.

549 (b) If, as a part of an examination or investigation of a
550 state financial institution, subsidiary, or service corporation,
551 the office has reason to believe that the conduct or business

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552 operations of an affiliate may have a negative impact on the
553 state financial institution, subsidiary, or service corporation,
554 the office may conduct such examination or investigation of the
555 affiliate as the office deems necessary.

556 (c) The office may recover the costs of examination and
557 supervision of a state financial institution, subsidiary, or
558 service corporation that is determined by the office to be
559 engaged in an unsafe or unsound practice. The office may also
560 recover the costs of a ~~any~~ review conducted pursuant to
561 paragraph (b) of an ~~any~~ affiliate of a state financial
562 institution determined by the office to have contributed to an
563 unsafe or unsound practice at a state financial institution,
564 subsidiary, or service corporation.

565 (d) As used in ~~For the purposes of~~ this section, the term
566 "costs" means the salary and travel expenses directly
567 attributable to the field staff examining the state financial
568 institution, subsidiary, or service corporation, and the travel
569 expenses of any supervisory staff required as a result of
570 examination findings. The mailing of any costs incurred under
571 this subsection must be postmarked within 30 days after the date
572 of receipt of a notice stating that such costs are due. The
573 office may levy a late payment of up to \$100 per day or part
574 thereof that a payment is overdue, unless excused for good
575 cause. However, for intentional late payment of costs, the
576 office may levy an administrative fine of up to \$1,000 per day
577 for each day the payment is overdue.

578 (e) The office may require an audit of a state financial
579 institution, subsidiary, or service corporation by an
580 independent certified public accountant, or other person

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581 approved by the office, if the office, after conducting an
582 examination of the state financial institution, subsidiary, or
583 service corporation, or after accepting an examination of the
584 ~~such~~ state financial institution by an appropriate state or
585 federal regulatory agency, determines that an audit is necessary
586 in order to ascertain the condition of the financial
587 institution, subsidiary, or service corporation. The cost of
588 such audit shall be paid by the state financial institution,
589 subsidiary, or state service corporation audited.

590 (2) ~~(a)~~ Each state financial institution, subsidiary, or
591 service corporation shall submit a report, at least four times
592 each calendar year, as of such dates as the commission or office
593 determines. The ~~Such~~ report must include such information as the
594 commission by rule requires for that type of institution.

595 (a) ~~(b)~~ The office shall levy an administrative fine of up
596 to \$100 per day for each day the report is past due, unless it
597 is excused for good cause. ~~However,~~

598 (b) For an intentional late filing of the report ~~required~~
599 ~~under paragraph (a)~~, the office shall levy an administrative
600 fine of up to \$1,000 per day for each day the report is past
601 due.

602 (3) ~~(a)~~ The board of directors of each state financial
603 institution or, in the case of a credit union, the supervisory
604 committee or audit committee shall perform or cause to be
605 performed, within each calendar year, an internal audit of each
606 state financial institution, subsidiary, or service corporation
607 and ~~to~~ file a copy of the report and findings of such audit with
608 the office on a timely basis. The ~~Such~~ internal audit must
609 include such information as the commission by rule requires for

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610 that type of institution.

611 (a)~~(b)~~ With the approval of the office, the board of
612 directors or, in the case of a credit union, the supervisory
613 committee may elect, in lieu of such periodic audits, to adopt
614 and implement an adequate continuous audit system and procedure
615 that includes ~~which must include~~ full, adequate, and continuous
616 written reports to, and review by, the board of directors or, in
617 the case of a credit union, the supervisory committee, together
618 with written statements of the actions taken thereon and reasons
619 for omissions to take actions, all of which shall be noted in
620 the minutes and filed among the records of the board of
621 directors or, in the case of a credit union, the supervisory
622 committee. If at any time such continuous audit system and
623 procedure, including the reports and statements, becomes
624 inadequate, in the judgment of the office, the state financial
625 institution shall promptly make such changes as may be required
626 by the office to cause the same to accomplish the purpose of
627 this section.

628 (b)~~(c)~~ A ~~Any~~ de novo state financial institution open less
629 than 4 months is exempt from the audit requirements of this
630 section.

631 (4) A copy of the report of each examination must be
632 furnished to the entity examined and.~~Such report shall be~~
633 presented to the board of directors at its next regular or
634 special meeting.

635 Section 9. Paragraph (a) of subsection (3) and subsections
636 (4) through (6) of section 655.057, Florida Statutes, are
637 amended to read:

638 655.057 Records; limited restrictions upon public access.-

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639 (3) The provisions of this section do not prevent or
640 restrict:

641 (a) Publishing reports that are required to be submitted to
642 the office pursuant to s. 655.045(2)~~(a)~~ or required by
643 applicable federal statutes or regulations to be published.

644
645 Any confidential information or records obtained from the office
646 pursuant to this subsection shall be maintained as confidential
647 and exempt from the provisions of s. 119.07(1).

648 (4) (a) Orders of courts or of administrative law judges for
649 the production of confidential records or information must ~~shall~~
650 provide for inspection in camera by the court or the
651 administrative law judge. ~~and~~, After the court or administrative
652 law judge determines ~~has made a determination~~ that the documents
653 requested are relevant or would likely lead to the discovery of
654 admissible evidence and that the information sought is not
655 otherwise reasonably available from other sources, the said
656 documents shall be subject to further orders by the court or the
657 administrative law judge to protect the confidentiality thereof.
658 Any order directing the release of information is ~~shall be~~
659 immediately reviewable, and a petition by the office for review
660 of such order ~~shall~~ automatically stays ~~stay~~ further proceedings
661 in the trial court or the administrative hearing until the
662 disposition of such petition by the reviewing court. If any
663 other party files such a petition for review, it will operate as
664 a stay of such proceedings only upon order of the reviewing
665 court.

666 (b) Confidential records and information furnished pursuant
667 to a legislative subpoena shall be kept confidential by the

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668 legislative body or committee that ~~which~~ received the records or
669 information. However, except in a case involving investigation
670 of charges against a public official subject to impeachment or
671 removal, ~~and then~~ disclosure of such information shall be only
672 to the extent necessary as determined by the legislative body or
673 committee ~~to be necessary~~.

674 (c) Documents, statements, books, records, and any other
675 information provided to the office by any person pursuant to an
676 investigation, examination, or other supervisory activity by the
677 office are not considered a waiver of any privilege or other
678 legal right in an administrative or legal proceeding in which
679 the office is not a party.

680 (5) Every credit union and mutual association shall
681 ~~maintain, in the principal office where its business is~~
682 ~~transacted,~~ full and correct records of the names and residences
683 of all the members of the credit union or mutual association in
684 the principal office where its business is transacted. Such
685 records are ~~shall be~~ subject to ~~the~~ inspection by ~~of~~ all ~~the~~
686 members of the credit union or mutual association, and the
687 officers authorized to assess taxes under state authority,
688 during normal business hours ~~of each business day~~. No member or
689 any other person has the right to copy the membership records
690 for any purpose other than in the course of business of the
691 credit union or mutual association, as authorized by the office
692 or the board of directors of the credit union or mutual
693 association. A current list of members shall be made available
694 to the office's examiners for their inspection and, upon the
695 request of the office, shall be submitted to the office. Except
696 as otherwise provided in this subsection, the list of the

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697 members of the credit union or mutual association is
698 confidential and exempt from ~~the provisions of~~ s. 119.07(1).

699 (6) Every bank, trust company, and stock association shall
700 maintain, in the principal office where its business is
701 transacted, full and complete records of the names and
702 residences of all the shareholders of the bank, trust company,
703 or stock association and the number of shares held by each. Such
704 records are ~~shall be~~ subject to the inspection of all the
705 shareholders of the bank, trust company, or stock association,
706 and the officers authorized to assess taxes under state
707 authority, during normal business hours ~~of each banking day~~. No
708 shareholder or any other person has the right to copy the
709 shareholder records for any purpose other than in the course of
710 business of the bank, the trust company, or the stock
711 association, as authorized by the office or the board of
712 directors of the bank, the trust company, or the stock
713 association. A current list of shareholders shall be made
714 available to the office's examiners for their inspection and,
715 upon the request of the office, shall be submitted to the
716 office. Except as otherwise provided in this subsection, any
717 portion of this list which reveals the identities of the
718 shareholders is confidential and exempt from ~~the provisions of~~
719 s. 119.07(1).

720 Section 10. Section 655.0591, Florida Statutes, is created
721 to read:

722 655.0591 Trade secret documents.-

723 (1) If any person who is required to submit documents or
724 other information to the office pursuant to the financial
725 institutions codes, or by rule or order of the office or

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726 commission, claims that such submission contains a trade secret,
727 such person may file with the office a notice of trade secret
728 when the information is submitted to the office as provided in
729 this section. Failure to file such notice constitutes a waiver
730 of any claim by such person that the document or information is
731 a trade secret. The notice must provide the contact information
732 of the person claiming ownership of the trade secret. The person
733 claiming the trade secret is responsible for updating the
734 contact information with the office.

735 (a) Each page of such document or specific portion of a
736 document claimed to be a trade secret must be clearly marked
737 with the words "trade secret."

738 (b) All material identified as a trade secret shall be
739 segregated from all other material, such as by being sealed in
740 an envelope clearly marked with the words "trade secret."

741 (c) In submitting a notice of trade secret to the office or
742 the Department of Financial Services, the submitting party shall
743 include an affidavit certifying under oath to the truth of the
744 following statements concerning all documents or information
745 that are claimed to be trade secrets:

746 1. [...I consider/my company considers...] this information
747 a trade secret that has value and provides an advantage or an
748 opportunity to obtain an advantage over those who do not know or
749 use it.

750 2. [...I have/my company has...] taken measures to prevent
751 the disclosure of the information to anyone other than those who
752 have been selected to have access for limited purposes, and
753 [...I intend/my company intends...] to continue to take such
754 measures.

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755 3. The information is not, and has not been, reasonably
756 obtainable without [...my/our...] consent by other persons by
757 use of legitimate means.

758 4. The information is not publicly available elsewhere.

759 (2) If the office receives a public records request for a
760 document or information that is marked and certified as a trade
761 secret, the office shall promptly notify the person that
762 certified the document as a trade secret. The notice shall be
763 sent to the address provided with the most recent contact
764 information provided to the office and must inform such person
765 that, in order to avoid disclosure of the trade secret, the
766 person must file an action in circuit court within 30 days after
767 the date of the notice seeking a declaratory judgment that the
768 document in question contains trade secrets and an order barring
769 public disclosure of the document. The owner shall provide
770 written notice to the office that the action was filed and the
771 office may not release the documents pending the outcome of
772 legal action. Failure to file an action within 30 days
773 constitutes a waiver of any claim of confidentiality, and the
774 office shall release the document as requested.

775 (3) The office may disclose a trade secret, together with
776 the claim that it is a trade secret, to an officer or employee
777 of another governmental agency whose use of the trade secret is
778 within the scope of his or her employment.

779 Section 11. Section 655.50, Florida Statutes, is reordered
780 and amended to read:

781 655.50 Florida Control of Money Laundering and Terrorist
782 Financing in Financial Institutions Act; ~~reports of transactions~~
783 ~~involving currency or monetary instruments; when required;~~

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784 ~~purpose; definitions; penalties.-~~

785 (1) This section may be cited as the "Florida Control of
786 Money Laundering and Terrorist Financing in Financial
787 Institutions Act."

788 (2) ~~It is~~ The purpose of this section is to require the
789 submission to the office of certain reports and the maintenance
790 of certain records of customers, accounts, and transactions
791 involving currency or monetary instruments or suspicious
792 activities if ~~when~~ such reports and records deter using the use
793 of financial institutions to conceal, move, or provide the
794 proceeds obtained from or intended for ~~of~~ criminal or terrorist
795 activities and if such reports and records activity and have a
796 high degree of usefulness in criminal, tax, or regulatory
797 investigations or proceedings.

798 (3) As used in this section, the term:

799 (a) "BSA/AML compliance officer" means the financial
800 institution's officer responsible for the development and
801 implementation of the financial institution's policies and
802 procedures for complying with the requirements of this section
803 relating to anti-money laundering (AML), and the requirements of
804 the Bank Secrecy Act of 1970 (BSA), Pub. L. No. 91-508, as
805 amended, the USA Patriot Act of 2001, Pub. L. No. 107-56, as
806 amended, and federal and state rules and regulations adopted
807 thereunder, and 31 C.F.R. parts 500-598, relating to the
808 regulations of the Office of Foreign Assets Control (OFAC) of
809 the United States Department of the Treasury.

810 (b) ~~(a)~~ "Currency" means currency and coin of the United
811 States or of any other country.

812 (c) ~~(b)~~ "Financial institution" means a financial

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813 institution, as defined in 31 U.S.C. s. 5312, as amended,
814 including a credit card bank, located in this state.

815 (d)~~(e)~~ "Financial transaction" means a transaction
816 involving the movement of funds by wire, electronic funds
817 transfer, or any other means, or involving one or more monetary
818 instruments, which in any way or degree affects commerce, or a
819 transaction involving the use of a financial institution that
820 ~~which~~ is engaged in, or the activities of which affect, commerce
821 in any way or degree.

822 (e)~~(d)~~ "Monetary instruments" means coin or currency of the
823 United States or of any other country, travelers' checks,
824 personal checks, bank checks, money orders, stored value cards,
825 prepaid cards, investment securities or ~~in bearer form or~~
826 ~~otherwise in such form that title thereto passes upon delivery,~~
827 ~~and~~ negotiable instruments in bearer form or otherwise in such
828 form that title thereto passes upon delivery, or similar
829 devices.

830 (i)~~(e)~~ "Transaction" means a purchase, sale, loan, pledge,
831 gift, transfer, delivery, or other disposition, and with respect
832 to a financial institution includes a deposit, withdrawal,
833 transfer between accounts, exchange of currency, loan, extension
834 of credit, purchase or sale of any stock, bond, certificate of
835 deposit, or other monetary instrument, or any other payment,
836 transfer, or delivery by, through, or to a financial
837 institution, by whatever means effected.

838 (f) "Report" means a report of each deposit, withdrawal,
839 exchange of currency, or other payments or transfer, by,
840 through, or to that financial institution, which ~~that~~ involves a
841 transaction required or authorized to be reported by this

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842 section, and includes the electronic submission of such
843 information in the manner provided ~~for~~ by rule of the
844 commission.

845 (g) "Specified unlawful activity" means ~~any~~ "racketeering
846 activity" as defined in s. 895.02.

847 (h) "Suspicious activity" means any transaction reportable
848 as required and described under 31 C.F.R. s. 1020.320.

849 (4) A financial institution shall designate and retain a
850 BSA/AML compliance officer. The board of directors of a
851 financial institution must ensure that the designated compliance
852 officer is properly qualified and has sufficient authority and
853 resources to administer an effective BSA/AML compliance program.
854 The board is ultimately responsible for establishing the
855 institution's BSA/AML policies and overall BSA/AML compliance. A
856 change in the BSA/AML compliance officer must be reported to the
857 office.

858 (5)-(4)-(a) A ~~Every~~ financial institution shall keep a record
859 of each financial transaction occurring in this state known to
860 it which involves ~~to involve~~ currency or other monetary
861 instrument, as the commission prescribes by rule, has ~~of~~ a value
862 greater than ~~in excess of~~ \$10,000, and involves ~~to involve~~ the
863 proceeds of specified unlawful activity, or is ~~to be~~ designed to
864 evade the reporting requirements of this section, chapter 896,
865 or ~~any~~ similar state or federal law, or which the financial
866 institution reasonably believes is suspicious activity. Each
867 financial institution ~~and~~ shall maintain appropriate procedures
868 to ensure compliance with this section, chapter 896, and ~~any~~
869 other similar state or federal law. Any report of suspicious
870 activity made pursuant to this subsection is entitled to the

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871 same confidentiality provided under 31 C.F.R. s. 1020.320,
872 whether the report or information pertaining to or identifying
873 the report is in the possession or control of the office or the
874 reporting institution.

875 (a)~~(b)~~ Multiple financial transactions shall be treated as
876 a single transaction if the financial institution has knowledge
877 that they are made by or on behalf of any person and result in
878 ~~either~~ cash in or cash out totaling more than \$10,000 during any
879 business day~~7~~, as defined in s. 655.89(1).

880 (b)~~(c)~~ A ~~Any~~ financial institution may keep a record of any
881 financial transaction occurring in this state, regardless of the
882 value, if it suspects that the transaction involves ~~to involve~~
883 the proceeds of specified unlawful activity.

884 (c)~~(d)~~ A financial institution, or officer, employee, or
885 agent thereof, which ~~that~~ files a report in good faith pursuant
886 to this subsection ~~section~~ is not liable to any person for loss
887 or damage caused in whole or in part by the making, filing, or
888 governmental use of the report, or any information contained
889 therein.

890 (d)~~(5)~~~~(a)~~ Each financial institution shall file a report
891 ~~with the office of the~~ records ~~record~~ required under this
892 subsection with the office ~~paragraphs (4) (a) and (b) and any~~
893 ~~record maintained pursuant to paragraph (4) (c).~~ Each report
894 shall ~~record filed pursuant to subsection (4) must~~ be filed at
895 such time and must contain such information as the commission
896 requires by rule.

897 (e)~~(b)~~ The timely filing of the reports ~~report~~ required by
898 31 U.S.C. s. 5313 and 31 C.F.R. part 1020 with the appropriate
899 federal agency is deemed compliance with the reporting

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900 requirements of this subsection unless the reports are not
901 regularly and comprehensively transmitted by the federal agency
902 to the office.

903 (6) Each financial institution shall maintain a record of
904 each qualified business customer that is ~~designation of a person~~
905 granted an exemption under ~~the authority of~~ 31 U.S.C. s. 5313,
906 including any name, address, and taxpayer identification number
907 of the exempt customer ~~person~~, as well as the name and address
908 of the financial institution and the signature of the financial
909 institution official designating the exempt customer ~~person~~.
910 Such record of exemptions shall be made available to the office
911 for inspection and copying and ~~shall be~~ submitted to the office
912 within 15 days after request.

913 (7) All reports and records filed with the office pursuant
914 to this section are confidential and exempt from s. 119.07(1).
915 However, the office shall provide any report filed pursuant to
916 this section, or information contained therein, to federal,
917 state, and local law enforcement and prosecutorial agencies, and
918 any federal or state agency responsible for the regulation or
919 supervision of financial institutions.

920 (8) ~~(a)~~ Each financial institution shall maintain:

921 (a) ~~For a minimum of 5 calendar years~~ Full and complete
922 records of all financial transactions, including all records
923 required by 31 C.F.R. parts 500-598 and 1010 for a minimum of 5
924 calendar years ~~parts 103.33 and 103.34~~.

925 ~~(b) The financial institution shall retain~~ A copy of all
926 reports filed with the office under subsection (5) ~~(4)~~ for a
927 minimum of 5 calendar years after submission of the report.

928 ~~(c) The financial institution shall retain~~ A copy of all

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929 records of exemption for each qualified business customer
930 ~~designation of exempt person~~ made pursuant to subsection (6) for
931 a minimum of 5 calendar years after termination of exempt status
932 of such customer.

933 (9) The office, in addition to any other power conferred
934 upon it to enforce and administer this chapter and the financial
935 institutions codes, ~~the office~~ may:

936 (a) Bring an action in any court of competent jurisdiction
937 to enforce or administer this section. In such action, the
938 office may seek an award of any civil penalty authorized by law
939 and any other appropriate relief at law or equity.

940 (b) Pursuant to s. 655.033, issue and serve upon a person
941 an order requiring such person to cease and desist and take
942 corrective action if ~~whenever~~ the office finds that such person
943 is violating, has violated, or is about to violate any provision
944 of this section, chapter 896, or ~~any~~ similar state or federal
945 law; any rule or order adopted under this section, chapter 896,
946 or ~~any~~ similar state or federal law; or any written agreement
947 related to this section, chapter 896, or ~~any~~ similar state or
948 federal law and entered into with the office.

949 (c) Pursuant to s. 655.037, issue and serve upon any person
950 an order of removal if ~~whenever~~ the office finds that such
951 person is violating, has violated, or is about to violate any
952 provision of this section, chapter 896, or ~~any~~ similar state or
953 federal law; any rule or order adopted under this section,
954 chapter 896, or ~~any~~ similar state or federal law; or any written
955 agreement related to this section, chapter 896, or ~~any~~ similar
956 state or federal law and entered into with the office.

957 (d) Impose and collect an administrative fine against any

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958 person found to have violated any provision of this section,
959 chapter 896, or ~~any~~ similar state or federal law; any rule or
960 order adopted under this section, chapter 896, or ~~any~~ similar
961 state or federal law; or any written agreement related to this
962 section, chapter 896, or ~~any~~ similar state or federal law and
963 entered into with the office, in an amount up to ~~not exceeding~~
964 \$10,000 per a day for each willful violation or \$500 per a day
965 for each negligent violation.

966 (10) (a) Except as provided in paragraph (b), a person who
967 willfully violates ~~any provision of~~ this section commits is
968 ~~guilty of~~ a misdemeanor of the first degree, punishable as
969 provided in s. 775.082 or s. 775.083.

970 (b) A person who willfully violates or knowingly causes
971 another to violate ~~any provision of~~ this section, when the
972 violation involves:

973 1. Financial transactions totaling or exceeding \$300 but
974 less than \$20,000 in any 12-month period, commits is ~~guilty of~~ a
975 felony of the third degree, punishable as provided in s. 775.082
976 or s. 775.083; ~~or~~

977 2. Financial transactions totaling or exceeding \$20,000 but
978 less than \$100,000 in any 12-month period, commits is ~~guilty of~~
979 a felony of the second degree, punishable as provided in s.
980 775.082 or s. 775.083; or

981 3. Financial transactions totaling or exceeding \$100,000 in
982 any 12-month period, commits is ~~guilty of~~ a felony of the first
983 degree, punishable as provided in s. 775.082 or s. 775.083.

984 (c) In addition to the penalties otherwise authorized by
985 ss. 775.082 and 775.083, a person who has been convicted of or
986 who has pleaded guilty or nolo contendere to having violated

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987 paragraph (b) may be sentenced to pay a fine of up to not
988 ~~exceeding~~ \$250,000 or twice the value of the financial
989 transaction, whichever is greater, except that on a second or
990 subsequent conviction for or plea of guilty or nolo contendere
991 to a violation of paragraph (b), the fine may be up to \$500,000
992 or quintuple the value of the financial transaction, whichever
993 is greater.

994 (d) A financial institution as defined in s. 655.005 which
995 ~~that~~ willfully violates this section is also liable for a civil
996 penalty of not more than the greater of the value of the
997 financial transaction involved or \$25,000. However, the civil
998 penalty may not exceed \$100,000.

999 (e) A person other than a financial institution as defined
1000 in s. 655.005 who violates this section is also liable for a
1001 civil penalty of not more than the greater of the value of the
1002 financial transaction involved or \$25,000.

1003 (11) In any prosecution brought pursuant to this section,
1004 the common law corpus delicti rule does not apply. The
1005 defendant's confession or admission is admissible during trial
1006 without the state having to prove the corpus delicti if the
1007 court finds in a hearing conducted outside the presence of the
1008 jury that the defendant's confession or admission is
1009 trustworthy. Before the court admits the defendant's confession
1010 or admission, the state must prove by a preponderance of the
1011 evidence that there is sufficient corroborating evidence that
1012 tends to establish the trustworthiness of the statement by the
1013 defendant. Hearsay evidence is admissible during the
1014 presentation of evidence at the hearing. In making its
1015 determination, the court may consider all relevant corroborating

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1016 evidence, including the defendant's statements.

1017 Section 12. Section 655.85, Florida Statutes, is amended to
1018 read:

1019 655.85 Settlement of checks.—If a ~~Whenever any~~ check is
1020 forwarded or presented to a financial ~~an~~ institution for
1021 payment, except when presented by the payee in person, the
1022 paying institution or remitting institution shall settle the
1023 amount of the check at par ~~may pay or remit the same~~, at its
1024 option, ~~either~~ in money or in exchange drawn on its reserve
1025 agent or agents in the City of New York or in any reserve city
1026 within the Sixth Federal Reserve District; ~~however, an~~
1027 ~~institution may not settle any check drawn on it otherwise than~~
1028 at par. The term "at par" applies only to the settlement of
1029 checks between collecting and paying or remitting institutions
1030 and does not apply to, or prohibit an institution from,
1031 deducting from the face amount of the check drawn on it a fee
1032 for paying the check if the check is presented to the
1033 institution by the payee in person. The provisions of This
1034 section does ~~de~~ not apply ~~with respect~~ to the settlement of a
1035 check sent to such institution as a special collection item.

1036 Section 13. The Legislature intends that the amendment to
1037 s. 655.85, Florida Statutes, made by this act, clarify the
1038 relevant portions of the financial institutions codes as defined
1039 in s. 655.005, Florida Statutes, relating to fees imposed by a
1040 financial institution for the payment of checks presented in
1041 person without requiring further amendment.

1042 Section 14. Section 655.921, Florida Statutes, is amended
1043 to read:

1044 655.921 Transaction of business by out-of-state financial

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1045 institutions; exempt transactions ~~in the financial institutions~~
1046 ~~codes.~~—

1047 (1) ~~Nothing in~~ The financial institutions codes do not
1048 ~~shall be construed to~~ prohibit a financial institution or
1049 business trust that has ~~having~~ its principal place of business
1050 outside this state and that does not operate ~~operating~~ branches
1051 in this state from:

1052 (a) Contracting in this state with any person to acquire
1053 from such person a part, or the entire, interest in a loan that
1054 such person ~~proposes to make, has heretofore made, or hereafter~~
1055 makes, together with a like interest in any security instrument
1056 covering real or personal property in the state ~~proposed to be~~
1057 ~~given or hereafter or heretofore~~ given to such person to secure
1058 or evidence such loan.

1059 (b) Entering into mortgage servicing contracts with persons
1060 authorized to transact business in this state and enforcing in
1061 this state the obligations ~~heretofore or hereafter~~ acquired by
1062 it in the transaction of business outside this state or in the
1063 transaction of any business authorized by this section.

1064 (c) Acquiring, holding, leasing, mortgaging, contracting
1065 with respect to, or otherwise protecting, managing, or conveying
1066 property in this state which is ~~has heretofore or may hereafter~~
1067 ~~be~~ assigned, transferred, mortgaged, or conveyed to it as
1068 security for, or in whole or in part in satisfaction of, a loan
1069 or loans made by it or obligations acquired by it in the
1070 transaction of any business authorized by this section.

1071 (d) Making loans or committing to make loans to any person
1072 located in this state and soliciting compensating deposit
1073 balances in connection therewith.

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1074 (e) Filing suit in any court in this state to collect any
1075 debt or foreclose on any security interest in collateral
1076 securing a debt.

1077 (2) A ~~No such~~ financial institution or business trust may
1078 not shall be deemed to be transacting business in this state, or
1079 be required to qualify ~~se~~ to do so, solely by reason of the
1080 performance of any of the acts or business authorized in this
1081 section.

1082 Section 15. Section 655.922, Florida Statutes, is amended
1083 to read:

1084 655.922 Banking business by unauthorized persons; use of
1085 name.—

1086 (1) Only ~~No person other than~~ a financial institution
1087 authorized to do business in this state pursuant to the
1088 financial institutions codes of any state or federal law may
1089 ~~shall, in this state,~~ engage in the business of soliciting or
1090 receiving funds for deposit, ~~or of~~ issuing certificates of
1091 deposit, ~~or of~~ paying checks in this state; and only such
1092 financial institution may ~~no person shall~~ establish or maintain
1093 a place of business in this state for any of the functions,
1094 transactions, or purposes identified ~~mentioned~~ in this
1095 subsection. A ~~Any~~ person who violates ~~the provisions of~~ this
1096 subsection commits ~~is guilty of~~ a felony of the third degree,
1097 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1098 This subsection does not prohibit the issuance or sale by a
1099 financial institution of traveler's checks, money orders, or
1100 other instruments for the transmission or payment of money, by
1101 or through employees or agents of the financial institution off
1102 the financial institution's premises.

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1103 (2) Only ~~No person other than~~ a financial institution
1104 authorized to do business shall, in this state as provided under
1105 subsection (1) may:

1106 (a) Transact or solicit business under any name or title
1107 that contains the words "bank," "banc," "banco," "banque,"
1108 "banker," "banking," "trust company," "savings and loan
1109 association," "savings bank," or "credit union," or words of
1110 similar import, in any context or in any manner;

1111 (b) Use any name, word, trademark, service mark, trade
1112 name, Internet address, logo, sign, symbol, or device in any
1113 context or in any manner; or

1114 (c) Circulate or use any letterhead, billhead, circular,
1115 paper, electronic media, Internet website or posting, or writing
1116 of any kind or otherwise advertise or represent in any manner,
1117

1118 which indicates or reasonably implies that the business being
1119 solicited, conducted, or advertised is the kind or character of
1120 business transacted or conducted by a financial institution or
1121 which is likely to lead any person to believe that such business
1122 is that of a financial institution; however, the words "bank,"
1123 "banc," "banco," "banque," "banker," "banking," "trust company,"
1124 "savings and loan association," "savings bank," or "credit
1125 union," or the plural of any thereof, may be used by, and in the
1126 corporate or other name or title of, any company that ~~which~~ is
1127 or becomes a ~~financial institution~~ holding company of a
1128 financial institution pursuant to state or federal law; any
1129 subsidiary of ~~any such financial institution~~ holding company
1130 which includes as a part of its name or title all or any part,
1131 or abbreviations, of the name or title of the ~~financial~~

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1132 ~~institution~~ holding company of which it is a subsidiary; any
1133 trade organization or association, whether or not incorporated,
1134 functioning for the purpose of promoting the interests of
1135 financial institutions or ~~financial institution~~ holding
1136 companies, the active members of which are financial
1137 institutions or ~~financial institution~~ holding companies; and any
1138 international development bank chartered pursuant to part II of
1139 chapter 663.

1140 (3) A ~~No~~ person may not use the name, trademark, service
1141 mark, trade name, Internet address, or logo of a ~~any~~ financial
1142 institution or an affiliate or subsidiary thereof, or use a name
1143 similar to that of a financial institution or an affiliate or
1144 subsidiary thereof, to market or solicit business from a
1145 customer or prospective customer of such institution if:

1146 (a) The solicitation is done without the written consent of
1147 the financial institution or its affiliate or subsidiary; and

1148 (b) A reasonable person would believe that the materials
1149 originated from, are endorsed by, or are connected with the
1150 financial institution or its affiliates or subsidiaries.

1151 (4) A financial institution, affiliate, subsidiary, or
1152 service corporation may not do business, solicit, or advertise
1153 in this state using a name, trademark, service mark, trade name,
1154 Internet address, or logo that may mislead consumers or cause
1155 confusion as to the identification of the proper legal business
1156 entity or the nature of the financial institution's business.

1157 (5) ~~(4)~~ Any court, in a proceeding brought by the office, by
1158 a ~~any~~ financial institution the principal place of business of
1159 which is in this state, or by any other person residing, ~~or~~
1160 whose principal place of business is ~~located,~~ in this state and

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1161 whose interests are substantially affected thereby, may enjoin
1162 any person from violating any provision ~~of the provisions~~ of
1163 this section. Except for a financial institution duly chartered
1164 by the office, the office may also seek an order from the
1165 circuit court for the annulment or dissolution of a corporation
1166 or any other business entity found violating any provision of
1167 this section. For the purposes of this subsection, the interests
1168 of a trade organization or association are deemed to be
1169 substantially affected if the interests of ~~any of~~ its members
1170 are so affected. ~~In addition,~~ The office may also issue and
1171 serve upon any person who violates any provision ~~of the~~
1172 ~~provisions~~ of this section an emergency cease and desist order
1173 or a complaint seeking a cease and desist order in accordance
1174 with ~~the procedures and in the manner prescribed by s. 655.033.~~
1175 The office is not required to make any finding or determination
1176 that a violation of this section is likely to result in
1177 insolvency, substantial dissipation of assets or earnings, or
1178 substantial prejudice to any person in association with the
1179 issuance of an emergency cease and desist order.

1180 ~~(6)(5) Nothing in This section does not shall be construed~~
1181 ~~to~~ prohibit the lawful establishment or operation ~~the lawful~~
1182 ~~operations~~ of a financial institution, affiliate, subsidiary, or
1183 service corporation or ~~and nothing in this code shall be~~
1184 ~~construed to~~ prohibit any advertisement or other activity in
1185 this state by any person if such prohibition would contravene
1186 any applicable federal law that ~~which~~ preempts the law of this
1187 state.

1188 Section 16. Subsection (4) of section 655.948, Florida
1189 Statutes, is amended to read:

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1190 655.948 Significant events; notice required.—

1191 (4)~~(a)~~ The office shall ~~must~~ exempt a financial institution
1192 from any of the provisions of this section if the office
1193 determines that such financial institution is operating in a
1194 safe and sound manner pursuant to commission rules relating to
1195 safe and sound operations. The commission shall adopt rules
1196 defining the term “safe and sound” and explicitly stating the
1197 criteria that ~~which shall~~ constitute operating in a safe and
1198 sound manner. Notwithstanding this subsection:

1199 (a)~~(b)~~ Notwithstanding paragraph (a), All newly chartered
1200 financial institutions are ~~shall be~~ subject to the requirements
1201 of subsections (1) and (2) for 3 years.

1202 (b) All financial institutions must notify the office
1203 within 30 days of any civil investigation or any civil or
1204 administrative proceeding initiated by a county or municipality
1205 against the financial institution or its subsidiary or service
1206 corporation. No liability may be incurred by a financial
1207 institution, subsidiary, service corporation, or financial
1208 institution-affiliated party as a result of making a good faith
1209 effort to fulfill this disclosure requirement.

1210 Section 17. Section 655.955, Florida Statutes, is created
1211 to read:

1212 655.955 Liability of financial institution to third
1213 parties.—A financial institution is not civilly liable to a
1214 third party for the actions or operations of a person solely by
1215 virtue of extending a loan or a line of credit to such person.
1216 This section does not modify, limit, or restrict the authority
1217 of a state agency under applicable law to conduct an
1218 investigation, bring a civil or administrative action, or

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1219 otherwise enforce state or federal laws against a financial
1220 institution.

1221 Section 18. Section 657.008, Florida Statutes, is amended
1222 to read:

1223 657.008 Place of doing business.—

1224 (1) A ~~Every~~ credit union authorized to transact business
1225 pursuant to the laws of this state shall have one principal
1226 place of doing business as designated in its bylaws and where
1227 legal process may be served. A credit union may change its place
1228 of business through an amendment to its bylaws.

1229 (2) ~~(a)~~ Following ~~With~~ 30 days' prior written notification
1230 to the office or within such other time as is approved by the
1231 office, a credit union operating in a safe and sound manner may
1232 maintain branches without requiring prior office examination and
1233 approval at locations other than its main office or relocate
1234 branches previously established if the maintenance of such
1235 branches is determined by the board of directors to be
1236 reasonably necessary to furnish service to its members.

1237 (a) A credit union that requires office examination and
1238 approval before establishing or relocating a branch must submit
1239 a written application in such form and supported by such
1240 information, data, and records as the commission or office may
1241 require to make all findings necessary for approval. Upon
1242 receiving the application and a nonrefundable filing fee for the
1243 establishment of the branch, the office shall consider the
1244 following in determining whether to reject or approve the
1245 application:

1246 1. The sufficiency of the net worth of the credit union in
1247 relation to its deposit liabilities, including the proposed

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1248 branch, and the additional fixed assets, if any, which are
1249 proposed for the branch and its operations without undue risk to
1250 the credit union or its depositors;

1251 2. The sufficiency of earnings and earnings prospects of
1252 the credit union necessary to support the anticipated expenses
1253 and operating losses of the branch during its formative or
1254 initial years;

1255 3. The sufficiency and quality of management available to
1256 operate the branch;

1257 4. The name of the proposed branch in order to determine if
1258 it reasonably identifies the branch as a branch of the main
1259 office and is not likely to unduly confuse the public; and

1260 5. The substantial compliance of the applicant with the
1261 applicable law governing its operations.

1262 (b) If any branch is located outside this state, the cost
1263 of examining such branch shall be borne by the credit union.
1264 Such cost includes ~~shall include~~, but is ~~shall~~ not be limited
1265 to, examiner travel expense and per diem.

1266 (3) A credit union may share office space with one or more
1267 credit unions and contract with any person or corporation to
1268 provide facilities or personnel.

1269 (4) A ~~Any~~ credit union organized under this state or
1270 federal law, the members of which are presently, or were at the
1271 time of admission into the credit union, employees of the state
1272 or a political subdivision or municipality thereof, or members
1273 of the immediate families of such employees, may apply for space
1274 in any building owned or leased by the state or respective
1275 political subdivision or municipality in the community or
1276 district in which the credit union does business.

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1277 (a) The application shall be addressed to the officer
1278 charged with the allotment of space in such building. If space
1279 is available, the officer may allot space to the credit union at
1280 a reasonable charge for rent or services.

1281 (b) If the governing body having jurisdiction over the
1282 building determines that the services rendered by the credit
1283 union to the employees of the governing body are equivalent to a
1284 reasonable charge for rent or services, available space may be
1285 allotted to the credit union without charge for rent or
1286 services.

1287 (5) (a) The office may authorize foreign credit unions to
1288 establish branches in this state ~~Florida~~ if all of the following
1289 criteria are met:

1290 1. The state in which the foreign credit union's home
1291 office is located permits Florida credit unions to do business
1292 in the state under restrictions that are no greater than those
1293 placed upon a domestic credit union doing business in that
1294 state. For this purpose, such restrictions must ~~shall~~ include,
1295 ~~but are not limited to,~~ any fees, bonds, or other charges levied
1296 on domestic credit unions doing business in that state.

1297 2. The deposits of such foreign credit union and its
1298 proposed Florida branch must ~~shall~~ have insurance of accounts
1299 with the National Credit Union Administration.

1300 3. The credit union's field of membership is so limited as
1301 to be within that meaning of that term as defined in s. 657.002.

1302 (b) Every foreign credit union operating in this state must
1303 ~~Florida shall~~ keep the office informed of every location at
1304 which it is operating.

1305 (c) If the office has reason to believe that a foreign

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1306 credit union is operating a branch in this state in an unsafe
1307 and unsound manner, it shall have the right to examine such
1308 branch. If, upon examination, the office finds that such branch
1309 is operating in an unsafe and unsound manner, it shall require
1310 the branch office to make appropriate modifications to bring the
1311 ~~such~~ branch operations into compliance with generally accepted
1312 credit union operation in this state. The ~~Such~~ foreign credit
1313 union shall reimburse the office for the full cost of such ~~this~~
1314 examination. Costs ~~shall~~ include examiner salaries, per diem,
1315 and travel expenses.

1316 (d) Any foreign credit union operating in this state shall,
1317 in any connection therewith, be subject to suit in the courts of
1318 this state, ~~by this state and~~ by the residents ~~citizens~~ of this
1319 state.

1320 (6) A credit union may provide, directly or through a
1321 contract with another company, off-premises armored car services
1322 to its members. Armored car services do not constitute a branch
1323 for the purposes of this section.

1324 Section 19. Section 657.028, Florida Statutes, is amended
1325 to read:

1326 657.028 Activities of directors, officers, committee
1327 members, employees, and agents.-

1328 (1) An individual may not disburse funds of the credit
1329 union for any extension of credit approved by her or him.

1330 (2) An elected officer, ~~or~~ director, or ~~any~~ committee
1331 member, other than the chief executive officer, may not be
1332 compensated for her or his service as such.

1333 (3) Except with the prior approval of the office, a person
1334 may not serve as an officer, director, or committee member of a

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1335 credit union if she or he:

1336 (a) Has been convicted of a felony or of an offense
1337 involving dishonesty, a breach of trust, a violation of this
1338 chapter, or fraud, ~~except with the prior approval of the office;~~

1339 (b) Has been adjudicated bankrupt within the previous 7
1340 years;

1341 (c) Has been removed by any regulatory agency as a
1342 director, officer, committee member, or employee of a any
1343 financial institution, ~~except with the prior approval of the~~
1344 ~~office;~~

1345 (d) Has performed acts of fraud or dishonesty, or has
1346 failed to perform duties, resulting in a loss that ~~which~~ was
1347 subject to a paid claim under a fidelity bond, ~~except with the~~
1348 ~~prior approval of the office; or~~

1349 (e) Has been found guilty of a violation of s. 655.50,
1350 relating to the ~~Florida~~ control of money laundering and
1351 terrorist financing in Financial Institutions Act; chapter 896,
1352 relating to offenses related to financial transactions; or ~~any~~
1353 similar state or federal law; or

1354 (f) Has defaulted on a debt or obligation to a financial
1355 institution which resulted in a material loss to the financial
1356 institution.

1357 (4) A person may not serve as a director of a credit union
1358 if she or he is an employee of the credit union, other than the
1359 chief executive officer of the credit union.

1360 (5) A director, officer, committee member, ~~officer~~, agent,
1361 or employee of the credit union may not in any manner, directly
1362 or indirectly, participate in the deliberation upon or the
1363 determination of any question affecting her or his pecuniary

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1364 interest or the pecuniary interest of any corporation,
1365 partnership, or association, other than the credit union, in
1366 which she or he or a member of her or his immediate family is
1367 directly or indirectly interested.

1368 (6) Within 30 days after election or appointment, a record
1369 of the names and addresses of the members of the board, members
1370 of committees, ~~and~~ all officers of the credit union, and the
1371 credit manager shall be filed with the office on forms
1372 prescribed by the commission.

1373 Section 20. Section 657.041, Florida Statutes, is amended
1374 to read:

1375 657.041 Insurance; employee benefit plans.-

1376 (1) A credit union may purchase for or make available to
1377 its members credit life insurance, credit disability insurance,
1378 life savings or depositors life insurance, or any other
1379 insurance coverage which may be directly related to the
1380 extension of credit or to the receipt of shares or deposits in
1381 amounts related to the members' respective ages, shares,
1382 deposits, or credit balances, or to any combination thereof.

1383 (2) A credit union may purchase and maintain insurance on
1384 behalf of any person who is or was a director, officer,
1385 employee, or agent of the credit union, or who is or was serving
1386 at the request of the credit union as a director, officer,
1387 employee, or agent of another corporation, partnership, joint
1388 venture, trust, or other enterprise, against any liability
1389 arising out of such person's capacity or status with the credit
1390 union, whether or not the credit union would have the power to
1391 indemnify such person against the asserted liability.

1392 (3) With the prior approval of members of a credit union

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1393 and the office, the credit union may pay the premiums for
1394 reasonable health, accident, and related types of insurance
1395 protection for members of the credit union's board of directors,
1396 credit committee, supervisory committee, or other volunteer
1397 committee established by the board. Any insurance protection
1398 purchased must cease upon the insured person's leaving office
1399 without residual benefits other than from pending claims, if
1400 any, except that the credit union must comply with federal and
1401 state laws providing departing officials the right to maintain
1402 health insurance coverage at their own expense. The office shall
1403 consider the credit union's size and financial condition and the
1404 duties of the board or other officials in its consideration of
1405 the request for approval for insurance coverage and may withhold
1406 approval if the request would create an unsafe or unsound
1407 practice or condition for the credit union.

1408 (4) With the prior approval of the board of a credit union
1409 and the office, the credit union may fund employee benefit
1410 plans. The office shall consider the credit union's size and
1411 financial condition and the duties of the employees and may
1412 withhold approval if the request would create an unsafe or
1413 unsound practice or condition for the credit union.

1414 Section 21. Subsection (20) of section 658.12, Florida
1415 Statutes, is amended to read:

1416 658.12 Definitions.—Subject to other definitions contained
1417 in the financial institutions codes and unless the context
1418 otherwise requires:

1419 (20) "Trust business" means the business of acting as a
1420 fiduciary when such business is conducted by a bank, a state or
1421 federal association, or a trust company, or ~~and also~~ when

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1422 conducted by any other business organization for compensation
1423 that the office does not consider to be de minimis as its sole
1424 or principal business.

1425 Section 22. Subsection (4) of section 658.21, Florida
1426 Statutes, is amended to read:

1427 658.21 Approval of application; findings required.—The
1428 office shall approve the application if it finds that:

1429 (4) The proposed officers have sufficient financial
1430 institution experience, ability, standing, and reputation and
1431 the proposed directors have sufficient business experience,
1432 ability, standing, and reputation to indicate reasonable promise
1433 of successful operation, and none of the proposed officers or
1434 directors has been convicted of, or pled guilty or nolo
1435 contendere to, any violation of s. 655.50, relating to the
1436 ~~Florida~~ control of money laundering and terrorist financing in
1437 ~~Financial Institutions Act~~; chapter 896, relating to offenses
1438 related to financial institutions; or ~~any~~ similar state or
1439 federal law. At least two of the proposed directors who are not
1440 also proposed officers must ~~shall~~ have had at least 1 year
1441 direct experience as an executive officer, regulator, or
1442 director of a financial institution within the 3 years before ~~of~~
1443 the date of the application. However, if the applicant
1444 demonstrates that at least one of the proposed directors has
1445 very substantial experience as an executive officer, director,
1446 or regulator of a financial institution more than 3 years before
1447 the date of the application, the office may modify the
1448 requirement and allow only one director to have direct financial
1449 institution experience within the last 3 years. The proposed
1450 president or chief executive officer must ~~shall~~ have had at

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1451 least 1 year of direct experience as an executive officer,
1452 director, or regulator of a financial institution within the
1453 last 3 years.

1454 Section 23. Subsection (2) of section 658.235, Florida
1455 Statutes, is amended to read:

1456 658.235 Subscriptions for stock; approval of major
1457 shareholders.—

1458 (2) The directors shall also provide such detailed
1459 financial, business, and biographical information as the
1460 commission or office may reasonably require for each person who,
1461 together with related interests, subscribes to 10 percent or
1462 more of the voting stock or nonvoting stock that ~~which~~ is
1463 convertible into voting stock of the proposed bank or trust
1464 company. The office shall make an investigation of the
1465 character, financial responsibility, and financial standing of
1466 each such person in order to determine whether he or she is
1467 likely to control the bank or trust company in a manner that
1468 ~~which~~ would jeopardize the interests of the depositors and
1469 creditors of the bank or trust company, the other stockholders,
1470 or the general public. The ~~This~~ investigation must ~~shall~~ include
1471 a determination of whether ~~any~~ such person has been convicted
1472 of, or pled guilty or nolo contendere to, a violation of s.
1473 655.50, relating to the ~~Florida~~ control of money laundering and
1474 terrorist financing in Financial Institutions Act; chapter 896,
1475 relating to offenses related to financial transactions; or ~~any~~
1476 similar state or federal law.

1477 Section 24. Section 658.49, Florida Statutes, is repealed.

1478 Section 25. Subsection (1) of section 663.02, Florida
1479 Statutes, is amended to read:

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1480 663.02 Applicability of state banking laws.—
1481 (1) International banking corporations having offices in
1482 this state are ~~shall be~~ subject to all the provisions of the
1483 financial institutions codes and chapter 655 as though such
1484 ~~international banking~~ corporations were state banks or trust
1485 companies, except where it may appear, from the context or
1486 otherwise, that such provisions are clearly applicable only to
1487 banks or trust companies organized under the laws of this state
1488 or the United States. Without limiting the foregoing general
1489 provisions, it is the intent of the Legislature that the
1490 following provisions are applicable to such banks or trust
1491 companies: s. 655.031, relating to administrative enforcement
1492 guidelines; s. 655.032, relating to investigations, subpoenas,
1493 hearings, and witnesses; s. 655.0321, relating to hearings,
1494 proceedings, and related documents and restricted access
1495 thereto; s. 655.033, relating to cease and desist orders; s.
1496 655.037, relating to removal by the office of an officer,
1497 director, committee member, employee, or other person; s.
1498 655.041, relating to administrative fines and enforcement; s.
1499 655.50, relating to the control of money laundering and
1500 terrorist financing; ~~s. 658.49, relating to loans by banks not~~
1501 ~~exceeding \$50,000;~~ and any ~~provision of~~ law for which the
1502 penalty is increased under s. 775.31 for facilitating or
1503 furthering terrorism. International banking corporations do
1504 ~~shall~~ not have the powers conferred on domestic banks by ~~the~~
1505 ~~provisions of~~ s. 658.60, relating to deposits of public funds.
1506 ~~The provisions of~~ Chapter 687, relating to interest and usury,
1507 applies ~~shall apply~~ to all bank loans ~~not subject to s. 658.49.~~
1508 Section 26. Subsection (1) of section 663.09, Florida

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1509 Statutes, is amended to read:

1510 663.09 Reports; records.—

1511 (1) An ~~Every~~ international banking corporation doing
1512 business in this state shall, at such times and in such form as
1513 the commission prescribes, make written reports in the English
1514 language to the office, under the oath of one of its officers,
1515 managers, or agents transacting business in this state, showing
1516 the amount of its assets and liabilities and containing such
1517 other matters as the commission or office requires. An
1518 international banking corporation that maintains two or more
1519 offices may consolidate such information in one report unless
1520 the office otherwise requires for purposes of its supervision of
1521 the condition and operations of each such office. The late
1522 filing of such reports is ~~shall be~~ subject to an ~~the~~ imposition
1523 ~~of the~~ administrative fine as prescribed under ~~by~~ s.

1524 655.045(2) ~~(b)~~. If ~~any~~ such international banking corporation
1525 fails ~~shall fail~~ to make ~~any~~ such report, as directed by the
1526 office, or if ~~any~~ such report contains a ~~shall contain any~~ false
1527 statement knowingly made, the same shall be grounds for
1528 revocation of the license of the international banking
1529 corporation.

1530 Section 27. Subsection (2) of section 663.12, Florida
1531 Statutes, is amended to read:

1532 663.12 Fees; assessments; fines.—

1533 (2) Each international bank agency, international branch,
1534 and state-chartered investment company shall pay to the office ~~a~~
1535 ~~semiannual assessment, payable~~ on or before January 31 and July
1536 31 of each year, a semiannual assessment in an amount determined
1537 ~~by rule~~ by the commission by rule and calculated ~~in a manner so~~

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1538 ~~as~~ to recover the costs of the office incurred in connection
1539 with the supervision of international banking activities
1540 licensed under this part. ~~The~~ These rules must ~~shall~~ provide ~~for~~
1541 uniform rates of assessment for all licenses of the same type
1542 ~~and, shall~~ provide for declining rates of assessment in relation
1543 to the total assets of the licensee held in the state, but may
1544 ~~shall not result,~~ in any event, ~~provide for~~ rates of assessment
1545 which exceed the rate applicable to state banks pursuant to s.
1546 658.73, unless the rate ~~of assessment~~ would result in a
1547 semiannual assessment of less than \$1,000. For the purposes of
1548 this subsection, the total assets of an international bank
1549 agency, international branch, or state-chartered investment
1550 company must ~~shall~~ include amounts due the agency or branch or
1551 state investment company from other offices, branches, or
1552 subsidiaries of the international banking corporations or other
1553 corporations of which the agency, branch, or state-chartered
1554 investment company is a part or from entities related to that
1555 international banking corporation. ~~Each international~~
1556 ~~representative office, international administrative office, or~~
1557 ~~international trust company representative office shall pay to~~
1558 ~~the office an annual assessment in the amount of \$2,000, payable~~
1559 ~~on or before January 31 of each year.~~

1560 Section 28. Subsection (3) of section 663.306, Florida
1561 Statutes, is amended to read:

1562 663.306 Decision by office.—The office may, in its
1563 discretion, approve or disapprove the application, but it shall
1564 not approve the application unless it finds that:

1565 (3) The proposed officers and directors have sufficient
1566 experience, ability, standing, and reputation to indicate

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1567 reasonable promise of successful operation and none of the
1568 proposed officers or directors have been convicted of, or pled
1569 guilty or nolo contendere to, a violation of s. 655.50, relating
1570 to the ~~Florida~~ control of money laundering and terrorist
1571 financing in Financial Institutions Act; chapter 896, relating
1572 to offenses related to financial transactions; or ~~any~~ similar
1573 state or federal law.

1574 Section 29. Subsection (28) of section 665.013, Florida
1575 Statutes, is amended to read:

1576 665.013 Applicability of chapter 658.—The following
1577 sections of chapter 658, relating to banks and trust companies,
1578 are applicable to an association to the same extent as if the
1579 association were a "bank" operating thereunder:

1580 ~~(28) Section 658.49, relating to loans by banks not~~
1581 ~~exceeding \$50,000.~~

1582 Section 30. Paragraph (c) of subsection (1) of section
1583 665.033, Florida Statutes, is amended to read:

1584 665.033 Conversion of state or federal mutual association
1585 to capital stock association.—

1586 (1) CONVERSION INTO CAPITAL STOCK ASSOCIATION.—Any state or
1587 federal mutual association may apply to the office for
1588 permission to convert itself into an association operated under
1589 the provisions of this chapter in accordance with the following
1590 procedures:

1591 (c) The office may approve or disapprove the plan ~~in its~~
1592 ~~discretion~~, but may ~~it shall~~ not approve the plan unless it
1593 finds that the association will comply sufficiently with the
1594 requirements of the financial institutions codes after
1595 conversion to entitle it to become an association operating

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1596 under the financial institutions codes and the rules of the
1597 commission. The office may deny an ~~any~~ application from any
1598 federal association that is subject to a ~~any~~ cease and desist
1599 order or other supervisory restriction or order imposed by any
1600 state or the federal supervisory authority, or insurer, or
1601 guarantor or that has been convicted of, or pled guilty or nolo
1602 contendere to, a violation of s. 655.50, relating to the ~~Florida~~
1603 ~~control of money laundering and terrorist financing in Financial~~
1604 ~~Institutions Act~~; chapter 896, relating to offenses related to
1605 financial transactions; or ~~any~~ similar state or federal law.

1606 Section 31. Paragraph (a) of subsection (2) of section
1607 665.034, Florida Statutes, is amended to read:

1608 665.034 Acquisition of assets of or control over an
1609 association.—

1610 (2) The office shall issue the certificate of approval only
1611 after it has made an investigation and determined that:

1612 (a) The proposed new owner or owners of voting capital
1613 stock are qualified by character, experience, and financial
1614 responsibility to control the association in a legal and proper
1615 manner and none of the proposed new owners have been convicted
1616 of, or pled guilty or nolo contendere to, a violation of s.
1617 655.50, relating to the ~~Florida~~ control of money laundering and
1618 terrorist financing in Financial Institutions Act; chapter 896,
1619 relating to offenses related to financial transactions; or ~~any~~
1620 similar state or federal law.

1621 Section 32. Subsection (29) of section 667.003, Florida
1622 Statutes, is amended to read:

1623 667.003 Applicability of chapter 658.—Any state savings
1624 bank is subject to all the provisions, and entitled to all the

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1625 privileges, of the financial institutions codes except where it
1626 appears, from the context or otherwise, that such provisions
1627 clearly apply only to banks or trust companies organized under
1628 the laws of this state or the United States. Without limiting
1629 the foregoing general provisions, it is the intent of the
1630 Legislature that the following provisions apply to a savings
1631 bank to the same extent as if the savings bank were a "bank"
1632 operating under such provisions:

1633 ~~(29) Section 658.49, relating to loans by banks not~~
1634 ~~exceeding \$50,000.~~

1635 Section 33. Paragraph (c) of subsection (1) of section
1636 667.006, Florida Statutes, is amended to read:

1637 667.006 Conversion of state or federal mutual savings bank
1638 or state or federal mutual association to capital stock savings
1639 bank.—

1640 (1) CONVERSION INTO CAPITAL STOCK SAVINGS BANK.—Any state
1641 or federal mutual savings bank or state or federal mutual
1642 association may apply to the office for permission to convert
1643 itself into a capital stock savings bank operated under the
1644 provisions of this chapter in accordance with the following
1645 procedures:

1646 (c) The office may approve or disapprove the plan ~~in its~~
1647 ~~discretion~~, but may ~~it shall~~ not approve the plan unless it
1648 finds that the savings bank will comply sufficiently with the
1649 requirements of the financial institutions codes after
1650 conversion to entitle it to become a savings bank operating
1651 under the financial institutions codes and the rules of the
1652 commission. The office may deny any application from a ~~any~~
1653 federal savings bank that is subject to a ~~any~~ cease and desist

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1654 order or other supervisory restriction or order imposed by any
1655 state or the federal supervisory authority, or insurer, or
1656 guarantor or that has been convicted of, or pled guilty or nolo
1657 contendere to, a violation of s. 655.50, relating to the ~~Florida~~
1658 ~~control of money laundering and terrorist financing in Financial~~
1659 ~~Institutions Act~~; chapter 896, relating to offenses related to
1660 financial transactions; or ~~any~~ similar state or federal law.

1661 Section 34. Paragraph (a) of subsection (2) of section
1662 667.008, Florida Statutes, is amended to read:

1663 667.008 Acquisition of assets of or control over a savings
1664 bank.—

1665 (2) The office shall issue the certificate of approval only
1666 after it has made an investigation and determined that:

1667 (a) The proposed new owner or owners of voting capital
1668 stock are qualified by character, experience, and financial
1669 responsibility to control the savings bank in a legal and proper
1670 manner and none of the proposed new owners have been convicted
1671 of, or pled guilty or nolo contendere to, a violation of s.
1672 655.50, relating to the ~~Florida~~ control of money laundering and
1673 terrorist financing ~~in Financial Institutions Act~~; chapter 896,
1674 relating to offenses related to financial transactions; or ~~any~~
1675 similar state or federal law.

1676 Section 35. Subsections (12) through (36) of section
1677 494.001, Florida Statutes, are renumbered as subsections (13)
1678 through (37), respectively, a new subsection (12) is added, and
1679 present subsection (15) of that section is amended, to read:

1680 494.001 Definitions.—As used in ss. 494.001-494.0077, the
1681 term:

1682 (12) "Indirect owner" means, with respect to direct owners

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1683 and other indirect owners in a multilayered organization:

1684 (a) For an owner that is a corporation, each of its
1685 shareholders that beneficially owns, has the right to vote, or
1686 has the power to sell or direct the sale of, 25 percent or more
1687 of voting security of the corporation.

1688 (b) For an owner that is a partnership, each general
1689 partner and each limited or special partner that has the right
1690 to receive upon dissolution, or has contributed, 25 percent or
1691 more of the partnership's capital.

1692 (c) For an owner that is a trust, the trust and each
1693 trustee.

1694 (d) For an owner that is a limited liability company:

1695 1. Each member that has the right to receive upon
1696 dissolution, or that has contributed, 25 percent or more of the
1697 limited liability company's capital; and

1698 2. If managed by elected managers or appointed managers,
1699 each elected or appointed manager.

1700 (e) For an indirect owner, each parent owner of 25 percent
1701 or more of its subsidiary.

1702 (16)(15) "Loan origination fee" means the total
1703 compensation from any source received by a mortgage broker
1704 acting as a loan originator. ~~Any payment for processing mortgage~~
1705 ~~loan applications must be included in the fee and must be paid~~
1706 ~~to the mortgage broker.~~

1707 Section 36. Subsection (4) is added to section 494.0012,
1708 Florida Statutes, to read:

1709 494.0012 Investigations; complaints; examinations.—

1710 (4) To reduce the burden on persons subject to this
1711 chapter, the office may conduct a joint or concurrent

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1712 examination with a state or federal regulatory agency and may
1713 furnish a copy of all examinations to an appropriate regulator
1714 if the regulator agrees to abide by the confidentiality
1715 provisions in chapter 119 and this chapter. The office may also
1716 accept an examination from an appropriate regulator.

1717 Section 37. Paragraph (y) of subsection (1) of section
1718 494.00255, Florida Statutes, is amended, and paragraph (m) of
1719 that subsection is reenacted, to read:

1720 494.00255 Administrative penalties and fines; license
1721 violations.-

1722 (1) Each of the following acts constitutes a ground for
1723 which the disciplinary actions specified in subsection (2) may
1724 be taken against a person licensed or required to be licensed
1725 under part II or part III of this chapter:

1726 (m) In any mortgage transaction, violating any provision of
1727 the federal Real Estate Settlement Procedures Act, as amended,
1728 12 U.S.C. ss. 2601 et seq.; the federal Truth in Lending Act, as
1729 amended, 15 U.S.C. ss. 1601 et seq.; or any regulations adopted
1730 under such acts.

1731 (y) Pursuant to an investigation by the Mortgage Testing
1732 and Education Board acting on behalf of the registry, being
1733 found in violation of Nationwide Mortgage Licensing System and
1734 Registry Rules of Conduct.

1735 Section 38. Section 494.0028, Florida Statutes, is
1736 repealed.

1737 Section 39. Subsection (3) is added to section 494.00313,
1738 Florida Statutes, to read:

1739 494.00313 Loan originator license renewal.-

1740 (3) If a licensed loan originator fails to meet the

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1741 requirements of this section for annual license renewal on or
1742 before December 31 but meets such requirements before March 1,
1743 the loan originator's license status shall be changed to "failed
1744 to renew" pending review and renewal by the office. A
1745 nonrefundable reinstatement fee of \$150 shall be charged in
1746 addition to registry fees. The license status shall not be
1747 changed until the requirements of this section are met and all
1748 fees are paid. If the licensee fails to meet the requirements of
1749 this section and pay all required fees before March 1, such
1750 license is expired and such loan originator must apply for a new
1751 loan originator license under s. 494.00312.

1752 Section 40. Subsection (3) is added to section 494.00322,
1753 Florida Statutes, to read:

1754 494.00322 Mortgage broker license renewal.-

1755 (3) If a licensed mortgage broker fails to meet the
1756 requirements of this section for annual license renewal on or
1757 before December 31 but meets such requirements before March 1,
1758 the mortgage broker's license status shall be changed to "failed
1759 to renew" pending review and renewal by the office. A
1760 nonrefundable reinstatement fee of \$250 shall be charged in
1761 addition to registry fees. The license status shall not be
1762 changed until the requirements of this section are met and all
1763 fees are paid. If the licensee fails to meet the requirements of
1764 this section and pay all required fees before March 1, such
1765 license is expired and such mortgage broker must apply for a new
1766 mortgage broker license under s. 494.00321.

1767 Section 41. Subsection (3) of section 494.0036, Florida
1768 Statutes, is amended, and subsections (4) and (5) are added to
1769 that section, to read:

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1770 494.0036 Mortgage broker branch office license.—

1771 (3) A branch office license must be renewed annually at the

1772 time of renewing the mortgage broker license under s. 494.00322.

1773 A nonrefundable branch renewal fee of \$225 per branch office

1774 must be submitted at the time of renewal. To renew a branch

1775 office license, a mortgage broker must:

1776 (a) Submit a completed license renewal form as prescribed

1777 by commission rule.

1778 (b) Submit a nonrefundable renewal fee.

1779 (c) Submit any additional information or documentation

1780 requested by the office and required by rule concerning the

1781 licensee. Additional information may include documents that may

1782 provide the office with the appropriate information to determine

1783 eligibility for license renewal.

1784 (4) The office may not renew a branch office license unless

1785 the branch office continues to meet the minimum requirements for

1786 initial licensure under this section and adopted rule.

1787 (5) If a licensed branch office fails to meet the

1788 requirements of this section for annual license renewal on or

1789 before December 31 but meets such requirements before March 1,

1790 the branch office's license status shall be changed to "failed

1791 to renew" pending review and renewal by the office. A

1792 nonrefundable reinstatement fee of \$225 shall be charged in

1793 addition to registry fees. The license status shall not be

1794 changed until the requirements of this section are met and all

1795 fees are paid. If the licensee fails to meet the requirements of

1796 this section and pay all required fees before March 1, such

1797 license is expired and such branch office must apply for a new

1798 mortgage broker branch office license under this section.

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1799 Section 42. Section 494.0038, Florida Statutes, is amended
1800 to read:

1801 494.0038 ~~Loan origination and Mortgage broker fees and~~
1802 ~~disclosures.-~~

1803 ~~(1) A loan origination fee may not be paid except pursuant~~
1804 ~~to a written mortgage broker agreement between the mortgage~~
1805 ~~broker and the borrower which is signed and dated by the~~
1806 ~~principal loan originator or branch manager, and the borrower.~~
1807 ~~The unique registry identifier of each loan originator~~
1808 ~~responsible for providing loan originator services must be~~
1809 ~~printed on the mortgage broker agreement.~~

1810 ~~(a) The written mortgage broker agreement must describe the~~
1811 ~~services to be provided by the mortgage broker and specify the~~
1812 ~~amount and terms of the loan origination fee that the mortgage~~
1813 ~~broker is to receive.~~

1814 ~~1. Except for application and third-party fees, all fees~~
1815 ~~received by a mortgage broker from a borrower must be identified~~
1816 ~~as a loan origination fee.~~

1817 ~~2. All fees on the mortgage broker agreement must be~~
1818 ~~disclosed in dollar amounts.~~

1819 ~~3. All loan origination fees must be paid to a mortgage~~
1820 ~~broker.~~

1821 ~~(b) The agreement must be executed within 3 business days~~
1822 ~~after a mortgage loan application is accepted if the borrower is~~
1823 ~~present when the mortgage loan application is accepted. If the~~
1824 ~~borrower is not present, the licensee shall forward the~~
1825 ~~agreement to the borrower within 3 business days after the~~
1826 ~~licensee's acceptance of the application and the licensee bears~~
1827 ~~the burden of proving that the borrower received and approved~~

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1828 ~~the agreement.~~

1829 ~~(2) If the mortgage broker is to receive any payment of any~~
1830 ~~kind from the mortgage lender, the maximum total dollar amount~~
1831 ~~of the payment must be disclosed to the borrower in the written~~
1832 ~~mortgage broker agreement as described in paragraph (1) (a). The~~
1833 ~~commission may prescribe by rule an acceptable form for~~
1834 ~~disclosure of brokerage fees received from the lender. The~~
1835 ~~agreement must state the nature of the relationship with the~~
1836 ~~lender, describe how compensation is paid by the lender, and~~
1837 ~~describe how the mortgage interest rate affects the compensation~~
1838 ~~paid to the mortgage broker.~~

1839 ~~(a) The exact amount of any payment of any kind by the~~
1840 ~~lender to the mortgage broker must be disclosed in writing to~~
1841 ~~the borrower within 3 business days after the mortgage broker is~~
1842 ~~made aware of the exact amount of the payment from the lender~~
1843 ~~but not less than 3 business days before the execution of the~~
1844 ~~closing or settlement statement. The licensee bears the burden~~
1845 ~~of proving such notification was provided to the borrower.~~
1846 ~~Notification is waived if the exact amount of the payment is~~
1847 ~~accurately disclosed in the written mortgage broker agreement.~~

1848 ~~(b) The commission may prescribe by rule the form of~~
1849 ~~disclosure of brokerage fees.~~

1850 ~~(3) At the time a written mortgage broker agreement is~~
1851 ~~signed by the borrower or forwarded to the borrower for~~
1852 ~~signature, or at the time the mortgage broker business accepts~~
1853 ~~an application fee, credit report fee, property appraisal fee,~~
1854 ~~or any other third-party fee, but at least 3 business days~~
1855 ~~before execution of the closing or settlement statement, the~~
1856 ~~mortgage broker shall disclose in writing to any applicant for a~~

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1857 ~~mortgage loan the following information:~~

1858 ~~(a) That the mortgage broker may not make mortgage loans or~~
1859 ~~commitments. The mortgage broker may make a commitment and may~~
1860 ~~furnish a lock-in of the rate and program on behalf of the~~
1861 ~~lender if the mortgage broker has obtained a written commitment~~
1862 ~~or lock-in for the loan from the lender on behalf of the~~
1863 ~~borrower for the loan. The commitment must be in the same form~~
1864 ~~and substance as issued by the lender.~~

1865 ~~(b) That the mortgage broker cannot guarantee acceptance~~
1866 ~~into any particular loan program or promise any specific loan~~
1867 ~~terms or conditions.~~

1868 ~~(c) A good faith estimate that discloses settlement charges~~
1869 ~~and loan terms.~~

1870 ~~1. Any amount collected in excess of the actual cost shall~~
1871 ~~be returned within 60 days after rejection, withdrawal, or~~
1872 ~~closing.~~

1873 ~~2. At the time a good faith estimate is provided to the~~
1874 ~~borrower, the loan originator must identify in writing an~~
1875 ~~itemized list that provides the recipient of all payments~~
1876 ~~charged the borrower, which, except for all fees to be received~~
1877 ~~by the mortgage broker, may be disclosed in generic terms, such~~
1878 ~~as, but not limited to, paid to lender, appraiser, officials,~~
1879 ~~title company, or any other third party service provider. This~~
1880 ~~requirement does not supplant or is not a substitute for the~~
1881 ~~written mortgage broker agreement described in subsection (1).~~
1882 ~~The disclosure required under this subparagraph must be signed~~
1883 ~~and dated by the borrower.~~

1884 ~~(4) The disclosures required by this subsection must be~~
1885 ~~furnished in writing at the time an adjustable rate mortgage~~

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1886 ~~loan is offered to the borrower and whenever the terms of the~~
1887 ~~adjustable rate mortgage loan offered materially change prior to~~
1888 ~~closing. The mortgage broker shall furnish the disclosures~~
1889 ~~relating to adjustable rate mortgages in a format prescribed by~~
1890 ~~ss. 226.18 and 226.19 of Regulation Z of the Board of Governors~~
1891 ~~of the Federal Reserve System, as amended; its commentary, as~~
1892 ~~amended; and the federal Truth in Lending Act, 15 U.S.C. ss.~~
1893 ~~1601 et seq., as amended; together with the Consumer Handbook on~~
1894 ~~Adjustable Rate Mortgages, as amended; published by the Federal~~
1895 ~~Reserve Board and the Federal Home Loan Bank Board. The licensee~~
1896 ~~bears the burden of proving such disclosures were provided to~~
1897 ~~the borrower.~~

1898 ~~(5) If the mortgage broker agreement includes a~~
1899 ~~nonrefundable application fee, the following requirements are~~
1900 ~~applicable:~~

1901 ~~(a) The amount of the application fee, which must be~~
1902 ~~clearly denominated as such, must be clearly disclosed.~~

1903 ~~(b) The specific services that will be performed in~~
1904 ~~consideration for the application fee must be disclosed.~~

1905 ~~(c) The application fee must be reasonably related to the~~
1906 ~~services to be performed and may not be based upon a percentage~~
1907 ~~of the principal amount of the loan or the amount financed.~~

1908 ~~(6) A mortgage broker may not accept any fee in connection~~
1909 ~~with a mortgage loan other than an application fee, credit~~
1910 ~~report fee, property appraisal fee, or other third-party fee~~
1911 ~~before obtaining a written commitment from a qualified lender.~~

1912 ~~(1)(7)~~ Any third-party fee entrusted to a mortgage broker
1913 must immediately, upon receipt, be placed into a segregated
1914 account with a financial institution located in the state the

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1915 accounts of which are insured by the Federal Government. Such
1916 funds shall be held in trust for the payor and shall be kept in
1917 the account until disbursement. Such funds may be placed in one
1918 account if adequate accounting measures are taken to identify
1919 the source of the funds.

1920 (2)~~(8)~~ A mortgage broker may not pay a commission to any
1921 person not licensed pursuant to this chapter.

1922 (3)~~(9)~~ This section does not prohibit a mortgage broker
1923 from offering products and services, in addition to those
1924 offered in conjunction with the loan origination process, for a
1925 fee or commission.

1926 Section 43. Subsections (2) and (3) of section 494.004,
1927 Florida Statutes, are amended to read:

1928 494.004 Requirements of licensees.—

1929 ~~(2) In every mortgage loan transaction, each licensee under
1930 this part must notify a borrower of any material changes in the
1931 terms of a mortgage loan previously offered to the borrower
1932 within 3 business days after being made aware of such changes by
1933 the mortgage lender but at least 3 business days before the
1934 signing of the settlement or closing statement. The licensee
1935 bears the burden of proving such notification was provided and
1936 accepted by the borrower. A borrower may waive the right to
1937 receive notice of a material change if the borrower determines
1938 that the extension of credit is needed to meet a bona fide
1939 personal financial emergency and the right to receive notice
1940 would delay the closing of the mortgage loan. The imminent sale
1941 of the borrower's home at foreclosure during the 3-day period
1942 before the signing of the settlement or closing statement is an
1943 example of a bona fide personal financial emergency. In order to~~

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1944 ~~waive the borrower's right to receive notice, the borrower must~~
1945 ~~provide the licensee with a dated written statement that~~
1946 ~~describes the personal financial emergency, waives the right to~~
1947 ~~receive the notice, bears the borrower's signature, and is not~~
1948 ~~on a printed form prepared by the licensee for the purpose of~~
1949 ~~such a waiver.~~

1950 (2)~~(3)~~ Each mortgage broker shall submit to the registry
1951 reports of condition, which must be in such form and shall
1952 contain such information as the registry may require. The
1953 commission may adopt rules prescribing the time by which a
1954 mortgage broker must file a report of condition. For purposes of
1955 this section, the report of condition is synonymous with the
1956 registry's Mortgage Call Report.

1957 Section 44. Subsection (3) of section 494.0042, Florida
1958 Statutes, is amended to read:

1959 494.0042 Loan origination fees.—

1960 (3) At the time of accepting a mortgage loan application, a
1961 mortgage broker may receive from the borrower a nonrefundable
1962 application fee. If the mortgage loan is funded, the
1963 nonrefundable application fee shall be credited against the
1964 amount owed as a result of the loan being funded. A person may
1965 not receive any form of compensation for acting as a loan
1966 originator other than a nonrefundable application fee, a fee
1967 based on the mortgage amount being funded, ~~or a fee which~~
1968 ~~complies with s. 494.00421.~~

1969 Section 45. Section 494.00421, Florida Statutes, is
1970 repealed.

1971 Section 46. Paragraph (b) of subsection (2) of section
1972 494.00611, Florida Statutes, is amended to read:

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1973 494.00611 Mortgage lender license.—

1974 (2) In order to apply for a mortgage lender license, an
1975 applicant must:

1976 (b) Designate a qualified principal loan originator who
1977 meets the requirements of s. 494.00665 ~~494.0035~~ on the
1978 application form.

1979 Section 47. Subsection (3) is added to section 494.00612,
1980 Florida Statutes, to read:

1981 494.00612 Mortgage lender license renewal.—

1982 (3) If a licensed mortgage lender fails to meet the
1983 requirements of this section for annual license renewal on or
1984 before December 31 but meets such requirements before March 1,
1985 the mortgage lender's license status shall be changed to "failed
1986 to renew" pending review and renewal by the office. A
1987 nonrefundable reinstatement fee of \$475 shall be charged in
1988 addition to registry fees. The license status shall not be
1989 changed until the requirements of this section are met and all
1990 fees are paid. If the licensee fails to meet the requirements of
1991 this section and pay all required fees before March 1, such
1992 license is expired and such mortgage lender must apply for a new
1993 mortgage lender license under s. 494.00611.

1994 Section 48. Subsection (3) of section 494.0066, Florida
1995 Statutes, is amended, and subsections (4) and (5) are added to
1996 that section, to read:

1997 494.0066 Branch offices.—

1998 (3) A branch office license must be renewed at the time of
1999 renewing the mortgage lender license. A nonrefundable fee of
2000 \$225 per branch office must be submitted at the time of renewal.
2001 To renew a branch office license, a mortgage lender must:

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2002 (a) Submit a completed license renewal form as prescribed
2003 by commission rule.

2004 (b) Submit a nonrefundable renewal fee.

2005 (c) Submit any additional information or documentation
2006 requested by the office and required by rule concerning the
2007 licensee. Additional information may include documents that may
2008 provide the office with the appropriate information to determine
2009 eligibility for license renewal.

2010 (4) The office may not renew a branch office license unless
2011 the branch office continues to meet the minimum requirements for
2012 initial licensure under this section and adopted rule.

2013 (5) If a licensed branch office fails to meet the
2014 requirements of this section for annual license renewal on or
2015 before December 31 but meets such requirements before March 1,
2016 the branch office's license status shall be changed to "failed
2017 to renew" pending review and renewal by the office. A
2018 nonrefundable reinstatement fee of \$225 shall be charged in
2019 addition to registry fees. The license status shall not be
2020 changed until the requirements of this section are met and all
2021 fees are paid. If the licensee fails to meet the requirements of
2022 this section and pay all required fees before March 1, such
2023 license is expired and such branch office must apply for a new
2024 mortgage lender branch office license under this section.

2025 Section 49. Subsections (8) through (13) of section
2026 494.0067, Florida Statutes, are amended to read:

2027 494.0067 Requirements of mortgage lenders.-

2028 ~~(8) Each mortgage lender shall provide an applicant for a~~
2029 ~~mortgage loan a good faith estimate of the costs the applicant~~
2030 ~~can reasonably expect to pay in obtaining a mortgage loan. The~~

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2031 ~~good faith estimate of costs must be mailed or delivered to the~~
2032 ~~applicant within 3 business days after the licensee receives a~~
2033 ~~written loan application from the applicant. The estimate of~~
2034 ~~costs may be provided to the applicant by a person other than~~
2035 ~~the licensee making the loan. The good faith estimate must~~
2036 ~~identify the recipient of all payments charged to the borrower~~
2037 ~~and, except for all fees to be received by the mortgage broker~~
2038 ~~and the mortgage lender, may be disclosed in generic terms, such~~
2039 ~~as, but not limited to, paid to appraiser, officials, title~~
2040 ~~company, or any other third-party service provider. The licensee~~
2041 ~~bears the burden of proving such disclosures were provided to~~
2042 ~~the borrower. The commission may adopt rules that set forth the~~
2043 ~~disclosure requirements of this section.~~

2044 ~~(9) The disclosures in this subsection must be furnished in~~
2045 ~~writing at the time an adjustable rate mortgage loan is offered~~
2046 ~~to the borrower and whenever the terms of the adjustable rate~~
2047 ~~mortgage loan offered have a material change prior to closing.~~
2048 ~~The lender shall furnish the disclosures relating to adjustable~~
2049 ~~rate mortgages in a format prescribed by ss. 226.18 and 226.19~~
2050 ~~of Regulation Z of the Board of Governors of the Federal Reserve~~
2051 ~~System, as amended; its commentary, as amended; and the federal~~
2052 ~~Truth in Lending Act, 15 U.S.C. ss. 1601 et seq., as amended;~~
2053 ~~together with the Consumer Handbook on Adjustable Rate~~
2054 ~~Mortgages, as amended; published by the Federal Reserve Board~~
2055 ~~and the Federal Home Loan Bank Board. The licensee bears the~~
2056 ~~burden of proving such disclosures were provided to the~~
2057 ~~borrower.~~

2058 ~~(10) In every mortgage loan transaction, each mortgage~~
2059 ~~lender shall notify a borrower of any material changes in the~~

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2060 ~~terms of a mortgage loan previously offered to the borrower~~
2061 ~~within 3 business days after being made aware of such changes by~~
2062 ~~the lender but at least 3 business days before signing the~~
2063 ~~settlement or closing statement. The licensee bears the burden~~
2064 ~~of proving such notification was provided and accepted by the~~
2065 ~~borrower. A borrower may waive the right to receive notice of a~~
2066 ~~material change if the borrower determines that the extension of~~
2067 ~~credit is needed to meet a bona fide personal financial~~
2068 ~~emergency and the right to receive notice would delay the~~
2069 ~~closing of the mortgage loan. The imminent sale of the~~
2070 ~~borrower's home at foreclosure during the 3-day period before~~
2071 ~~the signing of the settlement or closing statement constitutes~~
2072 ~~an example of a bona fide personal financial emergency. In order~~
2073 ~~to waive the borrower's right to receive notice, the borrower~~
2074 ~~must provide the licensee with a dated written statement that~~
2075 ~~describes the personal financial emergency, waives the right to~~
2076 ~~receive the notice, bears the borrower's signature, and is not~~
2077 ~~on a printed form prepared by the licensee for the purpose of~~
2078 ~~such a waiver.~~

2079 (8)~~(11)~~ A mortgage lender may close loans in its own name
2080 but may not service the loan for more than 6 4 months unless the
2081 lender has a servicing endorsement. Only a mortgage lender who
2082 continuously maintains a net worth of at least \$250,000 may
2083 obtain a servicing endorsement.

2084 (9)~~(12)~~ A mortgage lender must report to the office the
2085 failure to meet the applicable net worth requirements of s.
2086 494.00611 within 2 days after the mortgage lender's knowledge of
2087 such failure or after the mortgage lender should have known of
2088 such failure.

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2089 ~~(10)(13)~~ Each mortgage lender shall submit to the registry
2090 reports of condition which are in a form and which contain such
2091 information as the registry may require. The commission may
2092 adopt rules prescribing the time by which a mortgage lender must
2093 file a report of condition. For purposes of this section, the
2094 report of condition is synonymous with the registry's Mortgage
2095 Call Report.

2096 Section 50. Section 494.0068, Florida Statutes, is
2097 repealed.

2098 Section 51. Paragraphs (c), (d), and (e) of subsection (1)
2099 of section 494.007, Florida Statutes, are amended to read:

2100 494.007 Commitment process.—

2101 (1) If a commitment is issued, the mortgage lender shall
2102 disclose in writing:

2103 (c) If the interest rate or other terms are subject to
2104 change before expiration of the commitment:

2105 1. The basis, index, or method, if any, which will be used
2106 to determine the rate at closing. Such basis, index, or method
2107 shall be established and disclosed with direct reference to the
2108 movement of an interest rate index or of a national or regional
2109 index that is available to and verifiable by the borrower and
2110 beyond the control of the lender; or

2111 2. The following statement, in at least 10-point bold type:
2112 "The interest rate will be the rate established by the lender in
2113 its discretion as its prevailing rate . . . days before
2114 closing."; and

2115 ~~(d) The amount of the commitment fee, if any, and whether~~
2116 ~~and under what circumstances the commitment fee is refundable;~~
2117 ~~and~~

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2118 (d)~~(e)~~ The time, if any, within which the commitment must
2119 be accepted by the borrower.

2120 Section 52. Section 494.0073, Florida Statutes, is amended
2121 to read:

2122 494.0073 Mortgage lender when acting as a mortgage broker.—
2123 The provisions of this part do not prohibit a mortgage lender
2124 from acting as a mortgage broker. However, in mortgage
2125 transactions in which a mortgage lender acts as a mortgage
2126 broker, the provisions of ss. 494.0038, ~~494.004(2)~~, 494.0042,
2127 and 494.0043(1), (2), and (3) apply.

2128 Section 53. Part IV of chapter 494, Florida Statutes,
2129 consisting of ss. 494.0078, 494.0079, 494.00791, 494.00792,
2130 494.00793, 494.00794, 494.00795, 494.00796, and 494.00797, is
2131 repealed.

2132 Section 54. Section 494.008, Florida Statutes, is repealed.

2133 Section 55. This act shall take effect July 1, 2014.