

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 806

INTRODUCER: Senator Richter

SUBJECT: Regulation of Financial Institutions

DATE: March 16, 2015

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	Pre-meeting
2.			CM	
3.			RC	

I. Summary:

SB 806 makes the following changes with regards to the regulation of financial institutions and the Office of Financial Regulation (OFR):

- Simplifies the process by which a financial institution can notify the OFR when re-designating its main or principal office.
- Specifies the ways semiannual assessments can be transmitted electronically and further specifies the dates by which assessments must be received by the OFR.
- Deletes the requirement that the OFR may select an appraiser to conduct certain real-estate appraisals.
- Simplifies the process by which a credit union must notify the OFR of the names and residential addresses of individuals who are elected or appointed to certain positions.
- Specifies the date by which an international banking corporation must provide its annual certification of capital accounts to the OFR.

II. Present Situation:

Main or Principal Office

Paragraph 655.005(1)(q), F.S., provides the definition for “main office” or “principal office” of a financial institution as the main business office designated in its articles of incorporation or bylaws. The identified location is approved by the OFR in the case of a state financial institution, or by the appropriate federal regulatory agency in the case of a federal financial institution. When an institution desires to redesignate the location of its main office, it must file an amendment to its articles of incorporation or bylaws and provide the changes to the OFR for review and approval.

Assessments Language

Section 655.047, F.S., requires each state financial institution to pay the OFR a semiannual assessment based on the total assets as shown on the statement of condition for each financial institution. The mailing of such assessments must be postmarked on or before January 31 and July 31 of each year. The current statute does not recognize the acceptance of semiannual assessment payments made to the OFR electronically; however, the OFR states in its agency analysis¹ that electronic payment of assessments are currently accepted and most financial institutions have chosen to send payments electronically rather than U.S. standard mail.

Appraisals

Section 655.60, F.S., authorizes the OFR to request appraisals of real estate or other property held by any state financial institution when the OFR believes a state financial institution's own appraisals or evaluations of its ability to make payments may be excessive. The statute provides that an appraisal must be made by a licensed or certified appraiser or an appraiser that is selected by the OFR. The cost of the appraisal must be paid by the state financial institution directly to the appraiser upon the institution's receipt of a statement of appraisal cost. Following the completion of the appraisal, a copy of the appraisal report made by the OFR pursuant to this section is then furnished to the financial institution within a reasonable time, not exceeding 60 days.

Credit Unions

Currently, when a credit union changes, elects, or appoints the directors, officers, and any member of the supervisory or audit committee, and any member of the credit committee, or credit manager, the credit union must provide form OFR U-10, the Interagency Biographical and Financial Report. This form is authorized under Rule 69U-110.005, F.A.C., which implements the OFR authority in sections 657.021 and 657.028, F.S., and the form is required for such appointment by Rule 69U-110.021, F.A.C. This form is used regardless of whether a credit union is operating in a safe and sound manner. This provision is not consistent between state-chartered banks and credit unions. Under the equivalent banking requirements, the OFR U-10 is not required if the bank is operating in a safe and sound manner.

Banks and Trust Companies

Section 655.005, F.S., provides that "executive officer" means an individual, whether or not the individual has an official title or receives a salary or other compensation, who participates or has authority to participate, other than in the capacity of a director, in the major policymaking functions of a financial institution. The term does not include an individual who may have an official title and may exercise discretion in the performance of duties and functions, including discretion in the making of loans, but who does not participate in the determination of major policies of the financial institution and whose decisions are limited by policy standards established by other officers, whether or not the policy standards have been adopted by the board of directors. The chair of the board of directors, the president, the chief executive officer, the chief financial officer, the senior loan officer, and every executive vice president of a financial

¹ 2015 Office of Financial Regulation Bill Analysis SB 806. (On file with the Senate Banking and Insurance Committee.)

institution, and the senior trust officer of a trust company, are presumed to be executive officers unless such officer is excluded, by resolution of the board of directors or by the bylaws of the financial institution, from participating, other than in the capacity of a director, in major policymaking functions of the financial institution and the individual holding such office so excluded does not actually participate therein. Section 658.19, F.S., which relates to application for authority to organize a bank or trust company, references “president,” “chief executive officer” (if other than the president), such terms appear duplicative given the definition of “executive officer” provided in s. 655.005, F.S.

International Banking

Section 663.08, F.S., provides for the certification of capital accounts for international banking corporations having offices in Florida both prior to opening an office in this state and annually thereafter. The statute does not provide a specific due date for the statutorily-required annual certification of capital accounts. This has resulted in the OFR receiving the annual certifications at various times throughout the year and has caused confusion for these institutions regarding the date for submission.

III. Effect of Proposed Changes:

Section 1 allows financial institution the ability to submit to the OFR an application for a re-designation of its main or principal office. This application is intended to streamline such changes by removing the current process that requires institutions to amend their articles of incorporation or bylaws in order to make such re-designations with the OFR.

Section 2 Authorizes a financial institution to make an electronic payment of semiannual assessments by a wire transfer, automated clearinghouse or other electronic means. Furthermore, the section specifies such electronic payments must be transmitted to the OFR on or before January 31 and July 31 of each year. For payments sent by U.S. standard mail the section requires them to be received by the OFR on or before January 31 and July 31 of each year. The “received by” requirement is a change from current law which allows such standard mail payments to be “postmarked” by such dates.

Section 3 removes the authority for the OFR to select an appraiser to perform the appraisal of real estate or other property held by a state financial institution. The section also no longer requires the cost of each appraisal to be approved in writing by the OFR. The changes in this section do not affect the requirement that institutions must still hire a licensed appraiser at the OFR request.

Section 4 requires a credit union, within 30 days after the election or appointment of a director, an executive officer, a member of the supervisory or audit committee, a member of the credit committee, or a credit manager, to submit to the OFR the name and residential address of the individual elected or appointed. The commission may adopt a rule to establish a form for the notification. The change in the section mirrors the process by which state-chartered banks must currently provide such notice to the OFR.

Section 5 removes a duplicative reference within the application for authority to organize a bank or trust company. Currently “president” and “chief executive officer” are included under the defined term of “executive officer.” The application for authority to organize a bank or trust company references both titles, therefore this section strikes “president” and “chief executive officer” from the application and just requires “executive officer” be listed.

Section 6 corrects a cross reference. Subsection 660.33(1), F.S., includes an obsolete cross-reference to section 660.32, F.S., which has been repealed. This section updates the cross-reference to reference s. 658.26, F.S., which is currently applicable.

Section 7 establishes on or before June 30th as the due date for all international banking corporations to submit their required certification of capital accounts. This due date should provide clarity to the industry and allow the OFR to better manage and review such certifications.

Section 8 reenacts subsection 655.960(8), F.S.

Section 9 reenacts paragraph 663.302(1)(a), F.S.

Section 10 reenacts subsection 658.165(1), F.S.

Section 11 reenacts subsection 665.013(3), F.S.

Section 12 reenacts subsection 667.003(3), F.S.

Section 13 reenacts subsection 658.12(4), F.S.

Section 14 provides that the effective date of the bill is October 1, 2015.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The changes in Section 1 will allow a financial institution to notify the office of a re-designation of its main or principal office without having to amend its articles of incorporation or bylaws. This could provide a small saving to an institution when making such a change.

The changes in Section 2 that allow for the electronic payment of semiannual assessments may provide savings on postage costs to state financial institutions.

C. Government Sector Impact:

The changes in Section 4 will require Rule 69U-110.021, F.A.C., to be amended. Additionally, portions of Chapters 69U-100, 69U-105, 69U-120, and 69U-140, F.A.C. will need to be amended or updated to be consistent with other changes in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 655.005, 655.047, 655.60, 658.19, 660.33, and 663.08.

This bill creates section 657.0275 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 655.960, 663.302, 658.165, 665.013, 667.003, and 658.12.

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

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

None.

B. Amendments:

None.