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DATE: March 14, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
FINANCIAL SERVICES
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 541

RELATING TO: The Management and Regulation of Financial Institutions

SPONSOR(S): Committee on Financial Services and Representative Maygarden

STATUTE(S) AFFECTED: s. 280.02, F.S., 1996 Supplement; s. 655.005, F.S.; s. 655.0322, F.S.; s. 655.045, F.S.; s. 655.41 F.S.; s. 655.414, F.S.; s. 658. 21, F.S.; s. 658.23, F.S.; s. 658.26, F.S., 1996 Supplement; s. 658.295, F.S. 1996 Supplement; s. 658.2953, F. S. 1996 Supplement; s. 658.73, F.S., 1996 Supplement; s. 663.06, F.S.; s. 663.12, F.S.; s. chapter 667, F.S.; s. 658.295, F.S.; s. 658.2953, F.S.

COMPANION BILL(S): CS/SB 410 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) FINANCIAL SERVICES YEAS 12 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

The bill is designed to simplify and streamline the process for establishing a de novo financial institution. The bill also attempts to simplify and streamline the branch application and review process. It reduces branch application fees, and approval time, from \$2,500 to \$750 and 90 days to 10 working days, respectively. It reduces the time and cost associated with applications for approval of branch offices by well-managed institutions. Until September 1, 1999, a bank which completes an interstate merger with an existing bank with trust powers, will have similar trust powers.

International representative and administrative offices are no longer required to renew their license annually, but rather pay an annual assessment. This change eliminates the annual review process for both the international institutions, and the department.

The bill authorizes the Department of Banking and Finance to issue a savings bank charter to qualified applicants, and authorizes the department to approve a mutual savings bank charter when a qualified applicant chooses to convert its current charter.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Florida law does not draw a distinction between financial institutions which may be characterized as “strong, and well-managed” as such are defined in federal statutes, and other financial institutions. Federal law defines a “strong, well managed” financial institution as an institution which has been in operation for at least 24 months, is well capitalized, has received a satisfactory rating at the institution’s most recent state or federal safety and soundness examination, and is not the object of any enforcement action.

Florida financial institutions which may fit the profile of a “strong and well-managed” bank must provide basically the same information and fees to establish branch locations, or de novo institutions, as do other financial institutions which may not fit that profile. For instance, to get approval for the establishment of a branch office, a bank must submit an application, a \$2,500 filing fee, and must prove, among other things, that public convenience and advantage will be promoted, and that the other financial institutions already established in the target area will have a reasonable promise of successful operation. The department must review the applications of otherwise strong, well-managed institutions with the same scrutiny as that of other financial institutions.

International representative and administrative offices are required to renew their licenses annually, which involves an annual review process for the international institutions by the department.

Florida law recognizes the following financial institutions: state or federal association, bank, trust company, international bank agency, representative office or administrative office, and credit union. Florida does not currently have a statutory provision allowing financial institutions to convert to state savings banks, which may be described as a hybrid between a savings and loan and a commercial bank. State savings banks are insured by the FDIC and a certain percentage of its assets are committed to mortgage loans.

In the past few years, 29 states have established the savings bank as a financial institution charter option. This option was initially viewed as a means for a state or federally chartered savings and loan association to convert to a charter that afforded them lower regulatory costs than the United States Treasury Department’s Office of Thrift Supervision, which has supervisory authority over both state and federal associations. Converting to a savings bank would allow associations to insure that any new deposits come into the association by the Federal Deposit Insurance Corporation’s Bank Insurance Fund (BIF), as opposed to the Savings Association Insurance Fund (SAIF), whose insurance premiums are substantially higher than BIF’s.

Associations in other states have used the savings bank charter to maintain their mutual form of ownership when they convert from a federal to a state charter. The mutual savings bank is owned by its depositors, similar to the way credit unions are owned by

their membership. In both instances, a portion of each member's initial deposit is allocated as a portion of capital. Additionally, in both instances annual profits can be distributed in the form of a dividend to members.

B. EFFECT OF PROPOSED CHANGES:

Strong, well managed financial institutions, as defined in federal law and in this bill, will experience a streamlined licensing process and a reduction in filing fees. The amount of information required by the Department of Banking and Finance will be reduced. Strong, well managed institutions will pay reduced fees for branch applications, and reduced application fees for relocation of offices. Banks which complete an interstate merger with an existing bank with trust powers, will be endowed with trust powers (this section will expire September 1, 1999). International representative and administrative offices will no longer be required to renew their license annually, but rather will pay an annual assessment. This change will eliminate the annual review process for both the international institutions, and the department.

The creation of Chapter 667, Florida Statutes, instituting a state savings bank charter, will provide state and federally chartered institutions the option of converting to a charter carrying lower regulatory costs. Such a conversion would allow a credit union or federally chartered mutual savings and loan association to maintain its mutual form of ownership as a savings bank.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No

(3) any entitlement to a government service or benefit?

No

b. If an agency or program is eliminated or reduced:

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

N/A

- (2) what is the cost of such responsibility at the new level/agency?

N/A

- (3) how is the new agency accountable to the people governed?

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No

- b. Does the bill require or authorize an increase in any fees?

Yes. The bill establishes a fee for office relocation, which the Department of Banking and Finance had not required in the past.

- c. Does the bill reduce total taxes, both rates and revenues?

No.

- d. Does the bill reduce total fees, both rates and revenues?

Yes. The bill reduces branch application fees in certain circumstances. The required fee for an application to acquire controlling interests in a certain number of banks or trust companies is capped. The bill also caps fees for an application to merge or consolidate a certain number of banks or trust companies.

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

No

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

Yes. Financial institutions which are strong and well-managed, as defined in federal law and in this bill, are provided streamlined review processes and reduced fees for certain expansion activities.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

The bill reduces a level of government review for strong, well-managed financial institutions.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

N/A

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends section 280.02, Florida Statutes, expanding the definition of "qualified public depository" to include savings bank therein.

Section 2. Amends section 655.005, Florida Statutes, to: add the term 'savings bank' to the definition of "federal financial institution;" add the term 'savings bank' to the definition of "financial institution;" and, add a reference to Chapter 667, relating to savings banks, to the list of statutes falling within the "financial institution codes."

Section 3. Amends section 655.0322, Florida Statutes, to include 'state or federal savings bank' to the definition of the term "financial institution."

Section 4. Amends section 655.045, Florida Statutes, to no longer require that a quarterly report to the Department of Banking and Finance include a declaration that the report is true and correct.

Section 5. Amends section 655.41, Florida Statutes, to include 'savings bank, Edge Act or agreement corporation' to the definition of "financial entity."

Section 6. Amends section 655.414, Florida Statutes, to provide for: (1) the requirement of Department of Banking and Finance approve and determine compliance with Department of Banking and Finance rule conditions, before a financial entity may acquire assets, or assume liabilities, of any other financial entity; (2) the requirement that the assuming or acquiring financial entity has to submit a completed application with a non-refundable filing fee to the Department of Banking and Finance; (3) the elimination of the requirement of the Department of Banking and Finance to certify that

the plan is in compliance with the provisions of this section, but only that the plan is approved; and (4) no longer require a financial institution to file a branch application if the acquisition of assets or assumption of liabilities includes any financial institution branch office.

Section 7. Amends section 658.21, Florida Statutes, to: (1) no longer require that public convenience and advantage be promoted by the establishment of the proposed bank or trust company, or that local conditions indicate reasonable promise of successful operation of financial institutions already established in the service area; (2) designate purpose, objectives, and business philosophy of the proposed 'state' bank or trust company as 'materially relevant factors' in Department of Banking and Finance approval review; (3) designate that the projected financial performance of the proposed bank or trust company as 'materially relevant factors' in Department of Banking and Finance approval review; and (4) designate whether the applicant meets the requirements of the section, the feasibility of the proposed entity, and asset and liability growth and management, as 'materially relevant factors' in Department of Banking and Finance approval review.

Section 8. Amends section 658.23, Florida Statutes, to provide that the articles of incorporation contain the names and street addresses of the members of the *initial* board of directors, rather than the *first* board of directors - a linguistic adjustment.

Section 9. Amends section 658.26, Florida Statutes, 1996 Supplement, to provide for: (1) approval of an application for a branch office if not denied within 10 working days after receipt; unless notified by the department in writing that the application was not complete; (2) elimination of certain requirements and limitations for the relocation of offices, and require applications for relocation shall be in writing to the department; (3) the requirement that a relocation application be published if the main office has not been in operation for at least 24 months; Department of Banking and Finance to determine substantial compliance by the institution with applicable law upon the filing of an application and non-refundable fee; requirement that additional investments resulting from relocation comply with section 658.67(7)(a); restrict movement of a main office to a location outside the state unless authorized by financial institutions codes or federal law; (4) approval a relocation application if not denied within 10 working days after receipt or unless the department notifies the institution in writing that the application was not complete; (5) the requirement that an institution whose main office has been in operation less than 24 months meet the criteria of section 658.2191; (6) the consolidation of branch offices within a 1 mile radius of the other with 30 days written notice to the department; (7) the requirement of 30 days written notice to the Department of Banking and Finance of the closing of a branch office; and (8) the definition of a "strong, well-managed state bank or trust company."

Section 10. Amends section 658.295, Florida Statutes, 1996 Supplement, to provide for: the acquisition of a bank that has been in continuous operation for 3 years, by an out-of-state bank holding company or out-of-state bank, if not otherwise prohibited by law.

Section 11. Amends section 658.2953, Florida Statutes, 1996 Supplement, to provide for: the establishment of a May 31, 1997 effective date to permit interstate branching under s. 102 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994; and also the establishment of a May 31, 1997 effective date for a state bank to establish interstate branches.

Section 12. Amends section 658.73, Florida Statutes, 1996 Supplement, to provide for: (1) a cap upon the application fee for acquiring a controlling interest in a state bank or holding company if more than one bank or holding company is being acquired in any one application; (2) the application fee for establishing a branch by a strong, well-managed bank; also to set a separate fee for each application to establish a branch by any other state bank; (3) a cap upon the application fee for a merger or consolidation if three or more banks or trust companies are involved in the application; (4) the fee for each application by a strong, well-managed bank, to relocate a main office; and set a separate fee for each application by each other state bank or trust company to relocate its main office; (5) the application fee for each purchase of assets and the assumption of liabilities; and, (6) the department to refund up to ½ of the fee submitted if the application is withdrawn prior to publication.

Section 13. Amends section 663.06, Florida Statutes, to eliminate the requirement for an annual license renewal for an authorized international banking corporation.

Section 14. Amends section 663.12, Florida Statutes, to provide for: (1) an annual operating fee for each international representative and administrative office; and, (2) a minimum semiannual assessment for international bank agencies, international branches and state chartered investment companies.

Section 15. Creates sections 667.001, 667.002, 667.003, 667.004, 667.005, 667.006, 667.007, 667.008, 667.009, 667.010, 667.011, 667.012, and 667.013, Florida Statutes, a new chapter entitled the "Florida Savings Bank Act," providing for: definitions; applicability of chapters 655 and 658, F.S., to the new Florida Savings Bank Act; the requirement that the name of every savings bank shall include the words "savings bank" and further provides prohibition of the use of the words "National," "Federal," "United States," "insured," or "guaranteed" as part of the corporate name of a savings bank; requirements for the reorganization, merger, or consolidation of a state savings bank with a foreign savings bank; requirements for the conversion of state or federal mutual savings banks, or state or federal mutual associations to a capital stock savings bank; requirements concerning supervisory cases, allowing for the emergency conversion, reorganization, merger, consolidation or acquisition of assets of state or federal savings banks; requirements for the acquisition of assets or control over a savings bank; the powers of savings banks; investment requirements for savings banks; reasonable expenses to be charged borrowers for the making, closing, disbursing, extending, readjusting, or renewing real estate loans; protection of savings banks' rights in real estate loan transactions; and definitions of a foreign savings bank and which activities are not considered "doing business" by a foreign savings bank.

Section 16. Amends section 737.101, Florida Statutes, relating to interstate merger transactions.

Section 17. The bill repeals this section providing that banks which complete an interstate merger with a bank with trust powers may exercise said trust powers, effective September 1, 1999.

Section 18. The bill repeals paragraph (e) of subsection (6) of section 658.295, Florida Statutes, 1996 Supplement, relating to giving written notice to the department before the acquisition date, effective September 1, 1999.

Section 19. Provides for an effective date of October 1, 1997.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None

2. Recurring Effects:

The overall effects of this bill are indeterminate at this time due to the uncertainty as to which institutions will qualify for which fee reductions, and the projected income from office relocations. It is unknown what number of financial entities will convert to a Florida savings bank; however, it is estimated that fee reductions will result in a reduction of approximately \$175,000 annually in fees received by the Department of Banking and Finance. A positive, indeterminate effect may result from the reduced workload for the Department of Banking and Finance through the streamlined review process for banks designated as a "strong, well managed" institution, as defined in federal law and in this bill, and through the cessation of annual application reviews by the Department of Banking and Finance of international banking offices and agencies.

3. Long Run Effects Other Than Normal Growth:

None

4. Total Revenues and Expenditures:

See III.A.2.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None

2. Recurring Effects:

None

3. Long Run Effects Other Than Normal Growth:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None

2. Direct Private Sector Benefits:

Eliminating proof of public advantage, need and convenience by applicants for new financial institutions will result in a cost savings to applicants. Fee reductions will benefit state chartered financial institutions. Streamlining branch application process will benefit the industry in time savings. A minimum assessment fee for international representative and administrative offices, rather than an annual license renewal fee, along with the departmental review of said application, will benefit the industry as well as the department.

3. Effects on Competition, Private Enterprise and Employment Markets:

Fee reductions, streamlined application processes, and eliminating proof of public advantage, need and convenience for establishment of new financial institutions will decrease state chartered institutions' costs. Because the Office of the Comptroller of the Currency, Administrator of National Banks is also lowering its application fees and streamlining its application process, these revisions will ensure that state chartered institutions do not have licensing and chartering costs in excess of what they would have if they were operating under a national charter.

D. FISCAL COMMENTS:

None

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

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V. COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The committee substitute differs from the original bill in the following ways: (1) the definition of a "qualified public depository" is expanded to include savings banks; (2) out-of-state banks with trust powers that complete an interstate merger with a bank with trust powers, retains those trust powers; (3) the situs of a Florida trust will not be affected solely by a merger with an out-of-state bank; (4) the section providing for the retention of trust powers through an interstate merger will be repealed as of September 1, 1999; and (5) provides for an effective date.

VII. SIGNATURES:

COMMITTEE ON FINANCIAL SERVICES:

Prepared by:

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