

By Senator Hays

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1 A bill to be entitled
2 An act relating to banking; amending s. 655.005, F.S.;
3 adding and revising definitions; amending s. 655.041,
4 F.S.; prohibiting the Office of Insurance Regulation
5 from initiating an administrative proceeding while a
6 person is subject to a federal proceeding on the same
7 grounds; amending s. 655.85, F.S.; clarifying that an
8 institution may impose a fee for the settlement of a
9 check under certain circumstances; providing
10 legislative intent; amending s. 655.968, F.S.;
11 conforming a cross-reference; providing an effective
12 date.

13
14 Be It Enacted by the Legislature of the State of Florida:

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16 Section 1. Present paragraphs (g) through (aa) of
17 subsection (1) of section 655.005, Florida Statutes, are
18 redesignated as paragraphs (h) through (bb), respectively, a new
19 paragraph (g) is added to that subsection, and present paragraph
20 (t) of that subsection is amended to read:

21 655.005 Definitions.—

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

24 (g) "Control of a company or bank" means that a person,
25 directly or indirectly, or acting through or in concert with one
26 or more persons, owns, controls, or has the power to vote 25
27 percent or more of any class of voting securities of the company
28 or bank; controls, in any manner, the election of a majority of
29 the directors of the company or bank; or has the power to

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30 exercise a controlling influence over the management or policies
31 of the company or bank.

32 1. A person is presumed to have control, including the
33 power to exercise a controlling influence over the management or
34 policies of a company or bank, if:

35 a. The person:

36 (I) Is an executive officer or director of the company or
37 bank; and

38 (II) Directly or indirectly owns, controls, or has the
39 power to vote more than 10 percent of any class of voting
40 securities of the company or bank; or

41 b.(I) The person directly or indirectly owns, controls, or
42 has the power to vote more than 10 percent of any class of
43 voting securities of the company or bank; and

44 (II) No other person owns, controls, or has the power to
45 vote a greater percentage of that class of voting securities.

46 2. An individual is not considered to have control,
47 including the power to exercise a controlling influence over the
48 management or policies of a company or bank, solely by virtue of
49 the individual's position as an officer or director of the
50 company or bank.

51 (u) ~~(t)~~ "Related interest" means, with respect to any
52 person, ~~the person's spouse, partner, sibling, parent, child, or~~
53 ~~other individual residing in the same household as the person.~~
54 ~~With respect to any person, the term means a company,~~
55 partnership, corporation, or other business organization
56 controlled by the person. A person has control if the person:

57 1. Owns, controls, or has the power to vote 25 percent or
58 more of any class of voting securities of the organization;

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59 2. Controls in any manner the election of a majority of the
60 directors of the organization; or

61 3. Has the power to exercise a controlling influence over
62 the management or policies of the organization.

63 Section 2. Subsection (1) of section 655.041, Florida
64 Statutes, is amended to read:

65 655.041 Administrative fines; enforcement.—

66 (1) The office may, by complaint, initiate a proceeding
67 pursuant to chapter 120 to impose an administrative fine against
68 any person found to have violated any provision of the financial
69 institutions codes or a cease and desist order of the office or
70 any written agreement with the office. ~~No~~ Such proceeding may
71 not shall be initiated and finances do not ~~no fine shall~~ accrue
72 ~~pursuant to this section~~ until after such person has been
73 notified in writing of the nature of the violation and ~~has~~ been
74 afforded a reasonable period of time, as set forth in the
75 notice, to correct the violation and ~~has~~ failed to do so.
76 However, such proceeding may not be initiated while the person
77 is subject to a federal proceeding on the same or similar
78 grounds.

79 Section 3. Section 655.85, Florida Statutes, is amended to
80 read:

81 655.85 Settlement of checks.—Whenever a ~~any~~ check is
82 forwarded or presented to a financial ~~an~~ institution for
83 payment, except when presented by the payee in person, the
84 paying institution or remitting institution shall settle the
85 amount of the check at par and may pay or remit the same, at its
86 option, either in money or in exchange drawn on its reserve
87 agent or agents in the City of New York or in any reserve city

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88 within the Sixth Federal Reserve District; ~~however, an~~
89 ~~institution may not settle any check drawn on it otherwise than~~
90 ~~at par.~~ The term "at par" applies only to the settlement of
91 checks between collecting and paying or remitting institutions
92 and does not apply to, or prohibit an institution from,
93 deducting from the face amount of the check drawn on it a fee
94 for paying the check if the check is presented to the
95 institution by the payee in person. The provisions of this
96 section do not apply with respect to the settlement of a check
97 sent to such institution as a special collection item.

98 Section 4. It is the Legislature's intent that the
99 amendment to s. 655.85, Florida Statutes, made by this act
100 clarify the relevant portions of the financial institutions
101 codes as defined in s. 655.005, Florida Statutes, relating to
102 fees imposed by a financial institution for the payment of
103 checks presented in person without requiring further amendment.

104 Section 5. Paragraph (b) of subsection (1) of section
105 655.968, Florida Statutes, is amended to read:

106 655.968 Financial institutions; transactions relating to
107 Iran or terrorism.—

108 (1) As used in this section, the term:

109 (b) "Financial institution" has the same meaning as
110 provided ~~defined~~ in s. 655.005(1) ~~(i)~~.

111 Section 6. This act shall take effect July 1, 2013.