

1 A bill to be entitled
2 An act relating to benchmark replacements for London
3 Interbank Offered Rate; providing legislative findings
4 and intent and a statement of public interest;
5 creating ss. 607.01305, 624.103, 655.0135, 671.1075,
6 689.0705, and 697.015, F.S.; providing definitions;
7 requiring that recommended benchmark replacements
8 selected or recommended by specified persons be
9 benchmark replacements on the United States dollar
10 London Interbank Offered Rate (LIBOR) replacement date
11 for certain contracts, securities, and instruments for
12 business organizations under the Florida Business
13 Corporation Act, the Florida Insurance Code, financial
14 institutions, the Uniform Commercial Code, real and
15 personal property conveyance of land and declarations
16 of trust, and real and personal property mortgages,
17 respectively; requiring certain fallback provisions in
18 contracts, securities, and instruments providing
19 specified benchmark replacements to be disregarded and
20 void; authorizing specified persons to select
21 benchmark replacements under certain circumstances;
22 providing requirements for such selection; providing
23 applicability; requiring benchmark replacement
24 conforming changes to become an integral part of

25 contracts, securities, and instruments under certain
26 circumstances; providing requirements for selections
27 or uses of recommended benchmark replacements as
28 benchmark replacements; providing construction;
29 providing that a person is not liable for damages and
30 is not subject to claims and requests for equitable
31 relief under certain circumstances; providing
32 applicability; prohibiting other laws from superseding
33 specified provisions; providing that the act is
34 remedial in nature; providing retroactive
35 applicability; providing an effective date.

36
37 Be It Enacted by the Legislature of the State of Florida:

38
39 Section 1. The Legislature finds that the discontinuation
40 of the London Interbank Offered Rate (LIBOR) as a viable
41 interest rate threatens the continued viability of certain
42 contracts, securities, or instruments and the rights of the
43 parties to those contracts, securities, or instruments.
44 Furthermore, the threat of unknown and potentially unbounded
45 liability and the viability of contracts, securities, or
46 instruments threatens the state's economy and has created an
47 overpowering public necessity to provide an immediate and
48 remedial legislative solution. Therefore, the Legislature

49 intends for parties to certain contracts, securities, or
50 instruments, as provided in this act, to enjoy heightened legal
51 protections as a result of the discontinuation of LIBOR. The
52 Legislature also finds that there are no alternative means to
53 meet this public necessity. The Legislature finds that the
54 public interest as a whole is best served by providing certainty
55 to these contracts, securities, or instruments and the parties
56 thereto, so that these contracts, securities, or instruments may
57 remain viable and continue to be enforceable in the state.

58 Section 2. Section 607.01305, Florida Statutes, is created
59 to read:

60 607.01305 Benchmark replacements for the London Interbank
61 Offered Rate.—

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

63 (a) "Benchmark" means an index of interest rates or
64 dividend rates that is used, in whole or in part, as the basis
65 of, or as a reference for, calculating or determining a
66 valuation, payment, or other measurement under or in respect of
67 a contract, security, or instrument.

68 (b) "Benchmark replacement" means a benchmark, an interest
69 rate, or a dividend rate that may or may not be based, in whole
70 or in part, on a prior setting of LIBOR, to replace LIBOR or any
71 interest rate or dividend rate based on LIBOR, whether on a
72 temporary, permanent, or indefinite basis, under or in respect

73 of a contract, security, or instrument.

74 (c) "Benchmark replacement conforming change" means, with
75 respect to any type of contract, security, or instrument, a
76 technical, administrative, or operational change, alteration, or
77 modification that is associated with and reasonably necessary to
78 the use, adoption, calculation, or implementation of a
79 recommended benchmark replacement and that meets both of the
80 following conditions:

81 1. The change, alteration, or modification has been
82 selected or recommended by a relevant recommending body.

83 2. If, in the reasonable judgment of the calculating
84 person, the change, alteration, or modification selected or
85 recommended under subparagraph 1. does not apply to the
86 contract, security, or instrument or is insufficient to allow
87 administration and calculation of the recommended benchmark
88 replacement, the benchmark replacement conforming change must
89 include other changes, alterations, or modifications that, in
90 the reasonable judgment of the calculating person:

91 a. Are necessary to allow administration and calculation
92 of the recommended benchmark replacement under or in respect of
93 the contract, security, or instrument in a manner consistent
94 with market practice for substantially similar contracts,
95 securities, or instruments and, to the extent practicable, the
96 manner in which the contract, security, or instrument was

97 administered immediately before the LIBOR replacement date; and

98 b. Would not result in a disposition of the contract,
99 security, or instrument for federal income tax purposes.

100 (d) "Calculating person" means, with respect to any
101 contract, security, or instrument, a person responsible for
102 calculating or determining a valuation, payment, or other
103 measurement based on a benchmark. This person may be the
104 determining person.

105 (e) "Contract, security, or instrument" includes, without
106 limitation, any contract, agreement, mortgage, deed of trust,
107 lease, instrument, obligation, or security, whether representing
108 debt or equity, and including any interest in a corporation,
109 partnership, or limited liability company.

110 (f) "Determining person" means, with respect to any
111 contract, security, or instrument, the following persons in
112 decreasing order of priority:

113 1. A person so specified.

114 2. A person with the authority, right, or obligation to do
115 any of the following:

116 a. Determine the benchmark replacement that will take
117 effect on the LIBOR replacement date.

118 b. Calculate or determine a valuation, payment, or other
119 measurement based on a benchmark.

120 c. Notify other persons of the occurrence of a LIBOR

121 discontinuance event, a LIBOR replacement date, or a benchmark
122 replacement.

123 (g) "Fallback provision" means a term in a contract,
124 security, or instrument that sets forth a methodology or
125 procedure for determining a benchmark replacement, including any
126 term relating to the date on which the benchmark replacement
127 becomes effective, without regard to whether a benchmark
128 replacement can be determined in accordance with the methodology
129 or procedure.

130 (h) "LIBOR" means, for purposes of the application of this
131 section to any particular contract, security, or instrument, the
132 United States dollar LIBOR, formerly known as the London
133 Interbank Offered Rate, as administered by ICE Benchmark
134 Administration, or any predecessor or successor thereof, or any
135 tenor thereof, as applicable, that is used in making any
136 calculation or determination of benchmark interest rates.

137 (i)1. "LIBOR discontinuance event" means the earliest to
138 occur of any of the following:

139 a. A public statement or publication of information by, or
140 on behalf of, the administrator of LIBOR announcing that the
141 administrator has ceased or will cease to provide LIBOR
142 permanently or indefinitely, if, at the time of the statement or
143 publication, there is no successor administrator that will
144 continue to provide LIBOR.

145 b. A public statement or publication of information by the
146 regulatory supervisor for the administrator of LIBOR, the
147 Federal Reserve System, an insolvency official with jurisdiction
148 over the administrator of LIBOR, a resolution authority with
149 jurisdiction over the administrator of LIBOR, or a court or an
150 entity with similar insolvency or resolution authority over the
151 administrator of LIBOR, announcing that the administrator of
152 LIBOR has ceased or will cease to provide LIBOR permanently or
153 indefinitely, if, at the time of the statement or publication,
154 there is no successor administrator that will continue to
155 provide LIBOR.

156 c. A public statement or publication of information by the
157 regulatory supervisor for the administrator of LIBOR announcing
158 that LIBOR is no longer representative.

159 2. A public statement or publication of information that
160 affects one or more tenors of LIBOR does not constitute a LIBOR
161 discontinuance event with respect to a contract, security, or
162 instrument that:

163 a. Provides for only one tenor of LIBOR, if the contract,
164 security, or instrument requires interpolation and the tenor can
165 be interpolated from LIBOR tenors that are not so affected; or

166 b. Allows a party to choose from more than one tenor of
167 LIBOR and any of the tenors is not so affected or, if the
168 contract, security, or instrument requires interpolation, can be

169 interpolated from LIBOR tenors that are not so affected.
170 (j)1. "LIBOR replacement date" means:
171 a. In the case of a LIBOR discontinuance event described
172 in sub-subparagraph (i)1.a. or sub-subparagraph (i)1.b., the
173 later of:
174 (I) The date of the public statement or publication of
175 information referenced in sub-subparagraph (i)1.a. or sub-
176 paragraph (i)1.b.; or
177 (II) The date on which the administrator of LIBOR
178 permanently or indefinitely ceases to provide LIBOR.
179 b. In the case of a LIBOR discontinuance event described
180 in sub-subparagraph (i)1.c., the date of the public statement or
181 publication of information referenced in sub-subparagraph
182 (i)1.c.
183 2. A date that affects one or more tenors of LIBOR does
184 not constitute a LIBOR replacement date with respect to a
185 contract, security, or instrument that:
186 a. Provides for only one tenor of LIBOR, if the contract,
187 security, or instrument requires interpolation and the tenor can
188 be interpolated from LIBOR tenors that are not so affected; or
189 b. Allows a party to choose from more than one tenor of
190 LIBOR and any of the tenors is not so affected or, if the
191 contract, security, or instrument requires interpolation, can be
192 interpolated from LIBOR tenors that are not so affected.

193 (k) "Recommended benchmark replacement" means, with
194 respect to any particular type of contract, security, or
195 instrument, a benchmark replacement based on SOFR that must
196 include any recommended spread adjustment and any benchmark
197 replacement conforming change that have been selected or
198 recommended by a relevant recommending body with respect to the
199 type of contract, security, or instrument.

200 (l) "Recommended spread adjustment" means a spread
201 adjustment, or method for calculating or determining the spread
202 adjustment, that has been selected or recommended by a relevant
203 recommending body for a recommended benchmark replacement for a
204 particular type of contract, security, or instrument and for a
205 particular term to account for the effects of the transition or
206 change from LIBOR to a recommended benchmark replacement. This
207 term may be a positive or negative value or zero.

208 (m) "Relevant recommending body" means the Federal Reserve
209 Board, the Federal Reserve Bank of New York, or the Alternative
210 Reference Rates Committee, or any successor to any of them.

211 (n) "SOFR" means, with respect to any day, the secured
212 overnight financing rate published for the day by the Federal
213 Reserve Bank of New York as the administrator of the benchmark,
214 or a successor administrator, on the Federal Reserve Bank of New
215 York's website.

216 (2) On the LIBOR replacement date, the recommended

217 benchmark replacement, by operation of law, shall be the
 218 benchmark replacement for a contract, security, or instrument
 219 that uses LIBOR as a benchmark and that:

- 220 (a) Does not contain any fallback provision; or
- 221 (b) Contains fallback provisions resulting in a benchmark
 222 replacement, other than a recommended benchmark replacement,
 223 that is based in any way on a LIBOR value.

224 (3) After the occurrence of a LIBOR discontinuance event,
 225 any fallback provisions in a contract, security, or instrument
 226 that provide for a benchmark replacement based on or otherwise
 227 involving a poll, survey, or inquiry for quotes or information
 228 concerning interbank lending rates or any interest rate or
 229 dividend rate based on LIBOR shall be void and of no force or
 230 effect.

231 (4) (a) A determining person may, but is not required to,
 232 select on the day of or the day after the occurrence of a LIBOR
 233 discontinuance event the recommended benchmark replacement as
 234 the benchmark replacement. The selection of the recommended
 235 benchmark replacement must be:

- 236 1. Irrevocable;
- 237 2. Made by the earlier of the LIBOR replacement date, or
 238 the latest date for selecting a benchmark replacement according
 239 to the contract, security, or instrument; and
- 240 3. Used in any determination of the benchmark under or

241 with respect to the contract, security, or instrument occurring
242 on and after the LIBOR replacement date.

243 (b) Paragraph (a) applies to a contract, security, or
244 instrument that uses LIBOR as a benchmark and that contains
245 fallback provisions allowing or requiring the selection of a
246 benchmark replacement that is:

247 1. Based in any way on a LIBOR value; or

248 2. The substantive equivalent of paragraph (6) (a),
249 paragraph (6) (b), or paragraph (6) (c).

250 (5) If a recommended benchmark replacement becomes the
251 benchmark replacement for a contract, security, or instrument
252 under this section, then all benchmark replacement conforming
253 changes that are applicable to the recommended benchmark
254 replacement must become an integral part of the contract,
255 security, or instrument by operation of law.

256 (6) The selection or use of a recommended benchmark
257 replacement as a benchmark replacement under or in respect of a
258 contract, security, or instrument by operation of this section
259 must constitute all of the following:

260 (a) A commercially reasonable replacement for and a
261 commercially substantial equivalent to LIBOR.

262 (b) A reasonable, comparable, or analogous term for LIBOR
263 under or in respect of the contract, security, or instrument.

264 (c) A replacement that is based on a methodology or

265 information that is similar or comparable to LIBOR.

266 (d) Substantial performance by any person of any right or
267 obligation relating to or based on LIBOR under or in respect of
268 a contract, security, or instrument.

269 (7) A LIBOR discontinuance event, a LIBOR replacement
270 date, the selection or use of a recommended benchmark
271 replacement as a benchmark replacement, or the determination,
272 implementation, or performance of a benchmark replacement
273 conforming change, in each case, by operation of this section,
274 may not:

275 (a) Be deemed to impair or affect the right of any person
276 to receive a payment, or affect the amount or timing of the
277 payment, under a contract, security, or instrument;

278 (b) Have the effect of discharging or excusing performance
279 under a contract, security, or instrument for any reason, claim,
280 or defense, including, but not limited to, any force majeure or
281 other provision in a contract, security, or instrument;

282 (c) Have the effect of giving any person the right to
283 unilaterally terminate or suspend performance under a contract,
284 security, or instrument;

285 (d) Have the effect of constituting a breach of a
286 contract, security, or instrument; or

287 (e) Have the effect of voiding or nullifying a contract,
288 security, or instrument.

289 (8) A person is not liable for damages to any other
290 person, and is not subject to any claim or request for equitable
291 relief, arising out of or related to the selection or use of a
292 recommended benchmark replacement or the determination,
293 implementation, or performance of a benchmark replacement
294 conforming change, in each case, by operation of this section.
295 The selection or use of the recommended benchmark replacement or
296 the determination, implementation, or performance of a benchmark
297 replacement conforming change may not give rise to any claim or
298 cause of action by any person in law or in equity.

299 (9) The selection or use of a recommended benchmark
300 replacement or the determination, implementation, or performance
301 of a benchmark replacement conforming change, by operation of
302 this section, may not be deemed to:

303 (a) Be an amendment or modification of a contract,
304 security, or instrument.

305 (b) Prejudice, impair, or affect a person's rights,
306 interests, or obligations under or in respect of a contract,
307 security, or instrument.

308 (10) Except as provided in subsection (2) or subsection
309 (4), this section may not be interpreted as creating a negative
310 inference or negative presumption regarding the validity or
311 enforceability of any of the following:

312 (a) A benchmark replacement that is not a recommended

313 replacement benchmark.

314 (b) A spread adjustment, or method for calculating or
315 determining a spread adjustment, that is not a recommended
316 spread adjustment.

317 (c) A change, alteration, or modification to or in respect
318 of a contract, security, or instrument that is not a benchmark
319 replacement conforming change.

320 (11) This section does not alter or impair any of the
321 following:

322 (a) A written agreement by all requisite parties that,
323 retrospectively or prospectively, provides that a contract,
324 security, or instrument is not subject to this section without
325 necessarily referring specifically to this section. As used in
326 this paragraph, the term "requisite parties" means all parties
327 required to amend the terms and provisions of a contract,
328 security, or instrument that would otherwise be altered or
329 affected by this section.

330 (b) A contract, security, or instrument that contains
331 fallback provisions that would result in a benchmark replacement
332 that is not based on LIBOR, including, but not limited to, the
333 prime rate or the federal funds rate. However, the contract,
334 security, or instrument is subject to subsection (3).

335 (c) A contract, security, or instrument subject to
336 subsection (4) as to which a determining person does not elect

337 to use a recommended benchmark replacement or as to which a
338 determining person elects to use a recommended benchmark
339 replacement before the occurrence of a LIBOR discontinuance
340 event. However, the contract, security, or instrument is subject
341 to subsection (3).

342 (d) The application to a recommended benchmark replacement
343 of any cap, floor, modifier, or spread adjustment to which LIBOR
344 had been subject pursuant to the terms of a contract, security,
345 or instrument.

346 (12) Notwithstanding the Uniform Commercial Code or any
347 other law of this state, and except as otherwise provided in
348 this section, this section applies to all contracts, securities,
349 and instruments, including contracts with respect to commercial
350 transactions, and may not be superseded by any other law of this
351 state.

352 Section 3. Section 624.103, Florida Statutes, is created
353 to read:

354 624.103 Benchmark replacements for the London Interbank
355 Offered Rate.—

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

357 (a) "Benchmark" means an index of interest rates or
358 dividend rates that is used, in whole or in part, as the basis
359 of, or as a reference for, calculating or determining a
360 valuation, payment, or other measurement under or in respect of

361 a contract, security, or instrument.

362 (b) "Benchmark replacement" means a benchmark, an interest
363 rate, or a dividend rate that may or may not be based, in whole
364 or in part, on a prior setting of LIBOR, to replace LIBOR or any
365 interest rate or dividend rate based on LIBOR, whether on a
366 temporary, permanent, or indefinite basis, under or in respect
367 of a contract, security, or instrument.

368 (c) "Benchmark replacement conforming change" means, with
369 respect to any type of contract, security, or instrument, a
370 technical, administrative, or operational change, alteration, or
371 modification that is associated with and reasonably necessary to
372 the use, adoption, calculation, or implementation of a
373 recommended benchmark replacement and that meets both of the
374 following conditions:

375 1. The change, alteration, or modification has been
376 selected or recommended by a relevant recommending body.

377 2. If, in the reasonable judgment of the calculating
378 person, the change, alteration, or modification selected or
379 recommended under subparagraph 1. does not apply to the
380 contract, security, or instrument or is insufficient to allow
381 administration and calculation of the recommended benchmark
382 replacement, the benchmark replacement conforming change must
383 include other changes, alterations, or modifications that, in
384 the reasonable judgment of the calculating person:

385 a. Are necessary to allow administration and calculation
 386 of the recommended benchmark replacement under or in respect of
 387 the contract, security, or instrument in a manner consistent
 388 with market practice for substantially similar contracts,
 389 securities, or instruments and, to the extent practicable, the
 390 manner in which the contract, security, or instrument was
 391 administered immediately before the LIBOR replacement date.

392 b. Would not result in a disposition of the contract,
 393 security, or instrument for federal income tax purposes.

394 (d) "Calculating person" means, with respect to any
 395 contract, security, or instrument, a person responsible for
 396 calculating or determining a valuation, payment, or other
 397 measurement based on a benchmark. This person may be the
 398 determining person.

399 (e) "Contract, security, or instrument" includes, without
 400 limitation, any contract, agreement, mortgage, deed of trust,
 401 lease, instrument, obligation, or security, whether representing
 402 debt or equity, and including any interest in a corporation,
 403 partnership, or limited liability company.

404 (f) "Determining person" means, with respect to any
 405 contract, security, or instrument, the following persons in
 406 decreasing order of priority:

407 1. A person so specified.

408 2. A person with the authority, right, or obligation to do

409 any of the following:

410 a. Determine the benchmark replacement that will take
411 effect on the LIBOR replacement date.

412 b. Calculate or determine a valuation, payment, or other
413 measurement based on a benchmark.

414 c. Notify other persons of the occurrence of a LIBOR
415 discontinuance event, a LIBOR replacement date, or a benchmark
416 replacement.

417 (g) "Fallback provision" means a term in a contract,
418 security, or instrument that sets forth a methodology or
419 procedure for determining a benchmark replacement, including any
420 term relating to the date on which the benchmark replacement
421 becomes effective, without regard to whether a benchmark
422 replacement can be determined in accordance with the methodology
423 or procedure.

424 (h) "LIBOR" means, for purposes of the application of this
425 section to any particular contract, security, or instrument, the
426 United States dollar LIBOR, formerly known as the London
427 Interbank Offered Rate, as administered by ICE Benchmark
428 Administration, or any predecessor or successor thereof, or any
429 tenor thereof, as applicable, that is used in making any
430 calculation or determination of benchmark interest rates.

431 (i)1. "LIBOR discontinuance event" means the earliest to
432 occur of any of the following:

433 a. A public statement or publication of information by, or
434 on behalf of, the administrator of LIBOR announcing that the
435 administrator has ceased or will cease to provide LIBOR
436 permanently or indefinitely, if, at the time of the statement or
437 publication, there is no successor administrator that will
438 continue to provide LIBOR.

439 b. A public statement or publication of information by the
440 regulatory supervisor for the administrator of LIBOR, the
441 Federal Reserve System, an insolvency official with jurisdiction
442 over the administrator of LIBOR, a resolution authority with
443 jurisdiction over the administrator of LIBOR, or a court or an
444 entity with similar insolvency or resolution authority over the
445 administrator of LIBOR, announcing that the administrator of
446 LIBOR has ceased or will cease to provide LIBOR permanently or
447 indefinitely, if, at the time of the statement or publication,
448 there is no successor administrator that will continue to
449 provide LIBOR.

450 c. A public statement or publication of information by the
451 regulatory supervisor for the administrator of LIBOR announcing
452 that LIBOR is no longer representative.

453 2. A public statement or publication of information that
454 affects one or more tenors of LIBOR does not constitute a LIBOR
455 discontinuance event with respect to a contract, security, or
456 instrument that:

457 a. Provides for only one tenor of LIBOR, if the contract,
458 security, or instrument requires interpolation and the tenor can
459 be interpolated from LIBOR tenors that are not so affected; or

460 b. Allows a party to choose from more than one tenor of
461 LIBOR and any of the tenors is not so affected or, if the
462 contract, security, or instrument requires interpolation, can be
463 interpolated from LIBOR tenors that are not so affected.

464 (j)1. "LIBOR replacement date" means:

465 a. In the case of a LIBOR discontinuance event described
466 in sub-subparagraph (i)1.a. or sub-subparagraph (i)1.b., the
467 later of:

468 (I) The date of the public statement or publication of
469 information referenced in sub-subparagraph (i)1.a. or sub-
470 paragraph (i)1.b.; or

471 (II) The date on which the administrator of LIBOR
472 permanently or indefinitely ceases to provide LIBOR.

473 b. In the case of a LIBOR discontinuance event described
474 in sub-subparagraph (i)1.c., the date of the public statement or
475 publication of information referenced in sub-subparagraph
476 (i)1.c.

477 2. A date that affects one or more tenors of LIBOR does
478 not constitute a LIBOR replacement date with respect to a
479 contract, security, or instrument that:

480 a. Provides for only one tenor of LIBOR, if the contract,

481 security, or instrument requires interpolation and the tenor can
482 be interpolated from LIBOR tenors that are not so affected; or

483 b. Allows a party to choose from more than one tenor of
484 LIBOR and any of the tenors is not so affected or, if the
485 contract, security, or instrument requires interpolation, can be
486 interpolated from LIBOR tenors that are not so affected.

487 (k) "Recommended benchmark replacement" means, with
488 respect to any particular type of contract, security, or
489 instrument, a benchmark replacement based on SOFR that must
490 include any recommended spread adjustment and any benchmark
491 replacement conforming change that have been selected or
492 recommended by a relevant recommending body with respect to the
493 type of contract, security, or instrument.

494 (l) "Recommended spread adjustment" means a spread
495 adjustment, or method for calculating or determining the spread
496 adjustment, that has been selected or recommended by a relevant
497 recommending body for a recommended benchmark replacement for a
498 particular type of contract, security, or instrument and for a
499 particular term to account for the effects of the transition or
500 change from LIBOR to a recommended benchmark replacement. This
501 term may be a positive or negative value or zero.

502 (m) "Relevant recommending body" means the Federal Reserve
503 Board, the Federal Reserve Bank of New York, or the Alternative
504 Reference Rates Committee, or any successor to any of them.

505 (n) "SOFR" means, with respect to any day, the secured
506 overnight financing rate published for the day by the Federal
507 Reserve Bank of New York as the administrator of the benchmark,
508 or a successor administrator, on the Federal Reserve Bank of New
509 York's website.

510 (2) On the LIBOR replacement date, the recommended
511 benchmark replacement, by operation of law, shall be the
512 benchmark replacement for a contract, security, or instrument
513 that uses LIBOR as a benchmark and that:

514 (a) Does not contain any fallback provision; or

515 (b) Contains fallback provisions resulting in a benchmark
516 replacement, other than a recommended benchmark replacement,
517 that is based in any way on a LIBOR value.

518 (3) After the occurrence of a LIBOR discontinuance event,
519 any fallback provisions in a contract, security, or instrument
520 that provide for a benchmark replacement based on or otherwise
521 involving a poll, survey, or inquiry for quotes or information
522 concerning interbank lending rates or any interest rate or
523 dividend rate based on LIBOR shall be void and of no force or
524 effect.

525 (4) (a) A determining person may, but is not required to,
526 select on the day of or the day after the occurrence of a LIBOR
527 discontinuance event the recommended benchmark replacement as
528 the benchmark replacement. The selection of the recommended

529 benchmark replacement must be:

530 1. Irrevocable;

531 2. Made by the earlier of the LIBOR replacement date, or
532 the latest date for selecting a benchmark replacement according
533 to the contract, security, or instrument; and

534 3. Used in any determination of the benchmark under or
535 with respect to the contract, security, or instrument occurring
536 on and after the LIBOR replacement date.

537 (b) Paragraph (a) applies to a contract, security, or
538 instrument that uses LIBOR as a benchmark and that contains
539 fallback provisions allowing or requiring the selection of a
540 benchmark replacement that is:

541 1. Based in any way on a LIBOR value; or

542 2. The substantive equivalent of paragraph (6)(a),
543 paragraph (6)(b), or paragraph (6)(c).

544 (5) If a recommended benchmark replacement becomes the
545 benchmark replacement for a contract, security, or instrument
546 under this section, then all benchmark replacement conforming
547 changes that are applicable to the recommended benchmark
548 replacement must become an integral part of the contract,
549 security, or instrument by operation of law.

550 (6) The selection or use of a recommended benchmark
551 replacement as a benchmark replacement under or in respect of a
552 contract, security, or instrument by operation of this section

553 must constitute all of the following:

554 (a) A commercially reasonable replacement for and a
555 commercially substantial equivalent to LIBOR.

556 (b) A reasonable, comparable, or analogous term for LIBOR
557 under or in respect of the contract, security, or instrument.

558 (c) A replacement that is based on a methodology or
559 information that is similar or comparable to LIBOR.

560 (d) Substantial performance by any person of any right or
561 obligation relating to or based on LIBOR under or in respect of
562 a contract, security, or instrument.

563 (7) A LIBOR discontinuance event, a LIBOR replacement
564 date, the selection or use of a recommended benchmark
565 replacement as a benchmark replacement, or the determination,
566 implementation, or performance of a benchmark replacement
567 conforming change, in each case, by operation of this section,
568 may not:

569 (a) Be deemed to impair or affect the right of any person
570 to receive a payment, or affect the amount or timing of the
571 payment, under a contract, security, or instrument;

572 (b) Have the effect of discharging or excusing performance
573 under a contract, security, or instrument for any reason, claim,
574 or defense, including, but not limited to, any force majeure or
575 other provision in a contract, security, or instrument;

576 (c) Have the effect of giving any person the right to

577 unilaterally terminate or suspend performance under a contract,
578 security, or instrument;

579 (d) Have the effect of constituting a breach of a
580 contract, security, or instrument; or

581 (e) Have the effect of voiding or nullifying a contract,
582 security, or instrument.

583 (8) A person is not liable for damages to any other
584 person, and is not subject to any claim or request for equitable
585 relief, arising out of or related to the selection or use of a
586 recommended benchmark replacement or the determination,
587 implementation, or performance of a benchmark replacement
588 conforming change, in each case, by operation of this section.
589 The selection or use of the recommended benchmark replacement or
590 the determination, implementation, or performance of a benchmark
591 replacement conforming change may not give rise to any claim or
592 cause of action by any person in law or in equity.

593 (9) The selection or use of a recommended benchmark
594 replacement or the determination, implementation, or performance
595 of a benchmark replacement conforming change, by operation of
596 this section, may not be deemed to:

597 (a) Be an amendment or modification of a contract,
598 security, or instrument.

599 (b) Prejudice, impair, or affect a person's rights,
600 interests, or obligations under or in respect of a contract,

601 security, or instrument.

602 (10) Except as provided in subsection (2) or subsection
603 (4), this section may not be interpreted as creating a negative
604 inference or negative presumption regarding the validity or
605 enforceability of any of the following:

606 (a) A benchmark replacement that is not a recommended
607 replacement benchmark.

608 (b) A spread adjustment, or method for calculating or
609 determining a spread adjustment, that is not a recommended
610 spread adjustment.

611 (c) A change, alteration, or modification to or in respect
612 of a contract, security, or instrument that is not a benchmark
613 replacement conforming change.

614 (11) This section does not alter or impair any of the
615 following:

616 (a) A written agreement by all requisite parties that,
617 retrospectively or prospectively, provides that a contract,
618 security, or instrument is not subject to this section without
619 necessarily referring specifically to this section. As used in
620 this paragraph, the term "requisite parties" means all parties
621 required to amend the terms and provisions of a contract,
622 security, or instrument that would otherwise be altered or
623 affected by this section.

624 (b) A contract, security, or instrument that contains

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625 fallback provisions that would result in a benchmark replacement
626 that is not based on LIBOR, including, but not limited to, the
627 prime rate or the federal funds rate. However, the contract,
628 security, or instrument is subject to subsection (3).

629 (c) A contract, security, or instrument subject to
630 subsection (4) as to which a determining person does not elect
631 to use a recommended benchmark replacement or as to which a
632 determining person elects to use a recommended benchmark
633 replacement before the occurrence of a LIBOR discontinuance
634 event. However, the contract, security, or instrument is subject
635 to subsection (3).

636 (d) The application to a recommended benchmark replacement
637 of any cap, floor, modifier, or spread adjustment to which LIBOR
638 had been subject pursuant to the terms of a contract, security,
639 or instrument.

640 (12) Notwithstanding the Uniform Commercial Code or any
641 other law of this state, and except as otherwise provided in
642 this section, this section applies to all contracts, securities,
643 and instruments, including contracts with respect to commercial
644 transactions, and may not be superseded by any other law of this
645 state.

646 Section 4. Section 655.0135, Florida Statutes, is created
647 to read:

648 655.0135 Benchmark replacements for the London Interbank

649 Offered Rate.—

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

651 (a) "Benchmark" means an index of interest rates or
652 dividend rates that is used, in whole or in part, as the basis
653 of, or as a reference for, calculating or determining a
654 valuation, payment, or other measurement under or in respect of
655 a contract, security, or instrument.

656 (b) "Benchmark replacement" means a benchmark, an interest
657 rate, or a dividend rate that may or may not be based, in whole
658 or in part, on a prior setting of LIBOR, to replace LIBOR or any
659 interest rate or dividend rate based on LIBOR, whether on a
660 temporary, permanent, or indefinite basis, under or in respect
661 of a contract, security, or instrument.

662 (c) "Benchmark replacement conforming change" means, with
663 respect to any type of contract, security, or instrument, a
664 technical, administrative, or operational change, alteration, or
665 modification that is associated with and reasonably necessary to
666 the use, adoption, calculation, or implementation of a
667 recommended benchmark replacement and that meets both of the
668 following conditions:

669 1. The change, alteration, or modification has been
670 selected or recommended by a relevant recommending body.

671 2. If, in the reasonable judgment of the calculating
672 person, the change, alteration, or modification selected or

673 recommended under subparagraph 1. does not apply to the
674 contract, security, or instrument or is insufficient to allow
675 administration and calculation of the recommended benchmark
676 replacement, the benchmark replacement conforming change must
677 include other changes, alterations, or modifications that, in
678 the reasonable judgment of the calculating person:

679 a. Are necessary to allow administration and calculation
680 of the recommended benchmark replacement under or in respect of
681 the contract, security, or instrument in a manner consistent
682 with market practice for substantially similar contracts,
683 securities, or instruments and, to the extent practicable, the
684 manner in which the contract, security, or instrument was
685 administered immediately before the LIBOR replacement date; and

686 b. Would not result in a disposition of the contract,
687 security, or instrument for federal income tax purposes.

688 (d) "Calculating person" means, with respect to any
689 contract, security, or instrument, a person responsible for
690 calculating or determining a valuation, payment, or other
691 measurement based on a benchmark. This person may be the
692 determining person.

693 (e) "Contract, security, or instrument" includes, without
694 limitation, any contract, agreement, mortgage, deed of trust,
695 lease, instrument, obligation, or security, whether representing
696 debt or equity, and including any interest in a corporation,

697 partnership, or limited liability company.

698 (f) "Determining person" means, with respect to any
699 contract, security, or instrument, the following persons in
700 decreasing order of priority:

701 1. A person so specified.

702 2. A person with the authority, right, or obligation to do
703 any of the following:

704 a. Determine the benchmark replacement that will take
705 effect on the LIBOR replacement date.

706 b. Calculate or determine a valuation, payment, or other
707 measurement based on a benchmark.

708 c. Notify other persons of the occurrence of a LIBOR
709 discontinuance event, a LIBOR replacement date, or a benchmark
710 replacement.

711 (g) "Fallback provision" means a term in a contract,
712 security, or instrument that sets forth a methodology or
713 procedure for determining a benchmark replacement, including any
714 term relating to the date on which the benchmark replacement
715 becomes effective, without regard to whether a benchmark
716 replacement can be determined in accordance with the methodology
717 or procedure.

718 (h) "LIBOR" means, for purposes of the application of this
719 section to any particular contract, security, or instrument, the
720 United States dollar LIBOR, formerly known as the London

721 Interbank Offered Rate, as administered by ICE Benchmark
722 Administration, or any predecessor or successor thereof, or any
723 tenor thereof, as applicable, that is used in making any
724 calculation or determination of benchmark interest rates.

725 (i)1. "LIBOR discontinuance event" means the earliest to
726 occur of any of the following:

727 a. A public statement or publication of information by, or
728 on behalf of, the administrator of LIBOR announcing that the
729 administrator has ceased or will cease to provide LIBOR
730 permanently or indefinitely, if, at the time of the statement or
731 publication, there is no successor administrator that will
732 continue to provide LIBOR.

733 b. A public statement or publication of information by the
734 regulatory supervisor for the administrator of LIBOR, the
735 Federal Reserve System, an insolvency official with jurisdiction
736 over the administrator of LIBOR, a resolution authority with
737 jurisdiction over the administrator of LIBOR, or a court or an
738 entity with similar insolvency or resolution authority over the
739 administrator of LIBOR, announcing that the administrator of
740 LIBOR has ceased or will cease to provide LIBOR permanently or
741 indefinitely, if, at the time of the statement or publication,
742 there is no successor administrator that will continue to
743 provide LIBOR.

744 c. A public statement or publication of information by the

745 regulatory supervisor for the administrator of LIBOR announcing
746 that LIBOR is no longer representative.

747 2. A public statement or publication of information that
748 affects one or more tenors of LIBOR does not constitute a LIBOR
749 discontinuance event with respect to a contract, security, or
750 instrument that:

751 a. Provides for only one tenor of LIBOR, if the contract,
752 security, or instrument requires interpolation and the tenor can
753 be interpolated from LIBOR tenors that are not so affected; or

754 b. Allows a party to choose from more than one tenor of
755 LIBOR and any of the tenors is not so affected or, if the
756 contract, security, or instrument requires interpolation, can be
757 interpolated from LIBOR tenors that are not so affected.

758 (j)1. "LIBOR replacement date" means:

759 a. In the case of a LIBOR discontinuance event described
760 in sub-subparagraph (i)1.a. or sub-subparagraph (i)1.b., the
761 later of:

762 (I) The date of the public statement or publication of
763 information referenced in sub-subparagraph (i)1.a. or sub-
764 paragraph (i)1.b.; or

765 (II) The date on which the administrator of LIBOR
766 permanently or indefinitely ceases to provide LIBOR.

767 b. In the case of a LIBOR discontinuance event described
768 in sub-subparagraph (i)1.c., the date of the public statement or

769 publication of information referenced in sub-subparagraph
770 (i)1.c.

771 2. A date that affects one or more tenors of LIBOR does
772 not constitute a LIBOR replacement date with respect to a
773 contract, security, or instrument that:

774 a. Provides for only one tenor of LIBOR, if the contract,
775 security, or instrument requires interpolation and the tenor can
776 be interpolated from LIBOR tenors that are not so affected; or

777 b. Allows a party to choose from more than one tenor of
778 LIBOR and any of the tenors is not so affected or, if the
779 contract, security, or instrument requires interpolation, can be
780 interpolated from LIBOR tenors that are not so affected.

781 (k) "Recommended benchmark replacement" means, with
782 respect to any particular type of contract, security, or
783 instrument, a benchmark replacement based on SOFR that must
784 include any recommended spread adjustment and any benchmark
785 replacement conforming change that have been selected or
786 recommended by a relevant recommending body with respect to the
787 type of contract, security, or instrument.

788 (l) "Recommended spread adjustment" means a spread
789 adjustment, or method for calculating or determining the spread
790 adjustment, that has been selected or recommended by a relevant
791 recommending body for a recommended benchmark replacement for a
792 particular type of contract, security, or instrument and for a

793 particular term to account for the effects of the transition or
794 change from LIBOR to a recommended benchmark replacement. This
795 term may be a positive or negative value or zero.

796 (m) "Relevant recommending body" means the Federal Reserve
797 Board, the Federal Reserve Bank of New York, or the Alternative
798 Reference Rates Committee, or any successor to any of them.

799 (n) "SOFR" means, with respect to any day, the secured
800 overnight financing rate published for the day by the Federal
801 Reserve Bank of New York as the administrator of the benchmark,
802 or a successor administrator, on the Federal Reserve Bank of New
803 York's website.

804 (2) On the LIBOR replacement date, the recommended
805 benchmark replacement, by operation of law, shall be the
806 benchmark replacement for a contract, security, or instrument
807 that uses LIBOR as a benchmark and that:

808 (a) Does not contain any fallback provision; or

809 (b) Contains fallback provisions resulting in a benchmark
810 replacement, other than a recommended benchmark replacement,
811 that is based in any way on a LIBOR value.

812 (3) After the occurrence of a LIBOR discontinuance event,
813 any fallback provisions in a contract, security, or instrument
814 that provide for a benchmark replacement based on or otherwise
815 involving a poll, survey, or inquiry for quotes or information
816 concerning interbank lending rates or any interest rate or

817 dividend rate based on LIBOR shall be void and of no force or
818 effect.

819 (4) (a) A determining person may, but is not required to,
820 select on the day of or the day after the occurrence of a LIBOR
821 discontinuance event the recommended benchmark replacement as
822 the benchmark replacement. The selection of the recommended
823 benchmark replacement must be:

824 1. Irrevocable;

825 2. Made by the earlier of the LIBOR replacement date, or
826 the latest date for selecting a benchmark replacement according
827 to the contract, security, or instrument; and

828 3. Used in any determination of the benchmark under or
829 with respect to the contract, security, or instrument occurring
830 on and after the LIBOR replacement date.

831 (b) Paragraph (a) applies to a contract, security, or
832 instrument that uses LIBOR as a benchmark and that contains
833 fallback provisions allowing or requiring the selection of a
834 benchmark replacement that is:

835 1. Based in any way on a LIBOR value; or

836 2. The substantive equivalent of paragraph (6) (a),
837 paragraph (6) (b), or paragraph (6) (c).

838 (5) If a recommended benchmark replacement becomes the
839 benchmark replacement for a contract, security, or instrument
840 under this section, then all benchmark replacement conforming

841 changes that are applicable to the recommended benchmark
842 replacement must become an integral part of the contract,
843 security, or instrument by operation of law.

844 (6) The selection or use of a recommended benchmark
845 replacement as a benchmark replacement under or in respect of a
846 contract, security, or instrument by operation of this section
847 must constitute all of the following:

848 (a) A commercially reasonable replacement for and a
849 commercially substantial equivalent to LIBOR.

850 (b) A reasonable, comparable, or analogous term for LIBOR
851 under or in respect of the contract, security, or instrument.

852 (c) A replacement that is based on a methodology or
853 information that is similar or comparable to LIBOR.

854 (d) Substantial performance by any person of any right or
855 obligation relating to or based on LIBOR under or in respect of
856 a contract, security, or instrument.

857 (7) A LIBOR discontinuance event, a LIBOR replacement
858 date, the selection or use of a recommended benchmark
859 replacement as a benchmark replacement, or the determination,
860 implementation, or performance of a benchmark replacement
861 conforming change, in each case, by operation of this section,
862 may not:

863 (a) Be deemed to impair or affect the right of any person
864 to receive a payment, or affect the amount or timing of the

865 payment, under a contract, security, or instrument;

866 (b) Have the effect of discharging or excusing performance
867 under a contract, security, or instrument for any reason, claim,
868 or defense, including, but not limited to, any force majeure or
869 other provision in a contract, security, or instrument;

870 (c) Have the effect of giving any person the right to
871 unilaterally terminate or suspend performance under a contract,
872 security, or instrument;

873 (d) Have the effect of constituting a breach of a
874 contract, security, or instrument; or

875 (e) Have the effect of voiding or nullifying a contract,
876 security, or instrument.

877 (8) A person is not liable for damages to any other
878 person, and is not subject to any claim or request for equitable
879 relief, arising out of or related to the selection or use of a
880 recommended benchmark replacement or the determination,
881 implementation, or performance of a benchmark replacement
882 conforming change, in each case, by operation of this section.

883 The selection or use of the recommended benchmark replacement or
884 the determination, implementation, or performance of a benchmark
885 replacement conforming change may not give rise to any claim or
886 cause of action by any person in law or in equity.

887 (9) The selection or use of a recommended benchmark
888 replacement or the determination, implementation, or performance

889 of a benchmark replacement conforming change, by operation of
890 this section, may not be deemed to:

891 (a) Be an amendment or modification of a contract,
892 security, or instrument.

893 (b) Prejudice, impair, or affect a person's rights,
894 interests, or obligations under or in respect of a contract,
895 security, or instrument.

896 (10) Except as provided in subsection (2) or subsection
897 (4), this section may not be interpreted as creating a negative
898 inference or negative presumption regarding the validity or
899 enforceability of any of the following:

900 (a) A benchmark replacement that is not a recommended
901 replacement benchmark.

902 (b) A spread adjustment, or method for calculating or
903 determining a spread adjustment, that is not a recommended
904 spread adjustment.

905 (c) A change, alteration, or modification to or in respect
906 of a contract, security, or instrument that is not a benchmark
907 replacement conforming change.

908 (11) This section does not alter or impair any of the
909 following:

910 (a) A written agreement by all requisite parties that,
911 retrospectively or prospectively, provides that a contract,
912 security, or instrument is not subject to this section without

913 necessarily referring specifically to this section. As used in
914 this paragraph, the term "requisite parties" means all parties
915 required to amend the terms and provisions of a contract,
916 security, or instrument that would otherwise be altered or
917 affected by this section.

918 (b) A contract, security, or instrument that contains
919 fallback provisions that would result in a benchmark replacement
920 that is not based on LIBOR, including, but not limited to, the
921 prime rate or the federal funds rate. However, the contract,
922 security, or instrument is subject to subsection (3).

923 (c) A contract, security, or instrument subject to
924 subsection (4) as to which a determining person does not elect
925 to use a recommended benchmark replacement or as to which a
926 determining person elects to use a recommended benchmark
927 replacement before the occurrence of a LIBOR discontinuance
928 event. However, the contract, security, or instrument is subject
929 to subsection (3).

930 (d) The application to a recommended benchmark replacement
931 of any cap, floor, modifier, or spread adjustment to which LIBOR
932 had been subject pursuant to the terms of a contract, security,
933 or instrument.

934 (12) Notwithstanding the Uniform Commercial Code or any
935 other law of this state, and except as otherwise provided in
936 this section, this section applies to all contracts, securities,

937 and instruments, including contracts with respect to commercial
938 transactions, and may not be superseded by any other law of this
939 state.

940 Section 5. Section 671.1075, Florida Statutes, is created
941 to read:

942 671.1075 Benchmark replacements for the London Interbank
943 Offered Rate.—

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

945 (a) "Benchmark" means an index of interest rates or
946 dividend rates that is used, in whole or in part, as the basis
947 of, or as a reference for, calculating or determining a
948 valuation, payment, or other measurement under or in respect of
949 a contract, security, or instrument.

950 (b) "Benchmark replacement" means a benchmark, an interest
951 rate, or a dividend rate that may or may not be based, in whole
952 or in part, on a prior setting of LIBOR, to replace LIBOR or any
953 interest rate or dividend rate based on LIBOR, whether on a
954 temporary, permanent, or indefinite basis, under or in respect
955 of a contract, security, or instrument.

956 (c) "Benchmark replacement conforming change" means, with
957 respect to any type of contract, security, or instrument, a
958 technical, administrative, or operational change, alteration, or
959 modification that is associated with and reasonably necessary to
960 the use, adoption, calculation, or implementation of a

961 recommended benchmark replacement and that meets both of the
962 following conditions:

963 1. The change, alteration, or modification has been
964 selected or recommended by a relevant recommending body.

965 2. If, in the reasonable judgment of the calculating
966 person, the change, alteration, or modification selected or
967 recommended under subparagraph 1. does not apply to the
968 contract, security, or instrument or is insufficient to allow
969 administration and calculation of the recommended benchmark
970 replacement, the benchmark replacement conforming change must
971 include other changes, alterations, or modifications that, in
972 the reasonable judgment of the calculating person:

973 a. Are necessary to allow administration and calculation
974 of the recommended benchmark replacement under or in respect of
975 the contract, security, or instrument in a manner consistent
976 with market practice for substantially similar contracts,
977 securities, or instruments and, to the extent practicable, the
978 manner in which the contract, security, or instrument was
979 administered immediately before the LIBOR replacement date; and

980 b. Would not result in a disposition of the contract,
981 security, or instrument for federal income tax purposes.

982 (d) "Calculating person" means, with respect to any
983 contract, security, or instrument, a person responsible for
984 calculating or determining a valuation, payment, or other

985 measurement based on a benchmark. This person may be the
 986 determining person.

987 (e) "Contract, security, or instrument" includes, without
 988 limitation, any contract, agreement, mortgage, deed of trust,
 989 lease, instrument, obligation, or security, whether representing
 990 debt or equity, and including any interest in a corporation,
 991 partnership, or limited liability company.

992 (f) "Determining person" means, with respect to any
 993 contract, security, or instrument, the following persons in
 994 decreasing order of priority:

995 1. A person so specified.

996 2. A person with the authority, right, or obligation to do
 997 any of the following:

998 a. Determine the benchmark replacement that will take
 999 effect on the LIBOR replacement date.

1000 b. Calculate or determine a valuation, payment, or other
 1001 measurement based on a benchmark.

1002 c. Notify other persons of the occurrence of a LIBOR
 1003 discontinuance event, a LIBOR replacement date, or a benchmark
 1004 replacement.

1005 (g) "Fallback provision" means a term in a contract,
 1006 security, or instrument that sets forth a methodology or
 1007 procedure for determining a benchmark replacement, including any
 1008 term relating to the date on which the benchmark replacement

1009 becomes effective, without regard to whether a benchmark
 1010 replacement can be determined in accordance with the methodology
 1011 or procedure.

1012 (h) "LIBOR" means, for purposes of the application of this
 1013 section to any particular contract, security, or instrument, the
 1014 United States dollar LIBOR, formerly known as the London
 1015 Interbank Offered Rate, as administered by ICE Benchmark
 1016 Administration, or any predecessor or successor thereof, or any
 1017 tenor thereof, as applicable, that is used in making any
 1018 calculation or determination of benchmark interest rates.

1019 (i)1. "LIBOR discontinuance event" means the earliest to
 1020 occur of any of the following:

1021 a. A public statement or publication of information by, or
 1022 on behalf of, the administrator of LIBOR announcing that the
 1023 administrator has ceased or will cease to provide LIBOR
 1024 permanently or indefinitely, if, at the time of the statement or
 1025 publication, there is no successor administrator that will
 1026 continue to provide LIBOR.

1027 b. A public statement or publication of information by the
 1028 regulatory supervisor for the administrator of LIBOR, the
 1029 Federal Reserve System, an insolvency official with jurisdiction
 1030 over the administrator of LIBOR, a resolution authority with
 1031 jurisdiction over the administrator of LIBOR, or a court or an
 1032 entity with similar insolvency or resolution authority over the

1033 administrator of LIBOR, announcing that the administrator of
1034 LIBOR has ceased or will cease to provide LIBOR permanently or
1035 indefinitely, if, at the time of the statement or publication,
1036 there is no successor administrator that will continue to
1037 provide LIBOR.

1038 c. A public statement or publication of information by the
1039 regulatory supervisor for the administrator of LIBOR announcing
1040 that LIBOR is no longer representative.

1041 2. A public statement or publication of information that
1042 affects one or more tenors of LIBOR does not constitute a LIBOR
1043 discontinuance event with respect to a contract, security, or
1044 instrument that:

1045 a. Provides for only one tenor of LIBOR, if the contract,
1046 security, or instrument requires interpolation and the tenor can
1047 be interpolated from LIBOR tenors that are not so affected; or

1048 b. Allows a party to choose from more than one tenor of
1049 LIBOR and any of the tenors is not so affected or, if the
1050 contract, security, or instrument requires interpolation, can be
1051 interpolated from LIBOR tenors that are not so affected.

1052 (j)1. "LIBOR replacement date" means:

1053 a. In the case of a LIBOR discontinuance event described
1054 in sub-subparagraph (i)1.a. or sub-subparagraph (i)1.b., the
1055 later of:

1056 (I) The date of the public statement or publication of

1057 information referenced in sub-subparagraph (i)1.a. or sub-
1058 subparagraph (i)1.b.; or

1059 (II) The date on which the administrator of LIBOR
1060 permanently or indefinitely ceases to provide LIBOR.

1061 b. In the case of a LIBOR discontinuance event described
1062 in sub-subparagraph (i)1.c., the date of the public statement or
1063 publication of information referenced in sub-subparagraph
1064 (i)1.c.

1065 2. A date that affects one or more tenors of LIBOR does
1066 not constitute a LIBOR replacement date with respect to a
1067 contract, security, or instrument that:

1068 a. Provides for only one tenor of LIBOR, if the contract,
1069 security, or instrument requires interpolation and the tenor can
1070 be interpolated from LIBOR tenors that are not so affected; or

1071 b. Allows a party to choose from more than one tenor of
1072 LIBOR and any of the tenors is not so affected or, if the
1073 contract, security, or instrument requires interpolation, can be
1074 interpolated from LIBOR tenors that are not so affected.

1075 (k) "Recommended benchmark replacement" means, with
1076 respect to any particular type of contract, security, or
1077 instrument, a benchmark replacement based on SOFR that must
1078 include any recommended spread adjustment and any benchmark
1079 replacement conforming change that have been selected or
1080 recommended by a relevant recommending body with respect to the

1081 type of contract, security, or instrument.

1082 (1) "Recommended spread adjustment" means a spread
1083 adjustment, or method for calculating or determining the spread
1084 adjustment, that has been selected or recommended by a relevant
1085 recommending body for a recommended benchmark replacement for a
1086 particular type of contract, security, or instrument and for a
1087 particular term to account for the effects of the transition or
1088 change from LIBOR to a recommended benchmark replacement. This
1089 term may be a positive or negative value or zero.

1090 (m) "Relevant recommending body" means the Federal Reserve
1091 Board, the Federal Reserve Bank of New York, or the Alternative
1092 Reference Rates Committee, or any successor to any of them.

1093 (n) "SOFR" means, with respect to any day, the secured
1094 overnight financing rate published for the day by the Federal
1095 Reserve Bank of New York as the administrator of the benchmark,
1096 or a successor administrator, on the Federal Reserve Bank of New
1097 York's website.

1098 (2) On the LIBOR replacement date, the recommended
1099 benchmark replacement, by operation of law, shall be the
1100 benchmark replacement for a contract, security, or instrument
1101 that uses LIBOR as a benchmark and that:

1102 (a) Does not contain any fallback provision; or

1103 (b) Contains fallback provisions resulting in a benchmark
1104 replacement, other than a recommended benchmark replacement,

1105 that is based in any way on a LIBOR value.

1106 (3) After the occurrence of a LIBOR discontinuance event,
1107 any fallback provisions in a contract, security, or instrument
1108 that provide for a benchmark replacement based on or otherwise
1109 involving a poll, survey, or inquiry for quotes or information
1110 concerning interbank lending rates or any interest rate or
1111 dividend rate based on LIBOR shall be void and of no force or
1112 effect.

1113 (4) (a) A determining person may, but is not required to,
1114 select on the day of or the day after the occurrence of a LIBOR
1115 discontinuance event the recommended benchmark replacement as
1116 the benchmark replacement. The selection of the recommended
1117 benchmark replacement must be:

1118 1. Irrevocable;

1119 2. Made by the earlier of the LIBOR replacement date, or
1120 the latest date for selecting a benchmark replacement according
1121 to the contract, security, or instrument; and

1122 3. Used in any determination of the benchmark under or
1123 with respect to the contract, security, or instrument occurring
1124 on and after the LIBOR replacement date.

1125 (b) Paragraph (a) applies to a contract, security, or
1126 instrument that uses LIBOR as a benchmark and that contains
1127 fallback provisions allowing or requiring the selection of a
1128 benchmark replacement that is:

1129 1. Based in any way on a LIBOR value; or

1130 2. The substantive equivalent of paragraph (6) (a),
1131 paragraph (6) (b), or paragraph (6) (c).

1132 (5) If a recommended benchmark replacement becomes the
1133 benchmark replacement for a contract, security, or instrument
1134 under this section, then all benchmark replacement conforming
1135 changes that are applicable to the recommended benchmark
1136 replacement must become an integral part of the contract,
1137 security, or instrument by operation of law.

1138 (6) The selection or use of a recommended benchmark
1139 replacement as a benchmark replacement under or in respect of a
1140 contract, security, or instrument by operation of this section
1141 must constitute all of the following:

1142 (a) A commercially reasonable replacement for and a
1143 commercially substantial equivalent to LIBOR.

1144 (b) A reasonable, comparable, or analogous term for LIBOR
1145 under or in respect of the contract, security, or instrument.

1146 (c) A replacement that is based on a methodology or
1147 information that is similar or comparable to LIBOR.

1148 (d) Substantial performance by any person of any right or
1149 obligation relating to or based on LIBOR under or in respect of
1150 a contract, security, or instrument.

1151 (7) A LIBOR discontinuance event, a LIBOR replacement
1152 date, the selection or use of a recommended benchmark

1153 replacement as a benchmark replacement, or the determination,
1154 implementation, or performance of a benchmark replacement
1155 conforming change, in each case, by operation of this section,
1156 may not:

1157 (a) Be deemed to impair or affect the right of any person
1158 to receive a payment, or affect the amount or timing of the
1159 payment, under a contract, security, or instrument;

1160 (b) Have the effect of discharging or excusing performance
1161 under a contract, security, or instrument for any reason, claim,
1162 or defense, including, but not limited to, any force majeure or
1163 other provision in a contract, security, or instrument;

1164 (c) Have the effect of giving any person the right to
1165 unilaterally terminate or suspend performance under a contract,
1166 security, or instrument;

1167 (d) Have the effect of constituting a breach of a
1168 contract, security, or instrument; or

1169 (e) Have the effect of voiding or nullifying a contract,
1170 security, or instrument.

1171 (8) A person is not liable for damages to any other
1172 person, and is not subject to any claim or request for equitable
1173 relief, arising out of or related to the selection or use of a
1174 recommended benchmark replacement or the determination,
1175 implementation, or performance of a benchmark replacement
1176 conforming change, in each case, by operation of this section.

1177 The selection or use of the recommended benchmark replacement or
 1178 the determination, implementation, or performance of a benchmark
 1179 replacement conforming change may not give rise to any claim or
 1180 cause of action by any person in law or in equity.

1181 (9) The selection or use of a recommended benchmark
 1182 replacement or the determination, implementation, or performance
 1183 of a benchmark replacement conforming change, by operation of
 1184 this section, may not be deemed to:

1185 (a) Be an amendment or modification of a contract,
 1186 security, or instrument.

1187 (b) Prejudice, impair, or affect a person's rights,
 1188 interests, or obligations under or in respect of a contract,
 1189 security, or instrument.

1190 (10) Except as provided in subsection (2) or subsection
 1191 (4), this section may not be interpreted as creating a negative
 1192 inference or negative presumption regarding the validity or
 1193 enforceability of any of the following:

1194 (a) A benchmark replacement that is not a recommended
 1195 replacement benchmark.

1196 (b) A spread adjustment, or method for calculating or
 1197 determining a spread adjustment, that is not a recommended
 1198 spread adjustment.

1199 (c) A change, alteration, or modification to or in respect
 1200 of a contract, security, or instrument that is not a benchmark

1201 replacement conforming change.

1202 (11) This section does not alter or impair any of the
1203 following:

1204 (a) A written agreement by all requisite parties that,
1205 retrospectively or prospectively, provides that a contract,
1206 security, or instrument is not subject to this section without
1207 necessarily referring specifically to this section. As used in
1208 this paragraph, the term "requisite parties" means all parties
1209 required to amend the terms and provisions of a contract,
1210 security, or instrument that would otherwise be altered or
1211 affected by this section.

1212 (b) A contract, security, or instrument that contains
1213 fallback provisions that would result in a benchmark replacement
1214 that is not based on LIBOR, including, but not limited to, the
1215 prime rate or the federal funds rate. However, the contract,
1216 security, or instrument is subject to subsection (3).

1217 (c) A contract, security, or instrument subject to
1218 subsection (4) as to which a determining person does not elect
1219 to use a recommended benchmark replacement or as to which a
1220 determining person elects to use a recommended benchmark
1221 replacement before the occurrence of a LIBOR discontinuance
1222 event. However, the contract, security, or instrument is subject
1223 to subsection (3).

1224 (d) The application to a recommended benchmark replacement

1225 of any cap, floor, modifier, or spread adjustment to which LIBOR
 1226 had been subject pursuant to the terms of a contract, security,
 1227 or instrument.

1228 (12) Notwithstanding the Uniform Commercial Code or any
 1229 other law of this state, and except as otherwise provided in
 1230 this section, this section applies to all contracts, securities,
 1231 and instruments, including contracts with respect to commercial
 1232 transactions, and may not be superseded by any other law of this
 1233 state.

1234 Section 6. Section 689.0705, Florida Statutes, is created
 1235 to read:

1236 689.0705 Benchmark replacements for the London Interbank
 1237 Offered Rate.—

1238 (1) As used in this section, the term:

1239 (a) "Benchmark" means an index of interest rates or
 1240 dividend rates that is used, in whole or in part, as the basis
 1241 of, or as a reference for, calculating or determining a
 1242 valuation, payment, or other measurement under or in respect of
 1243 a contract, security, or instrument.

1244 (b) "Benchmark replacement" means a benchmark, an interest
 1245 rate, or a dividend rate that may or may not be based, in whole
 1246 or in part, on a prior setting of LIBOR, to replace LIBOR or any
 1247 interest rate or dividend rate based on LIBOR, whether on a
 1248 temporary, permanent, or indefinite basis, under or in respect

1249 of a contract, security, or instrument.

1250 (c) "Benchmark replacement conforming change" means, with
1251 respect to any type of contract, security, or instrument, a
1252 technical, administrative, or operational change, alteration, or
1253 modification that is associated with and reasonably necessary to
1254 the use, adoption, calculation, or implementation of a
1255 recommended benchmark replacement and that meets both of the
1256 following conditions:

1257 1. The change, alteration, or modification has been
1258 selected or recommended by a relevant recommending body.

1259 2. If, in the reasonable judgment of the calculating
1260 person, the change, alteration, or modification selected or
1261 recommended under subparagraph 1. does not apply to the
1262 contract, security, or instrument or is insufficient to allow
1263 administration and calculation of the recommended benchmark
1264 replacement, the benchmark replacement conforming change must
1265 include other changes, alterations, or modifications that, in
1266 the reasonable judgment of the calculating person:

1267 a. Are necessary to allow administration and calculation
1268 of the recommended benchmark replacement under or in respect of
1269 the contract, security, or instrument in a manner consistent
1270 with market practice for substantially similar contracts,
1271 securities, or instruments and, to the extent practicable, the
1272 manner in which the contract, security, or instrument was

1273 administered immediately before the LIBOR replacement date; and

1274 b. Would not result in a disposition of the contract,
1275 security, or instrument for federal income tax purposes.

1276 (d) "Calculating person" means, with respect to any
1277 contract, security, or instrument, a person responsible for
1278 calculating or determining a valuation, payment, or other
1279 measurement based on a benchmark. This person may be the
1280 determining person.

1281 (e) "Contract, security, or instrument" includes, without
1282 limitation, any contract, agreement, mortgage, deed of trust,
1283 lease, instrument, obligation, or security, whether representing
1284 debt or equity, and including any interest in a corporation,
1285 partnership, or limited liability company.

1286 (f) "Determining person" means, with respect to any
1287 contract, security, or instrument, the following persons in
1288 decreasing order of priority:

1289 1. A person so specified.

1290 2. A person with the authority, right, or obligation to do
1291 any of the following:

1292 a. Determine the benchmark replacement that will take
1293 effect on the LIBOR replacement date.

1294 b. Calculate or determine a valuation, payment, or other
1295 measurement based on a benchmark.

1296 c. Notify other persons of the occurrence of a LIBOR

1297 discontinuance event, a LIBOR replacement date, or a benchmark
1298 replacement.

1299 (g) "Fallback provision" means a term in a contract,
1300 security, or instrument that sets forth a methodology or
1301 procedure for determining a benchmark replacement, including any
1302 term relating to the date on which the benchmark replacement
1303 becomes effective, without regard to whether a benchmark
1304 replacement can be determined in accordance with the methodology
1305 or procedure.

1306 (h) "LIBOR" means, for purposes of the application of this
1307 section to any particular contract, security, or instrument, the
1308 United States dollar LIBOR, formerly known as the London
1309 Interbank Offered Rate, as administered by ICE Benchmark
1310 Administration, or any predecessor or successor thereof, or any
1311 tenor thereof, as applicable, that is used in making any
1312 calculation or determination of benchmark interest rates.

1313 (i)1. "LIBOR discontinuance event" means the earliest to
1314 occur of any of the following:

1315 a. A public statement or publication of information by, or
1316 on behalf of, the administrator of LIBOR announcing that the
1317 administrator has ceased or will cease to provide LIBOR
1318 permanently or indefinitely, if, at the time of the statement or
1319 publication, there is no successor administrator that will
1320 continue to provide LIBOR.

1321 b. A public statement or publication of information by the
1322 regulatory supervisor for the administrator of LIBOR, the
1323 Federal Reserve System, an insolvency official with jurisdiction
1324 over the administrator of LIBOR, a resolution authority with
1325 jurisdiction over the administrator of LIBOR, or a court or an
1326 entity with similar insolvency or resolution authority over the
1327 administrator of LIBOR, announcing that the administrator of
1328 LIBOR has ceased or will cease to provide LIBOR permanently or
1329 indefinitely, if, at the time of the statement or publication,
1330 there is no successor administrator that will continue to
1331 provide LIBOR.

1332 c. A public statement or publication of information by the
1333 regulatory supervisor for the administrator of LIBOR announcing
1334 that LIBOR is no longer representative.

1335 2. A public statement or publication of information that
1336 affects one or more tenors of LIBOR does not constitute a LIBOR
1337 discontinuance event with respect to a contract, security, or
1338 instrument that:

1339 a. Provides for only one tenor of LIBOR, if the contract,
1340 security, or instrument requires interpolation and the tenor can
1341 be interpolated from LIBOR tenors that are not so affected; or

1342 b. Allows a party to choose from more than one tenor of
1343 LIBOR and any of the tenors is not so affected or, if the
1344 contract, security, or instrument requires interpolation, can be

1345 interpolated from LIBOR tenors that are not so affected.

1346 (j)1. "LIBOR replacement date" means:

1347 a. In the case of a LIBOR discontinuance event described
1348 in sub-subparagraph (i)1.a. or sub-subparagraph (i)1.b., the
1349 later of:

1350 (I) The date of the public statement or publication of
1351 information referenced in sub-subparagraph (i)1.a. or sub-
1352 paragraph (i)1.b.; or

1353 (II) The date on which the administrator of LIBOR
1354 permanently or indefinitely ceases to provide LIBOR.

1355 b. In the case of a LIBOR discontinuance event described
1356 in sub-subparagraph (i)1.c., the date of the public statement or
1357 publication of information referenced in sub-subparagraph
1358 (i)1.c.

1359 2. A date that affects one or more tenors of LIBOR does
1360 not constitute a LIBOR replacement date with respect to a
1361 contract, security, or instrument that:

1362 a. Provides for only one tenor of LIBOR, if the contract,
1363 security, or instrument requires interpolation and the tenor can
1364 be interpolated from LIBOR tenors that are not so affected; or

1365 b. Allows a party to choose from more than one tenor of
1366 LIBOR and any of the tenors is not so affected or, if the
1367 contract, security, or instrument requires interpolation, can be
1368 interpolated from LIBOR tenors that are not so affected.

1369 (k) "Recommended benchmark replacement" means, with
1370 respect to any particular type of contract, security, or
1371 instrument, a benchmark replacement based on SOFR that must
1372 include any recommended spread adjustment and any benchmark
1373 replacement conforming change that have been selected or
1374 recommended by a relevant recommending body with respect to the
1375 type of contract, security, or instrument.

1376 (l) "Recommended spread adjustment" means a spread
1377 adjustment, or method for calculating or determining the spread
1378 adjustment, that has been selected or recommended by a relevant
1379 recommending body for a recommended benchmark replacement for a
1380 particular type of contract, security, or instrument and for a
1381 particular term to account for the effects of the transition or
1382 change from LIBOR to a recommended benchmark replacement. This
1383 term may be a positive or negative value or zero.

1384 (m) "Relevant recommending body" means the Federal Reserve
1385 Board, the Federal Reserve Bank of New York, or the Alternative
1386 Reference Rates Committee, or any successor to any of them.

1387 (n) "SOFR" means, with respect to any day, the secured
1388 overnight financing rate published for the day by the Federal
1389 Reserve Bank of New York as the administrator of the benchmark,
1390 or a successor administrator, on the Federal Reserve Bank of New
1391 York's website.

1392 (2) On the LIBOR replacement date, the recommended

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1393 benchmark replacement, by operation of law, shall be the
1394 benchmark replacement for a contract, security, or instrument
1395 that uses LIBOR as a benchmark and that:

1396 (a) Does not contain any fallback provision; or
1397 (b) Contains fallback provisions resulting in a benchmark
1398 replacement, other than a recommended benchmark replacement,
1399 that is based in any way on a LIBOR value.

1400 (3) After the occurrence of a LIBOR discontinuance event,
1401 any fallback provisions in a contract, security, or instrument
1402 that provide for a benchmark replacement based on or otherwise
1403 involving a poll, survey, or inquiry for quotes or information
1404 concerning interbank lending rates or any interest rate or
1405 dividend rate based on LIBOR shall be void and of no force or
1406 effect.

1407 (4) (a) A determining person may, but is not required to,
1408 select on the day of or the day after the occurrence of a LIBOR
1409 discontinuance event the recommended benchmark replacement as
1410 the benchmark replacement. The selection of the recommended
1411 benchmark replacement must be:

1412 1. Irrevocable;
1413 2. Made by the earlier of the LIBOR replacement date, or
1414 the latest date for selecting a benchmark replacement according
1415 to the contract, security, or instrument; and
1416 3. Used in any determination of the benchmark under or

1417 with respect to the contract, security, or instrument occurring
1418 on and after the LIBOR replacement date.

1419 (b) Paragraph (a) applies to a contract, security, or
1420 instrument that uses LIBOR as a benchmark and that contains
1421 fallback provisions allowing or requiring the selection of a
1422 benchmark replacement that is:

1423 1. Based in any way on a LIBOR value; or

1424 2. The substantive equivalent of paragraph (6) (a),
1425 paragraph (6) (b), or paragraph (6) (c).

1426 (5) If a recommended benchmark replacement becomes the
1427 benchmark replacement for a contract, security, or instrument
1428 under this section, then all benchmark replacement conforming
1429 changes that are applicable to the recommended benchmark
1430 replacement must become an integral part of the contract,
1431 security, or instrument by operation of law.

1432 (6) The selection or use of a recommended benchmark
1433 replacement as a benchmark replacement under or in respect of a
1434 contract, security, or instrument by operation of this section
1435 must constitute all of the following:

1436 (a) A commercially reasonable replacement for and a
1437 commercially substantial equivalent to LIBOR.

1438 (b) A reasonable, comparable, or analogous term for LIBOR
1439 under or in respect of the contract, security, or instrument.

1440 (c) A replacement that is based on a methodology or

1441 information that is similar or comparable to LIBOR.

1442 (d) Substantial performance by any person of any right or
1443 obligation relating to or based on LIBOR under or in respect of
1444 a contract, security, or instrument.

1445 (7) A LIBOR discontinuance event, a LIBOR replacement
1446 date, the selection or use of a recommended benchmark
1447 replacement as a benchmark replacement, or the determination,
1448 implementation, or performance of a benchmark replacement
1449 conforming change, in each case, by operation of this section,
1450 may not:

1451 (a) Be deemed to impair or affect the right of any person
1452 to receive a payment, or affect the amount or timing of the
1453 payment, under a contract, security, or instrument;

1454 (b) Have the effect of discharging or excusing performance
1455 under a contract, security, or instrument for any reason, claim,
1456 or defense, including, but not limited to, any force majeure or
1457 other provision in a contract, security, or instrument;

1458 (c) Have the effect of giving any person the right to
1459 unilaterally terminate or suspend performance under a contract,
1460 security, or instrument;

1461 (d) Have the effect of constituting a breach of a
1462 contract, security, or instrument; or

1463 (e) Have the effect of voiding or nullifying a contract,
1464 security, or instrument.

1465 (8) A person is not liable for damages to any other
1466 person, and is not subject to any claim or request for equitable
1467 relief, arising out of or related to the selection or use of a
1468 recommended benchmark replacement or the determination,
1469 implementation, or performance of a benchmark replacement
1470 conforming change, in each case, by operation of this section.
1471 The selection or use of the recommended benchmark replacement or
1472 the determination, implementation, or performance of a benchmark
1473 replacement conforming change may not give rise to any claim or
1474 cause of action by any person in law or in equity.

1475 (9) The selection or use of a recommended benchmark
1476 replacement or the determination, implementation, or performance
1477 of a benchmark replacement conforming change, by operation of
1478 this section, may not be deemed to:

1479 (a) Be an amendment or modification of a contract,
1480 security, or instrument.

1481 (b) Prejudice, impair, or affect a person's rights,
1482 interests, or obligations under or in respect of a contract,
1483 security, or instrument.

1484 (10) Except as provided in subsection (2) or subsection
1485 (4), this section may not be interpreted as creating a negative
1486 inference or negative presumption regarding the validity or
1487 enforceability of any of the following:

1488 (a) A benchmark replacement that is not a recommended

1489 replacement benchmark.

1490 (b) A spread adjustment, or method for calculating or
1491 determining a spread adjustment, that is not a recommended
1492 spread adjustment.

1493 (c) A change, alteration, or modification to or in respect
1494 of a contract, security, or instrument that is not a benchmark
1495 replacement conforming change.

1496 (11) This section does not alter or impair any of the
1497 following:

1498 (a) A written agreement by all requisite parties that,
1499 retrospectively or prospectively, provides that a contract,
1500 security, or instrument is not subject to this section without
1501 necessarily referring specifically to this section. As used in
1502 this paragraph, the term "requisite parties" means all parties
1503 required to amend the terms and provisions of a contract,
1504 security, or instrument that would otherwise be altered or
1505 affected by this section.

1506 (b) A contract, security, or instrument that contains
1507 fallback provisions that would result in a benchmark replacement
1508 that is not based on LIBOR, including, but not limited to, the
1509 prime rate or the federal funds rate. However, the contract,
1510 security, or instrument is subject to subsection (3).

1511 (c) A contract, security, or instrument subject to
1512 subsection (4) as to which a determining person does not elect

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1513 to use a recommended benchmark replacement or as to which a
1514 determining person elects to use a recommended benchmark
1515 replacement before the occurrence of a LIBOR discontinuance
1516 event. However, the contract, security, or instrument is subject
1517 to subsection (3).

1518 (d) The application to a recommended benchmark replacement
1519 of any cap, floor, modifier, or spread adjustment to which LIBOR
1520 had been subject pursuant to the terms of a contract, security,
1521 or instrument.

1522 (12) Notwithstanding the Uniform Commercial Code or any
1523 other law of this state, and except as otherwise provided in
1524 this section, this section applies to all contracts, securities,
1525 and instruments, including contracts with respect to commercial
1526 transactions, and may not be superseded by any other law of this
1527 state.

1528 Section 7. Section 697.015, Florida Statutes, is created
1529 to read:

1530 697.015 Benchmark replacements for the London Interbank
1531 Offered Rate.—

1532 (1) As used in this section, the term:

1533 (a) "Benchmark" means an index of interest rates or
1534 dividend rates that is used, in whole or in part, as the basis
1535 of, or as a reference for, calculating or determining a
1536 valuation, payment, or other measurement under or in respect of

1537 a contract, security, or instrument.

1538 (b) "Benchmark replacement" means a benchmark, an interest
1539 rate, or a dividend rate that may or may not be based, in whole
1540 or in part, on a prior setting of LIBOR, to replace LIBOR or any
1541 interest rate or dividend rate based on LIBOR, whether on a
1542 temporary, permanent, or indefinite basis, under or in respect
1543 of a contract, security, or instrument.

1544 (c) "Benchmark replacement conforming change" means, with
1545 respect to any type of contract, security, or instrument, a
1546 technical, administrative, or operational change, alteration, or
1547 modification that is associated with and reasonably necessary to
1548 the use, adoption, calculation, or implementation of a
1549 recommended benchmark replacement and that meets both of the
1550 following conditions:

1551 1. The change, alteration, or modification has been
1552 selected or recommended by a relevant recommending body.

1553 2. If, in the reasonable judgment of the calculating
1554 person, the change, alteration, or modification selected or
1555 recommended under subparagraph 1. does not apply to the
1556 contract, security, or instrument or is insufficient to allow
1557 administration and calculation of the recommended benchmark
1558 replacement, the benchmark replacement conforming change must
1559 include other changes, alterations, or modifications that, in
1560 the reasonable judgment of the calculating person:

1561 a. Are necessary to allow administration and calculation
1562 of the recommended benchmark replacement under or in respect of
1563 the contract, security, or instrument in a manner consistent
1564 with market practice for substantially similar contracts,
1565 securities, or instruments and, to the extent practicable, the
1566 manner in which the contract, security, or instrument was
1567 administered immediately before the LIBOR replacement date; and

1568 b. Would not result in a disposition of the contract,
1569 security, or instrument for federal income tax purposes.

1570 (d) "Calculating person" means, with respect to any
1571 contract, security, or instrument, a person responsible for
1572 calculating or determining a valuation, payment, or other
1573 measurement based on a benchmark. This person may be the
1574 determining person.

1575 (e) "Contract, security, or instrument" includes, without
1576 limitation, any contract, agreement, mortgage, deed of trust,
1577 lease, instrument, obligation, or security, whether representing
1578 debt or equity, and including any interest in a corporation,
1579 partnership, or limited liability company.

1580 (f) "Determining person" means, with respect to any
1581 contract, security, or instrument, the following persons in
1582 decreasing order of priority:

1583 1. A person so specified.

1584 2. A person with the authority, right, or obligation to do

1585 any of the following:

1586 a. Determine the benchmark replacement that will take
1587 effect on the LIBOR replacement date.

1588 b. Calculate or determine a valuation, payment, or other
1589 measurement based on a benchmark.

1590 c. Notify other persons of the occurrence of a LIBOR
1591 discontinuance event, a LIBOR replacement date, or a benchmark
1592 replacement.

1593 (g) "Fallback provision" means a term in a contract,
1594 security, or instrument that sets forth a methodology or
1595 procedure for determining a benchmark replacement, including any
1596 term relating to the date on which the benchmark replacement
1597 becomes effective, without regard to whether a benchmark
1598 replacement can be determined in accordance with the methodology
1599 or procedure.

1600 (h) "LIBOR" means, for purposes of the application of this
1601 section to any particular contract, security, or instrument, the
1602 United States dollar LIBOR, formerly known as the London
1603 Interbank Offered Rate, as administered by ICE Benchmark
1604 Administration, or any predecessor or successor thereof, or any
1605 tenor thereof, as applicable, that is used in making any
1606 calculation or determination of benchmark interest rates.

1607 (i)1. "LIBOR discontinuance event" means the earliest to
1608 occur of any of the following:

1609 a. A public statement or publication of information by, or
1610 on behalf of, the administrator of LIBOR announcing that the
1611 administrator has ceased or will cease to provide LIBOR
1612 permanently or indefinitely, if, at the time of the statement or
1613 publication, there is no successor administrator that will
1614 continue to provide LIBOR.

1615 b. A public statement or publication of information by the
1616 regulatory supervisor for the administrator of LIBOR, the
1617 Federal Reserve System, an insolvency official with jurisdiction
1618 over the administrator of LIBOR, a resolution authority with
1619 jurisdiction over the administrator of LIBOR, or a court or an
1620 entity with similar insolvency or resolution authority over the
1621 administrator of LIBOR, announcing that the administrator of
1622 LIBOR has ceased or will cease to provide LIBOR permanently or
1623 indefinitely, if, at the time of the statement or publication,
1624 there is no successor administrator that will continue to
1625 provide LIBOR.

1626 c. A public statement or publication of information by the
1627 regulatory supervisor for the administrator of LIBOR announcing
1628 that LIBOR is no longer representative.

1629 2. A public statement or publication of information that
1630 affects one or more tenors of LIBOR does not constitute a LIBOR
1631 discontinuance event with respect to a contract, security, or
1632 instrument that:

1633 a. Provides for only one tenor of LIBOR, if the contract,
1634 security, or instrument requires interpolation and the tenor can
1635 be interpolated from LIBOR tenors that are not so affected; or

1636 b. Allows a party to choose from more than one tenor of
1637 LIBOR and any of the tenors is not so affected or, if the
1638 contract, security, or instrument requires interpolation, can be
1639 interpolated from LIBOR tenors that are not so affected.

1640 (j)1. "LIBOR replacement date" means:

1641 a. In the case of a LIBOR discontinuance event described
1642 in sub-subparagraph (i)1.a. or sub-subparagraph (i)1.b., the
1643 later of:

1644 (I) The date of the public statement or publication of
1645 information referenced in sub-subparagraph (i)1.a. or sub-
1646 paragraph (i)1.b.; or

1647 (II) The date on which the administrator of LIBOR
1648 permanently or indefinitely ceases to provide LIBOR.

1649 b. In the case of a LIBOR discontinuance event described
1650 in sub-subparagraph (i)1.c., the date of the public statement or
1651 publication of information referenced in sub-subparagraph
1652 (i)1.c.

1653 2. A date that affects one or more tenors of LIBOR does
1654 not constitute a LIBOR replacement date with respect to a
1655 contract, security, or instrument that:

1656 a. Provides for only one tenor of LIBOR, if the contract,

1657 security, or instrument requires interpolation and the tenor can
1658 be interpolated from LIBOR tenors that are not so affected; or

1659 b. Allows a party to choose from more than one tenor of
1660 LIBOR and any of the tenors is not so affected or, if the
1661 contract, security, or instrument requires interpolation, can be
1662 interpolated from LIBOR tenors that are not so affected.

1663 (k) "Recommended benchmark replacement" means, with
1664 respect to any particular type of contract, security, or
1665 instrument, a benchmark replacement based on SOFR that must
1666 include any recommended spread adjustment and any benchmark
1667 replacement conforming change that have been selected or
1668 recommended by a relevant recommending body with respect to the
1669 type of contract, security, or instrument.

1670 (l) "Recommended spread adjustment" means a spread
1671 adjustment, or method for calculating or determining the spread
1672 adjustment, that has been selected or recommended by a relevant
1673 recommending body for a recommended benchmark replacement for a
1674 particular type of contract, security, or instrument and for a
1675 particular term to account for the effects of the transition or
1676 change from LIBOR to a recommended benchmark replacement. This
1677 term may be a positive or negative value or zero.

1678 (m) "Relevant recommending body" means the Federal Reserve
1679 Board, the Federal Reserve Bank of New York, or the Alternative
1680 Reference Rates Committee, or any successor to any of them.

1681 (n) "SOFR" means, with respect to any day, the secured
1682 overnight financing rate published for the day by the Federal
1683 Reserve Bank of New York as the administrator of the benchmark,
1684 or a successor administrator, on the Federal Reserve Bank of New
1685 York's website.

1686 (2) On the LIBOR replacement date, the recommended
1687 benchmark replacement, by operation of law, shall be the
1688 benchmark replacement for a contract, security, or instrument
1689 that uses LIBOR as a benchmark and that:

1690 (a) Does not contain any fallback provision; or

1691 (b) Contains fallback provisions resulting in a benchmark
1692 replacement, other than a recommended benchmark replacement,
1693 that is based in any way on a LIBOR value.

1694 (3) After the occurrence of a LIBOR discontinuance event,
1695 any fallback provisions in a contract, security, or instrument
1696 that provide for a benchmark replacement based on or otherwise
1697 involving a poll, survey, or inquiry for quotes or information
1698 concerning interbank lending rates or any interest rate or
1699 dividend rate based on LIBOR shall be void and of no force or
1700 effect.

1701 (4) (a) A determining person may, but is not required to,
1702 select on the day of or the day after the occurrence of a LIBOR
1703 discontinuance event the recommended benchmark replacement as
1704 the benchmark replacement. The selection of the recommended

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1705 benchmark replacement must be:

1706 1. Irrevocable;

1707 2. Made by the earlier of the LIBOR replacement date, or
1708 the latest date for selecting a benchmark replacement according
1709 to the contract, security, or instrument; and

1710 3. Used in any determination of the benchmark under or
1711 with respect to the contract, security, or instrument occurring
1712 on and after the LIBOR replacement date.

1713 (b) Paragraph (a) applies to a contract, security, or
1714 instrument that uses LIBOR as a benchmark and that contains
1715 fallback provisions allowing or requiring the selection of a
1716 benchmark replacement that is:

1717 1. Based in any way on a LIBOR value; or

1718 2. The substantive equivalent of paragraph (6)(a),
1719 paragraph (6)(b), or paragraph (6)(c).

1720 (5) If a recommended benchmark replacement becomes the
1721 benchmark replacement for a contract, security, or instrument
1722 under this section, then all benchmark replacement conforming
1723 changes that are applicable to the recommended benchmark
1724 replacement must become an integral part of the contract,
1725 security, or instrument by operation of law.

1726 (6) The selection or use of a recommended benchmark
1727 replacement as a benchmark replacement under or in respect of a
1728 contract, security, or instrument by operation of this section

1729 must constitute all of the following:

1730 (a) A commercially reasonable replacement for and a
1731 commercially substantial equivalent to LIBOR.

1732 (b) A reasonable, comparable, or analogous term for LIBOR
1733 under or in respect of the contract, security, or instrument.

1734 (c) A replacement that is based on a methodology or
1735 information that is similar or comparable to LIBOR.

1736 (d) Substantial performance by any person of any right or
1737 obligation relating to or based on LIBOR under or in respect of
1738 a contract, security, or instrument.

1739 (7) A LIBOR discontinuance event, a LIBOR replacement
1740 date, the selection or use of a recommended benchmark
1741 replacement as a benchmark replacement, or the determination,
1742 implementation, or performance of a benchmark replacement
1743 conforming change, in each case, by operation of this section,
1744 may not:

1745 (a) Be deemed to impair or affect the right of any person
1746 to receive a payment, or affect the amount or timing of the
1747 payment, under a contract, security, or instrument;

1748 (b) Have the effect of discharging or excusing performance
1749 under a contract, security, or instrument for any reason, claim,
1750 or defense, including, but not limited to, any force majeure or
1751 other provision in a contract, security, or instrument;

1752 (c) Have the effect of giving any person the right to

1753 unilaterally terminate or suspend performance under a contract,
1754 security, or instrument;

1755 (d) Have the effect of constituting a breach of a
1756 contract, security, or instrument; or

1757 (e) Have the effect of voiding or nullifying a contract,
1758 security, or instrument.

1759 (8) A person is not liable for damages to any other
1760 person, and is not subject to any claim or request for equitable
1761 relief, arising out of or related to the selection or use of a
1762 recommended benchmark replacement or the determination,
1763 implementation, or performance of a benchmark replacement
1764 conforming change, in each case, by operation of this section.
1765 The selection or use of the recommended benchmark replacement or
1766 the determination, implementation, or performance of a benchmark
1767 replacement conforming change may not give rise to any claim or
1768 cause of action by any person in law or in equity.

1769 (9) The selection or use of a recommended benchmark
1770 replacement or the determination, implementation, or performance
1771 of a benchmark replacement conforming change, by operation of
1772 this section, may not be deemed to:

1773 (a) Be an amendment or modification of a contract,
1774 security, or instrument.

1775 (b) Prejudice, impair, or affect a person's rights,
1776 interests, or obligations under or in respect of a contract,

1777 security, or instrument.

1778 (10) Except as provided in subsection (2) or subsection
1779 (4), this section may not be interpreted as creating a negative
1780 inference or negative presumption regarding the validity or
1781 enforceability of any of the following:

1782 (a) A benchmark replacement that is not a recommended
1783 replacement benchmark.

1784 (b) A spread adjustment, or method for calculating or
1785 determining a spread adjustment, that is not a recommended
1786 spread adjustment.

1787 (c) A change, alteration, or modification to or in respect
1788 of a contract, security, or instrument that is not a benchmark
1789 replacement conforming change.

1790 (11) This section does not alter or impair any of the
1791 following:

1792 (a) A written agreement by all requisite parties that,
1793 retrospectively or prospectively, provides that a contract,
1794 security, or instrument is not subject to this section without
1795 necessarily referring specifically to this section. As used in
1796 this paragraph, the term "requisite parties" means all parties
1797 required to amend the terms and provisions of a contract,
1798 security, or instrument that would otherwise be altered or
1799 affected by this section.

1800 (b) A contract, security, or instrument that contains

1801 fallback provisions that would result in a benchmark replacement
1802 that is not based on LIBOR, including, but not limited to, the
1803 prime rate or the federal funds rate. However, the contract,
1804 security, or instrument is subject to subsection (3).

1805 (c) A contract, security, or instrument subject to
1806 subsection (4) as to which a determining person does not elect
1807 to use a recommended benchmark replacement or as to which a
1808 determining person elects to use a recommended benchmark
1809 replacement before the occurrence of a LIBOR discontinuance
1810 event. However, the contract, security, or instrument is subject
1811 to subsection (3).

1812 (d) The application to a recommended benchmark replacement
1813 of any cap, floor, modifier, or spread adjustment to which LIBOR
1814 had been subject pursuant to the terms of a contract, security,
1815 or instrument.

1816 (12) Notwithstanding the Uniform Commercial Code or any
1817 other law of this state, and except as otherwise provided in
1818 this section, this section applies to all contracts, securities,
1819 and instruments, including contracts with respect to commercial
1820 transactions, and may not be superseded by any other law of this
1821 state.

1822 Section 8. This act is remedial in nature and applies
1823 retroactively to all contracts, agreements, mortgages, deeds of
1824 trust, leases, instruments, obligations, or securities, whether

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1825 representing debt or equity, and including all interests in a
1826 corporation, partnership, or limited liability company, in
1827 existence on December 31, 2021.

1828 Section 9. This act shall take effect upon becoming a law.