

CHAPTER 99-138

Committee Substitute for Senate Bill No. 1280

An act relating to financial institutions; amending s. 655.0385, F.S.; revising the time period within which state financial institutions must notify the department concerning the appointment or employment of certain individuals; authorizing the Department of Banking and Finance to exempt certain financial institutions from reporting requirements relating to directors and executive officers; providing for the adoption of rules; amending s. 655.948, F.S.; revising notice and disclosure requirements; exempting certain financial institutions from reporting requirements; amending s. 658.26, F.S.; providing for certain financial institutions to establish branches by filing a written notice; providing an effective date.

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

Section 1. Section 655.0385, Florida Statutes, is amended to read:

655.0385 Disapproval of directors and executive officers.—

(1) Each state financial institution shall notify the department of the proposed appointment of any individual to the board of directors or the employment of any individual as an executive officer or equivalent position at least 60 ~~30~~ days before such appointment or employment becomes effective, if the state financial institution:

(a) Has been chartered for less than 2 years;

(b) Has undergone a change in control or conversion within the preceding 2 years. The department may exempt a financial institution from this paragraph if it operates in a safe and sound manner;

(c) Is not in compliance with the minimum capital requirements applicable to such financial institution; or

(d) Is otherwise operating in an unsafe and unsound condition, as determined by the department, on the basis of such financial institution's most recent report of condition or report of examination.

(2) A state financial institution may not appoint any individual to the board of directors, or employ any individual as an executive officer or equivalent position, if the department issues a notice of disapproval with respect to that person.

(3) The department shall issue a notice of disapproval if the competence, experience, character, or integrity of the individual to be appointed or employed indicates that it is not in the best interests of the depositors, the members, or the public to permit the individual to be employed by or associated with the state financial institution.

(4) The department may adopt rules to implement this section.

Section 2. Section 655.948, Florida Statutes, is amended to read:

655.948 Significant events; notice required.—

(1) Unless exempted by the department pursuant to subsection (4), every financial institution shall notify the department of the occurrence of any of the events listed in subsection (2) by filing with the department a disclosure in a form to be specified by the department. The form shall include the number and caption of all applicable events, along with a summary of each. Completed forms shall be certified for authenticity and accuracy by the chief executive officer of the financial institution.

(2) Events for which disclosure forms must be filed and the filing schedule for each are as follows:

(a) To be disclosed within 30 days of the occurrence of the event:

1. The addition, resignation, or termination of a director, executive officer, independent internal auditor, or independent credit review officer;

2. The acquisition or divestiture of an asset or assets the value of which exceeds 20 percent of capital as of the date of the most recent call report. Any assets listed in s. 657.042(1) or s. 658.67(1) are excluded from such disclosure requirements;

3. Any change in general counsel or outside auditors who are used to certify financial statements;

4. Any interruption of fidelity insurance coverage;

5. Any credit extension to an executive officer and his or her related interests that, when aggregated with the amount of all other extensions of credit to that executive officer and his or her related interests, exceeds 15 percent of the capital accounts of the financial institution;

6. The failure to meet the minimum daily liquidity required of s. 658.68;

7. Any suspected criminal act perpetrated against a financial institution, subsidiary, or service corporation. However, no liability shall be incurred by any financial institution, subsidiary, service corporation, or financial institution-affiliated party as a result of making a good faith effort to fulfill this disclosure requirement; or

8. The acquisition or divestiture of a wholly owned or majority owned subsidiary or service corporation.

(b) Every financial institution shall notify the department within 30 days of the existence of any asset which is defined as a nonaccrual asset and which is in excess of 15 percent of total assets.

(3) A financial institution which fails to file a disclosure form within 30 days after the occurrence shall be subject to the fines provided in s. 655.041.

(4)(a) The department must will exempt a financial institution from any of the provisions of this section if the department determines that such financial institution is operating in a safe and sound manner pursuant to departmental rules relating to safe and sound operations. The department, prior to granting any such exemption, shall adopt rules defining the term "safe and sound" and explicitly stating the criteria which shall constitute operating in a safe and sound manner.

(b) ~~Notwithstanding paragraph(a) this section, all newly chartered financial institutions and financial institutions which have undergone a change in ownership which is not the result of a merger, consolidation or acquisition by a financial institution exempted in paragraph (a), shall be subject to the requirements of subsections (1) and (2) these provisions for 3 years.~~

Section 3. Paragraph (c) of subsection (2) of section 658.26, Florida Statutes, is amended to read:

658.26 Places of transacting business; branches; facilities.—

(2)

(c) As provided by departmental rule, a financial institution operating in a safe and sound manner may establish a branch by filing a written notice with the department at least 30 days before opening that branch. In such case, the financial institution need not file a branch application or pay a branch application fee. A branch application, filed by a strong, well-managed state bank or trust company, which is not denied within 10 working days after receipt of the application shall be deemed approved unless the department notifies the financial institution in writing that the application was not complete.

Section 4. This act shall take effect July 1, 1999.

Approved by the Governor April 22, 1999.

Filed in Office Secretary of State April 22, 1999.