

Committee Substitute for Senate Bill No. 1260

An act relating to financial institutions; amending s. 68.065, F.S.; removing a requirement that a written demand be delivered as a requirement for certain recoveries on worthless checks, drafts, or orders of payment; amending ss. 655.043, 655.411, and 658.23, F.S.; deleting provisions relating to reservation of proposed names of financial entities with the Department of State; providing legislative intent; specifying certain deposits as pay-on-death designated accounts under certain circumstances; amending s. 655.059, F.S.; authorizing certain disclosures permitted by certain federal law; amending s. 655.50, F.S.; clarifying certain exemption provisions relating to reports by financial institutions for money laundering purposes; amending s. 658.12, F.S.; revising a definition of the term banker's bank; amending s. 658.165, F.S.; providing criteria for formation of a banker's bank; providing application; amending s. 658.19, F.S.; providing for return and resubmission of certain applications under certain circumstances; amending s. 658.21, F.S.; revising application approval criteria relating to limitations on certain capital accounts and experience of certain officers; amending s. 658.235, F.S.; clarifying a requirement for subscriptions for stock; amending s. 658.25, F.S.; revising bank or trust company opening for business date criterion; amending s. 658.26, F.S.; clarifying provisions relating to branch places of transacting business; revising certain operational characteristics; renumbering s. 663.066, F.S., as s. 658.285, F.S.; amending s. 658.34, F.S.; revising a condition for the issuance of authorized but unissued bank or trust company capital stock; amending s. 658.73, F.S.; revising certain fees and assessments provisions; imposing an additional fee for certain certificates; amending s. 663.09, F.S.; deleting an administrative fine provision for certain late audits; amending s. 658.48, F.S.; revising limitations on the percentage of the capital accounts of the lending bank which apply to loans made to any one borrower on the security of shares of capital stock; revising the circumstances in which a bank may not make loans; repealing s. 655.81, F.S., relating to deposits in trust; amending s. 655.82, F.S.; prescribing survivorship rights among beneficiaries of pay-on-death accounts; providing effective dates.

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

Section 1. Subsection (3) of section 68.065, Florida Statutes, is amended to read:

68.065 Actions to collect worthless checks, drafts, or orders of payment; attorney's fees and collection costs.—

(3) Before recovery under subsection (1) ~~or subsection (2)~~ may be claimed, a written demand shall be delivered by certified or registered mail, evidenced by return receipt, to the maker or drawer of the check, draft, or order of payment. The form of such notice shall be substantially as follows:

“You are hereby notified that a check numbered in the face amount of \$.... issued by you on ...(date)..., drawn upon ...(name of bank)..., and payable to, has been dishonored. Pursuant to Florida law, you have 30 days from receipt of this notice to tender payment in cash of the full amount of the check plus a service charge of \$25, if the face value does not exceed \$50, \$30, if the face value exceeds \$50 but does not exceed \$300, \$40, if the face value exceeds \$300, or 5 percent of the face amount of the check, whichever is greater, the total amount due being \$.... and cents. Unless this amount is paid in full within the 30-day period, the holder of the check or instrument may file a civil action against you for three times the amount of the check, but in no case less than \$50, in addition to the payment of the check plus any court costs, reasonable attorney fees, and any bank fees incurred by the payee in taking the action.”

Section 2. Section 655.043, Florida Statutes, is amended to read:

655.043 Articles of incorporation; amendments; approval.—

(4) A bank, trust company, or association may not amend its articles of incorporation without the written approval of the department.

~~(2) The department may not approve any amendment to the articles of incorporation which requests a change in name of the bank, trust company, or association without evidence that the proposed new name has been reserved with the Department of State.~~

Section 3. (1) Because deposits in trust are also accounts with a pay-on-death designation as described in section 655.82, Florida Statutes, it is the intent of the Legislature that the provisions of section 655.82, Florida Statutes, shall apply to and govern deposits in trust. References to section 655.81, Florida Statutes, in any depository agreement shall be interpreted after the effective date of this act as references to section 655.82, Florida Statutes.

(2) This section shall take effect July 1, 2001, and shall apply to deposits made to a depository account created after December 31, 1994.

Section 4. Paragraph (b) of subsection (2) of section 655.059, Florida Statutes, is amended to read:

655.059 Access to books and records; confidentiality; penalty for disclosure.—

(2)

(b) The books and records pertaining to the deposit accounts and loans of depositors, borrowers, members, and stockholders of any financial institution shall be kept confidential by the financial institution and its directors, officers, and employees and shall not be released except upon express authorization of the account holder as to her or his own accounts, loans, or voting rights. However, information relating to any loan made by a financial institution may be released without the borrower's authorization in a manner prescribed by the board of directors for the purpose of meeting the needs of

commerce and for fair and accurate credit information. Information may also be released, without the authorization of a member or depositor but in a manner prescribed by the board of directors, to verify or corroborate the existence or amount of a customer's or member's account when such information is reasonably provided to meet the needs of commerce and to ensure accurate credit information. In addition, a financial institution, affiliate, and its subsidiaries, and any holding company of the financial institution or subsidiary of such holding company, may furnish to one another information relating to their customers or members, subject to the requirement that each corporation receiving information that is confidential maintain the confidentiality of such information and not provide or disclose such information to any unaffiliated person or entity. Notwithstanding this paragraph, nothing in this subsection shall prohibit a financial institution from disclosing financial information as referenced in this subsection as permitted by Public Law 106-102(1999), as set forth in 15 U.S.C.A., s. 6802, as amended.

Section 5. Paragraph (c) of subsection (1) of section 655.411, Florida Statutes, is amended to read:

655.411 Conversion of charter.—

(1) Any financial entity may apply to the department for permission to convert its charter without a change of business form or convert its charter in order to do business as another type of financial entity in accordance with the following procedures:

(c) The department shall approve the plan if it finds that:

1. The resulting financial entity would have an adequate capital structure with regard to its activities and its deposit liabilities.

2. The proposed conversion would not cause a substantially adverse effect on the financial condition of any financial entity already established in the primary service area.

3. The officers and directors have sufficient experience, ability, and standing to indicate reasonable promise for successful operation of the resulting financial entity.

~~4. The proposed name of the resulting financial entity has been reserved with the Department of State.~~

4.5. The schedule for termination of any nonconforming activities and disposition of any nonconforming assets and liabilities is reasonably prompt, and the plan for such termination and disposition does not include any unsafe or unsound practice.

5.6. None of the officers or directors has been convicted of, or pled guilty or nolo contendere to, a violation of s. 655.50, relating to the Florida Control of Money Laundering in Financial Institutions Act; chapter 896, relating to offenses related to financial transactions; or any similar state or federal law.

If the department disapproves the plan, it shall state its objections and give an opportunity to the parties to amend the plan to overcome such objections.

The department may deny an application by any financial entity which is subject to a cease and desist order or other supervisory restriction or order imposed by any state or federal supervisory authority, insurer, or guarantor.

Section 6. Subsection (6) and paragraph (d) of subsection (8) of section 655.50, Florida Statutes, are amended to read:

655.50 Florida Control of Money Laundering in Financial Institutions Act; reports of transactions involving currency or monetary instruments; when required; purpose; definitions; penalties.—

~~(6) Unless otherwise provided by rule, a financial institution may exempt from the reporting requirements of this section deposits, withdrawals, exchanges, or payments exempted from the reporting requirements of 31 U.S.C. s. 5313. Each financial institution shall maintain a record of each designation of a person granted exemption under the authority of 31 U.S.C. s. 5313 granted, including any the name, address, and type of business, taxpayer identification number of the exempt person, as well as the name and address of the financial institution, account number, and the signature of the financial institution official designating the exempt person customer granted the exemption; a written statement describing in detail the customary conduct of the lawful business of that customer and the reasons why such customer qualified for such an exemption; the type of transactions exempted; and the dollar limit of each exempt transaction. Such record of exemptions shall be made available to the department for inspection and copying and shall be submitted to the department within 15 days after request.~~

(8)

(d) The financial institution shall retain a copy of all records of exemption for each designation of exempt person made customer granted pursuant to subsection (6) for a minimum of 5 calendar years after termination of exempt status of such customer. However, if it is known by the financial institution that the customer or the transactions of the customer are the subject of an existing criminal proceeding, the records shall be retained for a minimum of 10 calendar years after termination of exempt status of such customer.

Section 7. Subsection (3) of section 658.12, Florida Statutes, is amended to read:

658.12 Definitions.—Subject to other definitions contained in the financial institutions codes and unless the context otherwise requires:

(3) “Banker’s bank” means a bank insured by the Federal Deposit Insurance Corporation, or a holding company which owns or controls such an insured bank, when the stock of such bank or holding company is owned exclusively by other banks and such bank or holding company and all subsidiaries thereof are engaged exclusively in providing services for other financial depository institutions and their officers, directors, and employees.

Section 8. Present subsection (4) of section 658.165, Florida Statutes, is renumbered as subsection (6), and new subsections (4) and (5) are added to that section, to read:

658.165 Banker's banks; formation; applicability of financial institutions codes; exceptions.—

(4) A banker's bank may provide services at the request of financial institutions in organizations that have:

(a) Received conditional regulatory approval from the department in the case of a state bank or preliminary approval from the Office of the Comptroller of the Currency in the case of a national bank.

(b) Filed articles of incorporation pursuant to s. 658.23 in the case of a state bank, or filed acceptable articles of incorporation and an organization certificate in the case of a national bank.

(c) Received capital funds in an amount not less than the minimum capitalization required in any notice of or order granting conditional regulatory approval.

(5) A banker's bank may provide services to the organizers of a proposed financial institution that has not received conditional regulatory approval provided that such services are limited to the financing of the expenses of organizing such financial institution and expenses relating to the acquisition or construction of the institution's proposed operating facilities and associated fixtures and equipment.

Section 9. Subsection (3) is added to section 658.19, Florida Statutes, to read:

658.19 Application for authority to organize a bank or trust company.—

(3) Notwithstanding chapter 120, an application may be returned to the applicant, on a one-time basis, for correction of substantial deficiencies and may be resubmitted without payment of an additional fee if such resubmission takes place within 60 days after the date the department returns the application.

Section 10. Section 658.21, Florida Statutes, is amended to read:

658.21 Approval of application; findings required.—The department shall approve the application if it finds that:

(1) Local conditions indicate reasonable promise of successful operation for the proposed state bank or trust company. In determining whether an applicant meets the requirements of this subsection, the department shall consider all materially relevant factors, including:

(a) The purpose, objectives, and business philosophy of the proposed state bank or trust company.

(b) The projected financial performance of the proposed bank or trust company.

(c) The feasibility of the proposed bank or trust company, as stated in the business plan, particularly with respect to asset and liability growth and management.

(2) The proposed capitalization is in such amount as the department deems adequate, but in no case may the total capital accounts at opening for a bank be less than ~~\$6~~ \$4 million if the proposed bank is to be located in any county which is included in a metropolitan statistical area, or ~~\$4~~ \$2 million if the proposed bank is to be located in any other county. The total capital accounts at opening for a trust company may not be less than \$2 million. Of total capital accounts at opening, as noted in the application or amendments or changes to the application, at least 25 percent of the capital shall be directly owned or controlled by the organizing directors of the bank. Directors of banks owned by single-bank holding companies shall have direct ownership or control of at least 25 percent of the bank holding company's capital accounts. The department may disallow illegally obtained currency, monetary instruments, funds, or other financial resources from the capitalization requirements of this section.

(3) The proposed capital structure is in such form as the department may require, but, at a minimum, every state bank or trust company hereafter organized shall establish:

(a) paid-in capital equal in amount to not less than 50 percent of its total capital accounts and.

(b) a paid-in surplus equal in amount to not less than 20 percent of its paid-in capital.

(c) ~~A fund to be designated as undivided profits equal in amount to not less than 5 percent of its paid-in capital.~~

(4) The proposed officers have sufficient financial institution experience, ability, standing, and reputation and the proposed directors have sufficient business experience, ability, standing, and reputation to indicate reasonable promise of successful operation, and none of the proposed officers or directors has been convicted of, or pled guilty or nolo contendere to, any violation of s. 655.50, relating to the Florida Control of Money Laundering in Financial Institutions Act; chapter 896, relating to offenses related to financial institutions; or any similar state or federal law. At least ~~two~~ one of the proposed directors who are is not also a proposed ~~officers~~ officer shall have had at least 1 year direct experience as an executive officer, regulator, or director of a financial institution within 3 years of the date of the application. ~~However, This requirement may be waived by the department if the applicant demonstrates that at least one of the proposed directors~~ director has very substantial experience as an executive officer, director, or regulator of a financial institution more than 3 years before the date of the application, the department may modify the requirement and allow only one director to have direct financial institution experience within the last 3 years. The proposed president or chief executive officer shall have had at least 1 year of direct experience as an executive officer, director, or regulator of a financial institution within the last 3 years.

(5) The corporate name of the proposed state bank or trust company is approved by ~~reserved with~~ the department of State.

(6) Provision has been made for suitable quarters at the location in the application.

Section 11. Subsection (6) of section 658.23, Florida Statutes, is amended to read:

658.23 Submission of articles of incorporation; contents; form; approval; filing; commencement of corporate existence; bylaws.—

(6) A bank or trust company may not amend its articles of incorporation without the prior written approval of the department. ~~The department may not approve any amendment to the articles of incorporation which requests a change in name of the bank or trust company without evidence that the proposed name has been reserved with the Department of State.~~

Section 12. Subsection (1) of section 658.235, Florida Statutes, is amended to read:

658.235 Subscriptions for stock; approval of major shareholders.—

(1) Within 6 months after commencement of corporate existence, and at least 30 days prior to opening the issuance of stock, the directors shall have completed the stock offering and shall file with the department a final list of subscribers to all of the capital stock of the proposed bank or trust company showing the name and residence of each subscriber and the amount of stock of every class subscribed for by each.

Section 13. Subsection (1) of section 658.25, Florida Statutes, is amended to read:

658.25 Opening for business.—

(1) A bank or trust company corporation shall open and conduct a general commercial bank or trust business no later than 12 6 months after the commencement of its corporate existence. ~~For good cause shown, the department may extend the opening date for an additional period, not to exceed 6 months, on its own motion or at the request of the bank or trust company.~~

Section 14. Section 658.26, Florida Statutes, is amended to read:

658.26 Places of transacting business; branches; facilities.—

(1) Any bank or trust company heretofore or hereafter incorporated pursuant to this chapter shall have one main office, which shall be located within the state.

(2)(a) In addition, with the approval of the department and upon such conditions as the department prescribes, any bank or trust company may establish branches within or outside the state. With the approval of the department upon a determination that the resulting bank or trust company will be of sound financial condition, any bank or trust company incorporated pursuant to this chapter may establish branches by merger with any other bank or trust company.

(b) An application for a branch by a bank that does not meet the requirements for the branch notification process shall be in writing in such form as the department prescribes and be supported by such information, data, and records as the department may require to make findings necessary for approval. Applications filed pursuant to this subsection shall not be published in the Florida Administrative Weekly but shall otherwise be subject to the provisions of chapter 120. Upon the filing of an application and a nonrefundable filing fee for the establishment of any branch permitted by paragraph (a), the department shall make an investigation with respect to compliance with the requirements of paragraph (a) and shall investigate and consider all factors relevant to such requirements, including the following:

1. The sufficiency of capital accounts in relation to the deposit liabilities of the bank, or in relation to the number and valuation of fiduciary accounts of the trust company, including the proposed branch, and the additional fixed assets, if any, which are proposed for the branch and its operations, without undue risk to the bank or its depositors, or undue risk to the trust company or its fiduciary accounts;

2. The sufficiency of earnings and earning prospects of the bank or trust company to support the anticipated expenses and any anticipated operating losses of the branch during its formative or initial years;

3. The sufficiency and quality of management available to operate the branch;

4. The name of the proposed branch to determine if it reasonably identifies the branch as a branch of the main office and is not likely to unduly confuse the public; and

5. Substantial compliance by the applicants with applicable law governing their operations.

(3)(a) An office in this state may be relocated with prior written approval of the department. An application for relocation shall be in writing in such form as the department prescribes and shall be supported by such information, data, and records as the department may require to make findings necessary for approval.

(b) Applications filed pursuant to this subsection shall not be published in the Florida Administrative Weekly but shall otherwise be subject to the provisions of chapter 120. ~~However, an application for the relocation of a main office that has not been in operation for at least 24 months shall be published in the Florida Administrative Weekly.~~ Upon the filing of a relocation application and a nonrefundable filing fee, the department shall investigate to determine substantial compliance by the financial institution with applicable law governing its operations. Additional investments in land, buildings, leases, and leasehold improvements resulting from such relocation shall comply with the limitations imposed by s. 658.67(7)(a). A main office may not be moved outside this state unless expressly authorized by the financial institutions codes or by federal law.

(c) A relocation application, filed by a ~~strong, well-managed~~ state bank or trust company that is operating in a safe and sound manner, which is not denied within 10 working days after receipt shall be deemed approved unless the department notifies the financial institution in writing that the application was not complete.

(d) In addition to the application required by paragraph (a), a financial institution whose main office in this state has been in operation less than 24 months must provide evidence that the criteria of s. 658.21(1) will be met.

~~(e) With 30 days' prior written notice, an established branch office may be consolidated with another established branch office when the two offices are located within a 1-mile radius. The notice shall include any information the department may prescribe by rule.~~

~~(e)(f)~~ A branch office may be closed with 30 days' prior written notice to the department. The notice shall include any information the department may prescribe by rule.

(4) With prior written notification to the department, any bank may operate facilities which are not physically connected to the main or branch office of the bank, provided that the facilities are situated on the property of the main or branch office or property contiguous thereto. Property which is separated from the main or branch office of a bank by only a street, and one or more walkways and alleyways are determined to be, for purposes of this subsection, contiguous to the property of the main or branch office.

(5) A bank may provide, directly or through a contract with another company, off-premises armored car service to its customers. Armored car services shall not be considered a branch for the purposes of subsection (2).

(6)(a) Any state bank that is a subsidiary of a bank holding company may agree to receive deposits, renew time deposits, close loans, service loans, and receive payments on loans and other obligations, as an agent for an affiliated depository institution.

(b) The term "close loan" does not include the making of a decision to extend credit or the extension of credit.

(c) As used in this section, "receive deposits" means the taking of deposits to be credited to an existing account and does not include the opening or origination of new deposit accounts at an affiliated institution by the agent institution.

(d) Under this section, affiliated banks may act as agents for one another regardless of whether the institutions are located in the same or different states. This section applies solely to affiliated depository institutions acting as agents, and has no application to agency relationships concerning non-depositories as agent, whether or not affiliated with the depository institution.

(e) In addition, under this section, agent banks may perform ministerial functions for the principal bank making a loan. Ministerial functions include, but are not limited to, such activities as providing loan applications,

assembling documents, providing a location for returning documents necessary for making the loan, providing loan account information, and receiving payments. It does not include such loan functions as evaluating applications or disbursing loan funds.

~~For the purposes of this section, a strong, well-managed state bank or trust company is an institution that has been in operation for at least 24 months, is well capitalized, has received a satisfactory rating at the institution's most recent state or federal safety and soundness examination, and is not the object of any enforcement action.~~

Section 15. Section 663.066, Florida Statutes, is transferred and renumbered as section 658.285, Florida Statutes.

Section 16. Paragraph (b) of subsection (4) of section 658.34, Florida Statutes, is amended to read:

658.34 Shares of capital stock.—

(4) With the approval of the department, a bank or trust company may issue less than all the number of shares of any of its capital stock authorized by its articles of incorporation. Such authorized but unissued shares may be issued only for the following purposes:

~~(b) To declare or pay a stock dividend, with the approval of the department; however, any such stock dividend must comply with the provisions of this section and s. 658.37.~~

Section 17. Section 658.73, Florida Statutes, is amended to read:

658.73 Fees and assessments.—

(1) Each state bank and state trust company shall pay to the department examination fees and assessments as follows:

(a) A semiannual fee of \$2,500; and

(b) A semiannual assessment, each in such amount as may be determined by the department, by rule, but not exceeding 15 cents for each \$1,000 of total assets as shown on the statement of condition of the bank or trust company as of the last business day in June and the last business day in December in each year. In its determination, the department may consider examination fees and application fees received from banks and trust companies in setting the semiannual assessment for purposes of meeting the cost of regulation of banks and trust companies subject to this chapter.

(2) Applications filed with the department shall be accompanied by payment of the following nonrefundable fees:

(a) Fifteen thousand dollars for each application for authority to organize a new state bank or state trust company.

(b) Two thousand five hundred dollars for each application by an existing bank or association for trust powers.

(c) Seven thousand five hundred dollars for each application for authority to acquire a controlling interest in a state bank or state trust company; however, if more than one bank or trust company is being acquired in any such application, the fee shall be increased by \$3,500 for each additional bank or trust company. However, in no event shall the fee exceed \$15,000.

(d) Seven thousand five hundred dollars for each application for conversion of a national bank to a state bank.

~~(e) Seven hundred fifty dollars for each application to establish a branch of a strong, well-managed state bank or trust company as defined in s. 658.26. One thousand five hundred dollars for each application to establish a branch by any other state bank or state trust company that does not qualify for the branch notification process.~~

(f) One thousand five hundred dollars for each application for authority to establish a trust service office of a state trust company or of a trust department of a state bank or association, and a like amount for each application by a bank or association with trust powers which is not a state bank or state association for authority to establish a trust service office at a state bank, state association, or state credit union.

(g) Seven thousand five hundred dollars for each application for a merger or consolidation; however, if three or more banks or trust companies are involved in any such application, the fee shall be \$3,500 for each involved institution. However, in no event shall the fee exceed \$15,000.

(h) Two thousand five hundred dollars to establish a successor institution.

~~(i) Seven Two hundred fifty dollars for each application by a strong, well-managed state bank or trust company, as defined in s. 658.26, to relocate the main office of a state bank or a state trust company. Each other state bank or trust company not operating in a safe and sound manner shall pay a fee of \$750 for each application for relocation of its main office.~~

(j) Two thousand five hundred dollars for each application for the purchase of assets and the assumption of liabilities. ~~If, as a result of such application, the applicant will establish more than 10 branch offices within this state, an application fee of \$100 is required for each additional branch office.~~

(3)(a) If, as a result of any application filed with the department, the department determines that an examination is necessary to assess the financial condition of any financial institution, the applying financial institution shall pay to the department a nonrefundable examination fee, pursuant to s. 655.045(1).

~~(b) The department may refund up to one-half of the fee submitted with an application if the application is withdrawn by the applicant prior to publication in the Florida Administrative Weekly.~~

(4) Each state bank and state trust company shall pay to the department \$25 for each "certificate of good standing" certifying that a state-chartered

financial institution is licensed to conduct business in this state under the financial institutions codes. All such requests shall be in writing. The department shall waive this fee when the request is by a state or federal regulatory agency or law enforcement agency.

(5)(4) The amounts of all fees and assessments provided for in this section shall be deemed to be maximum amounts; and the department has the authority to establish, by rule, and from time to time to change, fees and assessments in amounts less than the maximum amounts stated in this section.

Section 18. Subsection (2) of section 663.09, Florida Statutes, is amended to read:

663.09 Reports; records.—

(2) The international banking corporation of each state-licensed international bank agency or international branch shall perform or cause to be performed an audit of such international bank agency or international branch. The department shall, by rule, prescribe the minimum audit procedures including the audit reporting requirements which would satisfy the provisions of this subsection. ~~The late submission of an audit shall be subject to the imposition of the administrative fine prescribed by s. 655.045(2)(b).~~

Section 19. Subsection (5) of section 658.48, Florida Statutes, is amended to read:

658.48 Loans.—A state bank may make loans and extensions of credit, with or without security, subject to the following limitations and provisions:

(5) SPECIAL PROVISIONS.—

(a) A limitation of 25 percent of the capital accounts of the lending bank applies to the aggregate of all loans made to a corporation together with all loans secured by shares of stock, bonds, or other obligations of the same corporation, unless the stocks or bonds are listed and traded on a recognized stock exchange or are registered under the Securities Exchange Act of 1934 or are registered with the Board of Governors of the Federal Reserve System, with the Federal Deposit Insurance Corporation, or with the Comptroller of the Currency, in which case no aggregate loan limit applies.

(b) A limitation of 15 percent of the capital accounts of the lending bank applies to loans made to any one borrower on the security of shares of capital stock listed and traded on a recognized exchange. A limitation of 10 percent of the capital accounts of the lending bank applies to loans made to any one borrower on the security of shares of capital stock not listed on a recognized exchange or the obligations subordinate to deposits of another bank. A limitation of 25 percent of the capital accounts of the lending state bank applies to the aggregate of all loans secured by the shares of capital stock or the obligations subordinate to deposits of any one bank.

(c) No loan shall be made by a bank:

1. On the security of the shares of its own capital stock, ~~of stock of its own one-bank holding company,~~ or of its obligations subordinate to deposits.

2. On an unsecured basis for the purpose of the purchase of shares of its own capital stock, ~~stock of its own one-bank holding company,~~ or its obligations subordinate to deposits.

3. On a secured or unsecured basis for the purpose of the purchase of shares of the stock of its one-bank holding company.

(d) A one-bank holding company bank may make loans on its own one-bank holding company stock. For capital stock that is listed and traded on a recognized exchange, the stock may not be valued at more than 70 percent of its current market value, and for capital stock that is not listed and traded on a recognized exchange, the stock may not be valued at more than 70 percent of its current book value.

~~(e)~~(d) Loans based upon the security of real estate mortgages shall be documented as first liens, except that liens other than first liens may be taken:

1. To protect a loan previously made in good faith;
2. To further secure a loan otherwise amply and entirely secured;
3. As additional security for Federal Housing Administration Title 1 loans or loans made with participation or guaranty by the Small Business Administration;
4. To secure a loan not in excess of 15 percent of the capital accounts of the bank; or
5. As provided by rules of the department.

~~(f)~~(e) In computing the total liabilities of any person, there shall be included all loans endorsed or guaranteed as to repayment by such person and by any related interest of such person.

~~(g)~~(f) All loan documentation shall be written in the English language or contain an English translation of foreign language provisions.

Section 20. Effective July 1, 2001, section 655.81, Florida Statutes, is repealed.

Section 21. Paragraph (b) of subsection (3) of section 655.82, Florida Statutes, is amended to read:

655.82 Pay-on-death accounts.—

(3) In an account with a pay-on-death designation:

(b) On the death of the sole party or the last survivor of two or more parties, sums on deposit belong to the surviving beneficiary or beneficiaries. If two or more beneficiaries survive, sums on deposit belong to them in equal

and undivided shares, and, unless otherwise provided in a depository agreement written between December 31, 1994, and July 1, 2001, there is no right of survivorship in the event of death of a beneficiary thereafter. If no beneficiary survives, sums on deposit belong to the estate of the last surviving party.

Section 22. Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law.

Approved by the Governor June 15, 2001.

Filed in Office Secretary of State June 15, 2001.