

CHAPTER 2015-64

Committee Substitute for Committee Substitute for Senate Bill No. 806

An act relating to the regulation of financial institutions; amending s. 655.005, F.S.; redefining the terms “main office” and “principal office”; amending s. 655.047, F.S.; requiring that mailed semiannual assessments be received by the Office of Financial Regulation by a specified date; requiring that electronically transmitted semiannual assessments be transmitted to the office by specified dates; amending s. 655.60, F.S.; deleting the requirement that the office select a licensed or certified appraiser to conduct certain appraisals; deleting the requirement that the office approve the cost of certain appraisals before payment of that cost by a state financial institution, subsidiary, or service corporation; amending s. 658.19, F.S.; revising the individuals for whom certain information must be provided to the office on an application for authority to organize a banking corporation or trust company; amending s. 660.33, F.S.; conforming a cross-reference; amending s. 663.08, F.S.; requiring an international banking corporation to provide its annual certification of capital accounts to the office by a specified date; creating s. 663.021, F.S.; providing that specified entities of an international banking corporation are not required, in response to a subpoena, to produce certain books or records that are maintained outside the United States or its territories and are not in the entities’ possession, custody, or control; specifying the applicability of the section to certain types of subpoenas; providing that the section does not limit certain regulatory and supervisory powers of the office; reenacting ss. 655.960(8) and 663.302(1)(a), F.S., to incorporate the amendment made to s. 655.005, F.S., in references thereto; reenacting ss. 658.165(1), 665.013(3), and 667.003(3), F.S., to incorporate the amendment made to s. 658.19, F.S., in references thereto; reenacting s. 658.12(4), F.S., to incorporate the amendment made to s. 660.33, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (q) of subsection (1) of section 655.005, Florida Statutes, is amended to read:

655.005 Definitions.—

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

(q) “Main office” or “principal office” of a financial institution means the main business office designated in its articles of incorporation or bylaws, or redesignated in a relocation application filed with the office, at an identified location approved by the office in the case of a state financial institution, or by the appropriate federal regulatory agency in the case of a federal financial

institution. With respect to the trust department of a bank or association that has trust powers, the terms mean the office or place of business of the trust department at an identified location, which need not be the same location as the main office of the bank or association, approved by the office in the case of a state bank or association, or by the appropriate federal regulatory agency in the case of a national bank or federal association. The “main office” or “principal office” of a trust company means the office designated or provided for in its articles of incorporation, at an identified location as approved by the relevant chartering authority.

Section 2. Subsection (2) of section 655.047, Florida Statutes, is amended to read:

655.047 Assessments; financial institutions.—

(2) If mailed, the mailing of a semiannual assessment must be received by the office postmarked on or before January 31 and July 31 of each year. If transmitted through a wire transfer, an automated clearinghouse, or other electronic means approved by the office, the semiannual assessment must be transmitted to the office on or before January 31 and July 31 of each year. The office may levy a late payment penalty of up to \$100 per day or part thereof that a semiannual assessment payment is overdue, unless it is excused for good cause. However, for intentional late payment of a semiannual assessment, the office shall levy an administrative fine of up to \$1,000 a day for each day the semiannual assessment is overdue.

Section 3. Subsection (1) of section 655.60, Florida Statutes, is amended to read:

655.60 Appraisals.—

(1) The office is authorized to cause appraisals to be made ~~appraisals~~ of real estate or other property held by ~~a any~~ state financial institution, subsidiary, or service corporation or securing the assets of the state financial institution, subsidiary, or service corporation ~~if when~~ specific facts or information with respect to real estate or other property held, secured loans, or lending, or when in its opinion the state financial institution’s policies, practices, operating results, and trends give evidence that the state financial institution’s appraisals or evaluations of ability to make payments may be excessive, that lending or investment may be of a marginal nature, that appraisal policies and loan practices may not conform with generally accepted and established professional standards, or that real estate or other property held by the state financial institution, subsidiary, or service corporation or assets secured by real estate or other property are overvalued. In lieu of causing such appraisals to be made, the office may accept any appraisal caused to be made by an appropriate state or federal regulatory agency or other insuring agency or corporation of a state financial institution. Unless otherwise ordered by the office, an appraisal of real estate or other property pursuant to this section must be made by a licensed or certified appraiser ~~or appraisers selected by the office, and the cost of such appraisal~~

shall be paid promptly by such state financial institution, subsidiary, or service corporation directly to such appraiser or appraisers upon receipt by the state financial institution of a statement of such cost bearing the written approval of the office. A copy of the report of each appraisal caused to be made by the office pursuant to this section shall be furnished to the state financial institution, subsidiary, or service corporation within a reasonable time, not exceeding 60 days, following the completion of the such appraisal and may be furnished to the insuring agency or corporation or federal or state regulatory agency.

Section 4. Paragraph (f) of subsection (1) of section 658.19, Florida Statutes, is amended to read:

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

(1) A written application for authority to organize a banking corporation or a trust company shall be filed with the office by the proposed directors and shall include:

(f) Such detailed financial, business, and biographical information as the commission or office may reasonably require for each proposed director, ~~president, chief executive officer (if other than the president), and, if applicable,~~ trust officer (if applicable).

Section 5. Subsection (1) of section 660.33, Florida Statutes, is amended to read:

660.33 Trust service offices.—

(1) In addition to its principal office and any branch trust company authorized under ~~s. 658.26 s. 660.32~~, a trust company or a trust department with its principal place of doing business in this state may maintain one or more trust service offices at the location of any bank, association, or credit union ~~that~~ which is organized under the laws of this state or under the laws of the United States with its principal place of doing business in this state. However, a trust service office may be established only after the trust company or ~~the~~ trust department has secured the consent of a majority of the stockholders or members entitled to vote on such proposal at a meeting of stockholders or members, and of a majority of the board of directors, of the bank, association, or credit union at which a trust service office is proposed to be maintained, and after a certificate of authorization has been issued to the trust company or ~~the~~ trust department by the office.

Section 6. Section 663.08, Florida Statutes, is amended to read:

663.08 Certification of capital accounts.—Before opening an office in this state, and annually thereafter so long as a bank office is maintained in this state, an international banking corporation licensed pursuant to ss. 663.01-663.14 shall certify to the office the amount of its capital accounts, expressed in the currency of the jurisdiction of its incorporation. The dollar equivalent of these amounts, as determined by the office, shall be deemed to be the

amount of its capital accounts. The annual certification of capital accounts must be received by the office on or before June 30 of each year.

Section 7. Section 663.021, Florida Statutes, is created to read:

663.021 Civil action subpoena enforcement.—

(1) Notwithstanding s. 655.059, an international representative office, international bank agency, international branch, international trust company representative office, or international administrative office established under this chapter is not required to produce a book or record pertaining to a deposit account, investment account, or loan of a customer of the international banking corporation's offices that are located outside the United States or its territories in response to a subpoena if the book or record is maintained outside the United States or its territories and is not in the possession, custody, or control of the international banking corporation's office, agency, or branch established in this state.

(2) This section applies only to a subpoena issued pursuant to the Florida Rules of Civil Procedure, the Federal Rules of Civil Procedure, or other similar law or rule of civil procedure in another state. This section does not apply to a subpoena issued by or on behalf of a federal, state, or local government law enforcement agency, administrative or regulatory agency, legislative body, or grand jury and does not limit the power of the office to access all books and records in the exercise of the office's regulatory and supervisory powers under the financial institutions codes.

Section 8. For the purpose of incorporating the amendment made by this act to section 655.005, Florida Statutes, in a reference thereto, subsection (8) of section 655.960, Florida Statutes, is reenacted to read:

655.960 Definitions; ss. 655.960-655.965.—As used in this section and ss. 655.961-655.965, unless the context otherwise requires:

(8) "Financial institution office" means a main office or principal office, as defined in s. 655.005, and a branch or branch office as defined in s. 658.12(4).

Section 9. For the purpose of incorporating the amendment made by this act to section 655.005, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 663.302, Florida Statutes, is reenacted to read:

663.302 Applicability of state banking laws.—

(1)(a) International development banks shall be subject to the following provisions of chapter 655 as though such international development banks were state banks:

1. Section 655.005, relating to definitions.
2. Section 655.012, relating to general supervisory powers of the office.

- 3. Section 655.016, relating to liability.
- 4. Section 655.031, relating to administrative enforcement guidelines.
- 5. Section 655.032, relating to investigations; etc.
- 6. Section 655.0321, relating to hearings and proceedings.
- 7. Section 655.033, relating to cease and desist orders.
- 8. Section 655.034, relating to injunctions.
- 9. Section 655.037, relating to removal of financial institution-affiliated party.
- 10. Section 655.041, relating to administrative fines.
- 11. Section 655.043, relating to articles of incorporation.
- 12. Section 655.044, relating to accounting practices.
- 13. Section 655.045, relating to examinations, reports, and internal audits.
- 14. Section 655.049, relating to deposit of fees and assessments.
- 15. Section 655.057, relating to records.
- 16. Section 655.071, relating to international banking facilities.
- 17. Section 655.50, relating to reports of transactions involving currency.

Section 10. For the purpose of incorporating the amendment made by this act to section 658.19, Florida Statutes, in a reference thereto, subsection (1) of section 658.165, Florida Statutes, is reenacted to read:

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

(1) If authorized by the office, a corporation may be formed under the laws of this state for the purpose of becoming a banker’s bank. An application for authority to organize a banker’s bank is subject to ss. 658.19, 658.20, and 658.21, except that s. 658.20(1)(b) and (c) and the minimum stock ownership requirements for the organizing directors provided in s. 658.21(2) do not apply.

Section 11. For the purpose of incorporating the amendment made by this act to section 658.19, Florida Statutes, in a reference thereto, subsection (3) of section 665.013, Florida Statutes, is reenacted to read:

665.013 Applicability of chapter 658.—The following sections of chapter 658, relating to banks and trust companies, are applicable to an association to the same extent as if the association were a “bank” operating thereunder:

(3) Section 658.19, relating to application for authority to organize a bank or trust company.

Section 12. For the purpose of incorporating the amendment made by this act to section 658.19, Florida Statutes, in a reference thereto, subsection (3) of section 667.003, Florida Statutes, is reenacted to read:

667.003 Applicability of chapter 658.—Any state savings bank is subject to all the provisions, and entitled to all the privileges, of the financial institutions codes except where it appears, from the context or otherwise, that such provisions clearly apply only to banks or trust companies organized under the laws of this state or the United States. Without limiting the foregoing general provisions, it is the intent of the Legislature that the following provisions apply to a savings bank to the same extent as if the savings bank were a “bank” operating under such provisions:

(3) Section 658.19, relating to application for authority to organize a bank or trust company.

Section 13. For the purpose of incorporating the amendment made by this act to section 660.33, Florida Statutes, in a reference thereto, subsection (4) of section 658.12, Florida Statutes, is reenacted to read:

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

(4) “Branch” or “branch office” of a bank means any office or place of business of a bank, other than its main office and the facilities and operations authorized by ss. 658.26(4) and 660.33, at which deposits are received, checks are paid, or money is lent. With respect to a bank that has a trust department, the terms have the meanings herein ascribed to a branch or a branch office of a trust company and mean any office or place of business of a trust company, other than its main office and its trust service offices established pursuant to s. 660.33, where trust business is transacted with its customers.

Section 14. This act shall take effect October 1, 2015.

Approved by the Governor May 21, 2015.

Filed in Office Secretary of State May 21, 2015.