

STORAGE NAME: s0916s1z.com
DATE: 07/26/90

**HOUSE OF REPRESENTATIVES
COMMITTEE ON COMMERCE
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/SB 916
RELATING TO: Financial Institutions
SPONSOR(S): Committee on Commerce, Senator Johnson and others
EFFECTIVE DATE: October 1, 1990
DATE BECAME LAW: June 11, 1990
CHAPTER #: 90-51, Laws of Florida
COMPANION BILL(S): HB 1923
OTHER COMMITTEES OF REFERENCE: (1) Governmental Operations

(2)

I. SUMMARY:

The bill authorizes the Department of Banking and Finance (“Department”) to prevent financial institutions and their officers, directors, employees and major shareholders which have committed violations of currency transaction reporting requirements or money laundering laws from obtaining Departmental approval to do business in this state. The Department is authorized to disallow illegally obtained financial resources from the capitalization requirements of financial institutions.

A. PRESENT SITUATION:

The Department has no express authority to prevent people or financial institutions charged with or convicted of violating currency transaction reporting requirements or money laundering laws from conducting business in Florida. Additionally, the Department has no express authority to disallow illegally obtained assets from the capitalization requirements of financial institutions.

In a proceeding for the issuance of a license of a financial institution or the approval of a merger, any person may request a hearing within 21 days of publication of the notice of application. If a hearing is not timely requested, then the person shall be deemed to have waived any right to a hearing. The Department has 180 days after receipt of a completed application, or 30 days after conclusion of a public hearing (whichever is later), to grant or deny the application.

B. EFFECT OF PROPOSED CHANGES:

The bill authorizes the Department to disapprove any application for authority to organize a financial institution in Florida upon a finding that any officer or director of the proposed institution has been convicted of, or pled guilty or nolo contendere to, a violation of currency transaction reporting requirements or money laundering laws. The bill also authorizes the Department to remove any officer, director or employee, who has committed a violation of the currency reporting requirements or money laundering laws, from participating in the affairs of the financial institution. The Department is authorized to disallow illegally obtained financial resources from the calculation of whether a financial institution meets statutory capitalization requirements. The bill also extends the time in which an applicant, for a license or approval of a merger, and the Department may request a hearing.

C. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends the list of causes for removal or suspension of any director, officer, committee member, employee of a financial institution or any other person involved in its affairs. The list is amended to include persons who have violated, been convicted of, or pled guilty or nolo contendere to a violation of currency transaction reporting requirements or money laundering laws.

Section 2: Amends the criteria for the Department to consider in determining whether to approve any financial institution's request to convert its charter to do business as another type of financial institution. The list of criteria is amended to include whether any officers and directors have been convicted of, or pled guilty or nolo contendere to, a violation of currency transaction reporting requirements or money laundering laws.

Section 3: Amends the list of criteria for a person who wishes to serve on the board of directors of a credit union. The list is amended to prohibit persons who have been convicted of, or pled guilty or nolo contendere to, a violation of currency transaction reporting requirements or money laundering laws.

Section 4: Authorizes the Department to disallow illegally obtained financial resources from the capitalization requirements for de novo banks or trust companies. Additionally, the criteria for an applicant for a bank or trust company has been amended to include whether any proposed officer has been convicted of, or pled guilty or nolo contendere to, a violation of currency transaction reporting requirements or money laundering laws.

Section 5: Authorizes the Department to investigate the background of major shareholders of a proposed state bank or state trust company in order to determine whether such persons have been convicted of, or pled guilty or nolo contendere to, a violation of currency transaction reporting requirements or money laundering laws.

Section 6: Authorizes the Department to investigate the background of persons seeking to acquire a controlling interest in any state bank or state trust company. The bill provides that any person who has been convicted of, or pled guilty or nolo contendere to, a violation of transaction reporting requirements or money laundering laws will not be given a certificate of approval.

Section 7: Authorizes the Department to disallow illegally obtained financial resources from the calculation as to whether an institution is threatened with imminent insolvency.

Section 8: Authorizes the Department to disallow any illegally obtained financial resources from the capitalization requirements for international banking corporations applying for a license to conduct a banking business in Florida. Additionally, the applicant shall submit a certificate issued by the banking or supervisory authority of the country of origin stating that the applicant is duly organized and licensed and lawfully existing in good standing and has not been convicted or, or pled guilty or nolo contendere to, a violation of any currency transaction reporting requirements or money laundering laws.

Section 9: Authorizes the Department to disallow illegally obtained financial resources from the capitalization requirements for international development banks. The Department is also authorized to disapprove of an application for an international banking corporation if the proposed officers or directors have been convicted of, or pled guilty or nolo contendere to, a violation of transaction reporting requirements or money laundering laws.

Section 10: Authorizes the Department to disapprove of applications to organize a savings association if a proposed officer or director has been convicted of, or pled guilty or nolo contendere to, a violation of currency transaction reporting requirements or money laundering laws. The Department is also authorized to disallow illegally obtained financial resources from the capitalization requirements for applicants for a de novo savings association.

Section 11: Amends the list of persons who cannot serve as an officer or director of a savings association by preventing people who have been charged with a violation, or pled guilty or nolo contendere to, a violation of currency reporting requirements or money laundering laws from serving in such capacity.

Section 12: Authorizes the Department to disapprove any application of any state or federal mutual association applying to become a state savings association if the applicant has been convicted of, or pled guilty or nolo contendere to, a violation of currency transaction reporting requirements or money laundering laws.

Section 13: Authorizes the Department to disapprove of a person or group of people who propose to purchase sufficient stock to gain control of an association if any of those persons have been convicted of, or pled guilty or nolo contendere to, a violation of currency transaction reporting requirements or money laundering laws.

Section 14: Presently, applicants for a license of a financial institution or approval of a merger must request a hearing within 21 days of publication of the Department's notice of the application. This notice is published within 21 days of receipt of the application. If a hearing is not timely requested, then the person shall be deemed to have waived any right to a hearing. The Department has 180 days after receipt of a completed application, or 30 days after conclusion of a public hearing (whichever is later), to grant or deny the application.

This bill lengthens the time in which the Department or an applicant may request a hearing to any time prior to the Department's issuance of a final order. The bill does not require the Department to provide an applicant with a notice of intent to deny prior to the entry of the final order.

Section 15: Provides an effective date of October 1, 1990.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

STORAGE NAME: s0916s1z.com

DATE: 07/26/90

PAGE: 5

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Public safety will be enhanced by the identification of individuals and financial institutions engaged in money laundering and related illegal activity.

3. Effects on Competition, Private Enterprise, and Employment Markets:

None.

D. FISCAL COMMENTS:

III LONG RANGE CONSEQUENCES:

To the extent the bill promotes an economic climate which provides economic stability, it is consistent with the State Comprehensive Plan. (s. 187.201(22), F.S.).

IV. COMMENTS:

V. LEGISLATIVE HISTORY:

A. ENACTED BILL:

On 2/20/90 Senate bill 916 prefiled by Senator Johnson and others. On 3/28/90 the bill was referred to the Committees on Commerce and Governmental Operations. On 4/23/90 the Commerce Committee favorably reported the bill as a Committee Substitute (SJ 00170). On 5/10/90 the bill was withdrawn from the Committee on Governmental Operations and placed on the Calendar (SJ 00356). On 5/15/90 the bill was placed on the Special Order Calendar and was passed as amended by a vote of 37-0 (SJ 00369). On 5/21/90 the bill was received by the House in Messages and placed on the Calendar (HJ 00693). On 5/23/90 the Senate bill was substituted for the House bill (HJ 00783) and passed by a vote of 111-0 (HJ 00784). On 5/23/90 the bill was ordered enrolled (SJ 00421). On 5/29/90 the bill was presented to the Governor (SJ 00659), and became law on 6/11/90.

STORAGE NAME: s0916s1z.com

DATE: 07/26/90

PAGE: 6

B. DISPOSITION OF COMPANION:

House Bill 1923 was prefiled on 1/17/90 by Representative Lippman and others. The bill was referred to the Committees on Commerce and Appropriations on 4/03/90 (HJ 0082). On 4/23/90 the Commerce Committee favorably reported the bill as a Committee Substitute (HJ 00381). On 5/14/90 the bill was withdrawn from Appropriations (HJ 00574) and placed on the Calendar. On 5/23/90 the Senate Bill was substituted for the House Bill which was laid on the table (HJ 00783).

VI. SIGNATURES:

COMMITTEE ON COMMERCE:

Prepared by:

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FINAL ANALYSIS PREPARED BY COMMITTEE ON COMMERCE:

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