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SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Jones</u>	<u>Wilkes</u>	1. <u>COM</u>	<u>Fav/CS</u>
2. _____	_____	2. <u>GO</u>	<u>Withdrawn</u>
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Financial Institutions

BILL NO. AND SPONSOR:

CS/SB 916 by Commerce  
and Senator Johnson

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I. SUMMARY:

The bill authorizes the Department of Banking and Finance (hereinafter "Department") to prohibit financial institutions and officers, directors, employees, or major shareholders of financial institutions from obtaining Departmental approval to do business in this state, if any such persons or entities have committed violations of currency transaction reporting requirements or money laundering laws. The Department is also authorized to disallow illegally obtained assets from the calculation used in determining whether the applicant or existing institution meets the capitalization requirements of Florida law.

A. Present Situation:

In 1984, Florida created and implemented the state Currency Transaction Reporting Program (CTR), which is similar to a program employed by the federal government. The CTR statute, s. 655.50, F.S., generally requires financial institutions doing business in Florida to report currency transactions in excess of \$10,000 to the Department of Banking and Finance. Access to the CTRs is limited and may only be obtained by court order or by subpoena to individuals specified within s. 655.50(3)(b), F.S.

Financial institutions can satisfy the CTR requirement by filing with the department a copy of the same report which is required under federal law. In addition, generally the same exceptions to the reporting requirement which are available under federal law are also available under Florida law.

Section 655.50(7)&(8), F.S., provide civil and criminal penalties for violations of the reporting law. These penalties are comparable to the penalties applicable to violations of the federal law.

Chapter 896, F.S., is entitled, "offenses related to financial institutions." The chapter presently requires all persons engaged in a trade or business, except for those reporting pursuant to s. 655.50, F.S., to report currency transactions of \$10,000 or more to the Department of Revenue. Section 896.102(1), F.S.

Presently, 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. Also, the Department has no express authority to disallow illegally obtained assets from the capitalization requirements of financial institutions.

B. Effect of Proposed Changes:

CS/SB 916 gives the Department the authority to prevent people or financial institutions convicted of, or who have pled guilty or nolo contendere to violating a CTR reporting requirement or money laundering law from obtaining Departmental approval to do business in Florida. The bill also authorizes the Department to disallow illegally obtained assets from the calculation determining whether the financial institution meets the capitalization requirements. A section by section analysis is provided below:

Section 1: The bill amends s. 655.037, F.S., which lists 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 of causes for removal is amended to include persons who have violated a state or federal CTR reporting requirement or money laundering law.

Section 2: The bill amends s. 655.411, F.S., which includes the criteria used by the Department to determine whether to approve any financial institution's request to convert its charter into another type of financial institution. The criteria would now include a determination of whether any officers and directors have been convicted of, pled guilty to, or nolo contendere to a violation of state or federal CTR reporting requirements or money laundering laws.

Section 3: The bill amends s. 657.021, F.S., to add to the list of persons who are prohibited from serving as an officer, director, or committee member of a credit union. Pursuant to the bill, the list would include persons who have been convicted of, pled guilty to, or nolo contendere to a violation of a state or federal CTR reporting requirement or money laundering law.

Section 4: This section amends s. 658.21, F.S., to disallow illegally obtained funds or other illegal financial resources from the capitalization requirements of a proposed bank. The section also specifies that no person who has been convicted of, pled guilty to, or nolo contendere to, violating a state or federal CTR reporting requirement or money laundering law may be proposed as an officer or director of a proposed bank.

Section 5: The bill amends s. 658.235, F.S., to authorize the Department to investigate the background of major shareholders of a proposed state bank or state trust company in order to determine whether such person has been convicted of, pled guilty to, or nolo contendere to a violation of a state or federal CTR reporting requirement or money laundering law.

Section 6: The bill amends s. 658.28, F.S., and 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, pled guilty to, or nolo contendere to violation of a state or federal CTR reporting requirement or money laundering law will not be given a certificate of authority.

Section 7: This section amends s. 658.43, F.S., to disallow illegally obtained funds or other illegal financial resources from the capitalization requirements of a bank, when making a determination of whether a bank or trust company is imminently insolvent.

Section 8: This section amends s. 663.05, F.S., to disallow illegally obtained currency, monetary instruments, funds, or other financial resources from the capitalization requirements of an international bank agency or representative office. The section also requires the international banking corporation which is applying for a license to submit a certificate (issued by the banking authority of the country in

which the corporation is organized) stating that the corporation has not been convicted of, pled guilty to, or nolo contendere to and is not currently charged with violation of any CTR reporting or money laundering law which may exist in the country.

Section 9: The bill amends s. 663.306, F.S., to authorize the Department to disallow illegally obtained assets 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, pled guilty to, or nolo contendere to a violation of a state or federal CTR reporting requirement or money laundering law.

Section 10: This section amends s. 665.0201, F.S., to disallow illegally obtained currency, monetary instruments, funds, or other financial resources from the capitalization requirements of a proposed savings and loan. The section also specifies that no person who has been convicted of, pled guilty to, or nolo contendere to a violation of state or federal CTR reporting or money laundering law may be proposed as an officer or director of a proposed savings and loan.

Section 11: The bill amends s. 665.025, F.S., to add to the list of persons who cannot serve as an officer or director of a savings association by preventing persons who have been convicted of, pled guilty to, or nolo contendere to a violation of a state or federal CTR reporting requirement or money laundering law from serving in such capacity.

Section 12: This section amends s. 665.033, F.S., to state that the Department may disapprove the plan of conversion of a state or federal mutual association to a capital stock association if that association has been convicted of, pled guilty to, or nolo contendere to violation of a state or federal CTR reporting or money laundering law.

Section 13: The bill amends s. 665.034, F.S., to authorize the Department to disapprove the issuance of a certificate to persons who propose to purchase sufficient stock to gain control of an association if any such person has violated, has been convicted of, pled guilty to, or nolo contendere to a violation of a state or federal CTR reporting requirement or money laundering law.

Section 14: Provides an effective date of October 1, 1990.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

The economic impact upon the public is indeterminate. Parties who would be directly and adversely affected by this legislation include financial institutions and persons involved in money laundering or other related activities.

B. Government:

The economic impact of this legislation should be minimal.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.