

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>	_____
2. _____	_____	2. <u>GO</u>	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Financial Institutions

BILL NO. AND SPONSOR:

SB 916 by
Senator Johnson

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 council is created to study and promote international banking and trade issues.

A. Present Situation:

The International Banking and Trade Study Commission was created by the 1988 Florida Legislature (ch. 88-201, L.O.F.) to: analyze state, international, and domestic banking laws and rules relative to international banking and trade; to assess possible impediments to economic growth and development; and to suggest revisions, if necessary, to state banking laws that would encourage a positive working relationship between Florida businesses and international banking operations. The Commission is required, however, to ensure that any suggested revisions protect the safety and soundness of banking in Florida. The Commission consists of 15 members.

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 CTR's 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.

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.

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.

B. Effect of Proposed Changes:

SB 916 gives the Department the authority to prevent people or financial institutions charged with or convicted of violating 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.

Finally, this bill deletes the reference to the International Banking and Trade Study Commission and amends this reference to instead create an International Banking and Trade Advisory Council. A section by section analysis is provided below:

Section 1: Presently, there is an International Banking and Trade Study Commission created within the Department which analyzes current state law, business, and economic growth to determine whether any changes in current law are needed to promote international banking and trade. The purpose of this analysis is to report the Commission's findings to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The Commission's existence must expire no later than June 30, 1991.

The bill deletes the reference to the International Banking and Trade Study Commission and creates within the Department of Banking and Finance the Florida International Banking and Trade Advisory Council. This council is charged with evaluating state law to determine whether it promotes the development of international banking operations and international trade. The council files an annual report of its findings and recommendations with the Comptroller, the Governor, the President of the Senate, and the Speaker of the House.

Section 2: 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 is amended to include persons who have violated or have been convicted of a violation of a CTR reporting requirement or money laundering law.

Section 3: The bill amends the criteria for the Department to consider in determining whether to approve any financial institution's request to convert its charter into another type of financial institution. The list of criteria is amended to include a determination of whether any officers and directors have violated or have been convicted for a violation of CTR reporting requirements or money laundering laws.

Section 4: The bill requires financial institutions to maintain records and file with the Department copies of reports required by the Secretary of the Treasury pursuant to geographic targeting orders or regulations concerning an electronic fund transfer. (31 USC ss. 5314, 5318, and 5326).

Section 5: The bill amends s. 657.021, F.S., to add to the list of persons who may not serve as an officer, director, or committee member of a credit union. Pursuant to the bill, the list would include people who have violated or have been convicted of a violation of currency transaction reporting requirements or money laundering laws.

Section 6: The bill authorizes the Department to assign an appointee to operate a credit union which is found to have violated CTR reporting requirements or money laundering laws.

Section 7: 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 violated, been convicted of a violation, or is currently charged with a violation of a CTR reporting requirement or money laundering law.

Section 8: The bill 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 violated, been convicted of a violation or is currently charged with a violation of a CTR reporting requirement or money laundering law will not be given a certificate of authority.

Section 9: The bill amends s. 663.306, F.S., to prohibit any person from serving on the board of directors of a state bank or state trust company if that person has violated, has been convicted of a violation, or is currently charged with a violation of a CTR reporting requirement or money laundering law.

Section 10: This bill authorizes the Department to disallow any illegally obtained assets from the capitalization requirements for international banking corporations applying for a license to conduct a banking business in Florida.

Section 11: 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 violated, been convicted of a violation of, or have been charged with a violation of a CTR reporting requirement or money laundering law.

Section 12: The bill authorizes the Department to disapprove of applications to organize a savings association (ch. 665, F.S.), if a proposed officer or director has violated, has been convicted of a violation, or has been charged with a violation of a CTR reporting requirement or money laundering law. The Department is also authorized to disallow illegally obtained assets from the capitalization requirements for savings associations.

Section 13: The bill adds to the list of persons who cannot serve as an officer or director of a savings associations by preventing people who have violated, have been charged with a violation, or have been convicted of a violation of a CTR reporting requirement or money laundering law from serving in such capacity.

Section 14: This bill authorizes the Department to disapprove any application of any state or federal association applying to become a state savings association if such association has violated, has been convicted of a violation or is currently charged with a violation of a CTR reporting requirement or money laundering law.

Section 15: The bill 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 has violated, has been convicted of a violation or are currently charged with a violation of a CTR reporting requirement or money laundering law.

Section 16: The bill provide that the Florida International Banking and Trade Advisory Council shall be reviewed by the Legislature on October 1, 2000.

Section 17: Provides an effective date of October 1, 1990

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public

None.

B. Government:

None.

III. COMMENTS:

None.

IV. AMENDMENTS:

None.