

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Commerce Committee
 2 Representative Rommel offered the following:

Amendment (with title amendment)

Remove lines 42-138 and insert:

6 cooperate in an investigation conducted pursuant to s.
 7 655.49(3), including, without limitation, failure to timely file
 8 a termination-of-access report.

9 Section 2. Paragraph (b) of subsection (1) of section
 10 280.054, Florida Statutes, is amended to read:

11 280.054 Administrative penalty in lieu of suspension or
 12 disqualification.-

13 (1) If the Chief Financial Officer finds that one or more
 14 grounds exist for the suspension or disqualification of a
 15 qualified public depository, the Chief Financial Officer may, in

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16 lieu of suspension or disqualification, impose an administrative
17 penalty upon the qualified public depository.

18 (b) With respect to any knowing and willful violation of a
19 lawful order or rule, the Chief Financial Officer may impose a
20 penalty upon the qualified public depository in an amount not
21 exceeding \$1,000 for each violation. If restitution is due, the
22 qualified public depository shall make restitution upon the
23 order of the Chief Financial Officer and shall pay interest on
24 such amount at the legal rate. Each day a violation continues
25 constitutes a separate violation. Each of the following Failure
26 to timely file the attestation required under s. 280.025 is
27 deemed a knowing and willful violation by the qualified public
28 depository:

29 1. Failure to timely file the attestation required under
30 s. 280.025.

31 2. Bad faith termination, suspension, or similar action
32 restricting a customer's or member's account access, as
33 determined by the Office of Financial Regulation pursuant to s.
34 655.49.

35 3. Failure to cooperate in an investigation conducted
36 pursuant to s. 655.49(3), including, without limitation, failure
37 to timely file a termination-of-access report with the office.

38 Section 3. Section 655.49, Florida Statutes, is created to
39 read:

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40 655.49 Bad faith termination or restriction of account
41 access; investigations by the office.-

42 (1) A customer or member of a financial institution who
43 reasonably believes that a financial institution has terminated,
44 suspended, or taken similar action restricting access to the
45 customer's or member's account in bad faith may file, within 30
46 calendar days of such termination, suspension, or similar action
47 restricting account access, a complaint with the office alleging
48 a violation of this section. Such complaint is barred if not
49 timely filed.

50 (2) This section does not apply if a financial
51 institution's termination, suspension, or similar action
52 restricting a customer's or member's account access was due to
53 one or more of the following:

54 (a) The customer or member initiated the access change;

55 (b) A lack of activity in the account; or

56 (c) The account is presumed unclaimed property pursuant to
57 chapter 717.

58 (3) For a customer's or member's complaint under
59 subsection (1):

60 (a) Within 30 calendar days, the office must notify the
61 financial institution that a complaint has been filed.

62 (b) Within 30 calendar days of receiving such notice from
63 the office, the financial institution must file with the office

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64 a termination-of-access report containing such information as
65 the commission requires by rule.

66 (c) Within 90 calendar days of receipt of a termination-
67 of-access report from the financial institution, the office must
68 investigate the financial institution's action and determine
69 whether the action was taken in bad faith as substantiated by
70 competent and substantial evidence that was known or should have
71 been known to the financial institution at the time of the
72 termination, suspension, or similar action restricting a
73 customer's or member's account access.

74 (d) Within 30 calendar days of making the determination
75 required under paragraph (c), the office must report to the
76 Attorney General and the Chief Financial Officer a determination
77 of a bad faith termination, suspension, or similar action
78 restricting a customer's or member's account access. The report
79 to the Attorney General must describe the findings of the
80 investigation, provide a summary of the evidence, and state
81 whether an alleged violation of the financial institutions codes
82 by the financial institution occurred. Upon sending the report
83 to the Attorney General pursuant to this paragraph, the office
84 must send a copy of the report to the customer or member by
85 certified mail, return receipt requested.

86 (4) A financial institution's bad faith termination,
87 suspension, or similar action restricting access to a customer's
88 or member's account, as determined by the office pursuant to

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89 subsection (3), or a financial institution's failure to
90 cooperate in an investigation conducted pursuant to subsection
91 (3), including, without limitation, failure to timely file a
92 termination-of-access report with the office, constitutes a
93 violation of the financial institutions codes and subjects the
94 financial institution to the applicable sanctions and penalties
95 provided for in the financial institutions codes.

96 (5) The office shall provide any report filed pursuant to
97 this section, or information contained therein, to any federal,
98 state, or local law enforcement or prosecutorial agency, and any
99 federal or state agency responsible for the regulation or
100 supervision of financial institutions, if the provision of such
101 report is otherwise required by law.

102 (6) If the office determines under subsection (3), that a
103 financial institution has acted in bad faith, the aggrieved
104 customer or member of the financial institution has a cause of
105 action against such financial institution for damages and may
106 recover damages therefor in any court of competent jurisdiction,
107 together with costs and reasonable attorney fees to be assessed
108 by the court. To recover damages under this subsection, the
109 customer or member must establish that, beyond a reasonable
110 doubt, the financial institution acted in bad faith in
111 terminating, suspending, or taking similar action restricting
112 access to a customer's or member's account; provided, however,
113 that the office's determination that a financial institution has

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114 acted in bad faith pursuant to subsection (3) shall not, in and
115 of itself, establish beyond a reasonable doubt that the
116 financial institution acted in bad faith in the termination,
117 suspension, or similar action restricting access to the
118 customer's or member's account. A customer's or member's failure
119 to initiate a cause of action under this subsection within 12
120 months after the office's finding of bad faith pursuant to
121 subsection (3) shall bar recovery of any filed claims
122 thereafter.

123 (7) By July 1, 2024, the office shall publish and make
124 available on its website the information necessary for a
125 customer or member of a financial institution to file a
126 complaint with the office under subsection (1).

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128

129 **T I T L E A M E N D M E N T**

130 Remove lines 9-27 and insert:
131 penalties; creating s. 655.49, F.S.; authorizing the office
132 to receive complaints from a customer or member who
133 reasonably believes that a financial institution has acted
134 in bad faith in terminating, suspending, or taking similar
135 action restricting access to such customer's or member's
136 account; providing a time limit for a customer or member to
137 file a complaint; providing exceptions from applicability;
138 providing duties of the Office of Financial Regulation upon

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139 receipt of a complaint; providing duties of a financial
140 institution upon receipt of notification that a complaint
141 has been filed; providing violations and penalties;
142 authorizing the office to provide the reports and certain
143 information to specified entities under certain
144 circumstances; providing that the financial institutions'
145 customers and members have a cause of action under certain
146 circumstances; authorizing such customers and members to
147 recover damages, together with costs and attorney fees;
148 providing a time limit for initiating causes of action;
149 requiring the office to post information necessary for
150 filing complaints on its website; providing an