



Committee on Financial Institutions

**Thursday, February 21, 2008
2:00 – 3:30 pm
Morris Hall**

Meeting Packet

**Marco Rubio
Speaker**

**Jennifer Carroll
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Committee on Financial Institutions

Start Date and Time: Thursday, February 21, 2008 02:00 pm

End Date and Time: Thursday, February 21, 2008 03:30 pm

Location: Morris Hall (17 HOB)

Duration: 1.50 hrs

Consideration of the following bill(s):

HB 187 Automated Teller Machine Transactions by Carroll

HB 343 Financial Services by Carroll

HB 477 Title Loans by Reagan

HB 743 Real Property Fraud by Lopez-Cantera

NOTICE FINALIZED on 02/14/2008 16:05 by COCHRAN.MARGARET

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 0187

COUNCIL/COMMITTEE 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WITHDRAWN	___	(Y/N)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 Council/Committee hearing bill: Committee on Financial
 2 Institutions
 3 Representative Carroll offered the following:

Amendment (with title amendment)

Remove line(s) 27 and insert:

7 ~~institution, as defined in s. 655.005(1)(h),~~ which is located

10 -----
 11 **T I T L E A M E N D M E N T**

12 Remove line(s) 7 and insert:

13 machine access fees or surcharges; expanding application to
 14 certain financial institutions; providing construction

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 187 Automated Teller Machine Transactions
SPONSOR(S): Carroll and others
TIED BILLS: IDEN./SIM. BILLS: SB 966

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Financial Institutions		Holt/Bradford	Haug
2) Jobs & Entrepreneurship Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

This bill addresses certain fees and surcharges imposed by independent owners or operators of automated teller machines (ATMs). Provisions in the bill provide for: 1) the disclosure of any fee or surcharge applicable to completing an ATM transaction in a format that complies with federal law; and 2) no limitation on the rights of contracts between parties to voluntarily enter into agreements involving no-fee or no-surcharge assessment.

There appears to be no fiscal impact on state or local government.

This act shall take effect July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not implicate any House principles.

B. EFFECT OF PROPOSED CHANGES:

Background

In 2006, the Legislature passed SB 704, which was enacted as Chapter 2006-216, Laws of Florida. The law created s. 655.966, F.S., relating to Automatic Teller Machines; surcharges, and it took effect July 1, 2006. Provisions in the law allowed ATM owners and operators to charge customers an access fee, or a surcharge, whenever customers conducted transactions using a foreign account.

According to staff information, the internal policies and practices of Visa and MasterCard do not allow ATM owners or operators to collect surcharges from international cardholders at ATMs in the United States, except in states where it is expressly allowed by law.

Section 655.966, F.S., provides that:

The operator of an automated teller machine, as defined in s. 655.960(3)¹, may charge an access fee or surcharge, not otherwise prohibited under state or federal law, to a customer conducting a transaction using an account from a financial institution, as defined in s. 655.005(1)(h)², which is located outside of the United States.

As the section reads, a fee "may" be charged on international transactions. Additionally, the provisions of Chapter 2006-216, Laws of Florida, did not address contracts or agreements entered into voluntarily that might prohibit these fees. It also was not a requirement that an owner disclose the amount of the fees; however, the Federal Reserve Board Regulation E, which implements the federal EFT Act does require fee disclosure. (See 12 C.F.R. s. 205.16).

Regulation E: Electronic Fund Transfers³

Regulation E provides a basic framework that establishes the rights, liabilities, and responsibilities of participants in electronic fund transfer systems, such as automated teller machine transactions. The term "electronic fund transfer" generally refers to a transaction initiated through an electronic terminal, telephone, computer, or magnetic tape that instructs a financial institution to either credit or to debit a consumer's asset account.

The regulation also requires financial institutions to provide consumers with initial disclosures of the terms and conditions of EFT services. Institutions must disclose the consumer's liability for unauthorized EFTs, the types of EFTs the consumer may make, and any limit on the frequency or dollar amount; fees charged by the institution; and error-resolution procedures. An institution is required to disclose all fees for EFTs or the right to make them. An institution is not required to disclose fees for inquiries made at an ATM since no transfer of funds is involved. A per-item fee for EFTs must be disclosed even if the same fee is imposed on non-electronic transfers. If a per-item fee is imposed only under certain conditions, such as when the transactions in the cycle exceed a certain number, those

¹ (3) "Automated teller machine" means any electronic information processing device located in this state which accepts or dispenses cash in connection with a credit, deposit, checking, or convenience account. The term does not include devices used solely to facilitate check guarantees or check authorizations or which are used in connection with the acceptance or dispensing of cash on a person-to-person basis, such as by a store cashier.

² (h) "Financial institution" means a state or federal association, bank, savings bank, trust company, international bank agency, international branch, representative office or international administrative office, or credit union.

³ CS/SB 744, Banking and Insurance Committee, 2007

conditions must be disclosed. Itemization of the various fees may be provided on the disclosure statement or on an accompanying document that is referenced in the statement.

Effect of Proposed Changes

HB 187 codifies the fee or surcharge disclosure requirements of 12 C.F.R., part 205 as amended relating to the ability of an operator or owner of an ATM to charge an access fee or surcharge to customers who use their machines. Disclosure of any fee or surcharge is to be displayed on the ATM and the option to cancel a transaction prior to fee assessment is to also be provided.

Subject to the disclosure requirements, this bill may not "prohibit, limit, or restrict" the right of an ATM owner or operator from charging an access fee or surcharge on customers conducting transactions involving a financial institution located outside of the United States, that is not otherwise prohibited by state or federal law.

Moreover, the bill provides that nothing in its provisions shall prohibit or limit an ATM operator or owner from voluntarily entering into a fee-free or surcharge-free network agreement.

This act shall take effect July 1, 2008.

C. SECTION DIRECTORY:

Section 1: Provides for disclosure of fees or surcharges; allows for certain fees or surcharges; provides for fee-free or surcharge-free agreements.

Section 2: Provides effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminable positive impact on ATM owners and operators by authorizing them to charge a fee or surcharge to customers accessing accounts on an ATM. Conversely, such customers may have the added cost of a fee or surcharge.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to automated teller machine transactions;
 3 amending s. 655.966, F.S.; authorizing machine owners or
 4 operators to impose access fees or surcharges for machine
 5 use; providing fee or surcharge disclosure requirements;
 6 providing certain agreement prohibitions relating to
 7 machine access fees or surcharges; providing construction
 8 relating to certain fee-free or surcharge-free network
 9 agreements; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Section 655.966, Florida Statutes, is amended
 14 to read:

15 655.966 Automated teller machine; surcharge disclosure.--

16 (1) The operator or owner of an automated teller machine
 17 in this state may charge an access fee or surcharge to a
 18 customer for the use of that machine. The fee or surcharge must
 19 be disclosed in compliance with 12 C.F.R., part 205, as amended.

20 (2)(a) Subject to the requirements of subsection (1), an
 21 agreement to operate or share an automated teller machine may
 22 not prohibit, limit, or restrict the right of the operator or
 23 owner of an automated teller machine, as defined in s.
 24 655.960(3), to ~~may~~ charge an access fee or surcharge, not
 25 otherwise prohibited under state or federal law, to a customer
 26 conducting a transaction using an account from a financial
 27 institution, as defined in s. 655.005(1)(h), which is located
 28 outside of the United States.

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29 (b) Notwithstanding paragraph (a), nothing in this section
30 may be construed to prohibit or otherwise limit the ability of
31 an operator or owner of an automated teller machine to
32 voluntarily enter into an agreement regarding participation in
33 an access fee-free or surcharge-free network.

34 Section 2. This act shall take effect July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Empower families: The bill provisions create an opportunity to enhance the financial stability for families in the event of unforeseen events.

B. EFFECT OF PROPOSED CHANGES:

Sections 1-2 of the bill provide amendments to Part I, Chapter 520, F.S., Motor Vehicle Sales Finance

Section 1: The bill amends s. 520.02, F.S., to renumber subsections in order to create a definition for the term "Guaranteed asset protection product" as follows:

(7) "Guaranteed asset protection product" means a loan, lease, or retail installment contract term, or modification or addendum to a loan, lease, or retail installment contract, under which a creditor agrees to waive a customer's liability for payment of some or all of the amount by which the debt exceeds the value of the collateral. Such a product is not insurance for purposes of the Florida Insurance Code. This subsection also applies to all guaranteed asset protection products issued before October 1, 2008.

Generally the term guaranteed asset protection (or GAP) is a supplemental coverage that provides protection from certain losses that are not covered by certain standard contractual agreements. For example, a GAP may be designed to cover the unpaid balance of an automobile loan in the event of a total loss of the vehicle. The GAP could cover the difference between the depreciated actual cash value and the outstanding loan balance on the vehicle.

Section 2: The bill amends s. 520.07, F.S., relating to Requirements and prohibitions as to retail installment contracts.—

The bill adds subsection (11) to section 520.07, F.S., to read in part:

(11) In conjunction with entering into any new retail installment contract or contract for a loan, a motor vehicle retail installment seller as defined in -520.02(10), sales finance company defined in s. 520.02(18), or retail lessors, as defined in s. 521.003(8) and their assignees may offer, for a fee or otherwise, optional debt cancellation products in accordance with this chapter and the rules adopted by the Commission. The motor vehicle retail installment seller, sales finance company, or retail lessor may not require the purchase of a debt cancellation product as a condition for making the loan.

In order to offer a GAP, the bill requires that the above described entities must comply with the following:

- (a) The cost of any GAP shall not exceed the amount of the indebtedness.
- (b) This section governs GAP contracts or agreements.
- (c) A GAP is considered an obligation of any person that purchases or otherwise acquires the loan contract covering such product.
- (d) Disclosure of the terms and conditions for a GAP must be detailed, easy to read, and readily understandable, including a plain description of its purchase being optional.
- (e) The entity bears the burden for proving an executed copy of a GAP contract or agreement is provided to the buyer.
- (f) No GAP conveys the right to unilaterally modify contract terms unless:
 1. The modification is favorable to the buyer without additional buyer charges; or

2. The buyer is notified of any proposed change and is provided a reasonable, no penalty cancellation option before the change goes into effect.

(g) If a GAP contract is terminated, the entity shall refund to the buyer, under certain conditions, any unearned paid fees, unless otherwise stipulated in the contract. Refund request are to be made within 90 days of the event terminating the contract.

Section 3 of the bill amends Part V, Chapter 624, F.S., Kinds of Insurance; Limits of Risk; Reinsurance

Section 3: The bill adds paragraph (r) to subsection (1) of section 624.605, F.S., to read in part:

(1) "Casualty insurance" includes:

(r) Insurance for debt cancellation products. Insurance that a creditor may purchase against the risk of financial loss from the use of debt cancellation products with consumer loans or leases or retail installment contracts.

This amendment provides that creditors may purchase insurance to protect against the risk of financial loss from the use of debt cancellation products. Also, the bill defines the term "debt cancellation products" for purposes of this paragraph.

As defined in this paragraph, debt cancellation products may be offered by financial institutions, as defined in s. 655.005(1)(h), including insured depository institutions as defined in 12 U.S.C. s. 1813(c) and subsidiaries of such institutions, as provided in the financial institution codes.

Also, this product may be offered by other business entities as may be specifically authorized by law, i.e. motor vehicle retail installment sellers, sales finance companies, or retail lessors. Moreover, these products do not constitute insurance for purposes of the Florida Insurance Code.

Sections 4-6 of the bill amend Chapter 627, Part V, Group Life Insurance Policies and Part IX, Credit Life and Disability Insurances

Sections 4-5: The bill amends ss. 627.553, and 627.679, F.S., to remove the limit on the amount and duration of credit life insurance that may be purchased. Additionally, the amendment to s. 627.679, F.S., further provides that the total amount of credit life insurance on the life of any debtor with respect to any loan or loans covered in one or more insurance policies shall at no time exceed the amount of the indebtedness.

Section 6: Amends s. 627.681, F.S., the bill provides that credit disability insurance may be purchased for the entire term of the loan.

Sections 7-11 of the bill amend TITLE XXXVIII, Banks and Banking, Chapter 655, Financial Institutions Generally

Section 7: Amends s. 655.005 to clarify the definition of a financial institution includes the various entities referenced throughout the Financial Institutions Codes.

This section also adds a definition for "debt cancellation products" to the Financial Institutions Codes. These products are currently authorized under an order of general application issued by the Office of Financial Regulation February 2006.

Section 8: Amends s. 655.79, F.S., in conformance to the Florida Supreme Court's recommendation that the section be clarified. See Beal Bank v. Almand and Associates, 780 So. 2d 45

(Fla. 2001). The bill provides that:

Any deposit or account made in the name of two persons who are husband and wife shall be considered a tenancy by the entirety unless otherwise specified in writing.

Section 9: The bill creates 655.967, F.S., relating to state-funded endowments. Any state-mandated endowment funded through a general appropriations act prior to 1990 may be maintained in trusts accounts with national or state chartered banks.

Section 10: The bill creates 655.947, F.S., relating to debt cancellation products. Financial institutions, and their subsidiaries, are permitted to sell debt cancellation products, subject to the rules and orders of the Financial Service Commission. Provisions in the bill further require that the permitted entities manage all risks in accordance with prudent safety and soundness principles. Additionally, these entities are to establish and maintain effective risk management and control processes over the products and programs. The Financial Service Commission is granted rulemaking authority to administer this section. For purposes of this section, an installment payment option is not required for the amount of the debt cancellation product.

Section 11: Amends 655.954, F.S., to reference the newly created s. 655.947, F.S., which authorizes the sale of debt cancellation products. The bill reiterates that a financial institution may not require the purchase of a debt cancellation product as a condition for making the loan, line of credit, or loan extension. Other amendments in this section correct cross references.

Sections 12-15 of the bill amend Chapter 658, Banks and Trust Companies

Section 12: Section 658.21, F.S., relates to the organization of new banks and trust companies. Current law requires a bank to have a minimum capital requirement of either \$4 million or \$6 million depending upon its physical location. This section is being amended to raise this requirement to \$8 million dollars for all new institutions, regardless of location.

For the formation of a new trust company, current law requires \$2 million in capital. The bill increases this requirement to \$3 million.

The bill also provides that the organizing directors of a proposed bank must own or control "at least the lesser of \$3 million or 25% of the bank's total capital accounts proposed at opening as approved" by the Office of Financial Regulation (Office). Currently the requirement is 25% of the bank's total capital accounts.

Current law does not address minimum requirements for ownership or control of capital accounts by directors of a proposed bank when it will be owned by an existing multi-bank holding company. The bill provides that in such situations, the proposed directors must have a substantial investment in the holding company as determined by the Office. The investment required by the Office cannot exceed the lesser of 25% or 3 million dollars, which is a parity standard proposed in the bill for a one-bank holding company application.

The bill clarifies that stock offerings used to raise capital for a new bank or trust company are subject to the same limitations/requirements as those followed by existing financial institutions.

Section 13: Currently, banks and trust companies must obtain approval from the Office when they desire to increase capital. Section 658.34, F.S., reads in part:

658.34 Shares of capital stock.

(1) A bank or trust company shall issue its capital stock with par value of not more than \$100 nor less than \$1 per share.

The bill eliminates the range that a bank or trust company shall issue its capital stock to only read: "not less than \$1 per share" The bill also eliminates Office approval to increase capital, but it requires advance notice as provided under s. 658.36.

The bill creates a new subsection (5) to codify existing Office practices. The bill provides that no stock of the same class may be issued or sold by a financial institution that creates different rights, options, warrants, or benefits among the purchasers or stockholders of that class of stock. However, this does not prohibit a financial institution from creating uniform restrictions on the transfer of stock as permitted under the provisions dealing with corporations in general under s. 607.0627, F.S.

This change will create fairness for all shareholders. This provision also allows a financial institution flexibility to be structured as an S-corporation¹ or limited liability company and restricts stock transfers that would otherwise jeopardize that corporate structure.

Section 14: This provision correlates with amendments made in s. 658.34, F.S., and the elimination of the Office's approval relating to increasing capital requirements. In lieu of Office approval, the bill requires entities to provide the Office at least 15 days advance notice of intent to increase capital stock.

Section 15: The bill clarifies procedures as to who can assert dissenters' rights and the manner of determining fair value of their shares. The bill removes the Office from the process of resolving disagreements between appraisers and moves this function to an appropriate court.

Section 16: This act shall take effect October 1, 2008.

C. SECTION DIRECTORY:

- Section 1: Amends s. 520.02, F.S., to create a definition for the term "Guaranteed asset protection product"
- Section 2: Amends s. 520.07, F.S., relating to requirements and prohibitions as to retail installment contracts.
- Section 3: Amends s. 624.605, F.S. relating to kinds of insurance.
- Section 4: Amends s. 627.553, F.S., to remove the limit on the amount and duration of credit life insurance that may be purchased.
- Section 5: Amends s. Amends 627.679, F.S., to remove the limit on the amount and duration of credit life insurance that may be purchased. Additionally, the total amount of credit life insurance on the life of any debtor shall not exceed the amount of the indebtedness.
- Section 6: Amends s. 627.681, F.S., the bill provides that credit disability insurance may be purchased for the entire term of the loan.
- Section 7: Amends s. 655.005 to clarify the definition of financial institution. The bill adds a definition for debt cancellation products to the Financial Institutions Codes.
- Section 8: Amends s. 655.79, F.S., to conform with Florida Supreme Court's recommendation relating to certain husband and wife accounts.
- Section 9: Creates 655.967, F.S., relating to state-funded endowments
- Section 10: The bill creates 655.947, F.S., relating to debt cancellation products. Financial institutions, and their subsidiaries, are permitted to sell debt cancellation products. The Financial Service Commission is granted rulemaking authority.
- Section 11: Amends 655.954, F.S., to reference s. 655.947, F.S. Also, the bill provides that purchase of a debt cancellation product in not a condition for making the loan, line of credit, or loan extension.
- Section 12: Section 658.21, F.S., relates to the organization of new banks and trust companies and to stock offerings.
- Section 13: Amends s. 658.34, F.S., eliminates Office approval to increase capital, but requires 15 day advance notice be provided to the Office under s. 658.36. The bill also creates a

¹ Generally, an S corporation is exempt from federal income tax other than tax on certain capital gains and passive income. On their tax returns, the S corporation's shareholders include their share of the corporation's separately stated items of income, deduction, loss, and credit, and their share of nonseparately stated income or loss. <http://www.irs.gov/businesses/small/article/0,,id=98263,00.html>

new subsection (5) to codify certain existing Office practices. This provision also allows flexibility relating to S-corporation or limited liability company structure.

- Section 14: This provision correlates with amendments made in s. 658.34 and the elimination of Office approval relating to increasing capital. In lieu of Office approval, the bill requires at least 15 days advance notice of intent to increase capital stock.
- Section 15: The bill clarifies procedures as to who can assert dissenters' rights and the manner of determining fair value of their shares.
- Section 16: This act shall take effect October 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Indeterminate.

D. FISCAL COMMENTS:

The impact to the private sector cannot be determined at this time.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

Rule-making authority is granted to the Financial Services Commission.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
2 An act relating to financial services; amending s. 520.02,
3 F.S.; defining the term "guaranteed asset protection
4 product"; amending s. 520.07, F.S.; authorizing certain
5 entities to offer optional guaranteed asset protection
6 products under certain circumstances; prohibiting such
7 entities from requiring purchase of such products as a
8 condition for certain financial transactions; providing
9 requirements for offering such products; providing
10 limitations; amending s. 624.605, F.S.; including debt
11 cancellation products under casualty insurance; providing
12 a definition; authorizing certain entities to offer debt
13 cancellation products under certain circumstances;
14 specifying such products as not constituting insurance;
15 amending ss. 627.553 and 627.679, F.S.; revising
16 limitations on the amount of authorized insurance for
17 debtors; amending s. 627.681, F.S.; revising a limitation
18 on the term of credit disability insurance; amending s.
19 655.005, F.S.; revising and providing definitions;
20 amending s. 655.79, F.S.; specifying certain accounts as
21 tenancies by the entireties; creating s. 655.967, F.S.;
22 authorizing a state-mandated endowment to be maintained in
23 trust accounts in financial institutions; creating s.
24 655.947, F.S.; authorizing financial institutions to offer
25 debt cancellation products; authorizing a fee; providing a
26 definition; providing requirements for financial
27 institutions relating to debt cancellation products;
28 requiring the Financial Services Commission to adopt

29 rules; specifying that periodic payment options are not
 30 required to be offered for certain debt cancellation
 31 products; amending s. 655.954, F.S.; authorizing certain
 32 institutions to offer optional debt cancellation products
 33 with certain financial transactions; prohibiting requiring
 34 such products as a condition of such transactions;
 35 updating definitions; amending s. 658.21, F.S.; revising
 36 ownership requirements for capital accounts at opening for
 37 a bank or trust company; providing capital investment
 38 requirements for owners of certain holding companies;
 39 amending s. 658.34, F.S.; revising requirements for shares
 40 of capital stock of banks and trust companies; providing
 41 restrictions on issuance or sale of certain stock under
 42 certain circumstances; amending s. 658.36, F.S.; requiring
 43 a state bank or trust company to file a written notice
 44 before increasing its capital stock; amending s. 658.44,
 45 F.S.; revising certain notice requirements relating to
 46 dissenting stockholders; revising criteria for determining
 47 the value of dissenting shares of certain entities;
 48 providing an effective date.

49

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

51

52 Section 1. Subsections (7) through (19) of section 520.02,
 53 Florida Statutes, are renumbered as subsections (8) through
 54 (20), respectively, and new subsection (7) is added to that
 55 section to read:

56

520.02 Definitions.--In this act, unless the context or

57 subject matter otherwise requires:

58 (7) "Guaranteed asset protection product" means a loan,
59 lease, or retail installment contract term, or modification or
60 addendum to a loan, lease, or retail installment contract, under
61 which a creditor agrees to waive a customer's liability for
62 payment of some or all of the amount by which the debt exceeds
63 the value of the collateral. Such a product is not insurance for
64 purposes of the Florida Insurance Code. This subsection also
65 applies to all guaranteed asset protection products issued
66 before October 1, 2008.

67 Section 2. Subsection (11) is added to section 520.07,
68 Florida Statutes, to read:

69 520.07 Requirements and prohibitions as to retail
70 installment contracts.--

71 (11) In conjunction with entering into any new retail
72 installment contract or contract for a loan, a motor vehicle
73 retail installment seller as defined in s. 520.02, a sales
74 finance company as defined in s. 520.02, or a retail lessor as
75 defined in s. 521.003, and any assignee of such an entity, may
76 offer, for a fee or otherwise, optional guaranteed asset
77 protection products in accordance with this chapter. The motor
78 vehicle retail installment seller, sales finance company, retail
79 lessor, or assignee may not require the purchase of a guaranteed
80 asset protection product as a condition for making the loan. In
81 order to offer any guaranteed asset protection product, a motor
82 vehicle retail installment seller, sales finance company, or
83 retail lessor, and any assignee of such an entity, shall comply
84 with the following:

85 (a) The cost of any guaranteed asset protection product,
 86 with respect to any loan covered by the guaranteed asset
 87 protection product, shall not exceed the amount of the
 88 indebtedness.

89 (b) Any contract or agreement pertaining to a guaranteed
 90 asset protection product shall be governed by this section.

91 (c) A guaranteed asset protection product is considered an
 92 obligation of any person that purchases or otherwise acquires
 93 the loan contract covering such product.

94 (d) An entity providing guaranteed asset protection
 95 products shall provide readily understandable disclosures that
 96 explain in detail eligibility requirements, conditions, refunds,
 97 and exclusions. The disclosures must provide that the purchase
 98 of the product is optional. The disclosures must be in plain
 99 language and of a typeface and size that are easy to read.

100 (e) An entity must provide a copy of the executed
 101 guaranteed asset protection product contract to the buyer. The
 102 entity bears the burden of proving the contract was provided to
 103 the buyer.

104 (f) An entity may not offer a contract for a guaranteed
 105 asset protection products that contains terms giving the entity
 106 the right to unilaterally modify the contract unless:

107 1. The modification is favorable to the buyer and is made
 108 without additional charge to the buyer; or

109 2. The buyer is notified of any proposed change and is
 110 provided a reasonable opportunity to cancel the contract without
 111 penalty before the change goes in effect.

112 (g) If a contract for a guaranteed asset protection

113 product is terminated, the entity shall refund to the buyer any
 114 unearned fees paid for the contract unless the contract provides
 115 otherwise. A refund is not due to a consumer who receives a
 116 benefit under such product. In order to receive a refund, the
 117 buyer must notify the entity of the event terminating the
 118 contract and request a refund within 90 days after the
 119 occurrence of the event terminating the contract. An entity may
 120 offer a buyer a contract that does not provide for a refund only
 121 if the entity also offers that buyer a bona fide option to
 122 purchase a comparable contract that provides for a refund.

123 Section 3. Paragraph (r) is added to subsection (1) of
 124 section 624.605, Florida Statutes, to read:

125 624.605 "Casualty insurance" defined.--

126 (1) "Casualty insurance" includes:

127 (r) Insurance for debt cancellation products.--Insurance
 128 that a creditor may purchase against the risk of financial loss
 129 from the use of debt cancellation products with consumer loans
 130 or leases or retail installment contracts.

131 1. For purposes of this paragraph, the term "debt
 132 cancellation products" means loan, lease, or retail installment
 133 contract terms, or modifications to loan, lease, or retail
 134 installment contracts, under which a creditor agrees to cancel
 135 or suspend all or part of a customer's obligation to make
 136 payments upon the occurrence of specified events and includes,
 137 but is not limited to, debt cancellation contracts, debt
 138 suspension agreements, and guaranteed asset protection
 139 contracts. However, the term "debt cancellation products" does
 140 not include title insurance as defined in s. 624.608.

141 2. Debt cancellation products may be offered by financial
 142 institutions, as defined in s. 655.005(1)(h), insured depository
 143 institutions as defined in 12 U.S.C. s. 1813(c), and
 144 subsidiaries of such institutions, as provided in the financial
 145 institution codes, or by other business entities as may be
 146 specifically authorized by law, and such products shall not
 147 constitute insurance for purposes of the Florida Insurance Code.

148 Section 4. Subsection (3) of section 627.553, Florida
 149 Statutes, is amended to read:

150 627.553 Debtor groups.--The lives of a group of
 151 individuals may be insured under a policy issued to a creditor
 152 or its parent holding company, or to a trustee or trustees or
 153 agent designated by two or more creditors, which creditor,
 154 holding company, affiliate, trustee or trustees, or agent shall
 155 be deemed the policyholder, to insure debtors of the creditor or
 156 creditors, subject to the following requirements:

157 (3) The amount of insurance on the life of any debtor
 158 shall at no time exceed the amount owed by the debtor ~~her or him~~
 159 which is repayable in installments to the creditor ~~or \$50,000,~~
 160 ~~whichever is less, except that loans not exceeding 1 year's~~
 161 ~~duration shall not be subject to such limits. However, on such~~
 162 ~~loans not exceeding 1 year's duration, the limit of coverage~~
 163 ~~shall not exceed \$50,000 with any one insurer.~~

164 Section 5. Paragraph (b) of subsection (1) of section
 165 627.679, Florida Statutes, is amended to read:

166 627.679 Amount of insurance; disclosure.--

167 (1)

168 (b) The total amount of credit life insurance on the life

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169 of any debtor with respect to any loan or loans covered in one
 170 or more insurance policies shall at no time exceed the amount of
 171 the indebtedness ~~\$50,000 with any one creditor, except that~~
 172 ~~loans not exceeding 1 year's duration shall not be subject to~~
 173 ~~such limits, and on such loans not exceeding 1 year's duration,~~
 174 ~~the limits of coverage shall not exceed \$50,000 with any one~~
 175 ~~insurer.~~

176 Section 6. Subsection (2) of section 627.681, Florida
 177 Statutes, is amended to read:

178 627.681 Term and evidence of insurance.--

179 (2) The term of credit disability insurance on any debtor
 180 insured under this section shall not exceed the term of
 181 indebtedness ~~10 years, and for credit transactions that exceed~~
 182 ~~60 months, coverage shall not exceed 60 monthly indemnities.~~

183 Section 7. Paragraphs (g) and (h) of subsection (1) of
 184 section 655.005, Florida Statutes, are amended, and paragraph
 185 (t) is added to that subsection, to read:

186 655.005 Definitions.--

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

189 (g) "Federal financial institution" means a federally or
 190 nationally chartered or organized financial institution
 191 ~~association, bank, savings bank, or credit union.~~

192 (h) "Financial institution" means a state or federal
 193 savings or thrift association, bank, savings bank, trust
 194 company, international bank agency, international banking
 195 organization, international branch, international representative
 196 office, ~~or~~ international administrative office, or credit union,

197 or an agreement corporation operating pursuant to s. 25 of the
 198 Federal Reserve Act, 12 U.S.C. ss. 601 et seq. or Edge Act
 199 corporation organized pursuant to s. 25(a) of the Federal
 200 Reserve Act, 12 U.S.C. ss. 611 et seq.

201 (t) "Debt cancellation products" means loan, lease, or
 202 retail installment contract terms, or modifications or addenda
 203 to loan, lease, or retail installment contracts, under which a
 204 creditor agrees to cancel or suspend all or part of a customer's
 205 obligation to make payments upon the occurrence of specified
 206 events and includes, but is not limited to, debt cancellation
 207 contracts, debt suspension agreements, and guaranteed asset
 208 protection contracts offered by financial institutions, insured
 209 depository institutions as defined in 12 U.S.C. s. 1813(c), and
 210 subsidiaries of such institutions. However, the term "debt
 211 cancellation products" does not include title insurance as
 212 defined in s. 624.608.

213 Section 8. Subsection (1) of section 655.79, Florida
 214 Statutes, is amended to read:

215 655.79 Deposits and accounts in two or more names;
 216 presumption as to vesting on death.--

217 (1) Unless otherwise expressly provided in a contract,
 218 agreement, or signature card executed in connection with the
 219 opening or maintenance of an account, including a certificate of
 220 deposit, a deposit account in the names of two or more persons
 221 shall be presumed to have been intended by such persons to
 222 provide that, upon the death of any one of them, all rights,
 223 title, interest, and claim in, to, and in respect of such
 224 deposit account, less all proper setoffs and charges in favor of

225 the institution, vest in the surviving person or persons. Any
 226 deposit or account made in the name of two persons who are
 227 husband and wife shall be considered a tenancy by the entirety
 228 unless otherwise specified in writing.

229 Section 9. Section 655.967, Florida Statutes, is created
 230 to read:

231 655.967 State-funded endowments.--Notwithstanding any
 232 other provision of law, a state-mandated endowment funded
 233 through a general appropriations act prior to 1990 may be
 234 maintained in trust accounts in financial institutions.

235 Section 10. Section 655.947, Florida Statutes, is created
 236 to read:

237 655.947 Debt cancellation products.--

238 (1) Debt cancellation products may be offered, and a fee
 239 may be charged, by financial institutions and subsidiaries of
 240 financial institutions subject to the provisions of this section
 241 and the rules and orders of the commission or office. As used in
 242 this section, the term "financial institutions" includes those
 243 defined in s. 655.005(1)(h), insured depository institutions as
 244 defined in 12 U.S.C. s. 1813, and subsidiaries of such
 245 institutions.

246 (2) A financial institution shall manage the risks
 247 associated with debt cancellation products in accordance with
 248 prudent safety and soundness principles. A financial institution
 249 shall establish and maintain effective risk management and
 250 control processes over its debt cancellation products and
 251 programs. Such processes shall include appropriate recognition
 252 and financial reporting of income, expenses, assets, and

253 liabilities and appropriate treatment of all expected and
 254 unexpected losses associated with the products. Each financial
 255 institution shall also assess the adequacy of its internal
 256 control and risk mitigation activities in view of the nature and
 257 scope of its debt cancellation products and programs.

258 (3) The commission shall adopt rules pursuant to ss.
 259 120.536(1) and 120.54 to administer this section, which rules
 260 must be consistent with 12 C.F.R. part 37, as amended.

261 (4) For the purposes of this section and any rules adopted
 262 pursuant to this section, a periodic payment option is not
 263 required to be offered for any debt cancellation product
 264 designed to protect a customer against a deficiency between the
 265 outstanding loan or lease amount and the value of the motor
 266 vehicle that is used as collateral for the loan or lease.

267 Section 11. Section 655.954, Florida Statutes, is amended
 268 to read:

269 655.954 Financial institution loans; credit cards.--

270 (1) Notwithstanding any other provision of law, a
 271 financial institution shall have the power to make loans or
 272 extensions of credit to any person on a credit card or overdraft
 273 financing arrangement and to charge, in any billing cycle,
 274 interest on the outstanding amount at a rate that is specified
 275 in a written agreement, between the financial institution and
 276 borrower, governing the credit card account. Such credit card
 277 agreement may modify any terms or conditions of such credit card
 278 account upon prior written notice of such modification as
 279 specified by the terms of the agreement governing the credit
 280 card account or by the Truth in Lending Act, 15 U.S.C. ss. 1601

281 et seq., as amended, and the rules and regulations adopted under
 282 such act. Any such notice provided by a financial institution
 283 shall specify that the borrower has the right to surrender the
 284 credit card whereupon the borrower shall have the right to
 285 continue to pay off the borrower's credit card account in the
 286 same manner and under the same terms and conditions as then in
 287 effect. The borrower's failure to surrender the credit card
 288 prior to the modifications becoming effective shall constitute a
 289 consent to the modifications.

290 (2) In conjunction with entering into any contract or
 291 agreement for a loan, line of credit, or loan extension, a
 292 financial institution, insured depository institution as defined
 293 in 12 U.S.C. s. 1813, and subsidiaries of such institutions may
 294 offer, for a fee or otherwise, optional debt cancellation
 295 products pursuant to s. 655.947 and rules adopted under that
 296 section. The financial institution may not require the purchase
 297 of a debt cancellation product as a condition for making the
 298 loan, line of credit, or loan extension.

299 (3)~~(2)~~ For the purpose of this section, the term:

300 (a) "Billing cycle" has the same meaning as ascribed to it
 301 under the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et
 302 seq., as amended, and the associated regulations which are in
 303 effect as of June 30, 2008 ~~1992~~.

304 (b) "Interest" means those charges considered a finance
 305 charge under the federal Truth in Lending Act, 15 U.S.C. ss.
 306 1601 et seq., as amended, and the associated regulations which
 307 are in effect as of June 30, 2008 ~~1992~~.

308 Section 12. Subsection (2) of section 658.21, Florida

309 Statutes, is amended to read:

310 658.21 Approval of application; findings required.--The
 311 office shall approve the application if it finds that:

312 (2) The proposed capitalization is in such amount as the
 313 office deems adequate, but in no case may the total capital
 314 accounts at opening for a bank be less than \$8 ~~\$6~~ million ~~if the~~
 315 ~~proposed bank is to be located in any county which is included~~
 316 ~~in a metropolitan statistical area, or \$4 million if the~~
 317 ~~proposed bank is to be located in any other county.~~ The total
 318 capital accounts at opening for a trust company may not be less
 319 than \$3 ~~\$2~~ million. The organizing directors of the proposed
 320 bank shall directly own or control at least the lesser of \$3
 321 million or 25 percent of the bank's total capital accounts
 322 proposed at opening as approved by the office. When the proposed
 323 bank will be owned by a single-bank holding company, the
 324 organizing directors of the proposed bank collectively shall
 325 directly own or control at least an amount of the single-bank
 326 holding company's capital accounts equal to the lesser of \$3
 327 million or 25 percent of the proposed bank's total capital
 328 accounts proposed at opening as approved by the office. When the
 329 proposed bank will be owned by an existing multi-bank holding
 330 company, the proposed directors shall have a substantial capital
 331 investment in the holding company, as determined by the office;
 332 however, such investment shall not be required to exceed the
 333 amount otherwise required for a single-bank holding company
 334 application. ~~Of total capital accounts at opening, as noted in~~
 335 ~~the application or amendments or changes to the application, at~~
 336 ~~least 25 percent of the capital shall be directly owned or~~

337 ~~controlled by the organizing directors of the bank. Directors of~~
 338 ~~banks owned by single bank holding companies shall have direct~~
 339 ~~ownership or control of at least 25 percent of the bank holding~~
 340 ~~company's capital accounts.~~ The office may disallow illegally
 341 obtained currency, monetary instruments, funds, or other
 342 financial resources from the capitalization requirements of this
 343 section. The proposed stock offering must comply with the
 344 requirements of ss. 658.23-658.25 and ss. 658.34-658.37.

345 Section 13. Section 658.34, Florida Statutes, is amended
 346 to read:

347 658.34 Shares of capital stock.--

348 (1) A bank or trust company shall issue its capital stock
 349 with par value of not ~~more than \$100 nor~~ less than \$1 per share.

350 (2) No bank or trust company shall issue any shares of
 351 capital stock at a price less than par value, and prior to
 352 issuance, any such shares must be fully paid in cash.

353 (3) With the approval of the office, a bank or trust
 354 company may issue preferred stock of one or more classes in an
 355 amount and with a par value as approved by the office.

356 (4) With the approval of the office, a bank or trust
 357 company may issue less than all the number of shares of any of
 358 its capital stock authorized by its articles of incorporation.
 359 Such authorized but unissued shares may be issued only for the
 360 following purposes:

361 (a) To provide for stock options and warrants as provided
 362 in s. 658.35.

363 (b) To declare or pay a stock dividend; however, any such
 364 stock dividend must comply with the provisions of this section

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365 and s. 658.37.

366 (c) To increase the capital of the bank or trust company,
367 ~~with the approval of the office.~~

368 (5) Stock of the same class may not be issued or sold by
369 the financial institution that creates different rights,
370 options, warrants, or benefits among the purchasers or
371 stockholders of that class of stock. Such prohibition does not
372 restrict the financial institution from creating uniform
373 restrictions on the transfer of stock as permitted in s.
374 607.0627.

375 Section 14. Subsection (2) of section 658.36, Florida
376 Statutes, is amended to read:

377 658.36 Changes in capital.--

378 (2) Any state bank or trust company may, ~~with the approval~~
379 ~~of the office,~~ provide for an increase in its capital stock
380 after filing a written notice at least 15 days prior to making
381 such increase.

382 Section 15. Subsections (2) and (5) of section 658.44,
383 Florida Statutes, are amended to read:

384 658.44 Approval by stockholders; rights of dissenters;
385 preemptive rights.--

386 (2) Written notice of the meeting of, or proposed written
387 consent action by, the stockholders of each constituent state
388 bank or state trust company shall be given to each stockholder
389 of record, whether or not entitled to vote, and whether the
390 meeting is an annual or a special meeting or whether the vote is
391 to be by written consent pursuant to s. 607.0704, and the notice
392 shall state that the purpose or one of the purposes of the

393 meeting, or of the proposed action by the stockholders without a
 394 meeting, is to consider the proposed plan of merger and merger
 395 agreement. Except to the extent provided otherwise with respect
 396 to stockholders of a resulting bank or trust company pursuant to
 397 subsection (7), the notice shall also state that dissenting
 398 stockholders, including stockholders not entitled to vote but
 399 dissenting under paragraph (c), will be entitled to payment in
 400 cash of the value of only those shares held by the stockholders:

401 (a) Which at a meeting of the stockholders are voted
 402 against the approval of the plan of merger and merger agreement;

403 (b) As to which, if the proposed action is to be by
 404 written consent of stockholders pursuant to s. 607.0704, such
 405 written consent is not given by the holder thereof; or

406 (c) With respect to which the holder thereof has given
 407 written notice to the constituent state bank or trust company,
 408 at or prior to the meeting of the stockholders or on or prior to
 409 the date specified for action by the stockholders without a
 410 meeting pursuant to s. 607.0704 in the notice of such proposed
 411 action, that the stockholder dissents from the plan of merger
 412 and merger agreement, and which shares are not voted for
 413 approval of the plan or written consent given pursuant to
 414 paragraph (a) or paragraph (b).

415

416 Hereinafter in this section, the term "dissenting shares" means
 417 and includes only those shares, which may be all or less than
 418 all the shares of any class owned by a stockholder, described in
 419 paragraphs (a), (b), and (c).

420 (5) The fair value, as defined in s. 607.1301(4), of

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421 dissenting shares of each constituent state bank or state trust
 422 company, the owners of which have not accepted an offer for such
 423 shares made pursuant to subsection (3), shall be determined
 424 pursuant to ss. 607.1326-607.1331 except as the procedures for
 425 notice and demand are otherwise provided in this section as of
 426 the effective date of the merger ~~by three appraisers, one to be~~
 427 ~~selected by the owners of at least two thirds of such dissenting~~
 428 ~~shares, one to be selected by the board of directors of the~~
 429 ~~resulting state bank, and the third to be selected by the two so~~
 430 ~~chosen. The value agreed upon by any two of the appraisers shall~~
 431 ~~control and be final and binding on all parties. If, within 90~~
 432 ~~days from the effective date of the merger, for any reason one~~
 433 ~~or more of the appraisers is not selected as herein provided, or~~
 434 ~~the appraisers fail to determine the value of such dissenting~~
 435 ~~shares, the office shall cause an appraisal of such dissenting~~
 436 ~~shares to be made which will be final and binding on all~~
 437 ~~parties. The expenses of appraisal shall be paid by the~~
 438 ~~resulting state bank or trust company.~~

439 Section 16. This act shall take effect October 1, 2008.

HB 477

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 477
SPONSOR(S): Reagan
TIED BILLS:

Title Loans

IDEN./SIM. BILLS: SB 874

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Committee on Financial Institutions		Holt/Bradford	Haug
2) Jobs & Entrepreneurship Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

Enactment of Chapter 537, F.S., in 2000, was in response to end user consumer abuses in the title loan industry. Recently, provisions of Chapter 537 have been applied to instances involving commercial transactions, and addressing this unintended consequence is the bill's objective. The Florida Title Loan Act was intended to protect consumers from the excesses of title loan companies and was not intended to include commercial transactions.

There appears to be no fiscal impact on state or local government.

This act shall take effect July 1, 2008.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to address any House principle.

B. EFFECT OF PROPOSED CHANGES:

Sections 1 and 2 of the bill amend Part I, Chapter 193, F.S., Title Loans

Background

Enactment of Chapter 537, F.S., in 2000 was in response to end user consumer abuses in the title loan industry. Recently, provisions of Chapter 537 have been applied to instances involving commercial transactions, and addressing this unintended consequence is the bill's objective. The Florida Title Loan Act was intended to protect consumers from the excesses of title loan companies and was not intended to include commercial transactions.

Section 1: Amends 537.002, F.S., Legislative intent. The bill clarifies that the regulation of title loans to consumers is the specific purpose for the creation of chapter 537, F.S. Further, this act supersedes any other conflicting provisions of state law.

Section 2: Amends 537.003, F.S., Definitions. The bill adds the following definition for the term "consumer":

(3) "Consumer" means an individual borrowing money for personal, family, or household purposes.

The definition defines the scope of Chapter 537's applicability to only end use consumer.

Additionally, the definition for "Title loan" or "loan" is amended to conform to the definition of "consumer."

Section 3: This act shall take effect July 1, 2008.

C. SECTION DIRECTORY:

Section 1: Legislative intent.

Section 2: Definitions.

Section 3: Effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

The bill's clarification of scope and purpose for Chapter 537, F.S., is to avoid its misapplication involving commercial transactions and to avert the probability of litigation that could adversely impact the lending process.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to title loans; amending s. 537.002, F.S.;
 3 revising legislative intent to specify application of ch.
 4 537, F.S., the Florida Title Loan Act, to title loans to
 5 consumers; amending s. 537.003, F.S.; defining the term
 6 "consumer" for purposes of ch. 537, F.S.; providing an
 7 effective date.

8

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

10

11 Section 1. Section 537.002, Florida Statutes, is amended
 12 to read:

13 537.002 Legislative intent.--It is the intent of the
 14 Legislature in the creation of this chapter that title loans to
 15 consumers ~~shall~~ be regulated by the provisions of this act. The
 16 provisions of this act ~~shall~~ supersede any other provisions of
 17 state law affecting title loans to the extent of any conflict.

18 Section 2. Section 537.003, Florida Statutes, is amended
 19 to read:

20 537.003 Definitions.--As used in this act, unless the
 21 context otherwise requires:

22 (1) "Commercially reasonable" has the same meaning as used
 23 in part V of chapter 679. In addition, nonpublic sales or
 24 disposal of personal property between a title loan lender and
 25 any business affiliates of a title loan lender or a member of a
 26 title loan lender's family are presumed not to be made in a
 27 commercially reasonable manner.

28 (2) "Commission" means the Financial Services Commission.

29 (3) "Consumer" means an individual borrowing money for
 30 personal, family, or household purposes.

31 ~~(4)~~~~(3)~~ "Office" means the Office of Financial Regulation
 32 of the commission.

33 ~~(5)~~~~(4)~~ "Executive officer" means the president, chief
 34 executive officer, chief financial officer, chief operating
 35 officer, executive vice president, senior vice president,
 36 secretary, and treasurer.

37 ~~(6)~~~~(5)~~ "Identification" means a government-issued
 38 photographic identification.

39 ~~(7)~~~~(6)~~ "Interest" means the cost of obtaining a title loan
 40 and includes any profit or advantage of any kind whatsoever that
 41 a title loan lender may charge, contract for, collect, receive,
 42 or in any way obtain as a result of a title loan.

43 ~~(8)~~~~(7)~~ "License" means a permit issued under this act to
 44 make or service title loans in accordance with this act at a
 45 single title loan office.

46 ~~(9)~~~~(8)~~ "Licensee" means a person who is licensed as a
 47 title loan lender.

48 ~~(10)~~~~(9)~~ "Loan property" means any motor vehicle
 49 certificate of title that is deposited with a title loan lender
 50 as a security for a title loan in the course of the title loan
 51 lender's business.

52 ~~(11)~~~~(10)~~ "Motor vehicle" means an automobile, motorcycle,
 53 mobile home, truck, trailer, semitrailer, truck tractor and
 54 semitrailer combination, or any other vehicle operated on the
 55 public highways and streets of this state, used to transport
 56 persons or property, and propelled by power other than muscular

57 power, but excluding a vehicle which runs only upon a track and
 58 a mobile home that is the primary residence of the owner.

59 (12)~~(11)~~ "Title loan" or "loan" means a loan of money to a
 60 consumer secured by bailment of a certificate of title to a
 61 motor vehicle, except such loan made by a person licensed under
 62 chapter 516, chapter 520, chapter 655, chapter 657, chapter 658,
 63 chapter 660, chapter 663, chapter 665, or chapter 667 or a
 64 person who complies with s. 687.03.

65 (13)~~(12)~~ "Title loan agreement" or "agreement" means a
 66 written agreement in which a title loan lender agrees to make a
 67 title loan to a borrower.

68 (14)~~(13)~~ "Title loan lender" or "lender" means any person
 69 who engages in the business of making or servicing title loans.

70 (15)~~(14)~~ "Title loan office" means the location at which,
 71 or premises from which, a title loan lender regularly conducts
 72 business under this chapter or any other location that is held
 73 out to the public as a location at which a lender makes or
 74 services title loans.

75 (16)~~(15)~~ "Titled personal property" means a motor vehicle
 76 that has as evidence of ownership a state-issued certificate of
 77 title except for a mobile home that is the primary residence of
 78 the borrower.

79 (17)~~(16)~~ "Ultimate equitable owner" means a person who,
 80 directly or indirectly, owns or controls an ownership interest
 81 in a corporation, a foreign corporation, an alien business
 82 organization, or any other form of business organization,
 83 regardless of whether such person owns or controls such
 84 ownership interest through one or more persons or one or more

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85 | proxies, powers of attorney, nominees, corporations,
86 | associations, partnerships, trusts, joint stock companies, or
87 | other entities or devices, or any combination thereof.

88 | Section 3. This act shall take effect July 1, 2008.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. 0743

COUNCIL/COMMITTEE ACTION

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

Council/Committee hearing bill: Committee on Financial Institutions

Representative Lopez-Cantera offered the following:

Amendment (with directory and title amendments)

Remove line(s) 41-175 and insert:

Section 1. Section 193.133, Florida Statutes, is created to read:

193.133 Effect of mortgage fraud on property assessments.--

(1) Upon the finding of probable cause of any person for the crime of mortgage fraud, as defined in s. 817.545, or any other fraud involving real property which may have artificially inflated or could artificially inflate the value of property affected by such fraud, the arresting agency shall promptly notify the property appraiser of the county in which such property or properties are located of the nature of the alleged fraud and the property or properties affected. If notification as required in this section would jeopardize or negatively

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

21 impact a continuing investigation, notification may be delayed
22 until such time as notice may be made without such effect.

23 (2) The property appraiser may adjust the assessment of
24 any affected real property.

25 (3) Upon the conviction of fraud as defined in subsection
26 (1), the property appraiser of the county in which such property
27 or properties are located shall, if necessary, reassess such
28 property or properties affected by such fraud.

29 Section 2. Subsection (5) of section 817.545, Florida
30 Statutes, is amended to read:

31 817.545 Mortgage fraud.--

32 (2) A person commits the offense of mortgage fraud if,
33 with the intent to defraud, the person knowingly:

34 (a) Makes any material misstatement, misrepresentation, or
35 omission during the mortgage lending process with the intention
36 that the misstatement, misrepresentation, or omission will be
37 relied on by a mortgage lender, borrower, or any other person or
38 entity involved in the mortgage lending process; however,
39 omissions on a loan application regarding employment, income, or
40 assets for a loan which does not require this information are
41 not considered a material omission for purposes of this
42 subsection.

43 (b) Uses or facilitates the use of any material
44 misstatement, misrepresentation, or omission during the mortgage
45 lending process with the intention that the material
46 misstatement, misrepresentation, or omission will be relied on
47 by a mortgage lender, borrower, or any other person or entity
48 involved in the mortgage lending process; however, omissions on
49 a loan application regarding employment, income, or assets for a

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

50 loan which does not require this information are not considered
51 a material omission for purposes of this subsection.

52 (c) Receives any proceeds or any other funds in connection
53 with the mortgage lending process that the person knew resulted
54 from a violation of paragraph (a) or paragraph (b).

55 (d) Files or causes to be filed with the clerk of the
56 circuit court for any county of this state a document involved
57 in the mortgage lending process which contains a material
58 misstatement, misrepresentation, or omission.

59 (5) (a) Any person who violates subsection (2) commits a
60 felony of the third degree, punishable as provided in s.
61 775.082, s. 775.083, or s. 775.084.

62 (b) Any person who violates subsection (2), and the loan
63 value stated on documents used in the mortgage lending process
64 exceeds \$100,000, commits a felony of the second degree,
65 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

66 Section 3. Mortgage Fraud Council.--

67 (1) CREATION.--The Mortgage Fraud Council is created as an
68 adjunct to the Office of the Attorney General. The council is
69 subject to s. 20.052, Florida Statutes.

70 (2) PURPOSE.--The purpose of the council is to develop and
71 make recommendations to the Office of the Attorney General to
72 reduce incidents of mortgage fraud in this state.

73 (3) MEMBERSHIP.--The council shall consist of 10 members
74 who shall be appointed by and serve at the pleasure of the
75 Attorney General, the Speaker of the House of Representatives,
76 and the President of the Senate, as follows:

77 (a) Four members shall be appointed by and serve for a
78 term of 2 years at the pleasure of the Attorney General. At
79 least one member must be an active member of a consumer advocacy

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

80 group and the other three members must have experience in real
81 estate, finance, law enforcement, or the legal profession.

82 (b) Three members shall be appointed by and serve for a
83 term of 2 years at the pleasure of the Speaker of the House of
84 Representatives and must have experience in real estate,
85 finance, law enforcement, or the legal profession.

86 (c) Three members shall be appointed by and serve for a
87 term of 2 years at the pleasure of the President of the Senate
88 and must have experience in real estate, finance, law
89 enforcement, or the legal profession.

90 (d) Members shall serve until their successors are
91 appointed. A vacancy shall be filled for the remainder of the
92 unexpired term.

93 (e) Council members shall serve without compensation;
94 however, each council member is entitled to reimbursement for
95 per diem and travel expenses pursuant to s. 112.061, Florida
96 Statutes.

97 (f) The Office of the Attorney General shall provide
98 administrative and staff support to the council.

99 (4) MEETINGS; PROCEDURES; RECORDS.--

100 (a) The business of the council shall be presented to the
101 council in the form of an agenda. The agenda shall be set by the
102 Attorney General and shall include items of business requested
103 by the council members.

104 (b) A majority of the members constitutes a quorum, and
105 action by a majority of a quorum shall be official.

106 (c) The minutes for each meeting shall be submitted to the
107 Attorney General within 14 days after the date of each meeting.

108 (5) POWERS AND DUTIES.--The council shall:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

109 (a) Collect data about and serve as a resource and
110 clearinghouse for information relating to mortgage fraud.

111 (b) In conjunction with state agencies responsible for
112 determining training needs and standards for law enforcement
113 officers, state attorneys, and regulatory personnel, identify
114 and make recommendations for training relating to combating
115 mortgage fraud.

116 (c) Propose legislation to detect and prevent mortgage
117 fraud.

118 (6) FUNDING; RESOURCES.--

119 (a) The council may apply for and accept funds, grants,
120 gifts, and services from the state, the government of the United
121 States or any of its agencies, or any other public or private
122 source for the purpose of defraying clerical and administrative
123 costs as necessary to carry out its duties under this section.
124 All sums received by the council shall be deposited into the
125 Administrative Trust Fund of the Office of the Attorney General.
126 The moneys received and deposited into the trust fund are
127 appropriated for use by the council in carrying out its duties
128 as prescribed by this section.

129 (b) The council shall seek out and, wherever possible, use
130 the talents, expertise, and resources within the state, and
131 especially those of the community college and state university
132 systems, in furtherance of its mission.

133 (c) The council may procure information and assistance
134 from any state agency, political subdivision, municipal
135 corporation, or public officer.

136 (d) The council may coordinate with any state agency, any
137 political subdivision, or any school district of the state in
138 the furtherance of its mission.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

139 (7) REPORTS.--Beginning December 31, 2008, the council
140 shall report annually on December 31 to the Attorney General,
141 the Speaker of the House of Representatives, and the President
142 of the Senate on the activities carried out under this section,
143 including expenditures and funding.

144 (8) TERMINATION.--The council is terminated December 31,
145 2010. Upon termination, any funds remaining in the
146 Administrative Trust Fund of the Office of the Attorney General
147 from deposits made pursuant to paragraph (6) (a) shall be
148 appropriated to the Attorney General to fund the activities the
149 Attorney General has implemented pursuant to the recommendations
150 of the council.

151 Section 4. This act shall take effect July 1, 2008.

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

155 Remove line(s) 2-37 and insert:

156 An act relating to mortgage fraud; creating s. 193.133, F.S.;

157 requiring law enforcement agencies to notify property appraisers

158 of incidents of mortgage fraud under certain circumstances;

159 authorizing property appraisers to adjust property assessments

160 under certain circumstances; requiring property appraisers to

161 reassess certain properties under certain circumstances;

162 amending s. 817.545, F.S.; providing an increased penalty for

163 certain types of mortgage fraud; creating the Mortgage Fraud

164 Council as an adjunct to the Office of the Attorney General;

165 providing a purpose; providing for membership; requiring the

166 Office of the Attorney General to provide administrative and

167 staff support; providing for council meetings, procedures, and

168 records; providing powers and duties of the council; providing

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

169 for funding and resources for the council; requiring the council
170 to submit annual reports; providing for termination of the
171 council; providing for disposition of certain remaining funds;
172 providing an effective date.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill creates eight mortgage fraud councils (1 statewide and 7 regional) and provides for certain expense reimbursements.

Maintain public security: Criminal penalties are increased for certain incidents of mortgage fraud.

B. EFFECT OF PROPOSED CHANGES:

HB 743 provides several whereas clauses, but its focus is conveyed in the last clause as follows:

WHEREAS, providing enhanced penalties for multiple or more egregious instances of mortgage fraud, providing a uniform form for quitclaim deeds, establishing a statewide and regional councils to coordinate investigations of and solutions to mortgage fraud, and allowing county property appraisers to disqualify fraudulent property appraisals when deriving just valuation will help combat and reduce the effect of mortgage fraud

Section 1 of the bill amends Part I, Chapter 193, F.S., Assessments, General Provisions

Section 1: The bill creates a new section 193.133, F.S., related to the effect of mortgage fraud on property assessments. The seven day provisions requires any state or local law enforcement agency to notify the appropriate property appraiser of mortgage fraud incidents or any other fraud involving real property that results in the artificial inflation of the property value.

Upon notification, the property appraiser shall revisit that property assessment by considering the effect of the fraud on the just valuation of the property. If appropriate, the property appraiser may retroactively adjust the property assessment back to the initial date of the fraud occurrence.

According to the Department of Revenue, there are currently no provisions under the property tax laws related to the effect mortgage fraud may have on assessments of property.

Section 2 of the bill amends Part I, Chapter 817, False Pretenses and Fraud, Generally

Section 2: The bill makes two amendments to s. 817.545, Mortgage Fraud. First, the caption is amended to read: Residential Mortgage Fraud. Subsection (5) of s. 817.545, F.S., currently reads:

(5) Any person who violates subsection (2) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Subsection (2) of s. 817.545, F.S., currently reads:

2) A person commits the offense of mortgage fraud if, with the intent to defraud, the person knowingly:

(a) Makes any material misstatement, misrepresentation, or omission during the mortgage lending process with the intention that the misstatement, misrepresentation, or omission will be relied on by a mortgage lender, borrower, or any other person or entity involved in the mortgage lending process; however, omissions on a loan application regarding employment, income, or assets for a loan which does not require this information are not considered a material omission for purposes of this subsection.

(b) Uses or facilitates the use of any material misstatement, misrepresentation, or omission during the mortgage lending process with the intention that the material misstatement, misrepresentation, or omission will be relied on by a mortgage lender, borrower, or any other person or entity involved in the mortgage lending process; however, omissions on a loan application regarding employment, income, or assets for a loan which does not require this information are not considered a material omission for purposes of this subsection.

(c) Receives any proceeds or any other funds in connection with the mortgage lending process that the person knew resulted from a violation of paragraph (a) or paragraph (b).

(d) Files or causes to be filed with the clerk of the circuit court for any county of this state a document involved in the mortgage lending process which contains a material misstatement, misrepresentation, or omission.

The second amendment to this section describes mortgage fraud and expands the penalties based on the number of parcels involved in the mortgage process and the total value of the loan:

(5)(a) If only one parcel of real property is subject to the mortgage lending process or the total value of the loan is \$100,000 or less, any person who violates subsection (2) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If two or more parcels of real property are subject to the mortgage lending process or the total value of the loan is greater than \$100,000, a person who violates subsection (2) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3 of the bill creates an un-numbered section relating to creation of a Statewide Mortgage Council

Section 3: Creates the Statewide Mortgage Council within FDLE for the purpose of combating mortgage fraud. The council is composed of the following members:

1. The executive director of the FDLE shall chair the council.
2. The statewide prosecutor.
3. The Attorney General or a designee who is knowledgeable about economic crimes.
4. The Commissioner of Financial Regulation or a designee who is knowledgeable about mortgage lending and related financial institutions.
5. The executive director of the Department of Revenue or a designee who is knowledgeable about ad valorem property valuation.
6. A member of the Florida Real Estate Appraisal Board.

The bill outlines the duties of the council. Among those duties, the council in conjunction with other state agencies will develop standard training criteria. The council is responsible for identifying all resources and funding sources to support these efforts. An executive director appointed by the chair shall carry council tasks, and FDLE staff will provide administrative support.

Under the statewide council, there will be seven regional councils located in each of the seven operational regions of the FDLE. Dedicated support staff shall handle functions and activities of the regional councils. These councils will be co-chaired by the FDLE agent in charge of the operational region. Membership is to include various professionals and business leader familiar with all aspects of real property. The regional councils shall organize, coordinate and implement the directives of the Statewide Council.

Members of the councils are not compensated, but the bill provides for per diem and travel reimbursement in carrying out their duties. Additionally, subject to an appropriation, the establishment of a statewide toll-free hotline is created for reporting mortgage fraud and providing information and resources to the public.

Section 4: This act takes effect July 1, 2008,

C. SECTION DIRECTORY:

Section 1: Provides for law enforcement notification and property appraiser reassessment of real property.

Section 2: Provides for penalties.

Section 3: Provides for creation of Statewide Mortgage Fraud Council and regional councils

Section 4: Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

FDLE estimates the fiscal impact to the state will be \$399,509 from the General Revenue Trust Fund (GR) annually for the administration of the statewide council and toll-free hotline. An additional \$32,216 nonrecurring GR costs will be needed in the first year for set up costs. Although not authorized in the bill directly, FDLE estimates the need for 1 additional FTE position to administer the needs of the Council and 6 FTE positions to handle the workload of the toll-free hotline.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

3. The cost relating to administering to the Regional Councils is indeterminate at this time but is estimated by FDLE to be a significant drain on existing resources at both FDLE and local governments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

There are no provisions for funding sources or additional staff within the bill therefore FDLE would be assuming the costs associated with the creation and administration of the councils and the hotline.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Revenue provided the following comments:

Lines 53-55: Provides that the property appraiser shall consider the effect of the fraud on the just value of the property. This provision does not address any effect that the use of a potentially fraudulent sale may have had on the just valuation of other nearby similar properties. The language could be improved to say that the property appraiser must reconsider the just valuation of any parcels whose assessments were affected by a sale for which fraud was reported to the property appraiser under s. 193.133(1), F.S.

Lines 56-58: Subsection 193.133(3), F.S., provides that the property appraiser may adjust his or her assessment of the property retroactive to the initial date of the mortgage fraud. The determination of the extent to which mortgage fraud may have affected just valuation is an act of appraisal judgment. Current law provides limits on the time period in which a property appraiser may correct errors in judgment. Thus, this subsection would appear to be in conflict with existing law.

D. STATEMENT OF THE SPONSOR

None.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to real property fraud; creating s.
 3 193.133, F.S.; requiring law enforcement agencies to
 4 notify property appraisers of incidents of mortgage fraud;
 5 requiring property appraisers to reconsider property
 6 assessments under certain circumstances; amending s.
 7 817.545, F.S.; increasing penalties for certain types of
 8 mortgage fraud; creating a Statewide Mortgage Fraud
 9 Council within the Department of Legal Affairs; providing
 10 for membership; providing duties of the council; providing
 11 for establishing regional mortgage fraud councils;
 12 providing for membership; providing duties of regional
 13 councils; providing for reimbursement of members' per diem
 14 and travel expenses; providing an effective date.

15
 16 WHEREAS, mortgage fraud is a significant problem
 17 throughout the United States and is having a particularly
 18 damaging affect on mortgage investors and homeowners in this
 19 state, and

20 WHEREAS, certain types of mortgage fraud result in an
 21 artificial inflation in the value of residential property, which
 22 is directly correlated with an increase in the number of
 23 foreclosure filings, and

24 WHEREAS, this state is ranked number one in incidents of
 25 mortgage fraud and also has one of the highest foreclosure rates
 26 in the nation, and

27 WHEREAS, the escalation of property values also causes an
 28 increase in property taxes further making homeownership less
 29 affordable in this state, and

30 WHEREAS, providing enhanced penalties for multiple or more
 31 egregious instances of mortgage fraud, providing a uniform form
 32 for quitclaim deeds, establishing a statewide and regional
 33 councils to coordinate investigations of and solutions to
 34 mortgage fraud, and allowing county property appraisers to
 35 disqualify fraudulent property appraisals when deriving just
 36 valuation will help combat and reduce the effect of mortgage
 37 fraud, NOW, THEREFORE,

38
 39 Be It Enacted by the Legislature of the State of Florida:

40
 41 Section 1. Section 193.133, Florida Statutes, is created
 42 to read:

43 193.133 Effect of mortgage fraud on property
 44 assessments.--

45 (1) Any state or local law enforcement agency shall
 46 provide notification of an incident of mortgage fraud, as
 47 defined in s. 817.545, or other fraud involving real property
 48 which may artificially inflate the value of the property, to the
 49 property appraiser of the county in which the property is
 50 located within 7 business days after learning of such incident.

51 (2) Upon notification of an incident of mortgage fraud or
 52 any other fraud involving real property which may artificially
 53 inflate the value of the property, the property appraiser shall

54 revisit the property assessment and consider the effect of the
 55 fraud on the just valuation of the property.

56 (3) The property appraiser may adjust his or her
 57 assessment of the property retroactive to the initial date of
 58 the occurrence of the mortgage fraud.

59 Section 2. Subsection (5) of section 817.545, Florida
 60 Statutes, is amended to read:

61 817.545 Residential mortgage fraud.--

62 (5) (a) If only one parcel of real property is subject to
 63 the mortgage lending process or the total value of the loan is
 64 \$100,000 or less, a any person who violates subsection (2)
 65 commits a felony of the third degree, punishable as provided in
 66 s. 775.082, s. 775.083, or s. 775.084.

67 (b) If two or more parcels of real property are subject to
 68 the mortgage lending process or the total value of the loan is
 69 greater than \$100,000, a person who violates subsection (2)
 70 commits a felony of the second degree, punishable as provided in
 71 s. 775.082, s. 775.083, or s. 775.084.

72 Section 3. Statewide Mortgage Fraud Council.--

73 (1) INTENT.--The Legislature finds that there is a need to
 74 develop and implement a statewide strategy to address mortgage
 75 fraud within or affecting this state.

76 (2) ESTABLISHMENT.--The Statewide Mortgage Fraud Council
 77 is established within the Department of Law Enforcement for the
 78 purpose of combating mortgage fraud throughout the state.

79 (a) The council shall have an executive director appointed
 80 by the executive director of the department who shall carry out

81 the tasks of the council as directed by the council. The
 82 department shall provide administrative support to the council.

83 (b) The council shall be composed of the following
 84 members:

85 1. The executive director of the Department of Law
 86 Enforcement, who shall be the chair of the council.

87 2. The statewide prosecutor.

88 3. The Attorney General or a designee who is knowledgeable
 89 about economic crimes.

90 4. The Commissioner of Financial Regulation or a designee
 91 who is knowledgeable about mortgage lending and related
 92 financial institutions.

93 5. The executive director of the Department of Revenue or
 94 a designee who is knowledgeable about ad valorem property
 95 valuation.

96 6. A member of the Florida Real Estate Appraisal Board.

97 (3) DUTIES.--The council may:

98 (a) Collect data about and serve as a resource and
 99 clearinghouse for information relating to mortgage fraud,
 100 including ongoing investigations and prosecutions around the
 101 state which involve mortgage fraud.

102 (b) Coordinate and initiate statewide or regional mortgage
 103 fraud investigations through the statewide prosecutor or local
 104 state attorneys.

105 (c) Subject to appropriation, establish a statewide toll-
 106 free hotline for reporting mortgage fraud, providing information
 107 and resources to the public regarding mortgage fraud, and
 108 routing reports of mortgage fraud to the appropriate law

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109 enforcement and prosecutorial agencies and the regional
110 councils.

111 (d) In conjunction with state agencies responsible for
112 determining training needs and establishing training standards
113 for law enforcement officers, state attorneys, and regulatory
114 personnel, identify and make recommendations relating to
115 equipment and training, including continued training for state
116 licensure or certification, to ensure that the needs of this
117 state with regard to preparing, equipping, and training law
118 enforcement officers, state attorneys, and regulatory personnel
119 to combat mortgage fraud are identified and addressed. In making
120 such recommendations, the council shall identify all resources
121 and funding sources that may be available to support and fund
122 such efforts.

123 (e) Propose legislation to eliminate and prevent mortgage
124 fraud, including measures that close loopholes in procedures for
125 making mortgage loans and prevent practices by property
126 appraisers which provide opportunities for mortgage fraud.

127 (f) Establish regional mortgage fraud councils as provided
128 in subsection (4).

129 (4) REGIONAL COUNCILS.--A regional mortgage fraud council
130 shall be established in each of the seven operational regions of
131 the Department of Law Enforcement. The department shall provide
132 dedicated staff to support the functions and activities of the
133 regional councils.

134 (a) Each regional council shall be co-chaired by the
135 department's special agent in charge of the operational region

136 in which the council is located and by a local sheriff or chief
 137 of police from within the operational region.

138 (b) Regional council membership may include
 139 representatives of local law enforcement agencies, the state
 140 attorney's office, the county property appraiser, industry
 141 professionals, including property appraisers, mortgage brokers
 142 and bankers, and other affected professions, and business
 143 leaders.

144 (c) The co-chairs of a regional council may appoint
 145 committees and committee chairs as necessary to address issues
 146 related to the various disciplines represented on the council,
 147 including a law enforcement, regulatory, business partnership,
 148 education, or victims assistance committee. The committee chair
 149 shall serve at the pleasure of the co-chairs.

150 (d) Each regional council, with oversight and direction
 151 from the Statewide Mortgage Fraud Council, shall:

152 1. Organize, with local law enforcement agencies,
 153 sheriff's departments, and state attorneys, coordinated local
 154 initiatives to address mortgage fraud.

155 2. Coordinate efforts to enforce s. 817.545, Florida
 156 Statutes, and other related state and federal laws to ensure
 157 that such efforts are not fragmented or unnecessarily
 158 duplicative.

159 3. Coordinate training for local and state personnel
 160 relating to ss. 193.133 and 817.545, Florida Statutes, and other
 161 related state and federal laws.

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162 4. Coordinate the collection and dissemination of state
 163 and local investigative information relating to mortgage fraud
 164 within each region.

165 5. Incorporate other objectives reasonably related to the
 166 goal of enhancing the state's ability to detect, prevent, and
 167 respond to mortgage fraud within or affecting this state. Each
 168 regional council shall take into account the unique conditions
 169 and resources within its region.

170 (5) MEMBER EXPENSES.--Members of the statewide and
 171 regional councils shall serve without compensation, but, in
 172 accordance with s. 112.061, Florida Statutes, are entitled to
 173 reimbursement for per diem and travel expenses incurred in
 174 carrying out the duties of the council.

175 Section 4. This act shall take effect July 1, 2008.