HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 6077 Assets of an Estate in Administration
SPONSOR(S): Insurance & Banking Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Insurance & Banking Subcommittee		Hinshelwood	Luczynski

SUMMARY ANALYSIS

A court having jurisdiction over the administration of an estate may order that part or all of the personal assets of the estate be placed with a financial institution designated by the court. Currently, the financial institutions where a court may order assets placed are "a bank, trust company, or savings and loan association *(which savings and loan association is a member of the Federal Savings and Loan Insurance Corporation and doing business in this state)*." The Federal Savings and Loan Insurance Corporation (FSLIC) was created in 1934 in order to insure deposits of savings and loan associations. However, the FSLIC was abolished in 1989 on the heels of the savings and loan crisis of the 1980s. Savings and loan associations are now insured by the Federal Deposit Insurance Corporation, as are commercial banks.

The bill removes a statutory reference to the FSLIC along with other obsolete language.

The bill has no impact on local governments or the state. The bill has an indeterminate but likely positive impact on the private sector.

The bill provides an effective date of July 1, 2021.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

When a court administers an estate, such as in probate[1] or in a guardianship,[2] there is often an individual appointed by the court to assist with the administration. Depending on the context, such individual will have varying titles such as guardian, curator, executor, administrator, trustee, or receiver. Although the individual may be required by statute or the court to carry a bond,[3] s. 69.031, F.S., provides that a court may nevertheless order that part or all of the personal assets of the estate be placed with a financial institution designated by the court.[4] This may occur if the size of the bond required is burdensome, or for other cause.[5] After the assets have been placed with the financial institution, and receipt for the assets is given by the financial institution, the court must waive the bond or reduce it so that the bond only applies to the estate remaining in the hands of the individual appointed to assist with administration of the estate.[6]

Currently, the financial institutions where a court may order assets placed are "a bank, trust company, or savings and loan association *(which savings and loan association is a member of the Federal Savings and Loan Insurance Corporation and doing business in this state)*."[7]

The Federal Savings and Loan Insurance Corporation (FSLIC) was created by the National Housing Act of 1934 in order to insure deposits of savings and loan associations.[8] Savings and loan associations may be chartered both under federal authority[9] or state authority[10] and were created to primarily provide depository services and make home loans. Today, the rights and privileges of savings and loan associations are substantially similar to, and in some cases the same as, commercial banks.[11] The Federal Deposit Insurance Corporation now insures savings and loan associations, as well as commercial banks.[12] The FSLIC, the entity that initially insured savings and loan associations, was abolished in 1989 on the heels of the savings and loan crisis of the 1980s.[13]

As previously stated, s. 69.031, F.S., permits a court to place assets in a savings and loan association *that is a member of the FSLIC*, a now obsolete entity.

Effect of the Bill

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[1] Probate is a court-supervised process for identifying and gathering the assets of a deceased person (decedent), paying the decedent's debts, and distributing the decedent's assets to his or her beneficiaries. The Florida Bar, *Consumer Pamphlet: Probate in Florida*, https://www.floridabar.org/public/consumer/pamphlet026/ (last visited Mar. 6, 2021).
[2] A guardianship is a legal proceeding in the circuit courts of Florida in which a guardian is appointed to exercise the legal rights of an incapacitated person. The Florida Bar, *Consumer Pamphlet: What is Guardianship?*, https://www.floridabar.org/public/consumer/pamphlet030/ (last visited Mar. 6, 2021).
[3] *See, e.g.*, fiduciary bonds in formal probate proceedings (ss. 733.402 – 733.406, F.S.); fiduciary bonds in guardianship (ss. 744.2003, 744.351, and 744.619, F.S.).
[4] S. 69.031(1), F.S.
[5] *Id.*
[6] S. 69.031(1) and (2), F.S.
[7] S. 69.031(1), F.S. (emphasis added).
[8] Pub.L. 73–479, https://govtrackus.s3.amazonaws.com/legislink/pdf/stat/48/STATUTE-48-Pg1246.pdf.
[9] Home Owners' Loan Act, 12 U.S.C. § 1461 *et seq*.
[10] In Florida, chs. 665 and 667, F.S., comprise authority to charter a savings and loan association. However, Florida currently has no savings and loan associations chartered under its authority.
[11] Office of the Comptroller of the Currency, *Interpretive Letter #1169* (June 30, 2020), https://www.occ.treas.gov/topics/charters-and-licensing/interpretations-and-actions/2020/int1169.pdf (last visited Mar. 6, 2021).
[12] 12 U.S.C. § 1814(a).
[13] Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Pub.L. 101-73, https://www.govinfo.gov/content/pkg/STATUTE-103/pdf/STATUTE-103-Pg183.pdf (last visited Mar. 6, 2021).

The bill removes a statutory reference to the FSLIC along with other obsolete language.

B. SECTION DIRECTORY:

Section 1. Amends s. 69.031, F.S., relating to designated financial institutions for assets in hands of guardians, curators, administrators, trustees, receivers, or other officers.

Section 2. Provides an effective date of July 1, 2021.

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 broadens access to financial services by allowing a court to place assets of an estate in a savings and loan association without reference to the savings and loan association having insurance through the FSLIC, a now obsolete entity. The impact to the private sector, while likely positive, is indeterminate.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES