

By the Committee on Banking and Insurance; and Senator Sebesta

311-1990-04

1 A bill to be entitled
2 An act relating to banking regulation; amending
3 s. 494.0011, F.S.; authorizing the Financial
4 Services Commission to require electronic
5 submission of forms, documents, or fees;
6 providing for a technological or financial
7 hardship accommodation; providing application;
8 amending s. 494.0016, F.S.; authorizing the
9 commission to prescribe requirements for
10 destroying books, accounts, records, and
11 documents; authorizing the commission to
12 recognize alternative statutes of limitation
13 for such destruction; providing for procedures;
14 amending s. 494.0029, F.S.; specifying criteria
15 for receipt of certain applications; specifying
16 certain permits as not transferable or
17 assignable; amending s. 494.00295, F.S.;
18 revising provisions to specify continuing
19 education for certain professions; amending s.
20 494.003, F.S.; clarifying application of an
21 exemption from application of certain mortgage
22 broker licensure requirements to certain
23 entities; amending s. 494.0031, F.S.; requiring
24 licensure of mortgage brokerage businesses;
25 specifying criteria for receipt of certain
26 applications; authorizing the commission or the
27 Office of Financial Regulation to require
28 certain information from certain applicants;
29 revising certain fingerprinting requirements;
30 authorizing the commission to prescribe fees
31 and procedures for processing fingerprints;

1 authorizing the office to contract for certain
2 fingerprinting services; specifying certain
3 licenses as nontransferable or nonassignable;
4 amending s. 494.0033, F.S.; clarifying mortgage
5 broker licensure requirements; authorizing the
6 commission to waive certain examination
7 requirements under certain circumstances;
8 authorizing the commission to prescribe certain
9 additional testing fees; revising certain
10 fingerprinting requirements; authorizing the
11 commission to prescribe fees and procedures for
12 processing fingerprints; authorizing the office
13 to contract for certain fingerprinting
14 services; specifying criteria for receipt of
15 certain applications; deleting certain
16 provisions relating to cancellation and
17 reinstatement of licenses; amending s.
18 494.0034, F.S.; clarifying the commission's
19 authorization to prescribe license renewal
20 forms; amending s. 494.0036, F.S.; clarifying
21 provisions relating to issuance of mortgage
22 brokerage business branch office licenses;
23 specifying criteria for receipt of certain
24 applications; amending s. 494.0041, F.S.;
25 specifying an additional ground for
26 disciplinary action; amending s. 494.006, F.S.;
27 clarifying application of an exemption from
28 application of certain mortgage lender
29 licensure requirements to certain entities;
30 amending s. 494.0061, F.S.; requiring licensure
31 of mortgage lenders; specifying criteria for

1 receipt of certain applications; revising
2 certain fingerprinting requirements;
3 authorizing the commission to prescribe fees
4 and procedures for processing fingerprints;
5 authorizing the office to contract for certain
6 fingerprinting services; deleting certain
7 provisions relating to cancellation and
8 reinstatement of licenses; authorizing the
9 commission to waive certain examination
10 requirements under certain circumstances;
11 authorizing the commission to prescribe certain
12 additional testing fees; amending s. 494.0062,
13 F.S.; requiring licensure of correspondent
14 mortgage lenders; specifying criteria for
15 receipt of certain applications; authorizing
16 the office to require applicants to provide
17 certain information; revising certain
18 fingerprinting requirements; authorizing the
19 commission to prescribe fees and procedures for
20 processing fingerprints; authorizing the office
21 to contract for certain fingerprinting
22 services; deleting certain provisions relating
23 to cancellation and reinstatement of licenses;
24 authorizing the commission to waive certain
25 examination requirements under certain
26 circumstances; authorizing the commission to
27 prescribe certain additional testing fees;
28 amending s. 494.0064, F.S.; clarifying a
29 reference to professional continuing education
30 for certain licensees; amending s. 494.0065,
31 F.S.; specifying criteria for receipt of

1 certain applications; specifying certain
2 education and testing requirements for certain
3 principal representatives and for certain
4 applications or transfer applications;
5 authorizing the commission to waive certain
6 examination requirements under certain
7 circumstances; authorizing the commission to
8 prescribe certain additional testing fees;
9 increasing a license transfer fee; revising
10 certain fingerprinting requirements;
11 authorizing the commission to prescribe fees
12 and procedures for processing fingerprints;
13 authorizing the office to contract for certain
14 fingerprinting services; requiring mortgage
15 lenders to designate a principal
16 representative; providing criteria and
17 requirements; amending s. 494.0066, F.S.;
18 clarifying branch office licensure
19 requirements; amending s. 494.0067, F.S.;
20 clarifying reference to professional continuing
21 education requirements; amending s. 494.0072,
22 F.S.; providing an additional ground for
23 disciplinary action; amending s. 494.00721,
24 F.S.; correcting cross-references; amending s.
25 516.03, F.S.; specifying criteria for receipt
26 of certain applications; authorizing the
27 commission to require electronic submission of
28 forms, documents, or fees; providing for a
29 technological or financial hardship
30 accommodation; amending s. 516.07, F.S.;
31 providing an additional ground for disciplinary

1 action; amending s. 516.12, F.S.; authorizing
2 the commission to prescribe certain minimum
3 information in a licensee's books, accounts,
4 records, and documents; authorizing the
5 commission to prescribe requirements for
6 destroying books, accounts, records, and
7 documents; authorizing the commission to
8 recognize alternative statutes of limitation
9 for such destruction; providing for procedures;
10 amending s. 517.061, F.S.; revising provisions
11 related to exempt transactions; amending ss.
12 517.051, 517.081, F.S.; revising standards for
13 accounting principles to be used in preparing
14 certain financial statements; amending s.
15 517.12, F.S.; revising provisions for taking
16 and submitting fingerprints of dealers,
17 associated persons, and similarly situated
18 persons; revising provisions relating to
19 expiration and renewal of registration of such
20 persons; providing an exemption from
21 registration requirements for a Canadian dealer
22 and an associated person who represents a
23 Canadian dealer under certain conditions;
24 providing for notice filing by a Canadian
25 dealer under certain conditions; authorizing
26 the Office of Financial Regulation of the
27 Financial Services Commission to issue a permit
28 to evidence the effectiveness of a notice
29 filing for a Canadian dealer; providing for the
30 renewal of a notice filing by a Canadian
31 dealer; providing for reinstatement of a notice

1 filing; providing obligations for a Canadian
2 dealer who has given notice of filing;
3 providing obligations for an associated person
4 representing a Canadian dealer who has given
5 notice of filing; providing for the termination
6 of a notice of filing; providing for the
7 collection of fees; amending s. 517.131, F.S.;
8 revising conditions under which recovery can be
9 made from the Securities Guaranty Fund;
10 amending s. 517.141, F.S.; prescribing
11 circumstances under which a claimant must
12 reimburse the fund; amending s. 517.161, F.S.;
13 providing an additional ground for revocation,
14 restriction, or suspension of a registration;
15 amending ss. 520.03, 520.32, 520.52, and
16 520.63, F.S.; specifying criteria for receipt
17 of certain applications; amending s. 520.994,
18 F.S.; authorizing the commission to require
19 electronic submission of forms, documents, or
20 fees; providing for a technological or
21 financial hardship accommodation; amending s.
22 520.995, F.S.; providing an additional ground
23 for disciplinary action; amending ss. 520.997
24 and 537.009, F.S.; authorizing the commission
25 to prescribe certain minimum information in a
26 licensee's books, accounts, records, and
27 documents; authorizing the commission to
28 prescribe requirements for destroying books,
29 accounts, records, and documents; authorizing
30 the commission to recognize alternative
31 statutes of limitation for such destruction;

1 providing for procedures; amending ss. 560.105
2 and 560.118, F.S.; authorizing the commission
3 to require electronic submission of forms,
4 documents, or fees; providing for a
5 technological or financial hardship
6 accommodation; amending s. 560.114, F.S.;
7 providing an additional ground for disciplinary
8 action; amending s. 560.121, F.S.; authorizing
9 the commission to prescribe certain minimum
10 information in a licensee's books, accounts,
11 records, and documents; authorizing the
12 commission to prescribe requirements for
13 destroying books, accounts, records, and
14 documents; authorizing the commission to
15 recognize alternative statutes of limitation
16 for such destruction; providing for procedures;
17 decreasing the required time period for the
18 office to retain certain reports, records,
19 applications, and related information; amending
20 s. 560.205, F.S.; revising certain
21 fingerprinting requirements; authorizing the
22 commission to prescribe fees and procedures for
23 processing fingerprints; authorizing the office
24 to contract for certain fingerprinting
25 services; authorizing the commission to
26 establish procedures for depositing fees and
27 filing documents electronically; deleting a
28 requirement that an applicant provide a list of
29 certain vendors; requiring the reporting of
30 certain changes of registration by written
31 amendment; amending s. 560.207, F.S.;

1 authorizing the commission to establish
2 procedures for depositing fees and filing
3 documents electronically; amending s. 560.210,
4 F.S.; revising permissible investment
5 requirements for certain registrants; amending
6 ss. 560.211 and 560.310, F.S.; requiring notice
7 to the office of the location of certain
8 amended records; amending ss. 560.305 and
9 560.308, F.S.; authorizing the commission to
10 establish procedures for depositing fees and
11 filing documents electronically; amending s.
12 560.306, F.S.; revising certain fingerprinting
13 requirements; authorizing the commission to
14 prescribe fees and procedures for processing
15 fingerprints; authorizing the office to
16 contract for certain fingerprinting services;
17 requiring the reporting of certain changes of
18 registration by written amendment; specifying
19 in general that accounting principles are those
20 generally accepted in the United States;
21 specifying commission authority by rules;
22 creating s. 626.565, F.S.; requiring an agent
23 of the Department of Insurance to dispose of
24 records containing personal financial or health
25 information of certain persons after the
26 retention requirement has been met; requiring
27 such disposition to protect the confidentiality
28 of personal financial or health information;
29 authorizing the department to adopt rules for
30 the disposition of personal financial or health
31 information; providing an effective date.

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

2

3 Section 1. Subsection (2) of section 494.0011, Florida
4 Statutes, is amended, and subsection (6) is added to that
5 section, to read:

6 494.0011 Powers and duties of the commission and
7 office.--

8 (2) The commission has authority to adopt rules
9 pursuant to ss. 120.536(1) and 120.54 to implement ss.
10 494.001-494.0077. The commission may adopt rules which require
11 to allow electronic submission of any forms, documents, or
12 fees required by this act, provided such rules reasonably
13 accommodate technological or financial hardship. The
14 commission may prescribe by rule requirements and procedures
15 for obtaining a technological or financial hardship exemption.
16 The commission may also adopt rules to accept certification of
17 compliance with requirements of this act in lieu of requiring
18 submission of documents.

19 (6) The grant or denial of a license shall be in
20 accordance with s. 120.60.

21 Section 2. Subsection (4) of section 494.0016, Florida
22 Statutes, is amended to read:

23 494.0016 Books, accounts, and records; maintenance;
24 examinations by the office.--

25 (4) The commission may prescribe by rule the minimum
26 information to be shown in the books, accounts, records, and
27 documents of licensees so that such records will enable the
28 office to determine the licensee's compliance with ss.
29 494.001-494.0077. In addition, the commission may prescribe by
30 rule the requirements for destruction of books, accounts,
31 records, and documents retained by the licensee after

1 completion of the time period indicated in subsection (3).
2 Notwithstanding the 3-year retention period provided in
3 subsection (3), if the office identifies a statute of
4 limitations in a federal law or rule or another law or rule of
5 this state that is reasonably related by subject matter to the
6 administration of this chapter, the commission may identify
7 that statute of limitations by rule and may prohibit the
8 destruction of records required to be maintained by this
9 chapter for a period of time established by rule that is
10 reasonably related to such statute of limitations. The
11 commission shall prescribe by rule those documents or records
12 that are to be preserved that are related to the identified
13 statute of limitations.

14 Section 3. Subsection (1) of section 494.0029, Florida
15 Statutes, is amended to read:

16 494.0029 Mortgage business schools.--

17 (1)(a) Each person, school, or institution, except
18 accredited colleges, universities, community colleges, and
19 area technical centers in this state, which offers or conducts
20 mortgage business training as a condition precedent to
21 licensure as a mortgage broker, or mortgage lender, or a
22 correspondent mortgage lender shall obtain a permit from the
23 office and abide by the regulations imposed upon such person,
24 school, or institution by this chapter and rules adopted
25 pursuant to this chapter. The commission shall, by rule,
26 recertify the permits annually with initial and renewal permit
27 fees that do not exceed \$500 plus the cost of accreditation.

28 (b) A permit application shall be deemed received for
29 purposes of s. 120.60 upon receipt of a completed application
30 form as prescribed by commission rule, a nonrefundable
31

1 application fee of \$500, and any other fee prescribed by law
2 or rule.

3 (c) A permit issued under this section is not
4 transferable or assignable.

5 Section 4. Section 494.00295, Florida Statutes, is
6 amended to read:

7 494.00295 Professional continuing education.--

8 (1) Each mortgage broker, mortgage lender, and
9 correspondent mortgage lender must certify to the office at
10 the time of renewal that during the 2 years prior to an
11 application for license renewal, all mortgage brokers and the
12 principal representative and, loan originators, ~~and associates~~
13 of a mortgage lender or correspondent mortgage lender have
14 successfully completed at least 14 hours of professional
15 continuing education programs covering primary and subordinate
16 mortgage financing transactions and the provisions of this
17 chapter. Licensees shall maintain records documenting
18 compliance with this subsection for a period of 4 years.

19 (2) Professional continuing education programs must
20 contribute directly to the professional competency of the
21 participants, may only be offered by permitted mortgage
22 business schools or entities specifically exempted from
23 permitting as mortgage business schools, and may include
24 electronically transmitted or distance education courses.

25 (3) The commission shall adopt rules necessary to
26 administer this section, including rules governing qualifying
27 hours for professional continuing education programs and
28 standards for electronically transmitted or distance education
29 courses, including course completion requirements.

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1 Section 5. Paragraphs (b) and (c) of subsection (1)
2 and paragraph (e) of subsection (2) of section 494.003,
3 Florida Statutes, are amended to read:

4 494.003 Exemptions.--

5 (1) None of the following persons is subject to the
6 requirements of ss. 494.003-494.0043:

7 (b) A state or federal chartered bank, ~~bank holding~~
8 ~~company~~, trust company, savings and loan association, savings
9 bank or credit union, a bank holding company regulated under
10 the laws of any state or the United States, or a consumer
11 finance company licensed pursuant to chapter 516.

12 (c) A wholly owned bank holding company subsidiary
13 formed and regulated under the laws of any state or the United
14 States or a wholly owned savings and loan association holding
15 company subsidiary that is approved or certified by the
16 Department of Housing and Urban Development, the Veterans
17 Administration, the Government National Mortgage Association,
18 the Federal National Mortgage Association, or the Federal Home
19 Loan Mortgage Corporation.

20 (2) None of the following persons is required to be
21 licensed under ss. 494.003-494.0043:

22 (e) A wholly owned subsidiary of a state or federal
23 chartered bank or savings and loan association the sole
24 activity of which is to distribute the lending programs of
25 such state or federal chartered bank or savings and loan
26 association to persons who arrange loans for, or make loans
27 to, borrowers.

28 Section 6. Section 494.0031, Florida Statutes, is
29 amended to read:

30 494.0031 Licensure as a mortgage brokerage business.--

31

1 (1) Each person who acts as a mortgage brokerage
2 business must be licensed pursuant to this section.

3 ~~(2)(1)~~ The commission or office may require each
4 applicant for a mortgage brokerage business license to provide
5 any information reasonably necessary to make a determination
6 of the applicant's eligibility for licensure.The office shall
7 issue a mortgage brokerage business license to each person
8 who:

9 (a) Has submitted a completed application form and a
10 nonrefundable application fee of \$425. ~~and~~

11 (b) Has a qualified principal broker pursuant to s.
12 494.0035.

13
14 A license application shall be deemed received for purposes of
15 s. 120.60 upon receipt of a completed application form as
16 prescribed by the commission by rule, a nonrefundable
17 application fee of \$425, and any other fee prescribed by law
18 or rule.

19 ~~(3)(2)~~ The commission may require by rule that each
20 officer, director, and ultimate equitable owner of a
21 10-percent or greater interest in the mortgage brokerage
22 business submit a complete set of fingerprints. Fingerprint
23 cards submitted to the office shall be taken by an authorized
24 law enforcement officer if such fingerprint card is submitted
25 to the office in paper form. The commission may prescribe by
26 rule additional fees for processing the fingerprints. The
27 commission may prescribe by rule procedures for submitting
28 fingerprints and fees by electronic means to the office or to
29 a third party approved by the office. In order to implement
30 the submission and processing of fingerprints as specified by
31 rule pursuant to this section, the office may, without

1 complying with the requirements of chapter 287, contract with
2 any other state agency which provides fingerprinting services,
3 either directly or through a third-party vendor under contract
4 to such state agency.

5 (4)~~(3)~~ Notwithstanding the provisions of subsection
6 (2)~~(1)~~, it is a ground for denial of licensure if the
7 applicant;designated principal mortgage broker; any officer,
8 director, partner, or joint venturer; ~~any natural person~~
9 ~~owning a 10-percent or greater interest in the mortgage~~
10 ~~brokerage business;~~ or any natural person who is the ultimate
11 equitable owner of a 10-percent or greater interest in the
12 mortgage brokerage business has committed any violation
13 specified in ss. 494.001-494.0077 or has pending against him
14 or her any criminal prosecution or administrative enforcement
15 action, in any jurisdiction, which involves fraud, dishonest
16 dealing, or any other act of moral turpitude.

17 (5)~~(4)~~ A mortgage brokerage business or branch office
18 license may be canceled if it was issued through mistake or
19 inadvertence of the office. A notice of cancellation must be
20 issued by the office within 90 days after the issuance of the
21 license. A notice of cancellation shall be effective upon
22 receipt. The notice of cancellation shall provide the
23 applicant with notification of the right to request a hearing
24 within 21 days after the applicant's receipt of the notice of
25 cancellation. A license shall be reinstated if the applicant
26 can demonstrate that the requirements for obtaining the
27 license pursuant to this chapter have been satisfied.

28 (6)~~(5)~~ A license issued under this part is not
29 transferable or assignable.~~If an initial mortgage brokerage~~
30 ~~business or branch office license has been issued but the~~
31 ~~check upon which the license is based is returned due to~~

1 ~~insufficient funds, the license shall be deemed canceled. A~~
2 ~~license deemed canceled pursuant to this subsection shall be~~
3 ~~reinstated if the office receives a certified check for the~~
4 ~~appropriate amount within 30 days after the date the check was~~
5 ~~returned due to insufficient funds.~~

6 Section 7. Subsections (1), (2), and (7) of section
7 494.0033, Florida Statutes, are amended to read:

8 494.0033 Mortgage broker's license.--

9 (1) Each natural person who acts as a mortgage broker
10 for a mortgage brokerage business or acts as an associate for
11 a mortgage lender or correspondent mortgage lender must be
12 licensed pursuant to this section. To act as a mortgage
13 broker, an individual must be an associate of a mortgage
14 brokerage business, mortgage lender, or correspondent mortgage
15 lender. A mortgage broker is prohibited from being an
16 associate of more than one mortgage brokerage business,
17 mortgage lender, or correspondent mortgage lender.

18 (2) Each initial application for a mortgage broker's
19 license must be in the form prescribed by rule of the
20 commission. The commission may require each applicant to
21 provide any information reasonably necessary to make a
22 determination of the applicant's eligibility for licensure.
23 The office shall issue an initial license to any natural
24 person who:

25 (a) Is at least 18 years of age.†

26 (b) Has passed a written test adopted and administered
27 by the office or a third party approved by the office which is
28 designed to determine competency in primary and subordinate
29 mortgage financing transactions as well as to test knowledge
30 of ss. 494.001-494.0077 and the rules adopted pursuant
31 thereto. The commission may waive by rule the examination

1 requirement for any individual who has passed a comparable
2 test offered by a national group of state mortgage regulators
3 or a federal governmental agency that covers primary and
4 subordinate mortgage financing transactions. The commission
5 may prescribe by rule an additional fee for the mortgage
6 broker test.†

7 (c) Has submitted a completed application and a
8 nonrefundable application fee of \$200. An application shall be
9 deemed received for purposes of s. 120.60 upon receipt of a
10 completed application form as prescribed by the commission by
11 rule, a nonrefundable application fee of \$200, and any other
12 fee prescribed by law or rule.~~The commission may set by rule~~
13 ~~an additional fee for a retake of the examination; and~~

14 (d) Has filed a complete set of fingerprints, ~~taken by~~
15 ~~an authorized law enforcement officer,~~for submission by the
16 office to the Department of Law Enforcement or the Federal
17 Bureau of Investigation for processing. Fingerprint cards
18 submitted to the office shall be taken by an authorized law
19 enforcement officer if such fingerprint card is submitted to
20 the office in paper form. The commission may prescribe by rule
21 additional fees for processing the fingerprints. The
22 commission may prescribe by rule procedures for submitting
23 fingerprints and fees by electronic means to the office or to
24 a third party approved by the office. In order to implement
25 the submission and processing of fingerprints as specified by
26 rule pursuant to this section, the office may, without
27 complying with the requirements of chapter 287, contract with
28 any other state agency that provides fingerprinting services,
29 either directly or through a third-party vendor under contract
30 to such state agency.

31

1 ~~(7) If an initial mortgage broker license has been~~
2 ~~issued but the check upon which the license is based is~~
3 ~~returned due to insufficient funds, the license shall be~~
4 ~~deemed canceled. A license deemed canceled pursuant to this~~
5 ~~subsection shall be reinstated if the office receives a~~
6 ~~certified check for the appropriate amount within 30 days~~
7 ~~after the date the check was returned due to insufficient~~
8 ~~funds.~~

9 Section 8. Subsection (2) of section 494.0034, Florida
10 Statutes, is amended to read:

11 494.0034 Renewal of mortgage broker's license.--

12 (2) The commission shall adopt rules establishing a
13 procedure for the biennial renewal of mortgage broker's
14 licenses. The commission may prescribe the form of the renewal
15 ~~application~~ and may require an update of information since the
16 licensee's last renewal.

17 Section 9. Subsection (2) of section 494.0036, Florida
18 Statutes, is amended to read:

19 494.0036 Mortgage brokerage business branch offices.--

20 (2) The office shall issue a mortgage brokerage
21 business branch office license to a mortgage brokerage
22 business license applicant, after the office determines the
23 license applicant has submitted ~~upon receipt of~~ a completed
24 application in a form as prescribed by commission rule and
25 payment of an initial nonrefundable branch office license fee
26 of \$225. Branch office licenses must be renewed in conjunction
27 with the renewal of the mortgage brokerage business license.
28 The branch office license shall be issued in the name of the
29 mortgage brokerage business that maintains the branch office.
30 An application shall be deemed received for purposes of s.
31 120.60 upon receipt of a completed application form as

1 prescribed by the commission by rule, a nonrefundable
2 application fee of \$225, and any other fee prescribed by law
3 or rule.

4 Section 10. Paragraph (s) is added to subsection (2)
5 of section 494.0041, Florida Statutes, to read:

6 494.0041 Administrative penalties and fines; license
7 violations.--

8 (2) Each of the following acts constitutes a ground
9 for which the disciplinary actions specified in subsection (1)
10 may be taken:

11 (s) Payment to the office for a license or permit with
12 a check or electronic transmission of funds that fails to
13 clear the applicant's or licensee's financial institutions.

14 Section 11. Paragraphs (a) and (c) of subsection (1)
15 and paragraph (a) of subsection (2) of section 494.006,
16 Florida Statutes, are amended to read:

17 494.006 Exemptions.--

18 (1) None of the following persons are subject to the
19 requirements of ss. 494.006-494.0077 in order to act as a
20 mortgage lender or correspondent mortgage lender:

21 (a) A state or federal chartered bank, ~~bank holding~~
22 ~~company~~, trust company, savings and loan association, savings
23 bank or credit union, a bank holding company regulated under
24 the laws of any state or the United States, or an insurance
25 company if the insurance company is duly licensed in this
26 state.

27 (c) A wholly owned bank holding company subsidiary
28 formed and regulated under the laws of any state or the United
29 States or a wholly owned savings and loan association holding
30 company subsidiary that is approved or certified by the
31 Department of Housing and Urban Development, the Veterans

1 Administration, the Government National Mortgage Association,
2 the Federal National Mortgage Association, or the Federal Home
3 Loan Mortgage Corporation.

4 (2)(a) A natural person employed by a mortgage lender
5 or correspondent mortgage lender licensed under ss.
6 494.001-494.0077 is exempt from the licensure requirements of
7 ss. 494.001-494.0077 when acting within the scope of
8 employment with the licensee.

9 Section 12. Section 494.0061, Florida Statutes, is
10 amended to read:

11 494.0061 Mortgage lender's license requirements.--

12 (1) Each person who acts as a mortgage lender must be
13 licensed pursuant to this section.

14 (2)(1) The commission or office may require each
15 applicant for a mortgage lender license to provide any
16 information reasonably necessary to make a determination of
17 the applicant's eligibility for licensure. The office shall
18 issue an initial mortgage lender license to any person that
19 submits:

20 (a) A completed application form.‡

21 (b) A nonrefundable application fee of \$575.‡

22 (c) Audited financial statements, which documents
23 disclose that the applicant has a bona fide and verifiable net
24 worth, pursuant to United States generally accepted accounting
25 principles, of at least \$250,000, which must be continuously
26 maintained as a condition of licensure.‡

27 (d) A surety bond in the amount of \$10,000, payable to
28 the state and conditioned upon compliance with ss.
29 494.001-494.0077, which inures to the office and which must be
30 continuously maintained thereafter in full force.‡

31

1 (e) Documentation that the applicant is duly
2 incorporated, registered, or otherwise formed as a general
3 partnership, limited partnership, limited liability company,
4 or other lawful entity under the laws of this state or another
5 state of the United States, ~~and~~

6 (f) For applications submitted after October 1, 2001,
7 proof that the applicant's principal representative has
8 completed 24 hours of classroom instruction in primary and
9 subordinate financing transactions and in the provisions of
10 this chapter and rules adopted under this chapter.

11
12 An application shall be deemed received for purposes of s.
13 120.60 upon receipt of a completed application form as
14 prescribed by the commission by rule, a nonrefundable
15 application fee of \$575, and any other fee prescribed by law
16 or rule.

17 ~~(3)(2)~~ Notwithstanding the provisions of subsection
18 ~~(2)(1)~~, it is a ground for denial of licensure if the
19 applicant, any principal officer or director of the applicant,
20 or any natural person owning a 10-percent or greater interest
21 in the applicant, or any natural person who is the ultimate
22 equitable owner of a 10-percent or greater interest in the
23 applicant has committed any violation specified in s.
24 494.0072, or has pending against her or him any criminal
25 prosecution or administrative enforcement action, in any
26 jurisdiction, which involves fraud, dishonest dealing, or any
27 act of moral turpitude.

28 ~~(4)(3)~~ Each initial application for a mortgage
29 lender's license must be in a form prescribed by the
30 commission. ~~The commission or office may require each~~
31 ~~applicant to provide any information reasonably necessary to~~

1 ~~make a determination of the applicant's eligibility for~~
2 ~~licensure.~~The commission or office may require that each
3 officer, director, and ultimate equitable owner of a
4 10-percent or greater interest in the applicant submit a
5 complete set of fingerprints. Fingerprint cards submitted to
6 the office shall be taken by an authorized law enforcement
7 officer if such fingerprint card is submitted to the office in
8 paper form. The commission may prescribe by rule additional
9 fees for processing the fingerprints. The commission may
10 prescribe by rule procedures for submitting fingerprints and
11 fees by electronic means to the office or to a third party
12 approved by the office. In order to implement the submission
13 and processing of fingerprints as specified by rule pursuant
14 to this section, the office may, without complying with the
15 requirements of chapter 287, contract with any other state
16 agency that provides fingerprinting services, either directly
17 or through a third-party vendor under contract to such state
18 agency.

19 ~~(5)(4)~~ A person required to be licensed under ss.
20 494.006-494.0077, or an agent or employee thereof, is deemed
21 to have consented to the venue of courts of competent
22 jurisdiction in this state regarding any matter within the
23 authority of ss. 494.001-494.0077 regardless of where an act
24 or violation was committed.

25 ~~(6)(5)~~ A license issued in accordance with ss.
26 494.006-494.0077 is not transferable or assignable.

27 ~~(7)(6)~~ A mortgage lender or branch office license may
28 be canceled if it was issued through mistake or inadvertence
29 of the office. A notice of cancellation must be issued by the
30 office within 90 days after the issuance of the license. A
31 notice of cancellation shall be effective upon receipt. The

1 notice of cancellation shall provide the applicant with
2 notification of the right to request a hearing within 21 days
3 after the applicant's receipt of the notice of cancellation. A
4 license shall be reinstated if the applicant can demonstrate
5 that the requirements for obtaining the license pursuant to
6 this chapter have been satisfied.

7 ~~(7) If an initial mortgage lender or branch office~~
8 ~~license has been issued but the check upon which the license~~
9 ~~is based is returned due to insufficient funds, the license~~
10 ~~shall be deemed canceled. A license deemed canceled pursuant~~
11 ~~to this subsection shall be reinstated if the office receives~~
12 ~~a certified check for the appropriate amount within 30 days~~
13 ~~after the date the check was returned due to insufficient~~
14 ~~funds.~~

15 (8) Each lender, regardless of the number of branches
16 it operates, shall designate a principal representative who
17 exercises control of the licensee's business and shall
18 maintain a form prescribed by the commission designating the
19 principal representative. If the form is not accurately
20 maintained, the business is considered to be operated by each
21 officer, director, or equitable owner of a 10-percent or
22 greater interest in the business.

23 (9) ~~After October 1, 2001,~~An applicant's principal
24 representative must pass a written test prescribed by the
25 commission and administered by the office or a third party
26 approved by the office,which covers primary and subordinate
27 mortgage financing transactions and the provisions of this
28 chapter and rules adopted under this chapter. The commission
29 may waive by rule the examination requirement for any
30 individual who has passed a comparable test offered by a
31 national group of state mortgage regulators or a federal

1 governmental agency that covers primary and subordinate
2 mortgage financing transactions. The commission may set by
3 rule a fee for the examination.

4 (10) A lender shall notify the office of the name and
5 address of any new principal representative and shall document
6 that the person has completed the educational and testing
7 requirements of this section within 90 days after ~~upon~~ the
8 designation of a new principal representative.

9 Section 13. Section 494.0062, Florida Statutes, is
10 amended to read:

11 494.0062 Correspondent mortgage lender's license
12 requirements.--

13 (1) Each person who acts as a correspondent mortgage
14 lender must be licensed pursuant to this section.

15 (2)(1) The office may require each applicant to
16 provide any information reasonably necessary to make a
17 determination of the applicant's eligibility for licensure.

18 The office shall issue an initial correspondent mortgage
19 lender license to any person who submits:

20 (a) A completed application form;

21 (b) A nonrefundable application fee of \$500;

22 (c) Audited financial statements, which document that
23 the application has a bona fide and verifiable net worth,
24 pursuant to Unites States generally accepted accounting
25 principles, of \$25,000 or more, which must be continuously
26 maintained as a condition of licensure;

27 (d) A surety bond in the amount of \$10,000, payable to
28 the State of Florida and conditioned upon compliance with ss.
29 494.001-494.0077, which inures to the office and which must be
30 continuously maintained, thereafter, in full force;

31

1 (e) Documentation that the applicant is duly
2 incorporated, registered, or otherwise formed as a general
3 partnership, limited partnership, limited liability company,
4 or other lawful entity under the laws of this state or another
5 state of the United States; and

6 (f) For applications filed after October 1, 2001,
7 proof that the applicant's principal representative has
8 completed 24 hours of classroom instruction in primary and
9 subordinate financing transactions and in the provisions of
10 this chapter and rules enacted under this chapter.

11
12 An application shall be deemed received for purposes of s.
13 120.60 upon receipt of a completed application form as
14 prescribed by the commission by rule, a nonrefundable
15 application fee of \$500, and any other fee prescribed by law
16 or rule.

17 ~~(3)(2)~~ Notwithstanding the provisions of subsection
18 ~~(2)(1)~~, it is a ground for denial of licensure if the
19 applicant, any principal officer or director of the applicant,
20 or any natural person who is the ultimate equitable owner of a
21 10-percent or greater interest in the applicant has committed
22 any violation specified in s. 494.0072, or has pending against
23 her or him any criminal prosecution or administrative
24 enforcement action, in any jurisdiction, which involves fraud,
25 dishonest dealing, or any act of moral turpitude.

26 ~~(4)(3)~~ Each initial application for a correspondent
27 mortgage lender's license must be in a form prescribed by the
28 commission. ~~The commission or office may require each~~
29 ~~applicant to provide any information reasonably necessary to~~
30 ~~make a determination of the applicant's eligibility for~~
31 ~~licensure.~~ The commission or office may require by rule that

1 each officer, director, and ultimate equitable owner of a
2 10-percent or greater interest submit a complete set of
3 fingerprints. Fingerprint cards submitted to the office shall
4 be taken by an authorized law enforcement officer if such
5 fingerprint card is submitted to the office in paper form. The
6 commission may prescribe by rule additional fees for
7 processing the fingerprints. The commission may prescribe by
8 rule procedures for submitting fingerprints and fees by
9 electronic means to the office or to a third party approved by
10 the office. In order to implement the submission and
11 processing of fingerprints as specified by rule pursuant to
12 this section, the office may, without complying with the
13 requirements of chapter 287, contract with any other state
14 agency that provides fingerprinting services, either directly
15 or through a third-party vendor under contract to such state
16 agency.

17 (5)~~(4)~~ Each license is valid for the remainder of the
18 biennium in which the license is issued.

19 (6)~~(5)~~ A person licensed as a correspondent mortgage
20 lender may make mortgage loans, but may not service a mortgage
21 loan for more than 4 months after the date the mortgage loan
22 was made or acquired by the correspondent mortgage lender.

23 (7)~~(6)~~ A licensee under ss. 494.006-494.0077, or an
24 agent or employee thereof, is deemed to have consented to the
25 venue of courts of competent jurisdiction in this state
26 regarding any matter within the authority of ss.
27 494.001-494.0077 regardless of where an act or violation was
28 committed.

29 (8)~~(7)~~ A correspondent mortgage lender is subject to
30 the same requirements and restrictions as a licensed mortgage
31 lender unless otherwise provided in this section.

1 (9)~~(8)~~ A license issued under this section is not
2 transferable or assignable.

3 (10)~~(9)~~ A correspondent mortgage lender or branch
4 office license may be canceled if it was issued through
5 mistake or inadvertence of the office. A notice of
6 cancellation must be issued by the office within 90 days after
7 the issuance of the license. A notice of cancellation shall be
8 effective upon receipt. The notice of cancellation shall
9 provide the applicant with notification of the right to
10 request a hearing within 21 days after the applicant's receipt
11 of the notice of cancellation. A license shall be reinstated
12 if the applicant can demonstrate that the requirements for
13 obtaining the license pursuant to this chapter have been
14 satisfied.

15 ~~(10) If an initial correspondent mortgage lender or~~
16 ~~branch office license has been issued but the check upon which~~
17 ~~the license is based is returned due to insufficient funds,~~
18 ~~the license shall be deemed canceled. A license deemed~~
19 ~~canceled pursuant to this subsection shall be reinstated if~~
20 ~~the office receives a certified check for the appropriate~~
21 ~~amount within 30 days after the date the check was returned~~
22 ~~due to insufficient funds.~~

23 (11) Each correspondent lender shall designate a
24 principal representative who exercises control over the
25 business and shall maintain a form prescribed by the
26 commission designating the principal representative. If the
27 form is not accurately maintained, the business is considered
28 to be operated by each officer, director, or equitable owner
29 of a 10-percent or greater interest in the business.

30 (12) ~~After October 1, 2001,~~An applicant's principal
31 representative must pass a written test prescribed by the

1 commission and administered by the office or a third party
2 approved by the office, which covers primary and subordinate
3 mortgage financing transactions and the provisions of this
4 chapter and rules adopted under this chapter. The commission
5 may waive by rule the examination requirement for any
6 individual who has passed a comparable test offered by a
7 national group of state mortgage regulators or a federal
8 governmental agency that covers primary and subordinate
9 mortgage financing transactions. The commission may set by
10 rule a fee for taking the examination.

11 (13) A correspondent lender shall notify the office of
12 the name and address of any new principal representative and
13 shall document that such person has completed the educational
14 and testing requirements of this section within 90 days after
15 ~~upon~~ the lender's designation of a new principal
16 representative.

17 Section 14. Paragraph (b) of subsection (1) of section
18 494.0064, Florida Statutes, is amended to read:

19 494.0064 Renewal of mortgage lender's license; branch
20 office license renewal.--

21 (1)

22 (b) A licensee shall also submit, as part of the
23 renewal form, certification that during the preceding 2 years
24 the licensee's principal representative and loan originators,
25 ~~and associates~~ have completed the professional continuing
26 education requirements of s. 494.00295.

27 Section 15. Section 494.0065, Florida Statutes, is
28 amended to read:

29 494.0065 Saving clause.--

30 (1)(a) Any person in good standing who holds an active
31 registration pursuant to former s. 494.039 or license pursuant

1 to former s. 521.205, or any person who acted solely as a
2 mortgage servicer on September 30, 1991, is eligible to apply
3 to the office for a mortgage lender's license and is eligible
4 for licensure if the applicant:

5 1. For at least 12 months during the period of October
6 1, 1989, through September 30, 1991, has engaged in the
7 business of either acting as a seller or assignor of mortgage
8 loans or as a servicer of mortgage loans, or both;

9 2. Has documented a minimum net worth of \$25,000 in
10 audited financial statements; and

11 3. Has applied for licensure pursuant to this section
12 by January 1, 1992, and paid an application fee of \$100.

13 (b) A licensee pursuant to paragraph (a) may operate a
14 wholly owned subsidiary or affiliate for the purpose of
15 servicing accounts if the subsidiary or affiliate is
16 operational as of September 30, 1991. Such subsidiary or
17 affiliate is not required to obtain a separate license, but is
18 subject to all the requirements of a licensee under ss.
19 494.006-494.0077.

20 (2) A licensee issued a license pursuant to subsection
21 (1) may renew its mortgage lending license if it documents a
22 minimum net worth of \$25,000, according to United States
23 generally accepted accounting principles, which must be
24 continuously maintained as a condition to licensure. The
25 office shall require an audited financial statement which
26 documents such net worth.

27 (3) The commission may prescribe by rule forms and
28 procedures for application for licensure, and amendment and
29 withdrawal of application for licensure, or transfer,
30 including any existing branch offices, in accordance with
31 subsections (4) and (5), and for renewal of licensure of

1 licensees under this section. An application shall be deemed
2 received for purposes of s. 120.60 upon receipt of a completed
3 application form as prescribed by the commission by rule, a
4 nonrefundable application fee of \$575, and any other fee
5 prescribed by law or rule.

6 (4)(a) Notwithstanding ss. 494.0061~~(6)(5)~~and
7 494.0067(3), the ultimate equitable owner, as of the effective
8 date of this act, of a mortgage lender licensed under this
9 section may transfer, one time, at least 50 percent of the
10 ownership, control, or power to vote any class of equity
11 securities of such mortgage lender, except as provided in
12 paragraph (b). For purposes of this subsection, satisfaction
13 of the amount of the ownership transferred may be met in
14 multiple transactions or in a single transaction.

15 (b) A person who is an ultimate equitable owner on the
16 effective date of this act may transfer, at any time, at least
17 50 percent of the ownership, control, or power to vote any
18 class of equity securities of such person to the person's
19 spouse or child, and any such transferee may transfer, at any
20 time, such ownership, control, or power to vote to a spouse or
21 child of such transferee, in perpetuity.

22 (c) For any transfer application filed after October
23 1, 2004:

24 1. Proof shall be required that the applicant's
25 principal representative has completed 24 hours of instruction
26 in primary and subordinate financing transactions and in the
27 provisions of this chapter and rules adopted under this
28 chapter.

29 2. An applicant's principal representative must pass a
30 written test, prescribed by the commission or office by rule,
31 and administered by the office or a third party approved by

1 the office, which covers primary and subordinate mortgage
2 financing transactions and the provisions of this chapter and
3 rules adopted under this chapter. The commission may waive by
4 rule the examination requirement for any individual who has
5 passed a comparable test offered by a national group of state
6 mortgage regulators or a federal governmental agency that
7 covers primary and subordinate mortgage financing
8 transactions. The commission may prescribe by rule a fee for
9 the examination.

10 (5) The commission or office may require each
11 applicant for any transfer to provide any information
12 reasonably necessary to make a determination of the
13 applicant's eligibility for licensure. The office shall issue
14 the transfer of licensure to any person who submits the
15 following documentation at least 90 days prior to the
16 anticipated transfer:

17 (a) A completed application form.

18 (b) A nonrefundable fee set by rule of the commission
19 in the amount of ~~\$575~~\$500.

20 (c) Audited financial statements that substantiate
21 that the applicant has a bona fide and verifiable net worth,
22 according to United States generally accepted accounting
23 principles, of at least \$25,000, which must be continuously
24 maintained as a condition of licensure.

25 (d) Documentation that the applicant is incorporated,
26 registered, or otherwise formed as a general partnership,
27 limited partnership, limited liability company, or other
28 lawful entity under the laws of this state or another state of
29 the United States.

30
31

1 An application shall be deemed received for purposes of s.
2 120.60 upon receipt of a completed application form as
3 prescribed by the commission by rule, a nonrefundable
4 application fee of \$575, and any other fee prescribed by law
5 or rule.The commission or office may require by rule that
6 each officer, director, and ultimate equitable owner of a
7 10-percent or greater interest in the applicant submit a
8 complete set of fingerprints. Fingerprint cards submitted to
9 the office shall be taken by an authorized law enforcement
10 officer if such fingerprint card is submitted to the office in
11 paper form. The commission may prescribe by rule additional
12 fees for processing the fingerprints. The commission may
13 prescribe by rule procedures for submitting fingerprints and
14 fees by electronic means to the office or to a third party
15 approved by the office. In order to implement the submission
16 and processing of fingerprints as specified by rule pursuant
17 to this section, the office may, without complying with the
18 requirements of chapter 287, contract with any other state
19 agency that provides fingerprinting services, either directly
20 or through a third-party vendor under contract to such state
21 agency.

22 (6) Notwithstanding subsection (5), a transfer under
23 subsection (4) may be denied if the applicant, any principal
24 officer or director of the applicant, or any natural person
25 owning a 10-percent or greater interest in the applicant has
26 committed any violation specified in s. 494.0072, or has
27 entered a plea of nolo contendere, regardless of adjudication,
28 or has an action pending against the applicant in any criminal
29 prosecution or administrative enforcement action, in any
30 jurisdiction, which involves fraud, dishonest dealing, or any
31 act of moral turpitude.

1 (7) A license issued in accordance with this section
2 is not transferable or assignable except as provided in
3 subsection (4).

4 (8) Each person applying for a transfer of any branch
5 office pursuant to subsection (4) must comply with the
6 requirements of s. 494.0066.

7 (9) Each mortgage lender shall designate a principal
8 representative who exercises control over the business and
9 shall maintain a form prescribed by the commission by rule
10 designating the principal representative. If the form is not
11 accurately maintained, the business is considered to be
12 operated by each officer, director, or equitable owner of a
13 10-percent or greater interest in the business.

14 (10) A lender shall notify the office of the name and
15 address of any new principal representative and shall document
16 that the person has completed the educational and testing
17 requirements of this section within 90 days after the
18 designation of a new principal representative.

19 Section 16. Subsection (2) of section 494.0066,
20 Florida Statutes, is amended to read:

21 494.0066 Branch offices.--

22 (2) The office shall issue a branch office license to
23 a licensee licensed under s. 494.0065(1) or a transfer
24 licensee after the office determines the licensee has
25 submitted ~~upon receipt of~~ a completed application form as
26 prescribed by rule by the commission and an initial
27 nonrefundable branch office license fee of \$325. The branch
28 office application must include the name and license number of
29 the licensee under ss. 494.006-494.0077, the name of the
30 licensee's employee in charge of the branch office, and the
31 address of the branch office. The branch office license shall

1 be issued in the name of the licensee under ss.
2 494.006-494.0077 and must be renewed in conjunction with the
3 license renewal.

4 Section 17. Paragraph (a) of subsection (10) of
5 section 494.0067, Florida Statutes, is amended to read:

6 494.0067 Requirements of licensees under ss.
7 494.006-494.0077.--

8 (10)(a) Each licensee shall require the principal
9 representative and all loan originators or associates who
10 perform services for the licensee to complete 14 hours of
11 professional continuing education during each biennial license
12 period. The education shall cover primary and subordinate
13 mortgage financing transactions and the provisions of this
14 chapter and the rules adopted under this chapter.

15 Section 18. Paragraph (s) is added to subsection (2)
16 of section 494.0072, Florida Statutes, to read:

17 494.0072 Administrative penalties and fines; license
18 violations.--

19 (2) Each of the following acts constitutes a ground
20 for which the disciplinary actions specified in subsection (1)
21 may be taken:

22 (s) Payment to the office for a license or permit with
23 a check or electronic transmission of funds that fails to
24 clear the applicant's or licensee's financial institution.

25 Section 19. Subsection (2) of section 494.00721,
26 Florida Statutes, is amended to read:

27 494.00721 Net worth.--

28 (2) If a mortgage lender or correspondent mortgage
29 lender fails to satisfy the net worth requirements, the
30 mortgage lender or correspondent mortgage lender shall
31 immediately cease taking any new mortgage loan applications.

1 Thereafter, the mortgage lender or correspondent mortgage
2 lender shall have up to 60 days within which to satisfy the
3 net worth requirements. If the licensee makes the office
4 aware, prior to an examination, that the licensee no longer
5 meets the net worth requirements, the mortgage lender or
6 correspondent mortgage lender shall have 120 days within which
7 to satisfy the net worth requirements. A mortgage lender or
8 correspondent mortgage lender shall not resume acting as a
9 mortgage lender or correspondent mortgage lender without
10 written authorization from the office, which authorization
11 shall be granted if the mortgage lender or correspondent
12 mortgage lender provides the office with documentation which
13 satisfies the requirements of s. 494.0061~~(2)~~(1)(c), s.
14 494.0062~~(2)~~(1)(c), or s. 494.0065(2), whichever is applicable.

15 Section 20. Section 516.03, Florida Statutes, is
16 amended to read:

17 516.03 Application for license; fees; etc.--

18 (1) APPLICATION.--Application for a license to make
19 loans under this chapter shall be in the form prescribed by
20 rule of the commission, and shall contain the name, residence
21 and business addresses of the applicant and, if the applicant
22 is a copartnership or association, of every member thereof
23 and, if a corporation, of each officer and director thereof,
24 also the county and municipality with the street and number or
25 approximate location where the business is to be conducted,
26 and such further relevant information as the commission or
27 office may require. At the time of making such application the
28 applicant shall pay to the office a biennial license fee of
29 \$625. Applications, except for applications to renew or
30 reactivate a license, must also be accompanied by an
31 investigation fee of \$200. An application shall be deemed

1 received for purposes of s. 120.60 upon receipt of a completed
2 application form as prescribed by the commission by rule, a
3 nonrefundable application fee of \$625, and any other fee
4 prescribed by law or rule.The commission may adopt rules to
5 require ~~allow~~ electronic submission of any form, document, or
6 fee required by this act, provided such rules reasonably
7 accommodate technological or financial hardship. The
8 commission may prescribe by rule requirements and procedures
9 for obtaining a technological or financial hardship exemption.

10 (2) FEES.--Fees herein provided for shall be collected
11 by the office and shall be turned into the State Treasury to
12 the credit of the regulatory trust fund under the office. The
13 office shall have full power to employ such examiners or
14 clerks to assist the office as may from time to time be deemed
15 necessary and fix their compensation. The commission may adopt
16 rules to require ~~allow~~ electronic submission of any fee
17 required by this section, provided such rules reasonably
18 accommodate technological or financial hardship. The
19 commission may prescribe by rule requirements and procedures
20 for obtaining a technological or financial hardship exemption.

21 Section 21. Paragraph (o) is added to subsection (1)
22 of section 516.07, Florida Statutes, to read:

23 516.07 Grounds for denial of license or for
24 disciplinary action.--

25 (1) The following acts are violations of this chapter
26 and constitute grounds for denial of an application for a
27 license to make consumer finance loans and grounds for any of
28 the disciplinary actions specified in subsection (2):

29 (o) Payment to the office for a license or permit with
30 a check or electronic transmission of funds that fails to
31 clear the applicant's or licensee's financial institution.

1 Section 22. Subsection (3) is added to section 516.12,
2 Florida Statutes, to read:

3 516.12 Records to be kept by licensee.--

4 (3) The commission may prescribe by rule the minimum
5 information to be shown in the books, accounts, records, and
6 documents of licensees for purposes of enabling the office to
7 determine the licensee's compliance with ss. 516.001-516.36.
8 In addition, the commission may prescribe by rule the
9 requirements for destruction of books, accounts, records, and
10 documents retained by the licensee after completion of the
11 time period specified in subsection (1). Notwithstanding the
12 2-year retention period specified in subsection (1), if the
13 office identifies a statute of limitations in another civil or
14 criminal state or federal law or rule that is reasonably
15 related by subject matter to the administration of this
16 chapter, the commission may identify that statute of
17 limitations by rule and may prohibit the destruction of
18 records required to be maintained by this chapter for a period
19 of time established by rule that is reasonably related to such
20 statute of limitations. The commission shall prescribe by rule
21 those documents or records that are to be preserved that are
22 related to the identified statute of limitations.

23 Section 23. Subsection (9) of section 517.051, Florida
24 Statutes, is amended to read:

25 517.051 Exempt securities.--The exemptions provided
26 herein from the registration requirements of s. 517.07 are
27 self-executing and do not require any filing with the office
28 prior to claiming such exemption. Any person who claims
29 entitlement to any of these exemptions bears the burden of
30 proving such entitlement in any proceeding brought under this
31

1 chapter. The registration provisions of s. 517.07 do not apply
2 to any of the following securities:

3 (9) A security issued by a corporation organized and
4 operated exclusively for religious, educational, benevolent,
5 fraternal, charitable, or reformatory purposes and not for
6 pecuniary profit, no part of the net earnings of which
7 corporation inures to the benefit of any private stockholder
8 or individual, or any security of a fund that is excluded from
9 the definition of an investment company under s. 3(c)(10)(B)
10 of the Investment Company Act of 1940; provided that no person
11 shall directly or indirectly offer or sell securities under
12 this subsection except by an offering circular containing full
13 and fair disclosure, as prescribed by the rules of the
14 commission, of all material information, including, but not
15 limited to, a description of the securities offered and terms
16 of the offering, a description of the nature of the issuer's
17 business, a statement of the purpose of the offering and the
18 intended application by the issuer of the proceeds thereof,
19 and financial statements of the issuer prepared in conformance
20 with United States generally accepted accounting principles.
21 Section 6(c) of the Philanthropy Protection Act of 1995, Pub.
22 L. No. 104-62, shall not preempt any provision of this
23 chapter.

24 Section 24. Subsection (18) of section 517.061,
25 Florida Statutes, is amended to read:

26 517.061 Exempt transactions.--The exemption for each
27 transaction listed below is self-executing and does not
28 require any filing with the office prior to claiming such
29 exemption. Any person who claims entitlement to any of the
30 exemptions bears the burden of proving such entitlement in any
31 proceeding brought under this chapter. The registration

1 provisions of s. 517.07 do not apply to any of the following
2 transactions; however, such transactions are subject to the
3 provisions of ss. 517.301, 517.311, and 517.312:

4 (18) The offer or sale of any security effected by or
5 through a person in compliance with ~~registered pursuant to~~ s.
6 517.12(17).

7 Section 25. Paragraph (g) of subsection (3) of section
8 517.081, Florida Statutes, is amended to read:

9 517.081 Registration procedure.--

10 (3) The office may require the applicant to submit to
11 the office the following information concerning the issuer and
12 such other relevant information as the office may in its
13 judgment deem necessary to enable it to ascertain whether such
14 securities shall be registered pursuant to the provisions of
15 this section:

16 (g)1. A specimen copy of the security and a copy of
17 any circular, prospectus, advertisement, or other description
18 of such securities.

19 2. The commission shall adopt a form for a simplified
20 offering circular to be used solely by corporations to
21 register, under this section, securities of the corporation
22 that are sold in offerings in which the aggregate offering
23 price in any consecutive 12-month period does not exceed the
24 amount provided in s. 3(b) of the Securities Act of 1933. The
25 following issuers shall not be eligible to submit a simplified
26 offering circular adopted pursuant to this subparagraph:

27 a. An issuer seeking to register securities for resale
28 by persons other than the issuer.

29 b. An issuer who is subject to any of the
30 disqualifications described in 17 C.F.R. s. 230.262, adopted
31 pursuant to the Securities Act of 1933, or who has been or is

1 engaged or is about to engage in an activity that would be
2 grounds for denial, revocation, or suspension under s.
3 517.111. For purposes of this subparagraph, an issuer includes
4 an issuer's director, officer, shareholder who owns at least
5 10 percent of the shares of the issuer, promoter, or selling
6 agent of the securities to be offered or any officer,
7 director, or partner of such selling agent.

8 c. An issuer who is a development-stage company that
9 either has no specific business plan or purpose or has
10 indicated that its business plan is to merge with an
11 unidentified company or companies.

12 d. An issuer of offerings in which the specific
13 business or properties cannot be described.

14 e. Any issuer the office determines is ineligible if
15 the form would not provide full and fair disclosure of
16 material information for the type of offering to be registered
17 by the issuer.

18 f. Any corporation which has failed to provide the
19 office the reports required for a previous offering registered
20 pursuant to this subparagraph.

21
22 As a condition precedent to qualifying for use of the
23 simplified offering circular, a corporation shall agree to
24 provide the office with an annual financial report containing
25 a balance sheet as of the end of the issuer's fiscal year and
26 a statement of income for such year, prepared in accordance
27 with United States generally accepted accounting principles
28 and accompanied by an independent accountant's report. If the
29 issuer has more than 100 security holders at the end of a
30 fiscal year, the financial statements must be audited. Annual
31 financial reports must be filed with the office within 90 days

1 after the close of the issuer's fiscal year for each of the
2 first 5 years following the effective date of the
3 registration.

4 Section 26. Subsections (7), (10), (11), (15), and
5 (17) of section 517.12, Florida Statutes, are amended to read:

6 517.12 Registration of dealers, associated persons,
7 investment advisers, and branch offices.--

8 (7) The application shall also contain such
9 information as the commission or office may require about the
10 applicant; any partner, officer, or director of the applicant
11 or any person having a similar status or performing similar
12 functions; any person directly or indirectly controlling the
13 applicant; or any employee of a dealer or of an investment
14 adviser rendering investment advisory services. Each
15 applicant shall file a complete set of fingerprints. A
16 fingerprint card submitted to the office shall be taken by an
17 authorized law enforcement officer if such fingerprint card is
18 submitted in paper form. The commission may prescribe by rule
19 additional fees for processing fingerprints and for procedures
20 for submitting fingerprints and fees by electronic means to
21 the office or to a third party approved by the office. In
22 order to implement the submission and processing of
23 fingerprints as specified by rule under this section, the
24 office may, without complying with the requirements of chapter
25 287, contract with another state agency providing fingerprint
26 services, either directly or through a third-party vendor
27 under contract with such state agency. Such fingerprints
28 shall be submitted to the Department of Law Enforcement or the
29 Federal Bureau of Investigation for state and federal
30 processing. The commission may waive, by rule, the
31 requirement that applicants must file a set of fingerprints or

1 the requirement that such fingerprints must be processed by
2 the Department of Law Enforcement or the Federal Bureau of
3 Investigation. The commission or office may require
4 information about any such applicant or person concerning such
5 matters as:

6 (a) His or her full name, and any other names by which
7 he or she may have been known, and his or her age, photograph,
8 qualifications, and educational and business history.

9 (b) Any injunction or administrative order by a state
10 or federal agency, national securities exchange, or national
11 securities association involving a security or any aspect of
12 the securities business and any injunction or administrative
13 order by a state or federal agency regulating banking,
14 insurance, finance, or small loan companies, real estate,
15 mortgage brokers, or other related or similar industries,
16 which injunctions or administrative orders relate to such
17 person.

18 (c) His or her conviction of, or plea of nolo
19 contendere to, a criminal offense or his or her commission of
20 any acts which would be grounds for refusal of an application
21 under s. 517.161.

22 (d) The names and addresses of other persons of whom
23 the office may inquire as to his or her character, reputation,
24 and financial responsibility.

25 (10) An applicant for registration shall pay an
26 assessment fee of \$200, in the case of a dealer or investment
27 adviser, or \$40, in the case of an associated person. The
28 assessment fee of an associated person shall be reduced to
29 \$30, but only after the office determines, by final order,
30 that sufficient funds have been allocated to the Securities
31 Guaranty Fund pursuant to s. 517.1203 to satisfy all valid

1 claims filed in accordance with s. 517.1203(2) and after all
2 amounts payable under any service contract entered into by the
3 office pursuant to s. 517.1204, and all notes, bonds,
4 certificates of indebtedness, other obligations, or evidences
5 of indebtedness secured by such notes, bonds, certificates of
6 indebtedness, or other obligations, have been paid or
7 provision has been made for the payment of such amounts,
8 notes, bonds, certificates of indebtedness, other obligations,
9 or evidences of indebtedness. An associated person may not
10 ~~having current fingerprint cards filed with the National~~
11 ~~Association of Securities Dealers or a national securities~~
12 ~~exchange registered with the Securities and Exchange~~
13 ~~Commission shall~~ be assessed an additional fee to cover the
14 cost for said fingerprint cards to be processed by the office.
15 Such fee shall be determined by rule of the commission. Each
16 dealer and each investment adviser shall pay an assessment fee
17 of \$100 for each office in this state, except its designated
18 principal office. Such fees become the revenue of the state,
19 except for those assessments provided for under s. 517.131(1)
20 until such time as the Securities Guaranty Fund satisfies the
21 statutory limits, and are not returnable in the event that
22 registration is withdrawn or not granted.

23 (11) If the office finds that the applicant is of good
24 repute and character and has complied with the provisions of
25 this chapter and the rules made pursuant hereto, it shall
26 register the applicant. The registration of each dealer,
27 investment adviser, and associated person will expire on
28 December 31, of the year it became effective unless the
29 registrant has renewed its registration on or before that
30 date. ~~and~~ The registration of each branch office will expire
31 on March 31 or, once the National Association of Securities

1 Dealers develops the capacity to process branch office
2 registration through the Central Registration Depository,
3 December 31 of the year in which it became effective unless
4 the registrant has renewed its registration on or before that
5 date. The commission may establish by rule the beginning of
6 the year in which branch renewals shall be processed through
7 the Central Registration Depository of the National
8 Association of Securities Dealers. The commission may
9 establish by rule procedures for renewing branch registrations
10 through the Central Registration Depository.Registration may
11 be renewed by furnishing such information as the commission
12 may require, together with payment of the fee required in
13 subsection (10) for dealers, investment advisers, associated
14 persons, or branch offices and the payment of any amount
15 lawfully due and owing to the office pursuant to any order of
16 the office or pursuant to any agreement with the office. Any
17 dealer, investment adviser, or associated person registrant
18 who has not renewed a registration by the time the current
19 registration expires may request reinstatement of such
20 registration by filing with the office, on or before January
21 31 of the year following the year of expiration, such
22 information as may be required by the commission, together
23 with payment of the fee required in subsection (10) for
24 dealers, investment advisers, or associated persons and a late
25 fee equal to the amount of such fee. Any reinstatement of
26 registration granted by the office during the month of January
27 shall be deemed effective retroactive to January 1 of that
28 year.

29 (15) In lieu of filing with the office the
30 applications specified in subsection (6), the fees required by
31 subsection (10), and the termination notices required by

1 subsection (12), the commission may by rule establish
2 procedures for the deposit of such fees and documents with the
3 Central Registration Depository or the Investment Advisor
4 Registration Depository of the National Association of
5 Securities Dealers, Inc., as developed under contract with the
6 North American Securities Administrators Association, Inc.;
7 provided, however, that such procedures shall provide the
8 office with the information and data as required by this
9 section.

10 (17)(a) If the dealer has made a notice filing in
11 accordance with this section, a dealer that is located in
12 Canada and does not have an office or other physical presence
13 in this state is exempt from the registration requirements of
14 s. 512.12, and may effect transactions in securities with or
15 for, or induce or attempt to induce the purchase or sale of
16 any security by:

17 1. A person from Canada who is present in this state
18 and with whom the Canadian dealer had a bona fide
19 dealer-client relationship before the person entered the
20 United States; or

21 2. A person from Canada who is present in this state
22 and whose transactions are in a self-directed tax advantaged
23 retirement plan in Canada of which the person is the holder or
24 contributor.

25 (b) A notice filing under this section shall consist
26 of documents that the commission by rule requires to be filed,
27 together with a consent to service of process and a filing fee
28 of \$200. The commission may establish by rule procedures for
29 the deposit of fees and the filing of documents to be made by
30 electronic means, if such procedures provide the office with
31 the information and data required by this section.

1 (c) A Canadian dealer may make a notice filing under
2 this section if such dealer provides to the office:

3 1. A notice filing in the form that the commission may
4 by rule require;

5 2. A consent to service of process;

6 3. Evidence that the Canadian dealer is registered as
7 a dealer in the jurisdiction in which its main office is
8 located and files evidence of such registration with the
9 office; and

10 4. Evidence that the Canadian dealer is a member of a
11 self-regulatory organization or stock exchange in Canada.

12 (d) The office may issue a permit to evidence the
13 effectiveness of a notice filing for a Canadian dealer.

14 (e) A notice filing is effective upon receipt. A
15 notice filing expires on December 31 of the year in which the
16 filing becomes effective unless the Canadian dealer has
17 renewed the filing on or before that date. A Canadian dealer
18 may annually renew a notice filing by furnishing to the office
19 such information as the office may require together with a
20 renewal fee of \$200 and the payment of any amount due and
21 owing the office pursuant to any agreement with the office.
22 Any Canadian dealer who has not renewed a notice filing by the
23 time a current notice filing expires may request reinstatement
24 of such notice filing by filing with the office, on or before
25 January 31 of the year following the year the notice filing
26 expires, such information as the commission may require, by
27 rule, together with the payment of \$200 and a late fee equal
28 to \$200. Any reinstatement of a notice filing granted by the
29 office during the month of January shall be deemed effective
30 retroactively to January 1 of that year.

31

1 (f) An associated person who represents a Canadian
2 dealer who has made a notice filing under this section is
3 exempt from the registration requirements of s. 517.12, and
4 may effect transactions in securities in this state as
5 permitted for a dealer under subsection (a) if such person is
6 registered in the jurisdiction from which he or she is
7 effecting transactions into this state.

8 (g) A Canadian dealer who has made a notice of filing
9 under this section shall:

10 1. Maintain its provincial or territorial registration
11 and its membership in a self-regulatory organization or stock
12 exchange in good standing.

13 2. Provide the office upon request with its books and
14 records relating to its business in this state as a dealer.

15 3. Provide the office upon request notice of each
16 civil, criminal, or administrative action initiated against
17 the dealer.

18 4. Disclose to its clients in this state that the
19 dealer and its associated persons are not subject to the full
20 regulatory requirements under this chapter.

21 5. Correct any inaccurate information within 30 days
22 if the information contained in the notice of filing becomes
23 inaccurate for any reason.

24 (h) An associated person representing a Canadian
25 dealer who has made a notice of filing under this section
26 shall:

27 1. Maintain provincial or territorial registration in
28 good standing.

29 2. Provide the office upon request with notice of each
30 civil, criminal, or administrative action initiated against
31 such person.

1 (i) A notice filing may be terminated by filing notice
2 of such termination with the office. Unless another date is
3 specified by the Canadian dealer, such notice shall be
4 effective upon its receipt by the office.

5 (j) All fees collected under this section become the
6 revenue of the state, except for those assessments provided
7 for under s. 517.131(1), until such time as the Securities
8 Guaranty Fund satisfies the statutory limits, and, these fees
9 are not returnable in the event that a notice filing is
10 withdrawn.

~~A dealer that is located in Canada and has no
office or other physical presence in this state may, provided
the dealer is registered in accordance with this section,
effect transactions in securities with or for, or induce or
attempt to induce the purchase or sale of any security by:~~

15 1. ~~A person from Canada who temporarily resides in~~
16 ~~this state and with whom the Canadian dealer had a bona fide~~
17 ~~dealer-client relationship before the person entered the~~
18 ~~United States; or~~

19 2. ~~A person from Canada who is a resident of this~~
20 ~~state, and whose transactions are in a self-directed tax~~
21 ~~advantage retirement plan in Canada of which the person is the~~
22 ~~holder or contributor.~~

23 ~~(b) An associated person who represents a Canadian~~
24 ~~dealer registered under this section may, provided the agent~~
25 ~~is registered in accordance with this section, effect~~
26 ~~transactions in securities in this state as permitted for a~~
27 ~~dealer, under subsection (a).~~

28 ~~(c) A Canadian dealer may register under this section~~
29 ~~provided that such dealer:~~

30 1. ~~Files an application in the form required by the~~
31 ~~jurisdiction in which the dealer has a head office.~~

- 1 ~~2. Files a consent to service of process.~~
- 2 ~~3. Is registered as a dealer in good standing in the~~
3 ~~jurisdiction from which it is effecting transactions into this~~
4 ~~state and files evidence of such registration with the office.~~
- 5 ~~4. Is a member of a self-regulatory organization or~~
6 ~~stock exchange in Canada.~~
- 7 ~~(d) An associated person who represents a Canadian~~
8 ~~dealer registered under this section in effecting transactions~~
9 ~~in securities in this state may register under this section~~
10 ~~provided that such person:~~
- 11 ~~1. Files an application in the form required by the~~
12 ~~jurisdiction in which the dealer has its head office.~~
- 13 ~~2. Is registered in good standing in the jurisdiction~~
14 ~~from which he or she is effecting transactions into this state~~
15 ~~and files evidence of such registration with the office.~~
- 16 ~~(e) If the office finds that the applicant is of good~~
17 ~~repute and character and has complied with the provisions of~~
18 ~~this chapter, the office shall register the applicant.~~
- 19 ~~(f) A Canadian dealer registered under this section~~
20 ~~shall:~~
- 21 ~~1. Maintain its provincial or territorial registration~~
22 ~~and its membership in a self-regulatory organization or stock~~
23 ~~exchange in good standing.~~
- 24 ~~2. Provide the office upon request with its books and~~
25 ~~records relating to its business in this state as a dealer.~~
- 26 ~~3. Provide the office notice of each civil, criminal,~~
27 ~~or administrative action initiated against the dealer.~~
- 28 ~~4. Disclose to its clients in this state that the~~
29 ~~dealer and its agents are not subject to the full regulatory~~
30 ~~requirements under this chapter.~~
- 31

1 ~~5. Correct any inaccurate information within 30 days,~~
2 ~~if the information contained in the application form becomes~~
3 ~~inaccurate for any reason before or after the dealer becomes~~
4 ~~registered.~~

5 ~~(g) An associated person of a Canadian dealer~~
6 ~~registered under this section shall:~~

7 ~~1. Maintain provincial or territorial registration in~~
8 ~~good standing.~~

9 ~~2. Provide the office with notice of each civil,~~
10 ~~criminal, or administrative action initiated against such~~
11 ~~person.~~

12 ~~3. Through the dealer, correct any inaccurate~~
13 ~~information within 30 days, if the information contained in~~
14 ~~the application form becomes inaccurate for any reason before~~
15 ~~or after the associated person becomes registered.~~

16 ~~(h) Renewal applications for Canadian dealers and~~
17 ~~associated persons under this section must be filed before~~
18 ~~December 31 each year. Every applicant for registration or~~
19 ~~renewal registration under this section shall pay the fee for~~
20 ~~dealers and associated persons under this chapter.~~

21 Section 27. Paragraphs (b) and (e) of subsection (3)
22 of section 517.131, Florida Statutes, are amended, and
23 subsection (5) is added to that section, to read:

24 517.131 Securities Guaranty Fund.--

25 (3) Any person is eligible to seek recovery from the
26 Securities Guaranty Fund if:

27 (b) Such person has made all reasonable searches and
28 inquiries to ascertain whether the judgment debtor possesses
29 real or personal property or other assets subject to being
30 sold or applied in satisfaction of the judgment, and by her or
31 his search the person has discovered no property or assets; or

1 she or he has discovered property and assets and has taken all
2 necessary action and proceedings for the application thereof
3 to the judgment, but the amount thereby realized was
4 insufficient to satisfy the judgment. To verify compliance
5 with such condition, the office may require such person to
6 have a writ of execution be issued upon such judgment, ~~and~~ may
7 further require a showing that no personal or real property of
8 the judgment debtor liable to be levied upon in complete
9 satisfaction of the judgment can be found, or may require an
10 affidavit from the claimant setting forth the reasonable
11 searches and inquiries undertaken and the result.

12 (e) The office waives compliance with the requirements
13 of paragraph (a) or paragraph (b). The office may waive such
14 compliance if the dealer, investment adviser, or associated
15 person which is the subject of the claim filed with the office
16 is the subject of any proceeding in which a receiver has been
17 appointed by a court of competent jurisdiction. If the office
18 waives such compliance, the office may, upon petition by the
19 claimant, the debtor, or the court-appointed trustee,
20 examiner, or receiver, distribute funds from the Securities
21 Guaranty Fund up to the amount allowed under s. 517.141. Any
22 waiver granted pursuant to this section shall be considered a
23 judgment for purposes of complying with the requirements of
24 this section and of s. 517.141.

25 (5) The commission may by rule specify the procedures
26 for complying with the requirements of subsections (2), (3),
27 and (4), including rules for the form of submission and
28 guidelines for the sufficiency and content of submissions of
29 notices and claims.

30
31

1 Section 28. Subsections (2) and (5) of section
2 517.141, Florida Statutes, are amended, and subsection (11) is
3 added to that section, to read:

4 517.141 Payment from the fund.--

5 (2) Regardless of the number of claims or claimants
6 involved, payments for claims shall be limited in the
7 aggregate to \$100,000 against any one dealer, investment
8 adviser, or associated person. If the total claims exceed the
9 aggregate limit of \$100,000, the office shall prorate the
10 payment based upon the ratio that the person's claim bears to
11 the total claims filed.

12 (5) If the final judgment that ~~which~~ gave rise to the
13 claim is overturned in any appeal or in any collateral
14 proceeding, the claimant shall reimburse the fund all amounts
15 paid to the claimant on the claim. If the claimant satisfies
16 the judgment referred to in s. 517.131(3)(a), the claimant
17 shall reimburse the fund all amounts paid to the claimant on
18 the claim.Such reimbursement shall be paid to the office
19 within 60 days after the final resolution of the appellate or
20 collateral proceedings, with the 60-day period commencing on
21 the date the final order or decision is entered in such
22 proceedings.

23 (11) The commission may by rule specify the procedures
24 for complying with this section, including rules for the form
25 of submission and guidelines for the sufficiency and content
26 of submissions of notices and claims.

27 Section 29. Subsection (1) of section 517.161, Florida
28 Statutes, is amended to read:

29 517.161 Revocation, denial, or suspension of
30 registration of dealer, investment adviser, associated person,
31 or branch office.--

1 (1) Registration under s. 517.12 may be denied or any
2 registration granted may be revoked, restricted, or suspended
3 by the office if the office determines that such applicant or
4 registrant:

5 (a) Has violated any provision of this chapter or any
6 rule or order made under this chapter;

7 (b) Has made a material false statement in the
8 application for registration;

9 (c) Has been guilty of a fraudulent act in connection
10 with rendering investment advice or in connection with any
11 sale of securities, has been or is engaged or is about to
12 engage in making fictitious or pretended sales or purchases of
13 any such securities or in any practice involving the rendering
14 of investment advice or the sale of securities which is
15 fraudulent or in violation of the law;

16 (d) Has made a misrepresentation or false statement
17 to, or concealed any essential or material fact from, any
18 person in the rendering of investment advice or the sale of a
19 security to such person;

20 (e) Has failed to account to persons interested for
21 all money and property received;

22 (f) Has not delivered, after a reasonable time, to
23 persons entitled thereto securities held or agreed to be
24 delivered by the dealer, broker, or investment adviser, as and
25 when paid for, and due to be delivered;

26 (g) Is rendering investment advice or selling or
27 offering for sale securities through any associated person not
28 registered in compliance with the provisions of this chapter;

29 (h) Has demonstrated unworthiness to transact the
30 business of dealer, investment adviser, or associated person;

31

1 (i) Has exercised management or policy control over or
2 owned 10 percent or more of the securities of any dealer or
3 investment adviser that has been declared bankrupt, or had a
4 trustee appointed under the Securities Investor Protection
5 Act; or is, in the case of a dealer or investment adviser,
6 insolvent;

7 (j) Has been convicted of, or has entered a plea of
8 guilty or nolo contendere to, a crime against the laws of this
9 state or any other state or of the United States or of any
10 other country or government which relates to registration as a
11 dealer, investment adviser, issuer of securities, associated
12 person, or branch office; which relates to the application for
13 such registration; or which involves moral turpitude or
14 fraudulent or dishonest dealing;

15 (k) Has had a final judgment entered against her or
16 him in a civil action upon grounds of fraud, embezzlement,
17 misrepresentation, or deceit;

18 (l) Is of bad business repute; ~~or~~

19 (m) Has been the subject of any decision, finding,
20 injunction, suspension, prohibition, revocation, denial,
21 judgment, or administrative order by any court of competent
22 jurisdiction, administrative law judge, or by any state or
23 federal agency, national securities, commodities, or option
24 exchange, or national securities, commodities, or option
25 association, involving a violation of any federal or state
26 securities or commodities law or any rule or regulation
27 promulgated thereunder, or any rule or regulation of any
28 national securities, commodities, or options exchange or
29 national securities, commodities, or options association, or
30 has been the subject of any injunction or adverse
31 administrative order by a state or federal agency regulating

1 banking, insurance, finance or small loan companies, real
2 estate, mortgage brokers, or other related or similar
3 industries. For purposes of this subsection, the office may
4 not deny registration to any applicant who has been
5 continuously registered with the office for 5 years from the
6 entry of such decision, finding, injunction, suspension,
7 prohibition, revocation, denial, judgment, or administrative
8 order provided such decision, finding, injunction, suspension,
9 prohibition, revocation, denial, judgment, or administrative
10 order has been timely reported to the office pursuant to the
11 commission's rules; ~~or-~~

12 (n) Made payment to the office for a license or permit
13 with a check or electronic transmission of funds that fails to
14 clear the applicant's or registrant's financial institution.

15 Section 30. Subsection (2) of section 520.03, Florida
16 Statutes, is amended to read:

17 520.03 Licenses.--

18 (2) An application for a license under this part must
19 be submitted to the office in such form as the commission may
20 prescribe by rule. If the office determines that an
21 application should be granted, it shall issue the license for
22 a period not to exceed 2 years. A nonrefundable application
23 fee of \$175 shall accompany an initial application for the
24 principal place of business and each application for a branch
25 location of a retail installment seller who is required to be
26 licensed under this chapter. An application shall be deemed
27 received for purposes of s. 120.60 upon receipt of a completed
28 application form as prescribed by the commission by rule, a
29 nonrefundable application fee of \$175, and any other fee
30 prescribed by law or rule.

31

1 Section 31. Subsection (2) of section 520.32, Florida
2 Statutes, is amended to read:

3 520.32 Licenses.--

4 (2) An application for a license under this part must
5 be submitted to the office in such form as the commission may
6 prescribe by rule. If the office determines that an
7 application should be granted, it shall issue the license for
8 a period not to exceed 2 years. A nonrefundable application
9 fee of \$175 shall accompany an initial application for the
10 principal place of business and each application for a branch
11 location of a retail installment seller. An application shall
12 be deemed received for purposes of s. 120.60 upon receipt of a
13 completed application form as prescribed by the commission by
14 rule, a nonrefundable application fee of \$175, and any other
15 fee prescribed by law or rule.

16 Section 32. Subsection (2) of section 520.52, Florida
17 Statutes, is amended to read:

18 520.52 Licensees.--

19 (2) An application for a license under this part must
20 be submitted to the office in such form as the commission may
21 prescribe by rule. If the office determines that an
22 application should be granted, it shall issue the license for
23 a period not to exceed 2 years. A nonrefundable application
24 fee of \$175 shall accompany an initial application for the
25 principal place of business and each branch location of a
26 sales finance company. An application shall be deemed received
27 for purposes of s. 120.60 upon receipt of a completed
28 application form as prescribed by the commission by rule, a
29 nonrefundable application fee of \$175, and any other fee
30 prescribed by law or rule.

31

1 Section 33. Subsection (2) of section 520.63, Florida
2 Statutes, is amended to read:

3 520.63 Licensees.--

4 (2) An application for a license under this part must
5 be submitted to the office in such form as the commission may
6 prescribe by rule. If the office determines that an
7 application should be granted, it shall issue the license for
8 a period not to exceed 2 years. A nonrefundable application
9 fee of \$175 shall accompany an initial application for the
10 principal place of business and each application for a branch
11 location of a home improvement finance seller. An application
12 shall be deemed received for purposes of s. 120.60 upon
13 receipt of a completed application form as prescribed by the
14 commission by rule, a nonrefundable application fee of \$175,
15 and any other fee prescribed by law or rule.

16 Section 34. Subsection (5) of section 520.994, Florida
17 Statutes, is amended to read:

18 520.994 Powers of office.--

19 (5) The office shall administer and enforce this
20 chapter. The commission has authority to adopt rules pursuant
21 to ss. 120.536(1) and 120.54 to implement the provisions of
22 this chapter. The commission may adopt rules to require ~~allow~~
23 electronic submission of any form, document, or fee required
24 by this chapter, provided such rules reasonably accommodate
25 technological or financial hardship. The commission may
26 prescribe by rule requirements and procedures for obtaining a
27 technological or financial hardship exemption.

28 Section 35. Paragraph (j) is added to subsection (1)
29 of section 520.995, Florida Statutes, to read:

30 520.995 Grounds for disciplinary action.--

31

1 (1) The following acts are violations of this chapter
2 and constitute grounds for the disciplinary actions specified
3 in subsection (2):

4 (j) Payment to the office for a license or permit with
5 a check or electronic transmission of funds that fails to
6 clear the applicant's or licensee's financial institution.

7 Section 36. Subsection (4) of section 520.997, Florida
8 Statutes, is amended to read:

9 520.997 Books, accounts, and records.--

10 (4) The commission may prescribe by rule the minimum
11 information to be shown in the books, accounts, documents, and
12 records of licensees so that such records will enable the
13 office to determine compliance with the provisions of this
14 chapter. In addition, the commission may prescribe by rule the
15 requirements for destruction of books, accounts, records, and
16 documents retained by the licensee after completion of the
17 time period specified in subsection (3). Notwithstanding the
18 2-year retention period specified in subsection (3), if the
19 office identifies a statute of limitations in another civil or
20 criminal state or federal law or rule that is reasonably
21 related by subject matter to the administration of this
22 chapter, the commission may identify that statute of
23 limitations by rule and may prohibit the destruction of
24 records required to be maintained by this chapter for a period
25 of time established by rule that is reasonably related to such
26 statute of limitations. The commission shall prescribe by rule
27 those documents or records that are to be preserved that are
28 related to the identified statute of limitations.

29 Section 37. Subsection (5) of section 537.009, Florida
30 Statutes, is amended to read:

31

1 537.009 Recordkeeping; reporting; safekeeping of
2 property.--

3 (5) The commission may prescribe by rule the books,
4 accounts, documents, and records, and the minimum information
5 to be shown in the books, accounts, documents, and records, of
6 licensees so that such records will enable the office to
7 determine compliance with the provisions of this act. In
8 addition, the commission may prescribe by rule the
9 requirements for destruction of books, accounts, records, and
10 documents retained by the licensee after completion of the
11 time period specified in subsection (3). Notwithstanding the
12 2-year retention period specified in subsection (3), if the
13 office identifies a statute of limitations in another civil or
14 criminal state or federal law or rule that is reasonably
15 related by subject matter to the administration of this
16 chapter, the commission may identify that statute of
17 limitations by rule and may prohibit the destruction of
18 records required to be maintained by this chapter for a period
19 of time established by rule that is reasonably related to such
20 statute of limitations. The commission shall prescribe by rule
21 those documents or records that are to be preserved that are
22 related to the identified statute of limitations.

23 Section 38. Subsection (3) is added to section
24 560.105, Florida Statutes, to read:

25 560.105 Supervisory powers; rulemaking.--

26 (3) The commission may adopt rules which require
27 electronic submission of any forms, documents, or fees
28 required by this act, provided such rules reasonably
29 accommodate technological or financial hardship. The
30 commission may prescribe by rule requirements and procedures
31 for obtaining a technological or financial hardship exemption.

1 Section 39. Paragraph (y) is added to subsection (1)
2 of section 560.114, Florida Statutes, to read:

3 560.114 Disciplinary actions.--

4 (1) The following actions by a money transmitter or
5 money transmitter-affiliated party are violations of the code
6 and constitute grounds for the issuance of a cease and desist
7 order, the issuance of a removal order, the denial of a
8 registration application or the suspension or revocation of
9 any registration previously issued pursuant to the code, or
10 the taking of any other action within the authority of the
11 office pursuant to the code:

12 (y) Payment to the office for a license or permit with
13 a check or electronic transmission of funds that fails to
14 clear the applicant's or licensee's financial institution.

15 Section 40. Paragraph (b) of subsection (2) of section
16 560.118, Florida Statutes, is amended to read:

17 560.118 Examinations, reports, and internal audits;
18 penalty.--

19 (2)

20 (b) The commission may, by rule, require each money
21 transmitter or authorized vendor to submit quarterly reports
22 to the office. The commission may adopt rules which require
23 electronic submission of any forms, documents, or fees
24 required by this act, provided such rules reasonably
25 accommodate technological or financial hardship. The
26 commission may prescribe by rule requirements and procedures
27 for obtaining a technological or financial hardship exemption.
28 The commission may require that each report contain a
29 declaration by an officer, or any other responsible person
30 authorized to make such declaration, that the report is true
31 and correct to the best of her or his knowledge and belief.

1 Such report must include such information as the commission by
2 rule requires for that type of money transmitter.

3 Section 41. Subsection (2) of section 560.121, Florida
4 Statutes, is amended to read:

5 560.121 Records; limited restrictions upon public
6 access.--

7 (2) The commission may prescribe by rule the minimum
8 information to be shown in the books, accounts, records, and
9 documents of licensees for purposes of enabling the office to
10 determine the licensee's compliance with ss. 516.001-516.36.
11 In addition, the commission may prescribe by rule the
12 requirements for destruction of books, accounts, records, and
13 documents retained by the licensee after completion of the
14 time period specified in this subsection. Notwithstanding the
15 3-year retention period specified in this subsection, if the
16 office identifies a statute of limitations in another civil or
17 criminal state or federal law or rule that is reasonably
18 related by subject matter to the administration of this
19 chapter, the commission may identify that statute of
20 limitations by rule and may prohibit the destruction of
21 records required to be maintained by this chapter for a period
22 of time established by rule that is reasonably related to such
23 statute of limitations. The commission shall prescribe by rule
24 those documents or records that are to be preserved that are
25 related to the identified statute of limitations.Examination
26 reports, investigatory records, applications, and related
27 information compiled by the office, or photographic copies
28 thereof, shall be retained by the office for a period of at
29 least 3 ~~10~~ years after the date the examination or
30 investigation is closed or ceases to be active or the
31 registration ceases to be active.

1 Section 42. Section 560.205, Florida Statutes, is
2 amended to read:

3 560.205 Qualifications of applicant for registration;
4 contents.--

5 (1) To qualify for registration under this part, an
6 applicant must demonstrate to the office such character and
7 general fitness as to command the confidence of the public and
8 warrant the belief that the registered business will be
9 operated lawfully and fairly. The office may investigate each
10 applicant to ascertain whether the qualifications and
11 requirements prescribed by this part have been met. The
12 office's investigation may include a criminal background
13 investigation of all controlling shareholders, principals,
14 officers, directors, members, and responsible persons of a
15 funds transmitter and a payment instrument seller and all
16 persons designated by a funds transmitter or payment
17 instrument seller as an authorized vendor. Each controlling
18 shareholder, principal, officer, director, member, and
19 responsible person of a funds transmitter or payment
20 instrument seller, unless the applicant is a publicly traded
21 corporation as defined by the commission by rule, a subsidiary
22 thereof, or a subsidiary of a bank or bank holding company
23 organized and regulated under the laws of any state or the
24 United States, shall file a complete set of fingerprints.
25 Fingerprint cards submitted to the office shall be taken by an
26 authorized law enforcement officer if such fingerprint card is
27 submitted to the office in paper form. The commission may
28 prescribe by rule additional fees for processing the
29 fingerprints. The commission may prescribe by rule procedures
30 for submitting fingerprints and fees by electronic means to
31 the office or to a third party approved by the office. In

1 order to implement the submission and processing of
2 fingerprints as specified by rule pursuant to this section,
3 the office may, without complying with the requirements of
4 chapter 287, contract with any other state agency that
5 provides fingerprinting services, either directly or through a
6 third-party vendor under contract to such state agency.Such
7 fingerprints must be submitted to the Department of Law
8 Enforcement or the Federal Bureau of Investigation for state
9 and federal processing. The commission may waive by rule the
10 requirement that applicants file a set of fingerprints or the
11 requirement that such fingerprints be processed by the
12 Department of Law Enforcement or the Federal Bureau of
13 Investigation.

14 (2) Each application for registration must be
15 submitted under oath to the office on such forms as the
16 commission prescribes by rule and must be accompanied by a
17 nonrefundable application fee. The commission may establish by
18 rule procedures for depositing fees and filing documents by
19 electronic means.Such fee may not exceed \$500 for each
20 payment instrument seller or funds transmitter and \$50 for
21 each authorized vendor or location operating within this
22 state. The application ~~forms~~ shall contain ~~set forth~~ such
23 information as the commission ~~reasonably~~ requires by rule,
24 including, but not limited to:

25 (a) The name and address of the applicant, including
26 any fictitious or trade names used by the applicant in the
27 conduct of its business.

28 (b) The history of the applicant's material
29 litigation, criminal convictions, pleas of nolo contendere,
30 and cases of adjudication withheld.

31

1 (c) A description of the activities conducted by the
2 applicant, the applicant's history of operations, and the
3 business activities in which the applicant seeks to engage in
4 this state.

5 ~~(d) A list identifying the applicant's proposed~~
6 ~~authorized vendors in this state, including the location or~~
7 ~~locations in this state at which the applicant and its~~
8 ~~authorized vendors propose to conduct registered activities.~~

9 (d)~~(e)~~ A sample authorized vendor contract, if
10 applicable.

11 (e)~~(f)~~ A sample form of payment instrument, if
12 applicable.

13 (f)~~(g)~~ The name and address of the clearing financial
14 institution or financial institutions through which the
15 applicant's payment instruments will be drawn or through which
16 such payment instruments will be payable.

17 (g)~~(h)~~ Documents revealing that the net worth and
18 bonding requirements specified in s. 560.209 have been or will
19 be fulfilled.

20 (3) Each application for registration by an applicant
21 that is a corporation shall contain ~~also set forth~~ such
22 information as the commission ~~reasonably~~ requires by rule,
23 including, but not limited to:

24 (a) The date of the applicant's incorporation and
25 state of incorporation.

26 (b) A certificate of good standing from the state or
27 country in which the applicant was incorporated.

28 (c) A description of the corporate structure of the
29 applicant, including the identity of any parent or subsidiary
30 of the applicant, and the disclosure of whether any parent or
31 subsidiary is publicly traded on any stock exchange.

1 (d) The name, business and residence addresses, and
2 employment history for the past 5 years for each executive
3 officer, each director, each controlling shareholder, and the
4 responsible person who will be in charge of all the
5 applicant's business activities in this state.

6 (e) The history of material litigation and criminal
7 convictions, pleas of nolo contendere, and cases of
8 adjudication withheld for each executive officer, each
9 director, each controlling shareholder, and the responsible
10 person who will be in charge of the applicant's registered
11 activities.

12 (f) Copies of the applicant's audited financial
13 statements for the current year and, if available, for the
14 immediately preceding 2-year period. In cases where the
15 applicant is a wholly owned subsidiary of another corporation,
16 the parent's consolidated audited financial statements may be
17 submitted to satisfy this requirement. An applicant who is not
18 required to file audited financial statements may satisfy this
19 requirement by filing unaudited financial statements verified
20 under penalty of perjury, as provided by the commission by
21 rule.

22 (g) An applicant who is not required to file audited
23 financial statements may file copies of the applicant's
24 unconsolidated, unaudited financial statements for the current
25 year and, if available, for the immediately preceding 2-year
26 period.

27 (h) If the applicant is a publicly traded company,
28 copies of all filings made by the applicant with the United
29 States Securities and Exchange Commission, or with a similar
30 regulator in a country other than the United States, within
31 the year preceding the date of filing of the application.

1 (4) Each application for registration submitted to the
2 office by an applicant that is not a corporation shall contain
3 ~~also set forth~~ such information as the commission ~~reasonably~~
4 requires by rule, including, but not limited to:

5 (a) Evidence that the applicant is registered to do
6 business in this state.

7 (b) The name, business and residence addresses,
8 personal financial statement and employment history for the
9 past 5 years for each individual having a controlling
10 ownership interest in the applicant, and each responsible
11 person who will be in charge of the applicant's registered
12 activities.

13 (c) The history of material litigation and criminal
14 convictions, pleas of nolo contendere, and cases of
15 adjudication withheld for each individual having a controlling
16 ownership interest in the applicant and each responsible
17 person who will be in charge of the applicant's registered
18 activities.

19 (d) Copies of the applicant's audited financial
20 statements for the current year, and, if available, for the
21 preceding 2 years. An applicant who is not required to file
22 audited financial statements may satisfy this requirement by
23 filing unaudited financial statements verified under penalty
24 of perjury, as provided by the commission by rule.

25 (5) Each applicant shall designate and maintain an
26 agent in this state for service of process.

27 (6) Changes in registration occasioned by changes in
28 personnel of a partnership or in the principals, members,
29 copartners, officers, directors, controlling shareholders, or
30 responsible persons of a money transmitter or by changes of
31 any material fact or method of doing business shall be

1 reported by written amendment in such form and at such time as
2 the commission shall specify by rule.

3 Section 43. Subsection (1) of section 560.207, Florida
4 Statutes, is amended to read:

5 560.207 Renewal of registration; registration fee.--

6 (1) Registration may be renewed for a 24-month period
7 or the remainder of any such period without proration
8 following the date of its expiration, upon the filing with the
9 office of an application and other statements and documents as
10 may reasonably be required of registrants by the commission.
11 The commission may establish by rule procedures for depositing
12 fees and filing documents by electronic means. However, the
13 registrant must remain qualified for such registration under
14 the provisions of this part.

15 Section 44. Subsection (1) of section 560.210, Florida
16 Statutes, is amended to read:

17 560.210 Permissible investments.--

18 (1) A registrant shall at all times possess
19 permissible investments with an aggregate market value
20 calculated in accordance with United States generally accepted
21 accounting principles of not less than the aggregate face
22 amount of all outstanding funds transmissions ~~transmitted~~ and
23 ~~outstanding~~ payment instruments issued or sold by the
24 registrant or an authorized vendor in the United States.

25 Section 45. Subsection (2) of section 560.211, Florida
26 Statutes, is amended to read:

27 560.211 Records.--

28 (2) The records required to be maintained by the code
29 may be maintained by the registrant at any location, provided
30 that the registrant notifies the office in writing of the
31 location of the records in its application or otherwise by

1 amendment as prescribed by the commission by rule. The
2 registrant shall make such records available to the office for
3 examination and investigation in this state, as permitted by
4 the code, within 7 days after receipt of a written request.

5 Section 46. Section 560.305, Florida Statutes, is
6 amended to read:

7 560.305 Application.--Each application for
8 registration shall be in writing and under oath to the office,
9 in such form as the commission prescribes. The commission may
10 establish by rule procedures for depositing fees and filing
11 documents by electronic means.The application shall contain
12 such information as the commission requires by rule,
13 including, but not limited to ~~include the following~~:

14 (1) The legal name and residence and business
15 addresses of the applicant if the applicant is a natural
16 person, or, if the applicant is a partnership, association, or
17 corporation, the name of every partner, officer, or director
18 thereof.

19 (2) The location of the principal office of the
20 applicant.

21 (3) The complete address of any other locations at
22 which the applicant proposes to engage in such activities
23 since the provisions of registration apply to each and every
24 operating location of a registrant.

25 (4) Such other information as the commission or office
26 reasonably requires with respect to the applicant or any money
27 transmitter-affiliated party of the applicant; however, the
28 commission or office may not require more information than is
29 specified in part II.

30
31

1 Section 47. Subsections (1) and (4) of section
2 560.306, Florida Statutes, are amended, and subsection (6) is
3 added to that section, to read:

4 560.306 Standards.--

5 (1) In order to qualify for registration under this
6 part, an applicant must demonstrate to the office that he or
7 she has such character and general fitness as will command the
8 confidence of the public and warrant the belief that the
9 registered business will be operated lawfully and fairly. The
10 office may investigate each applicant to ascertain whether the
11 qualifications and requirements prescribed by this part have
12 been met. The office's investigation may include a criminal
13 background investigation of all controlling shareholders,
14 principals, officers, directors, members, and responsible
15 persons of a check casher and a foreign currency exchanger and
16 all persons designated by a foreign currency exchanger or
17 check casher as an authorized vendor. Each controlling
18 shareholder, principal, officer, director, member, and
19 responsible person of a check casher or foreign currency
20 exchanger, unless the applicant is a publicly traded
21 corporation as defined by the commission by rule, a subsidiary
22 thereof, or a subsidiary of a bank or bank holding company
23 organized and regulated under the laws of any state or the
24 United States, shall file a complete set of fingerprints.
25 Fingerprint cards submitted to the office shall be taken by an
26 authorized law enforcement officer if such fingerprint card is
27 submitted to the office in paper form. The commission may
28 prescribe by rule additional fees for processing the
29 fingerprints. The commission may prescribe by rule procedures
30 for submitting fingerprints and fees by electronic means to
31 the office or to a third party approved by the office. In

1 order to implement the submission and processing of
2 fingerprints as specified by rule pursuant to this section,
3 the office may, without complying with the requirements of
4 chapter 287, contract with any other state agency that
5 provides fingerprinting services, either directly or through a
6 third-party vendor under contract to such state agency.Such
7 fingerprints must be submitted to the Department of Law
8 Enforcement or the Federal Bureau of Investigation for state
9 and federal processing. The commission may waive by rule the
10 requirement that applicants file a set of fingerprints or the
11 requirement that such fingerprints be processed by the
12 Department of Law Enforcement or the Federal Bureau of
13 Investigation.

14 (4) Each registration application and renewal
15 application must specify the location at which the applicant
16 proposes to establish its principal place of business and any
17 other location, including authorized vendors operating in this
18 state. The registrant shall notify the office of any changes
19 to any such locations. ~~Any registrant may satisfy this~~
20 ~~requirement by providing the office with a list of such~~
21 ~~locations, including all authorized vendors operating in this~~
22 ~~state, not less than annually.~~A registrant may not transact
23 business as a check casher or a foreign currency exchanger
24 except pursuant to the name under which it is registered.

25 (6) Changes in registration occasioned by changes in
26 personnel of a partnership or in the principals, members,
27 copartners, officers, directors, controlling shareholders, or
28 responsible persons of a money transmitter or by changes of
29 any material fact or method of doing business shall be
30 reported by written amendment in such form and at such time as
31 the commission shall specify by rule.

1 Section 48. Subsection (2) of section 560.308, Florida
2 Statutes, is amended to read:

3 560.308 Registration terms; renewal; renewal fees.--

4 (2) The office shall renew registration upon receipt
5 of a completed renewal form and payment of a nonrefundable
6 renewal fee not to exceed \$500. The completed renewal form and
7 payment of the renewal fee shall occur on or after June 1 of
8 the year in which the existing registration expires. The
9 commission may establish by rule procedures for depositing
10 fees and filing documents by electronic means.

11 Section 49. Subsection (2) of section 560.310, Florida
12 Statutes, is amended to read:

13 560.310 Records of check cashers and foreign currency
14 exchangers.--

15 (2) The records required to be maintained by the code
16 may be maintained by the registrant at any location, provided
17 that the registrant notifies the office, in writing, of the
18 location of the records in its application or otherwise by
19 amendment as prescribed by the commission by rule. The
20 registrant shall make such records available to the office for
21 examination and investigation in this state, as permitted by
22 the code, within 7 days after receipt of a written request.

23 Section 50. Section 626.565, Florida Statutes, is
24 created to read:

25 626.565 Disposition of records.--

26 (1) An agent or other licensee of the department or
27 office shall be responsible for the prudent disposition of
28 records containing personal financial or health information
29 regarding a consumer, policyholder, applicant, or insured
30 after any applicable retention requirement has been met.
31 Disposition shall be by a method that protects the

1 confidentiality of any of the personal financial or health
2 information. Each appointing entity shall comply with this
3 requirement by the licensee in any appointment or
4 representation agreement between the appointing entity and the
5 licensee.

6 (2) The department or commission may adopt rules
7 governing the disposition of records of personal financial or
8 health information of a consumer, policyholder, applicant, or
9 insured by agents and other licensees. The rules shall be
10 designed to protect the confidential and sensitive nature of
11 the information and avoid identity theft.

12 Section 51. This act shall take effect October 1,
13 2004.

14
15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
16 COMMITTEE SUBSTITUTE FOR
17 Senate Bill 1624

18 Requires that insurance agents and other licensees under ch.
19 262, F.S., are responsible for the prudent disposition of
20 records containing the personal financial or health
21 information of a consumer, policyholder, applicant or insured.
22 Grants rulemaking authority to the Department of Financial
23 Services or Financial Services Commission to govern the
24 destruction of documents.

25 A Canadian securities dealer doing business with a Canadian
26 citizen in Florida concerning Canadian securities must meet a
27 notice filing requirement with the Office of Financial
28 Regulation. The current registration requirement for Canadian
29 securities dealers dealing with Canadian citizens in Florida
30 is eliminated.
31