

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1789 (PCB COM 04-02) Banking Regulation
SPONSOR(S): Commerce
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Commerce	16 Y, 0 N	Sheheane	Billmeier
2)			
3)			
4)			
5)			

SUMMARY ANALYSIS

The Financial Services Commission (Commission) and its Office of Financial Regulations (the Office) administer the regulation of mortgage brokers and lenders, consumer finance, retail installment sales, title loans, and securities. A number of provisions under each of these areas of its jurisdiction have been identified by the Office for clarification and revision to achieve more efficient governance.

This bill revises a number of regulatory provisions in Chapter 494, F.S., which govern mortgage brokers and lenders. These revisions include:

- mandated electronic filing of required forms, documents, or files with provision for hardship situations;
- clarification that receipt of the appropriate fee is a condition of new and renewal license application completion and that grounds for disciplinary action exist if payment of the fee fails to clear;
- revision of fingerprint card processing;
- clarification of when a change in licensee control will trigger the need for a new license;
- exemption requirements for financial institutions;
- revision of testing procedures and fees;
- increase in the filing fee for license transfers;
- branch application license approval;
- accounting standards; and
- corrections to statutory cites.

Provisions relating to mandated electronic filing and processing fingerprint cards are also addressed under the chapters governing consumer finance, retail installment sales, securities transactions, and money transmitters. Further, the bill expands the Commission's rulemaking authority to include guidelines for the destruction as well as retention of certain records by mortgage brokers and lenders, retail installment sales, consumer finance transactions, title loans, and securities.

The bill also increases the fee licensees must pay to transfer licenses from \$500 to \$575. The Office estimates that this provision will result in an increase in revenue for the Office of approximately \$575 annually. The Office also estimates that the electronic examination fee will range from \$60 to \$75 per test. The Office would be authorized to use a third-party to administer the examination; therefore, the fee would be paid to the provider rather than the Office. The impact of the change is estimated to total \$549,247 annually.

The bill takes effect October 1, 2004.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1789.com.doc
DATE: March 19, 2004

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|---|--|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a “no” above, please explain:

This bill increases governmental regulation by mandating that all license renewal applications be submitted electronically and authorizes the Office to allow a third party to administer the required applicant examinations, which will likely result in a new fee for the applicant.

The bill also increases the application fee for license transfers for certain licensees; however, this increase makes licensing application fees consistent for all applicants.

B. EFFECT OF PROPOSED CHANGES:

The Financial Services Commission (Commission) and its Office of Financial Regulations (the Office) administer the regulation of mortgage brokers and lenders, consumer finance, retail installment sales, title loans, and securities. A number of provisions under each of these areas of its jurisdiction have been identified by the Office for clarification and revision to achieve more efficient governance. This analysis will address the proposed revisions by subject across the various regulatory schemes under the Commission’s and Office’s jurisdiction.

Mortgage Broker and Lender Licensing

This bill revises a number of regulatory provisions in Chapter 494, Florida Statutes, which governs mortgage brokers and lenders. These revisions include:

- mandated electronic filing of required forms, documents, or files with provision for hardship situations;
- clarification that receipt of the appropriate fee is a condition of new and renewal license application completion and that grounds for disciplinary action exist if payment of the fee fails to clear;
- revision of fingerprint card processing;
- clarification of when a change in licensee control will trigger the need for a new license;
- exemption requirements for financial institutions;
- revision of testing procedures and fees;
- increase in the filing fee for license transfers;
- branch application license approval;
- accounting standards; and
- corrections to statutory cites.

There are three parts to chapter 494, F.S. Part I outlines the general powers and duties of the Financial Services Commission and its Office of Financial Regulation, lists prohibited practices, and provides penalties

for violations of the act. Part II provides the regulatory framework for mortgage brokerage businesses and mortgage brokers, and Part III provides the same for mortgage lenders and correspondent mortgage lenders.¹

Mandated Electronic Filing

Currently, the Commission is authorized to adopt rules to allow the electronic submission of any forms, documents, or fees required by chapter 494, F.S., including quarterly reports, initial applications, and renewal applications. The Office now accepts both paper form and electronically filed license renewals from mortgage brokerage businesses and their branch offices, mortgage brokers, mortgage lenders and their branch permit holders, and correspondent mortgage lenders, and their branch permit holders. The Office reports that during the most recent business renewal period, 90 percent of the licensees chose to renew through the Internet. The Office also reports that maintaining a dual system for only 10 percent of license renewal applicants is costly.

This bill amends parts I of chapter 494, F.S., to authorize the Commission, by rule, to require that any form, document or fee be filed electronically. However, the bill also provides that any such rules must reasonably accommodate a technological or financial hardship and further authorizes the Commission to prescribe by rule the method for qualifying for a hardship exemption.

Clarifications

Under parts I, II, and III, in those sections² relating to licensure requirements, the bill clarifies that a completed application for licensure or renewal will be considered “received” for the purposes of proper administrative licensing procedures³, when the appropriate fees have also been received. The Office indicates that this clarification will assist in the enforcement of any penalties resulting from fees negated by transmission of payment instruments backed by insufficient funds. (See “Payment with Insufficient Funds” in this analysis.)

The definitions and provisions that apply to the mortgage brokerage and mortgage lending industry in general are found in part I of the chapter. The definition for “Associate” is two tiered. An associate is identified as a person who is required to be licensed as a mortgage broker under this chapter who is employed by or acts as independent contractor for a mortgage brokerage business. The definition then continues by saying “or” and then identifies a person acting as an independent contractor for a mortgage lender or correspondent mortgage lender. It is not clear in this current definition whether the “who is required to be licensed as a mortgage broker” is intended to apply only to the first “associate” identified or also to the “associate” identified after the “or.”

In an attempt to clarify who is required to be licensed as a mortgage broker, this bill inserts references to those who act as associates for mortgage lenders or correspondence mortgage lenders into the section⁴ regulating who is required to be licensed as a mortgage broker. This has the effect of requiring all persons who act as associates of mortgage lenders or correspondent mortgage lenders to be licensed as mortgage brokers.

Certain educational requirements, as conditions for licensure, are established under parts II and III of chapter 494, F.S., for mortgage brokers, lenders, and their related associates. All applicants for licensure renewal under this chapter must certify to the Office that they have completed a certain number of hours of professional educational programs within the two years prior to the renewal application.

Since this means that this requirement must be repeated within each two-year licensing cycle, this bill clarifies that the educational requirements are continuing.

¹ The substantive difference between a mortgage lender and a correspondent mortgage lender is that the latter cannot service loans.

² See ss. 494.0029, .0031, .0033, .0036, .0061, .0062, and .0065, F.S.

³ See s. 120.60, F.S.

⁴ See s. 494.0033(1), F.S.

Fingerprint Card Processing

Currently, state agencies that require fingerprints from certain persons within the entities they regulate are authorized⁵ to collect from those regulated entities the cost of processing the fingerprints, including any processing costs imposed by the Florida Department of Law Enforcement (FDLE)⁶. Additionally, state agencies are authorized to, by rule, establish the amounts and methods of payment needed to collect such costs. The current Office authority⁷ requires each officer, director, and owner of a 10 percent or greater interest in the mortgage brokerage or lender business to submit a set of fingerprints and collects the processing costs as part of the general licensing fees.

This bill authorizes the Commission to adopt additional rules to authorize the collection of fingerprints and fees electronically by the Office or a third party vendor approved by the Office. The bill also provides that the Office may contract with any other state agency providing such fingerprint services, either directly or through a third party vendor under contract to the processing agency, without having to comply with the bidding requirements of chapter 287, F.S.

Educational Requirements

Under part I, persons, schools, and other institutions may apply for a permit from the Office to offer mortgage brokerage training courses as a condition precedent to licensure. Accredited universities, community colleges, and technical schools that offer similar courses are exempted from the permitting process. Permitted schools must comply with guidelines and rules established by under chapter 494, F.S. Although the schools can offer the courses, there is no statutory authority for the Office to permit an outside resource to administer and charge for the requisite tests. Currently, the Office administers the pre-licensing mortgage brokerage and lending tests monthly through five locations statewide. Applicants are able to take the tests up to three times without any testing fee.

Under both parts II and III of chapter 494, this bill provides that the Office-approved educational test required of licensure applicants (and renewal applicants by reference) may be administered either by the Office or by a third party. Since there is a movement to establish a national test for mortgage brokers, this bill also provides that the Office may waive the test requirement for an individual who has passed a comparable test offered by a national group of state mortgage regulators or a similar federal government agency.

Currently, part II requires lenders and correspondent lenders to designate a principal representative who will exercise control of the licensee's business. Since October 1, 2001, part II has also required each principal representative to pass a test which covers primary and subordinate mortgage financing transactions and the rules and laws of chapter 494, F.S. If a lender designates a new principal representative, the lender must notify the Office of the name and address of the new representative and document that the person has completed the educational and testing requirements. Unless the new principal representative has had some reason (previous licensure) to have completed the educational and testing requirements, he or she will not be in compliance with the notification requirement.

This bill provides the newly designated principal representative 90 days after being designated to complete the education and testing requirements.

Exemptions

In parts II and III of chapter 494, F.S., certain financial entities (any bank, bank holding company, trust company, savings and loan association, savings bank, credit union, or consumer finance company licensed pursuant to chapter 516, F.S.) and certain federal associations are exempted from the licensure requirements for mortgage brokerage businesses, mortgage brokers, mortgage lenders and correspondent mortgage

⁵ See s. 215.405, F.S.

⁶ The Department of Education contracts with Lockheed Martin to collect and process fingerprint cards through FDLE.

⁷ See ss. 494.0031, .0033, .0061, .0062, .0065, F.S.

lenders. In general, these types of institutions are reviewed by a federal or state regulatory agency. However, the Office indicates that certain financial institutions and their subsidiaries from other countries have claimed this exemption, and the Office has not been able to verify that a regulatory review of the institution has taken place.

The language provided in this bill in both parts II and III of the chapter, requires regulation by a state or federal regulatory agency within the United States in order to claim the exemption from licensure by these parts.

Payment with Insufficient Funds

Under parts II and III of the chapter, provisions are made for the cancellation of an initial license if the check written for that license is returned for non-sufficient funds. The Office does not have the authority to cancel the license if the checks are returned due to closure of the licensee's account and does not have the authority to cancel the permits of mortgage brokerage schools, or renewed licenses if the checks of the permit holders or licensees are returned.

This bill removes the individual references to licensure cancellation for payment with a bad check found under the various licensing sections of chapter 494, F.S., and provides general authority for disciplinary action, which can include licensure cancellation, for payments backed by insufficient funds in the section on administrative penalties and fines and license violations.⁸ Under this provision, it would be possible for the Office to immediately deny the issuance of the license or renewal if the insufficiency of a payment for such renewal was discovered prior to issuance. In the long run, this could save the Office the expense and paperwork of going through an administrative license revocation or suspension.

Consistency

Licensing requirements for mortgage brokers under part II and mortgage lenders and correspondent mortgage lenders under part III of chapter 494, F.S., authorize the Office to require each applicant to provide any information reasonably necessary to make a determination of the applicant's eligibility for licensure.

This bill replicates that authority for the Office in relation to mortgage brokerage business license applicants under part II, and moves the provision towards the start of the licensing section for correspondent mortgage lenders under part III.

Revised Accounting Standards

Mortgage lenders and correspondent mortgage lenders are required under part III to maintain a minimum net worth. The licensee's compliance with this requirement must be verified by audited financial statements that are prepared according to generally accepted accounting principles. Since the events surrounding the demise of Enron, the accounting profession is now required to use similar, but amended language as a standard.

This bill amends the auditing standards currently required in part III to mirror the profession's new language which now holds to accounting principles generally accepted in the United States of America.

Branch Office Applications

Under parts II and III, mortgage brokerage businesses and mortgage lenders may acquire branch office licenses for their branch offices. The Office indicates that there may be some discrepancy between it's and the licensee's understanding of when the branch office license is valid. The language in the current statutes directs the Office to issue such a license "upon receipt of a completed application." The Office maintains that the word "completed" in reference to the application indicates a certain standard for the application and consequently a review by the Office for compliance with that standard before approval of the license is granted.

⁸ See s. 494.0041, F.S.

This bill amends the branch office license requirements in both parts II and III to provide that the Office is directed to issue the branch office license once it has determined that the licensee has submitted a completed application.

The bill also provides that branch renewals for securities dealers be processed through the Central Registration Depository and for Investment Advisers to process applications through the Investment Advisor Registration Depository.

Saving Clause

In 1991, the Legislature extensively revised chapter 494, F.S., and enacted a number of new requirements for mortgage lenders applying for licensure after the effective date of that act. Previously, licensed mortgage lenders were “grandfathered” into the 1991 act through a special mortgage lender business license pursuant to a savings clause (s. 464.0065, F.S.) ratified by the Legislature. In 1998, the Legislature codified rules promulgated by the former Department of Banking and Finance that permitted the transfer or sale of the “grandfathered” licenses under certain conditions. Many of the provisions found in chapter 494, F.S., relating to mortgage lenders and correspondent mortgage lenders are reiterated under s. 494.0065, F.S., to apply to licensees governed by that section.

This bill reiterates in the saving clause the requirements for designation of principal representatives and the amendments it makes to parts II and III, relating to accounting principles, educational and testing requirements, and returned checks. The bill also increases the fee licensees must pay to transfer licenses under this section from \$500 to \$575. This change makes the license transfer application fees for this section consistent with the license applications fees for mortgage brokers and lenders in parts II and III, which were revised in 1999.

Miscellaneous

Obsolete and duplicative language is removed from Chapter 494, F.S., by this bill, and the same exemption from licensure extended to natural persons acting within the scope of employment with a licensed mortgage lender is extended to natural persons acting within the scope of employment with licensed correspondent mortgage lenders.

Consistency

The bill amends chapters 516, 520, and 560, F.S., to authorize the Commission, by rule, to require that any form, document or fee be filed electronically. However, the bill also provides that any such rules must reasonably accommodate a technological or financial hardship and further authorizes the Commission to prescribe by rule the method for qualifying for a hardship exemption.

Under parts I, II, and III, in those sections⁹ relating to licensure requirements, the bill clarifies that a completed application for licensure or renewal will be considered “received” for the purposes of proper administrative licensing procedures,¹⁰ when the appropriate fees have also been received. The Office indicates that this clarification will assist in the enforcement of any penalties resulting from fees negated by transmission of payment instruments backed by insufficient funds.

Records Retention

The Office has statutory authority to require several industries under its jurisdiction to keep records for specified periods of time:

⁹ See ss. 494.0029, .0031, .0033, .0036, .0061, .0062, and .0065, F.S.

¹⁰ See s. 120.60, F.S.

- s. 494.0016, F.S., authorizes the Office to specify the minimum amount of information that mortgage brokers and lenders must show in their books, records and documents for compliance verification and requires such licensees to keep those records for 3 years.
- s. 516.12, F.S., generally requires licensed consumer finance institutions to keep books, accounts, and records for Office verification of compliance with licensing requirements for 2 years.
- s. 520.97, F.S., authorizes the Office to specify the minimum amount of information that retail installment sellers must show in their books, records, and documents for compliance verification and requires such licensees to keep those records for 2 years.
- s. 537.009, F.S., authorizes the Office to specify the minimum amount of information that title loan lenders must show in their books, records, and documents records for compliance verification and requires such licensees to keep those records for 2 years.
- s. 626.561, F.S., requires insurance representatives to make available to the office books, accounts, and records in order for the office to determine compliance with provisions of the insurance code. These documents are required to be held for at a minimum of three years.

Many of these documents contain personal financial information on clients of the licensees. The proper disposal of records containing such information could help to prevent the possibility of identity theft. However, none of these sections authorize the Office to specify how to dispose of these records once the retention period has been reached.

This bill amends each of those sections to provide the Office with such authority.

Securities

Chapter 517, F.S., relates to the regulation of securities transactions and is cited as the Florida Securities and Investor Protection Act. This chapter provides regulations for registration of dealers and branch offices, books and records requirements, revocation of licenses, investigations and examinations, and prohibited practices of any person participating in a securities transaction.

The bill amends chapter 517, F.S., by providing that branch renewals for securities dealers be processed through the Central Registration Depository and for investment advisers to process applications through the Investment Advisor Registration Depository providing that the National Association of Securities Dealers develop the capacity to process such registrations and renewals. The bill also streamlines the registration process for a Canadian securities dealer doing business with a Canadian citizen in Florida concerning Canadian securities by exempting a Canadian dealer from registration requirements of s. 512.12, F.S., and providing updated requirements for registration.

C. SECTION DIRECTORY:

Section 1: Amends s. 494.0011, F.S., mandating electronic filing of required forms, documents, or files with a provision for hardship situations; giving rulemaking authority to prescribe requirements and procedures for obtaining a technological or financial hardship; mandating grant or denial of license to be in accord with s. 120.60, F.S.

Section 2: Amends s. 494.0016, F.S., to expand the Commission's rulemaking authority to include guidelines for the destruction as well as retention of certain records.

Section 3: Amends s. 494.0029, F.S., relating to mortgage business schools, stating that permit applications shall be deemed received for purposes of s. 120.60, F.S., upon receipt of a completed application form as prescribed by commission rule, a nonrefundable application fee of \$500, and any other fee prescribed by law or rule.

Section 4: Amends s. 494.00295, F.S., relating to continuing education programs.

Section 5: Amends s. 494.003, F.S., clarifying that exempt financial institutions are those regulated by a state or federal regulatory agency within the United States.

Section 6: Amends s. 494.0031, F.S., relating to mortgage brokerage business licenses; requiring information and fees for licenses; clarifying that the commission has the authority to charge for the processing of fingerprint cards and providing authority to utilize a third-party for the submission of fingerprint cards and fees by electronic means; providing for rules; providing licenses cannot be transferred or assigned.

Section 7: Amends s. 494.0033, F.S., relating to mortgage broker licenses and examinations.

Section 8: Amends s. 494.0034, F.S., relating to renewal of mortgage broker's license.

Section 9: Amends s. 494.0036, F.S., relating to mortgage brokerage business branch offices.

Section 10: Amends s. 494.0041, F.S., relating to administrative penalties, fines, and license violations.

Section 11: Amends s. 494.006, F.S., clarifying that exempt financial institutions are those that are regulated by a state or federal regulatory agency within the United States.

Section 12: Amends s. 494.0061, F.S., relating to mortgage lender license requirements.

Section 13: Amends s. 494.0062, F.S., relating to correspondent mortgage lender license requirements.

Section 14: Amends s. 494.0064, F.S., relating to renewal of mortgage lender licenses and branch office license renewal.

Section 15: Amends s. 494.0065, F.S., providing that a principal representative for a license transferred pursuant to a savings clause must have completed the 24-hour continuing education requirement. This section also increases the fee for license transfers authorized by s. 494.0065, F.S., from \$500 to \$575.

Section 16: Amends s. 494.0066, F.S., relating to branch office licenses.

Section 17: Amends s. 494.0067, F.S., relating to licensee requirements.

Section 18: Amends s. 494.0072, F.S., relating to penalties for a licensee whose payment fails to clear the financial institution.

Section 19: Amends s. 494.00721, F.S., relating to net worth requirements.

Section 20: Amends s. 516.03, F.S., relating to consumer finance loans, stating that license applications shall be deemed received for purposes of s. 120.60, F.S., upon receipt of a completed application form as prescribed by Commission rule, a nonrefundable application fee of \$625, and any other fee prescribed by law or rule.

Section 21: Amends s. 516.07, F.S., relating to consumer finance loans, adding that a payment failing to clear the applicant's financial institution is a violation and grounds for a denial of license.

Section 22: Amends s. 516.12, authorizing the Financial Services Commission to prescribe rules for the destruction of records kept by persons licensed to make consumer finance loans.

Section 23: Amends s. 517.051, F.S., providing a clarification regarding United States generally accepted accounting principles.

Section 24. Amends s. 517.061, F.S., providing a technical change.

Section 25. Amends s. 517.081, F.S., providing a clarification regarding United States generally accepted accounting principles.

Section 26. Amends s. 517.12, F.S., relating to securities dealers' licenses; requiring information and fees for licenses; clarifying that the commission has the authority to charge for the processing of fingerprint cards and providing authority to utilize a third-party for the submission of fingerprint cards and fees by electronic means; providing for rules; providing licenses cannot be transferred or assigned. This section also provides that branch renewals for securities dealers be processed through the Central Registration Depository and for investment advisers to process applications through the Investment Advisor Registration Depository providing that the National Association of Securities Dealers develop the capacity to process such registrations and renewals.

Section 27. Amends s. 517.131, F.S., revising the procedures for filing a claim with the Securities Guaranty Fund.

Section 28. Amends s. 517.141, F.S., providing rule making authority for the commission relating to this section.

Section 29. Amends s. 517.161, F.S., relating to registration of a securities dealer, investment advisor, or branch office.

Section 30. Amends s. 520.03, F.S., relating to motor vehicle sales finance, stating that permit applications shall be deemed received for purposes of s. 120.60, F.S., upon receipt of a completed application form as prescribed by commission rule, a nonrefundable application fee of \$175, and any other fee prescribed by law or rule.

Section 31: Amends s. 520.32, F.S., relating to retail installment sales, stating that permit applications shall be deemed received for purposes of s. 120.60, F.S., upon receipt of a completed application form as prescribed by commission rule, a nonrefundable application fee of \$175, and any other fee prescribed by law or rule.

Section 32: Amends s. 520.52, F.S., relating to installment sales finance, stating that permit applications shall be deemed received for purposes of s. 120.60, F.S., upon receipt of a completed application form as prescribed by commission rule, a nonrefundable application fee of \$175, and any other fee prescribed by law or rule.

Section 33 Amends s. 520.63, F.S., relating to home improvement sales and finance, stating that permit applications shall be deemed received for purposes of s. 120.60, F.S., upon receipt of a completed application form as prescribed by commission rule, a nonrefundable application fee of \$175, and any other fee prescribed by law or rule.

Section 34: Amends s. 520.994, F.S., providing the Financial Services Commission the authority to require electronic submission of forms; providing for accommodation of financial hardship.

Section 35: Amends s. 520.995, F.S., relating to grounds for disciplinary action.

Section 36: Amends s. 520.997, F.S., relating to the destruction of books, accounts, and records.

Section 37: Amends 537.009, F.S., relating to the destruction of books, accounts, and records.

Section 38: Amends s. 560.105, F.S., authorizing the Financial Services Commission to adopt rules to require electronic submission of any forms, documents, or fees required by this bill.

Section 39: Amends s. 560.114, F.S., relating to disciplinary actions.

Section 40: Amends s. 560.118, F.S., relating to electronic submission of forms.

Section 41: Amends s. 560.121, F.S., relating to the destruction of records.

Section 42: Amends s. 560.205, F.S., relating to qualifications for registration.

Section 43: Amends s. 560.207, F.S., relating to the renewal of registration and registration fees; giving the Commission rulemaking authority to establish rules and procedures for electronic submission of forms and filing of fees.

Section 44: Amends s. 560.210, F.S., relating to permissible investments, requiring that permissible investments mandated by section be calculated in accordance with accounting principles generally accepted in the United States.

Section 45: Amends s. 560.211, F.S., relating to maintaining records.

Section 46: Amends s. 560.305, F.S., relating to applications; giving the Commission rulemaking authority to establish rules and procedures for depositing fees and filing applications by electronic means.

Section 47: Amends s. 560.306, F.S., relating to standards defined by the Financial Services Commission; clarifying exemptions from fingerprinting requirements; giving Commission authority to establish rules for fingerprinting submission and processing electronically; specifying additional information for negotiation or renewal.

Section 48: Amends s. 560.308, F.S., relating to negotiation terms, renewal and renewal fees; providing for filing documents by electronic means; providing rulemaking authority.

Section 49: Amends s. 560.310, F.S., relating to records of check cashers and foreign currency exchangers; allowing notification via amendment.

Section 50. Creates s. 626.565, F.S., to provide rulemaking authority for the office to include guidelines for the destruction as well as retention of certain records relating to insurance.

Section 51: This bill takes effect October 1, 2004.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Office of Financial Regulation estimates that the filing fee increase for the Mortgage Lender Savings Clause Transfer will increase revenues by \$575 per year.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the Office of Financial Regulation, there is an impact expected in the private sector due to mortgage broker testing if the test is transferred to a third party vendor for administration purposes. For

fiscal year 2004/2005, the impact is expected to be \$606,184. For fiscal year 2005/2006, an impact of \$808,245 is expected and for fiscal year 2006/2007, an impact of 808,245 is also expected.

The Office of Financial Regulation stated the following regarding the impact on the private sector:

“We are unable to predict offsetting benefit to private sector of allowing quicker entry into business due to more frequent testing, immediate scoring of test and more opportunities to take test. It is also anticipated more test sites would be available than currently, reducing the applicants travel expense to take the test. Under current statute, the Office only administers the Mortgage Broker test once a month. Under the proposed language, the Office may promulgate a rule to allow a third party to administer the test via computer. This would allow applicants to schedule a date, time and location more convenient to them. The applicant would immediately receive their score to know whether they need to retake the test. Under the proposal, the applicant could reschedule an immediate retake if necessary, rather than waiting until the following month to retake the test. This would allow them to obtain their mortgage broker license more quickly and enter business without unnecessary delays.”

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenues.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

As a result of this bill, the Commission is given rulemaking authority to prescribe requirements and procedures for obtaining a technological or financial hardship relating to electronic filing of forms, rulemaking authority to include guidelines for the destruction as well as retention of certain records, the authority to charge for the processing of fingerprint cards, and authority to utilize a third-party for the submission of fingerprint cards and fees by electronic means.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

N/A