

CHAMBER ACTION

1 The Committee on State Administration recommends the following:

2
3 **Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to regulation of financial entities and
7 transactions; amending s. 494.0011, F.S.; authorizing the
8 Financial Services Commission to require electronic
9 submission of forms, documents, or fees; providing for a
10 technological or financial hardship accommodation;
11 providing application; amending s. 494.0016, F.S.;
12 authorizing the commission to prescribe requirements for
13 destroying books, accounts, records, and documents;
14 authorizing the commission to recognize alternative
15 statutes of limitation for such destruction; providing for
16 procedures; amending s. 494.0029, F.S.; specifying
17 criteria for receipt of certain applications; specifying
18 certain permits as not transferable or assignable;
19 amending s. 494.00295, F.S.; revising provisions to
20 specify continuing education for certain professions;
21 amending s. 494.003, F.S.; clarifying application of an
22 exemption from application of certain mortgage broker
23 licensure requirements to certain entities; amending s.

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24 494.0031, F.S.; requiring licensure of mortgage brokerage
25 businesses; specifying criteria for receipt of certain
26 applications; authorizing the commission or the Office of
27 Financial Regulation to require certain information from
28 certain applicants; revising certain fingerprinting
29 requirements; authorizing the commission to prescribe fees
30 and procedures for processing fingerprints; authorizing
31 the office to contract for certain fingerprinting
32 services; specifying certain licenses as nontransferable
33 or nonassignable; amending s. 494.0033, F.S.; clarifying
34 mortgage broker licensure requirements; authorizing the
35 commission to waive certain examination requirements under
36 certain circumstances; authorizing the commission to
37 prescribe certain additional testing fees; revising
38 certain fingerprinting requirements; authorizing the
39 commission to prescribe fees and procedures for processing
40 fingerprints; authorizing the office to contract for
41 certain fingerprinting services; specifying criteria for
42 receipt of certain applications; deleting certain
43 provisions relating to cancellation and reinstatement of
44 licenses; amending s. 494.0034, F.S.; clarifying the
45 commission's authorization to prescribe license renewal
46 forms; amending s. 494.0036, F.S.; clarifying provisions
47 relating to issuance of mortgage brokerage business branch
48 office licenses; specifying criteria for receipt of
49 certain applications; amending s. 494.0041, F.S.;
50 specifying an additional ground for disciplinary action;
51 amending s. 494.006, F.S.; clarifying application of an

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52 | exemption from application of certain mortgage lender
53 | licensure requirements to certain entities; amending s.
54 | 494.0061, F.S.; requiring licensure of mortgage lenders;
55 | specifying criteria for receipt of certain applications;
56 | revising certain fingerprinting requirements; authorizing
57 | the commission to prescribe fees and procedures for
58 | processing fingerprints; authorizing the office to
59 | contract for certain fingerprinting services; deleting
60 | certain provisions relating to cancellation and
61 | reinstatement of licenses; authorizing the commission to
62 | waive certain examination requirements under certain
63 | circumstances; authorizing the commission to prescribe
64 | certain additional testing fees; amending s. 494.0062,
65 | F.S.; requiring licensure of correspondent mortgage
66 | lenders; specifying criteria for receipt of certain
67 | applications; authorizing the office to require applicants
68 | to provide certain information; revising certain
69 | fingerprinting requirements; authorizing the commission to
70 | prescribe fees and procedures for processing fingerprints;
71 | authorizing the office to contract for certain
72 | fingerprinting services; deleting certain provisions
73 | relating to cancellation and reinstatement of licenses;
74 | authorizing the commission to waive certain examination
75 | requirements under certain circumstances; authorizing the
76 | commission to prescribe certain additional testing fees;
77 | amending s. 494.0064, F.S.; clarifying a reference to
78 | professional continuing education for certain licensees;
79 | amending s. 494.0065, F.S.; specifying criteria for

80 receipt of certain applications; specifying certain
81 education and testing requirements for certain principal
82 representatives and for certain applications or transfer
83 applications; authorizing the commission to waive certain
84 examination requirements under certain circumstances;
85 authorizing the commission to prescribe certain additional
86 testing fees; increasing a license transfer fee; revising
87 certain fingerprinting requirements; authorizing the
88 commission to prescribe fees and procedures for processing
89 fingerprints; authorizing the office to contract for
90 certain fingerprinting services; requiring mortgage
91 lenders to designate a principal representative; providing
92 criteria and requirements; amending s. 494.0066, F.S.;
93 clarifying branch office licensure requirements; amending
94 s. 494.0067, F.S.; clarifying reference to professional
95 continuing education requirements; amending s. 494.0072,
96 F.S.; providing an additional ground for disciplinary
97 action; amending s. 494.00721, F.S.; correcting cross
98 references; amending s. 516.03, F.S.; specifying criteria
99 for receipt of certain applications; authorizing the
100 commission to require electronic submission of forms,
101 documents, or fees; providing for a technological or
102 financial hardship accommodation; amending s. 516.07,
103 F.S.; providing an additional ground for disciplinary
104 action; amending s. 516.12, F.S.; authorizing the
105 commission to prescribe certain minimum information in a
106 licensee's books, accounts, records, and documents;
107 authorizing the commission to prescribe requirements for

108 | destroying books, accounts, records, and documents;
 109 | authorizing the commission to recognize alternative
 110 | statutes of limitation for such destruction; providing for
 111 | procedures; amending ss. 517.051 and 517.081, F.S.;
 112 | specifying certain accounting principles as those
 113 | generally accepted in the United States; amending s.
 114 | 517.061, F.S.; clarifying application of a certain exempt
 115 | transaction provision; amending s. 517.12, F.S.; revising
 116 | certain fingerprinting requirements; authorizing the
 117 | commission to prescribe fees and procedures for processing
 118 | fingerprints; authorizing the office to contract for
 119 | certain fingerprinting services; providing for renewals of
 120 | certain registrations through the Central Registration
 121 | Directory of the National Association of Securities
 122 | Dealers under certain circumstances; authorizing the
 123 | commission to provide by rule for deposit of certain fees
 124 | and documents with the Investment Advisor Registration
 125 | Depository of the National Association of Securities
 126 | Dealers; revising provisions relating to notice-filing
 127 | requirements of certain Canadian dealers or persons
 128 | associated with Canadian dealers; amending s. 517.131,
 129 | F.S.; providing additional compliance verification
 130 | authority to the office; authorizing the commission to
 131 | specify additional compliance procedures by rule; amending
 132 | s. 517.141, F.S.; revising provisions for making payments
 133 | from the Securities Guaranty Fund; authorizing the
 134 | commission to adopt by rule additional compliance
 135 | procedures; amending s. 517.161, F.S.; providing an

136 additional ground for revocation, restriction, or
 137 suspension of certain registrations; amending ss. 520.03,
 138 520.32, 520.52, and 520.63, F.S.; specifying criteria for
 139 receipt of certain applications; amending s. 520.994,
 140 F.S.; authorizing the commission to require electronic
 141 submission of forms, documents, or fees; providing for a
 142 technological or financial hardship accommodation;
 143 amending s. 520.995, F.S.; providing an additional ground
 144 for disciplinary action; amending ss. 520.997 and 537.009,
 145 F.S.; authorizing the commission to prescribe certain
 146 minimum information in a licensee's books, accounts,
 147 records, and documents; authorizing the commission to
 148 prescribe requirements for destroying books, accounts,
 149 records, and documents; authorizing the commission to
 150 recognize alternative statutes of limitation for such
 151 destruction; providing for procedures; amending ss.
 152 560.105 and 560.118, F.S.; authorizing the commission to
 153 require electronic submission of forms, documents, or
 154 fees; providing for a technological or financial hardship
 155 accommodation; amending s. 560.114, F.S.; providing an
 156 additional ground for disciplinary action; amending s.
 157 560.121, F.S.; authorizing the commission to prescribe
 158 certain minimum information in a licensee's books,
 159 accounts, records, and documents; authorizing the
 160 commission to prescribe requirements for destroying books,
 161 accounts, records, and documents; authorizing the
 162 commission to recognize alternative statutes of limitation
 163 for such destruction; providing for procedures; decreasing

164 the required time period for the office to retain certain
 165 reports, records, applications, and related information;
 166 amending s. 560.205, F.S.; revising certain fingerprinting
 167 requirements; authorizing the commission to prescribe fees
 168 and procedures for processing fingerprints; authorizing
 169 the office to contract for certain fingerprinting
 170 services; authorizing the commission to establish
 171 procedures for depositing fees and filing documents
 172 electronically; deleting a requirement that an applicant
 173 provide a list of certain vendors; requiring the reporting
 174 of certain changes of registration by written amendment;
 175 amending s. 560.207, F.S.; authorizing the commission to
 176 establish procedures for depositing fees and filing
 177 documents electronically; amending s. 560.210, F.S.;
 178 revising permissible investment requirements for certain
 179 registrants; amending ss. 560.211 and 560.310, F.S.;
 180 requiring notice to the office of the location of certain
 181 amended records; amending ss. 560.305 and 560.308, F.S.;
 182 authorizing the commission to establish procedures for
 183 depositing fees and filing documents electronically;
 184 amending s. 560.306, F.S.; revising certain fingerprinting
 185 requirements; authorizing the commission to prescribe fees
 186 and procedures for processing fingerprints; authorizing
 187 the office to contract for certain fingerprinting
 188 services; requiring the reporting of certain changes of
 189 registration by written amendment; specifying in general
 190 that accounting principles are those generally accepted in
 191 the United States; specifying commission authority by

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192 rules; creating s. 626.565, F.S.; requiring an agent of
 193 the Department of Insurance to dispose of records
 194 containing personal financial or health information of
 195 certain persons after the retention requirement has been
 196 met; requiring such disposition to protect the
 197 confidentiality of personal financial or health
 198 information; authorizing the department to adopt rules for
 199 the disposition of personal financial or health
 200 information; providing an effective date.

201

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

203

204 Section 1. Subsection (2) of section 494.0011, Florida
 205 Statutes, is amended, and subsection (6) is added to said
 206 section, to read:

207 494.0011 Powers and duties of the commission and office.--

208 (2) The commission has authority to adopt rules pursuant
 209 to ss. 120.536(1) and 120.54 to implement ss. 494.001-494.0077.
 210 The commission may adopt rules which require ~~to allow~~ electronic
 211 submission of any forms, documents, or fees required by this
 212 act, provided such rules reasonably accommodate technological or
 213 financial hardship. The commission may prescribe by rule
 214 requirements and procedures for obtaining a technological or
 215 financial hardship exemption. The commission may also adopt
 216 rules to accept certification of compliance with requirements of
 217 this act in lieu of requiring submission of documents.

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

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

222 494.0016 Books, accounts, and records; maintenance;
223 examinations by the office.--

224 (4) The commission may prescribe by rule the minimum
225 information to be shown in the books, accounts, records, and
226 documents of licensees so that such records will enable the
227 office to determine the licensee's compliance with ss. 494.001-
228 494.0077. In addition, the commission may prescribe by rule the
229 requirements for destruction of books, accounts, records, and
230 documents retained by the licensee after completion of the time
231 period indicated in subsection (3). Notwithstanding the 3-year
232 retention period provided in subsection (3), if the office
233 identifies a statute of limitations in a federal law or rule or
234 another law or rule of this state that is reasonably related by
235 subject matter to the administration of this chapter, the
236 commission may identify that statute of limitations by rule and
237 may prohibit the destruction of records required to be
238 maintained by this chapter for a period of time established by
239 rule that is reasonably related to such statute of limitations.
240 The commission shall prescribe by rule those documents or
241 records that are to be preserved that are related to the
242 identified statute of limitations.

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

245 494.0029 Mortgage business schools.--

246 (1)(a) Each person, school, or institution, except
247 accredited colleges, universities, community colleges, and area

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248 technical centers in this state, which offers or conducts
 249 mortgage business training as a condition precedent to licensure
 250 as a mortgage broker, ~~or mortgage lender,~~ or a correspondent
 251 mortgage lender shall obtain a permit from the office and abide
 252 by the regulations imposed upon such person, school, or
 253 institution by this chapter and rules adopted pursuant to this
 254 chapter. The commission shall, by rule, recertify the permits
 255 annually with initial and renewal permit fees that do not exceed
 256 \$500 plus the cost of accreditation.

257 (b) A permit application shall be deemed received for
 258 purposes of s. 120.60 upon receipt of a completed application
 259 form as prescribed by commission rule, a nonrefundable
 260 application fee of \$500, and any other fee prescribed by law or
 261 rule.

262 (c) A permit issued under this section is not transferable
 263 or assignable.

264 Section 4. Section 494.00295, Florida Statutes, is amended
 265 to read:

266 494.00295 Professional continuing education.--

267 (1) Each mortgage broker, mortgage lender, and
 268 correspondent mortgage lender must certify to the office at the
 269 time of renewal that during the 2 years prior to an application
 270 for license renewal, all mortgage brokers and the principal
 271 representative and, loan originators, ~~and associates~~ of a
 272 mortgage lender or correspondent mortgage lender have
 273 successfully completed at least 14 hours of professional
 274 continuing education programs covering primary and subordinate
 275 mortgage financing transactions and the provisions of this

276 chapter. Licensees shall maintain records documenting compliance
277 with this subsection for a period of 4 years.

278 (2) Professional continuing education programs must
279 contribute directly to the professional competency of the
280 participants, may only be offered by permitted mortgage business
281 schools or entities specifically exempted from permitting as
282 mortgage business schools, and may include electronically
283 transmitted or distance education courses.

284 (3) The commission shall adopt rules necessary to
285 administer this section, including rules governing qualifying
286 hours for professional continuing education programs and
287 standards for electronically transmitted or distance education
288 courses, including course completion requirements.

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

292 494.003 Exemptions.--

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

295 (b) A state or federal chartered bank, ~~bank holding~~
296 ~~company~~, trust company, savings and loan association, savings
297 bank, or credit union, a bank holding company regulated under
298 the laws of any state or the United States, or a consumer
299 finance company licensed pursuant to chapter 516.

300 (c) A wholly owned bank holding company subsidiary formed
301 and regulated under the laws of any state or the United States
302 or a wholly owned savings and loan association holding company
303 subsidiary that is approved or certified by the Department of

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304 Housing and Urban Development, the Veterans Administration, the
305 Government National Mortgage Association, the Federal National
306 Mortgage Association, or the Federal Home Loan Mortgage
307 Corporation.

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

310 (e) A wholly owned subsidiary of a state or federal
311 chartered bank or savings and loan association the sole activity
312 of which is to distribute the lending programs of such state or
313 federal chartered bank or savings and loan association to
314 persons who arrange loans for, or make loans to, borrowers.

315 Section 6. Section 494.0031, Florida Statutes, is amended
316 to read:

317 494.0031 Licensure as a mortgage brokerage business.--

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

320 (2)(1) The commission or office may require each applicant
321 for a mortgage brokerage business license to provide any
322 information reasonably necessary to make a determination of the
323 applicant's eligibility for licensure. The office shall issue a
324 mortgage brokerage business license to each person who:

325 (a) Has submitted a completed application form and a
326 nonrefundable application fee of \$425. ~~;~~ ~~and~~

327 (b) Has a qualified principal broker pursuant to s.
328 494.0035.

329
330 A license application shall be deemed received for purposes of
331 s. 120.60 upon receipt of a completed application form as

332 prescribed by the commission by rule, a nonrefundable
 333 application fee of \$425, and any other fee prescribed by law or
 334 rule.

335 ~~(3)(2)~~ The commission may require by rule that each
 336 officer, director, and ultimate equitable owner of a 10-percent
 337 or greater interest in the mortgage brokerage business submit a
 338 complete set of fingerprints. Fingerprint cards submitted to the
 339 office shall be taken by an authorized law enforcement officer
 340 if such fingerprint card is submitted to the office in paper
 341 form. In addition to the fees prescribed in s. 215.405, the
 342 commission may prescribe by rule an additional fee, not to
 343 exceed \$30, for processing the fingerprints. The commission may
 344 prescribe by rule procedures for submitting fingerprints and
 345 fees by electronic means to the office or to a third party
 346 approved by the office. In order to implement the submission and
 347 processing of fingerprints as specified by rule pursuant to this
 348 section, the office may contract with any other state agency
 349 which provides fingerprinting services.

350 ~~(4)(3)~~ Notwithstanding the provisions of subsection ~~(2)~~
 351 ~~(1)~~, it is a ground for denial of licensure if the applicant;
 352 designated principal mortgage broker; any officer, director,
 353 partner, or joint venturer; any natural person owning a 10-
 354 percent or greater interest in the mortgage brokerage business;
 355 or any natural person who is the ultimate equitable owner of a
 356 10-percent or greater interest in the mortgage brokerage
 357 business has committed any violation specified in ss. 494.001-
 358 494.0077 or has pending against him or her any criminal
 359 prosecution or administrative enforcement action, in any

360 jurisdiction, which involves fraud, dishonest dealing, or any
361 other act of moral turpitude.

362 (5)~~(4)~~ A mortgage brokerage business or branch office
363 license may be canceled if it was issued through mistake or
364 inadvertence of the office. A notice of cancellation must be
365 issued by the office within 90 days after the issuance of the
366 license. A notice of cancellation shall be effective upon
367 receipt. The notice of cancellation shall provide the applicant
368 with notification of the right to request a hearing within 21
369 days after the applicant's receipt of the notice of
370 cancellation. A license shall be reinstated if the applicant can
371 demonstrate that the requirements for obtaining the license
372 pursuant to this chapter have been satisfied.

373 (6)~~(5)~~ A license issued under this part is not
374 transferable or assignable. ~~If an initial mortgage brokerage~~
375 ~~business or branch office license has been issued but the check~~
376 ~~upon which the license is based is returned due to insufficient~~
377 ~~funds, the license shall be deemed canceled. A license deemed~~
378 ~~canceled pursuant to this subsection shall be reinstated if the~~
379 ~~office receives a certified check for the appropriate amount~~
380 ~~within 30 days after the date the check was returned due to~~
381 ~~insufficient funds.~~

382 Section 7. Subsections (1), (2), and (7) of section
383 494.0033, Florida Statutes, are amended to read:

384 494.0033 Mortgage broker's license.--

385 (1) Each natural person who acts as a mortgage broker for
386 a mortgage brokerage business or acts as an associate for a
387 mortgage lender or correspondent mortgage lender must be

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388 licensed pursuant to this section. To act as a mortgage broker,
 389 an individual must be an associate of a mortgage brokerage
 390 business, mortgage lender, or correspondent mortgage lender. A
 391 mortgage broker is prohibited from being an associate of more
 392 than one mortgage brokerage business, mortgage lender, or
 393 correspondent mortgage lender.

394 (2) Each initial application for a mortgage broker's
 395 license must be in the form prescribed by rule of the
 396 commission. The commission may require each applicant to provide
 397 any information reasonably necessary to make a determination of
 398 the applicant's eligibility for licensure. The office shall
 399 issue an initial license to any natural person who:

400 (a) Is at least 18 years of age. ~~+~~

401 (b) Has passed a written test adopted and administered by
 402 the office, or has passed an electronic test adopted and
 403 administered by the office or a third party approved by the
 404 office, which is designed to determine competency in primary and
 405 subordinate mortgage financing transactions as well as to test
 406 knowledge of ss. 494.001-494.0077 and the rules adopted pursuant
 407 thereto. The commission may prescribe by rule an additional fee
 408 not to exceed \$100 for the electronic version of the mortgage
 409 broker test. The commission may waive by rule the examination
 410 requirement for any individual who has passed a comparable test
 411 offered by a national group of state mortgage regulators or a
 412 federal governmental agency that covers primary and subordinate
 413 mortgage financing transactions. ~~+~~

414 (c) Has submitted a completed application and a
 415 nonrefundable application fee of \$200. An application shall be

416 deemed received for purposes of s. 120.60 upon receipt of a
 417 completed application form as prescribed by the commission by
 418 rule, a nonrefundable application fee of \$200, and any other fee
 419 prescribed by law or rule. ~~The commission may set by rule an~~
 420 ~~additional fee for a retake of the examination; and~~

421 (d) ~~Has filed a complete set of fingerprints, taken by an~~
 422 ~~authorized law enforcement officer, for submission by the office~~
 423 ~~to the Department of Law Enforcement or the Federal Bureau of~~
 424 ~~Investigation for processing. Fingerprint cards submitted to the~~
 425 office shall be taken by an authorized law enforcement officer
 426 if such fingerprint card is submitted to the office in paper
 427 form. In addition to the fees prescribed in s. 215.405, the
 428 commission may prescribe by rule an additional fee, not to
 429 exceed \$30, for processing the fingerprints. The commission may
 430 prescribe by rule procedures for submitting fingerprints and
 431 fees by electronic means to the office or to a third party
 432 approved by the office. In order to implement the submission and
 433 processing of fingerprints as specified by rule pursuant to this
 434 section, the office may contract with any other state agency
 435 which provides fingerprinting services.

436 ~~(7) If an initial mortgage broker license has been issued~~
 437 ~~but the check upon which the license is based is returned due to~~
 438 ~~insufficient funds, the license shall be deemed canceled. A~~
 439 ~~license deemed canceled pursuant to this subsection shall be~~
 440 ~~reinstated if the office receives a certified check for the~~
 441 ~~appropriate amount within 30 days after the date the check was~~
 442 ~~returned due to insufficient funds.~~

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

445 494.0034 Renewal of mortgage broker's license.--

446 (2) The commission shall adopt rules establishing a
447 procedure for the biennial renewal of mortgage broker's
448 licenses. The commission may prescribe the form of the renewal
449 ~~application~~ and may require an update of information since the
450 licensee's last renewal.

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

453 494.0036 Mortgage brokerage business branch offices.--

454 (2) The office shall issue a mortgage brokerage business
455 branch office license to a mortgage brokerage business license
456 applicant, after the office determines the license applicant has
457 submitted ~~upon receipt of~~ a completed application in a form as
458 prescribed by commission rule and payment of an initial
459 nonrefundable branch office license fee of \$225. Branch office
460 licenses must be renewed in conjunction with the renewal of the
461 mortgage brokerage business license. The branch office license
462 shall be issued in the name of the mortgage brokerage business
463 that maintains the branch office. An application shall be deemed
464 received for purposes of s. 120.60 upon receipt of a completed
465 application form as prescribed by the commission by rule, a
466 nonrefundable application fee of \$225, and any other fee
467 prescribed by law or rule.

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

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470 494.0041 Administrative penalties and fines; license
471 violations.--

472 (2) Each of the following acts constitutes a ground for
473 which the disciplinary actions specified in subsection (1) may
474 be taken:

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

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

481 494.006 Exemptions.--

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

485 (a) A state or federal chartered bank, ~~bank holding~~
486 company, trust company, savings and loan association, savings
487 bank, or credit union, a bank holding company regulated under
488 the laws of any state or the United States, or an insurance
489 company if the insurance company is duly licensed in this state.

490 (c) A wholly owned bank holding company subsidiary formed
491 and regulated under the laws of any state or the United States
492 or a wholly owned savings and loan association holding company
493 subsidiary that is approved or certified by the Department of
494 Housing and Urban Development, the Veterans Administration, the
495 Government National Mortgage Association, the Federal National
496 Mortgage Association, or the Federal Home Loan Mortgage
497 Corporation.

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498 (2)(a) A natural person employed by a mortgage lender or
499 correspondent mortgage lender licensed under ss. 494.001-
500 494.0077 is exempt from the licensure requirements of ss.
501 494.001-494.0077 when acting within the scope of employment with
502 the licensee.

503 Section 12. Section 494.0061, Florida Statutes, is amended
504 to read:

505 494.0061 Mortgage lender's license requirements.--

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

508 ~~(2)(1)~~ The commission or office may require each applicant
509 for a mortgage lender license to provide any information
510 reasonably necessary to make a determination of the applicant's
511 eligibility for licensure. The office shall issue an initial
512 mortgage lender license to any person that submits:

513 (a) A completed application form.+

514 (b) A nonrefundable application fee of \$575.+

515 (c) Audited financial statements, which documents disclose
516 that the applicant has a bona fide and verifiable net worth,
517 pursuant to United States generally accepted accounting
518 principles, of at least \$250,000, which must be continuously
519 maintained as a condition of licensure.+

520 (d) A surety bond in the amount of \$10,000, payable to the
521 state and conditioned upon compliance with ss. 494.001-494.0077,
522 which inures to the office and which must be continuously
523 maintained thereafter in full force.+

524 (e) Documentation that the applicant is duly incorporated,
525 registered, or otherwise formed as a general partnership,

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526 | limited partnership, limited liability company, or other lawful
527 | entity under the laws of this state or another state of the
528 | United States. ~~;~~ ~~and~~

529 | (f) For applications submitted after October 1, 2001,
530 | proof that the applicant's principal representative has
531 | completed 24 hours of classroom instruction in primary and
532 | subordinate financing transactions and in the provisions of this
533 | chapter and rules adopted under this chapter.

534 |
535 | An application shall be deemed received for purposes of s.
536 | 120.60 upon receipt of a completed application form as
537 | prescribed by the commission by rule, a nonrefundable
538 | application fee of \$575, and any other fee prescribed by law or
539 | rule.

540 | ~~(3)~~~~(2)~~ Notwithstanding the provisions of subsection
541 | ~~(2)~~~~(1)~~, it is a ground for denial of licensure if the applicant,
542 | any principal officer or director of the applicant, or any
543 | natural person owning a 10-percent or greater interest in the
544 | applicant, or any natural person who is the ultimate equitable
545 | owner of a 10-percent or greater interest in the applicant has
546 | committed any violation specified in s. 494.0072, or has pending
547 | against her or him any criminal prosecution or administrative
548 | enforcement action, in any jurisdiction, which involves fraud,
549 | dishonest dealing, or any act of moral turpitude.

550 | ~~(4)~~~~(3)~~ Each initial application for a mortgage lender's
551 | license must be in a form prescribed by the commission. ~~The~~
552 | ~~commission or office may require each applicant to provide any~~
553 | ~~information reasonably necessary to make a determination of the~~

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554 ~~applicant's eligibility for licensure.~~ The commission or office
 555 may require that each officer, director, and ultimate equitable
 556 owner of a 10-percent or greater interest in the applicant
 557 submit a complete set of fingerprints. Fingerprint cards
 558 submitted to the office shall be taken by an authorized law
 559 enforcement officer if such fingerprint card is submitted to the
 560 office in paper form. In addition to the fees prescribed in s.
 561 215.405, the commission may prescribe by rule an additional fee,
 562 not to exceed \$30, for processing the fingerprints. The
 563 commission may prescribe by rule procedures for submitting
 564 fingerprints and fees by electronic means to the office or to a
 565 third party approved by the office. In order to implement the
 566 submission and processing of fingerprints as specified by rule
 567 pursuant to this section, the office may contract with any other
 568 state agency which provides fingerprinting services.

569 (5)(4) A person required to be licensed under ss. 494.006-
 570 494.0077, or an agent or employee thereof, is deemed to have
 571 consented to the venue of courts of competent jurisdiction in
 572 this state regarding any matter within the authority of ss.
 573 494.001-494.0077 regardless of where an act or violation was
 574 committed.

575 (6)(5) A license issued in accordance with ss. 494.006-
 576 494.0077 is not transferable or assignable.

577 (7)(6) A mortgage lender or branch office license may be
 578 canceled if it was issued through mistake or inadvertence of the
 579 office. A notice of cancellation must be issued by the office
 580 within 90 days after the issuance of the license. A notice of
 581 cancellation shall be effective upon receipt. The notice of

582 cancellation shall provide the applicant with notification of
 583 the right to request a hearing within 21 days after the
 584 applicant's receipt of the notice of cancellation. A license
 585 shall be reinstated if the applicant can demonstrate that the
 586 requirements for obtaining the license pursuant to this chapter
 587 have been satisfied.

588 ~~(7) If an initial mortgage lender or branch office license~~
 589 ~~has been issued but the check upon which the license is based is~~
 590 ~~returned due to insufficient funds, the license shall be deemed~~
 591 ~~canceled. A license deemed canceled pursuant to this subsection~~
 592 ~~shall be reinstated if the office receives a certified check for~~
 593 ~~the appropriate amount within 30 days after the date the check~~
 594 ~~was returned due to insufficient funds.~~

595 (8) Each lender, regardless of the number of branches it
 596 operates, shall designate a principal representative who
 597 exercises control of the licensee's business and shall maintain
 598 a form prescribed by the commission designating the principal
 599 representative. If the form is not accurately maintained, the
 600 business is considered to be operated by each officer, director,
 601 or equitable owner of a 10-percent or greater interest in the
 602 business.

603 (9) ~~After October 1, 2001,~~ An applicant's principal
 604 representative must pass a written test prescribed by the
 605 commission and administered by the office, or has passed an
 606 electronic test prescribed by the commission and administered by
 607 the office or a third party approved by the office, which covers
 608 primary and subordinate mortgage financing transactions and the
 609 provisions of this chapter and rules adopted under this chapter.

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610 The commission may prescribe by rule a fee not to exceed \$100
 611 for an electronic version of the mortgage broker test. The
 612 commission may waive by rule the examination requirement for any
 613 individual who has passed a comparable test offered by a
 614 national group of state mortgage regulators or a federal
 615 governmental agency that covers primary and subordinate mortgage
 616 financing transactions.

617 (10) A lender shall notify the office of the name and
 618 address of any new principal representative and shall document
 619 that the person has completed the educational and testing
 620 requirements of this section within 90 days after ~~upon~~ the
 621 designation of a new principal representative.

622 Section 13. Section 494.0062, Florida Statutes, is amended
 623 to read:

624 494.0062 Correspondent mortgage lender's license
 625 requirements.--

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

628 (2)~~(1)~~ The office may require each applicant to provide
 629 any information reasonably necessary to make a determination of
 630 the applicant's eligibility for licensure. The office shall
 631 issue an initial correspondent mortgage lender license to any
 632 person who submits:

633 (a) A completed application form;

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

635 (c) Audited financial statements, which document that the
 636 application has a bona fide and verifiable net worth, pursuant
 637 to United States generally accepted accounting principles, of

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638 \$25,000 or more, which must be continuously maintained as a
639 condition of licensure;

640 (d) A surety bond in the amount of \$10,000, payable to the
641 State of Florida and conditioned upon compliance with ss.
642 494.001-494.0077, which inures to the office and which must be
643 continuously maintained, thereafter, in full force;

644 (e) Documentation that the applicant is duly incorporated,
645 registered, or otherwise formed as a general partnership,
646 limited partnership, limited liability company, or other lawful
647 entity under the laws of this state or another state of the
648 United States; and

649 (f) For applications filed after October 1, 2001, proof
650 that the applicant's principal representative has completed 24
651 hours of classroom instruction in primary and subordinate
652 financing transactions and in the provisions of this chapter and
653 rules enacted under this chapter.

654
655 An application shall be deemed received for purposes of s.
656 120.60 upon receipt of a completed application form as
657 prescribed by the commission by rule, a nonrefundable
658 application fee of \$500, and any other fee prescribed by law or
659 rule.

660 ~~(3)(2)~~ Notwithstanding the provisions of subsection
661 ~~(2)(1)~~, it is a ground for denial of licensure if the applicant,
662 any principal officer or director of the applicant, or any
663 natural person who is the ultimate equitable owner of a 10-
664 percent or greater interest in the applicant has committed any
665 violation specified in s. 494.0072, or has pending against her

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666 or him any criminal prosecution or administrative enforcement
667 action, in any jurisdiction, which involves fraud, dishonest
668 dealing, or any act of moral turpitude.

669 ~~(4)(3)~~ Each initial application for a correspondent
670 mortgage lender's license must be in a form prescribed by the
671 commission. ~~The commission or office may require each applicant~~
672 ~~to provide any information reasonably necessary to make a~~
673 ~~determination of the applicant's eligibility for licensure.~~ The
674 commission or office may require by rule that each officer,
675 director, and ultimate equitable owner of a 10-percent or
676 greater interest submit a complete set of fingerprints.
677 Fingerprint cards submitted to the office shall be taken by an
678 authorized law enforcement officer if such fingerprint card is
679 submitted to the office in paper form. In addition to the fees
680 prescribed in s. 215.405, the commission may prescribe by rule
681 an additional fee, not to exceed \$30, for processing the
682 fingerprints. The commission may prescribe by rule procedures
683 for submitting fingerprints and fees by electronic means to the
684 office or to a third party approved by the office. In order to
685 implement the submission and processing of fingerprints as
686 specified by rule pursuant to this section, the office may
687 contract with any other state agency which provides
688 fingerprinting services.

689 ~~(5)(4)~~ Each license is valid for the remainder of the
690 biennium in which the license is issued.

691 ~~(6)(5)~~ A person licensed as a correspondent mortgage
692 lender may make mortgage loans, but may not service a mortgage

693 | loan for more than 4 months after the date the mortgage loan was
694 | made or acquired by the correspondent mortgage lender.

695 | (7)~~(6)~~ A licensee under ss. 494.006-494.0077, or an agent
696 | or employee thereof, is deemed to have consented to the venue of
697 | courts of competent jurisdiction in this state regarding any
698 | matter within the authority of ss. 494.001-494.0077 regardless
699 | of where an act or violation was committed.

700 | (8)~~(7)~~ A correspondent mortgage lender is subject to the
701 | same requirements and restrictions as a licensed mortgage lender
702 | unless otherwise provided in this section.

703 | (9)~~(8)~~ A license issued under this section is not
704 | transferable or assignable.

705 | (10)~~(9)~~ A correspondent mortgage lender or branch office
706 | license may be canceled if it was issued through mistake or
707 | inadvertence of the office. A notice of cancellation must be
708 | issued by the office within 90 days after the issuance of the
709 | license. A notice of cancellation shall be effective upon
710 | receipt. The notice of cancellation shall provide the applicant
711 | with notification of the right to request a hearing within 21
712 | days after the applicant's receipt of the notice of
713 | cancellation. A license shall be reinstated if the applicant can
714 | demonstrate that the requirements for obtaining the license
715 | pursuant to this chapter have been satisfied.

716 | ~~(10) If an initial correspondent mortgage lender or branch~~
717 | ~~office license has been issued but the check upon which the~~
718 | ~~license is based is returned due to insufficient funds, the~~
719 | ~~license shall be deemed canceled. A license deemed canceled~~
720 | ~~pursuant to this subsection shall be reinstated if the office~~

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721 ~~receives a certified check for the appropriate amount within 30~~
 722 ~~days after the date the check was returned due to insufficient~~
 723 ~~funds.~~

724 (11) Each correspondent lender shall designate a principal
 725 representative who exercises control over the business and shall
 726 maintain a form prescribed by the commission designating the
 727 principal representative. If the form is not accurately
 728 maintained, the business is considered to be operated by each
 729 officer, director, or equitable owner of a 10-percent or greater
 730 interest in the business.

731 (12) ~~After October 1, 2001,~~ An applicant's principal
 732 representative must pass a written test prescribed by the
 733 commission and administered by the office, or has passed an
 734 electronic test prescribed by the commission and administered by
 735 the office or a third party approved by the office, which covers
 736 primary and subordinate mortgage financing transactions and the
 737 provisions of this chapter and rules adopted under this chapter.
 738 The commission may prescribe by rule a fee not to exceed \$100
 739 for the electronic version of the mortgage broker test. The
 740 commission may waive by rule the examination requirement for any
 741 individual who has passed a comparable test offered by a
 742 national group of state mortgage regulators or a federal
 743 governmental agency that covers primary and subordinate mortgage
 744 financing transactions.

745 (13) A correspondent lender shall notify the office of the
 746 name and address of any new principal representative and shall
 747 document that such person has completed the educational and

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748 testing requirements of this section within 90 days after ~~upon~~
749 the lender's designation of a new principal representative.

750 Section 14. Paragraph (b) of subsection (1) of section
751 494.0064, Florida Statutes, is amended to read:

752 494.0064 Renewal of mortgage lender's license; branch
753 office license renewal.--

754 (1)

755 (b) A licensee shall also submit, as part of the renewal
756 form, certification that during the preceding 2 years the
757 licensee's principal representative and, ~~loan originators, and~~
758 ~~associates~~ have completed the professional continuing education
759 requirements of s. 494.00295.

760 Section 15. Section 494.0065, Florida Statutes, is amended
761 to read:

762 494.0065 Saving clause.--

763 (1)(a) Any person in good standing who holds an active
764 registration pursuant to former s. 494.039 or license pursuant
765 to former s. 521.205, or any person who acted solely as a
766 mortgage servicer on September 30, 1991, is eligible to apply to
767 the office for a mortgage lender's license and is eligible for
768 licensure if the applicant:

769 1. For at least 12 months during the period of October 1,
770 1989, through September 30, 1991, has engaged in the business of
771 either acting as a seller or assignor of mortgage loans or as a
772 servicer of mortgage loans, or both;

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

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

777 (b) A licensee pursuant to paragraph (a) may operate a
778 wholly owned subsidiary or affiliate for the purpose of
779 servicing accounts if the subsidiary or affiliate is operational
780 as of September 30, 1991. Such subsidiary or affiliate is not
781 required to obtain a separate license, but is subject to all the
782 requirements of a licensee under ss. 494.006-494.0077.

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

789 (3) The commission may prescribe by rule forms and
790 procedures for application for licensure, and amendment and
791 withdrawal of application for licensure, or transfer, including
792 any existing branch offices, in accordance with subsections (4)
793 and (5), and for renewal of licensure of licensees under this
794 section. An application shall be deemed received for purposes of
795 s. 120.60 upon receipt of a completed application form as
796 prescribed by the commission by rule, a nonrefundable
797 application fee of \$575, and any other fee prescribed by law or
798 rule.

799 (4)(a) Notwithstanding ss. 494.0061~~(6)~~~~(5)~~ and 494.0067(3),
800 the ultimate equitable owner, as of the effective date of this
801 act, of a mortgage lender licensed under this section may
802 transfer, one time, at least 50 percent of the ownership,

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803 control, or power to vote any class of equity securities of such
 804 mortgage lender, except as provided in paragraph (b). For
 805 purposes of this subsection, satisfaction of the amount of the
 806 ownership transferred may be met in multiple transactions or in
 807 a single transaction.

808 (b) A person who is an ultimate equitable owner on the
 809 effective date of this act may transfer, at any time, at least
 810 50 percent of the ownership, control, or power to vote any class
 811 of equity securities of such person to the person's spouse or
 812 child, and any such transferee may transfer, at any time, such
 813 ownership, control, or power to vote to a spouse or child of
 814 such transferee, in perpetuity.

815 (c) For any transfer application filed after October 1,
 816 2004:

817 1. Proof shall be required that the applicant's principal
 818 representative has completed 24 hours of instruction in primary
 819 and subordinate financing transactions and in the provisions of
 820 this chapter and rules adopted under this chapter.

821 2. An applicant's principal representative must pass a
 822 written test prescribed by the commission and administered by
 823 the office or pass an electronic test prescribed by the
 824 commission and administered by the office or a third party
 825 approved by the office which covers primary and subordinate
 826 mortgage financing transactions and the provisions of this
 827 chapter and rules adopted under this chapter. The commission may
 828 prescribe by rule a fee not to exceed \$100 for the electronic
 829 version of the mortgage broker test. The commission may waive by
 830 rule the examination requirement for any individual who has

831 passed a comparable test offered by a national group of state
 832 mortgage regulators or a federal governmental agency that covers
 833 primary and subordinate mortgage financing transactions.

834 (5) The commission or office may require each applicant
 835 for any transfer to provide any information reasonably necessary
 836 to make a determination of the applicant's eligibility for
 837 licensure. The office shall issue the transfer of licensure to
 838 any person who submits the following documentation at least 90
 839 days prior to the anticipated transfer:

840 (a) A completed application form.

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

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

848 (d) Documentation that the applicant is incorporated,
 849 registered, or otherwise formed as a general partnership,
 850 limited partnership, limited liability company, or other lawful
 851 entity under the laws of this state or another state of the
 852 United States.

853
 854 An application shall be deemed received for purposes of s.
 855 120.60 upon receipt of a completed application form as
 856 prescribed by the commission by rule, a nonrefundable
 857 application fee of \$575, and any other fee prescribed by law or
 858 rule. The commission or office may require by rule that each

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859 officer, director, and ultimate equitable owner of a 10-percent
 860 or greater interest in the applicant submit a complete set of
 861 fingerprints. Fingerprint cards submitted to the office shall be
 862 taken by an authorized law enforcement officer if such
 863 fingerprint card is submitted to the office in paper form. In
 864 addition to the fees prescribed in s. 215.405, the commission
 865 may prescribe by rule an additional fee, not to exceed \$30, for
 866 processing the fingerprints. The commission may prescribe by
 867 rule procedures for submitting fingerprints and fees by
 868 electronic means to the office or to a third party approved by
 869 the office. In order to implement the submission and processing
 870 of fingerprints as specified by rule pursuant to this section,
 871 the office may contract with any other state agency which
 872 provides fingerprinting services.

873 (6) Notwithstanding subsection (5), a transfer under
 874 subsection (4) may be denied if the applicant, any principal
 875 officer or director of the applicant, or any natural person
 876 owning a 10-percent or greater interest in the applicant has
 877 committed any violation specified in s. 494.0072, or has entered
 878 a plea of nolo contendere, regardless of adjudication, or has an
 879 action pending against the applicant in any criminal prosecution
 880 or administrative enforcement action, in any jurisdiction, which
 881 involves fraud, dishonest dealing, or any act of moral
 882 turpitude.

883 (7) A license issued in accordance with this section is
 884 not transferable or assignable except as provided in subsection
 885 (4).

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

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

896 (10) A lender shall notify the office of the name and
897 address of any new principal representative and shall document
898 that the person has completed the educational and testing
899 requirements of this section within 90 days after the
900 designation of a new principal representative.

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

903 494.0066 Branch offices.--

904 (2) The office shall issue a branch office license to a
905 licensee licensed under s. 494.0065(1) or a transfer licensee
906 after the office determines the licensee has submitted ~~upon~~
907 ~~receipt of~~ a completed application form as prescribed by rule by
908 the commission and an initial nonrefundable branch office
909 license fee of \$325. The branch office application must include
910 the name and license number of the licensee under ss. 494.006-
911 494.0077, the name of the licensee's employee in charge of the
912 branch office, and the address of the branch office. The branch
913 office license shall be issued in the name of the licensee under

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914 ss. 494.006-494.0077 and must be renewed in conjunction with the
915 license renewal.

916 Section 17. Paragraph (a) of subsection (10) of section
917 494.0067, Florida Statutes, is amended to read:

918 494.0067 Requirements of licensees under ss. 494.006-
919 494.0077.--

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

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

929 494.0072 Administrative penalties and fines; license
930 violations.--

931 (2) Each of the following acts constitutes a ground for
932 which the disciplinary actions specified in subsection (1) may
933 be taken:

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

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

939 494.00721 Net worth.--

940 (2) If a mortgage lender or correspondent mortgage lender
941 fails to satisfy the net worth requirements, the mortgage lender

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942 or correspondent mortgage lender shall immediately cease taking
 943 any new mortgage loan applications. Thereafter, the mortgage
 944 lender or correspondent mortgage lender shall have up to 60 days
 945 within which to satisfy the net worth requirements. If the
 946 licensee makes the office aware, prior to an examination, that
 947 the licensee no longer meets the net worth requirements, the
 948 mortgage lender or correspondent mortgage lender shall have 120
 949 days within which to satisfy the net worth requirements. A
 950 mortgage lender or correspondent mortgage lender shall not
 951 resume acting as a mortgage lender or correspondent mortgage
 952 lender without written authorization from the office, which
 953 authorization shall be granted if the mortgage lender or
 954 correspondent mortgage lender provides the office with
 955 documentation which satisfies the requirements of s.
 956 494.0061(2)(1)(c), s. 494.0062(2)(1)(c), or s. 494.0065(2),
 957 whichever is applicable.

958 Section 20. Section 516.03, Florida Statutes, is amended
 959 to read:

960 516.03 Application for license; fees; etc.--

961 (1) APPLICATION.--Application for a license to make loans
 962 under this chapter shall be in the form prescribed by rule of
 963 the commission, and shall contain the name, residence and
 964 business addresses of the applicant and, if the applicant is a
 965 copartnership or association, of every member thereof and, if a
 966 corporation, of each officer and director thereof, also the
 967 county and municipality with the street and number or
 968 approximate location where the business is to be conducted, and
 969 such further relevant information as the commission or office

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970 | may require. At the time of making such application the
 971 | applicant shall pay to the office a biennial license fee of
 972 | \$625. Applications, except for applications to renew or
 973 | reactivate a license, must also be accompanied by an
 974 | investigation fee of \$200. An application shall be deemed
 975 | received for purposes of s. 120.60 upon receipt of a completed
 976 | application form as prescribed by the commission by rule, a
 977 | nonrefundable application fee of \$625, and any other fee
 978 | prescribed by law or rule. The commission may adopt rules to
 979 | require allow electronic submission of any form, document, or
 980 | fee required by this act, provided such rules reasonably
 981 | accommodate technological or financial hardship. The commission
 982 | may prescribe by rule requirements and procedures for obtaining
 983 | a technological or financial hardship exemption.

984 | (2) FEES.--Fees herein provided for shall be collected by
 985 | the office and shall be turned into the State Treasury to the
 986 | credit of the regulatory trust fund under the office. The office
 987 | shall have full power to employ such examiners or clerks to
 988 | assist the office as may from time to time be deemed necessary
 989 | and fix their compensation. The commission may adopt rules to
 990 | require allow electronic submission of any fee required by this
 991 | section, provided such rules reasonably accommodate
 992 | technological or financial hardship. The commission may
 993 | prescribe by rule requirements and procedures for obtaining a
 994 | technological or financial hardship exemption.

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

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997 516.07 Grounds for denial of license or for disciplinary
998 action.--

999 (1) The following acts are violations of this chapter and
1000 constitute grounds for denial of an application for a license to
1001 make consumer finance loans and grounds for any of the
1002 disciplinary actions specified in subsection (2):

1003 (o) Payment to the office for a license or permit with a
1004 check or electronic transmission of funds that fails to clear
1005 the applicant's or licensee's financial institution.

1006 Section 22. Subsection (3) is added to section 516.12,
1007 Florida Statutes, to read:

1008 516.12 Records to be kept by licensee.--

1009 (3) The commission may prescribe by rule the minimum
1010 information to be shown in the books, accounts, records, and
1011 documents of licensees for purposes of enabling the office to
1012 determine the licensee's compliance with ss. 516.001-516.36. In
1013 addition, the commission may prescribe by rule the requirements
1014 for destruction of books, accounts, records, and documents
1015 retained by the licensee after completion of the time period
1016 specified in subsection (1). Notwithstanding the 2-year
1017 retention period specified in subsection (1), if the office
1018 identifies a statute of limitations in another civil or criminal
1019 state or federal law or rule that is reasonably related by
1020 subject matter to the administration of this chapter, the
1021 commission may identify that statute of limitations by rule and
1022 may prohibit the destruction of records required to be
1023 maintained by this chapter for a period of time established by
1024 rule that is reasonably related to such statute of limitations.

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1025 | The commission shall prescribe by rule those documents or
 1026 | records that are to be preserved that are related to the
 1027 | identified statute of limitations.

1028 | Section 23. Subsection (9) of section 517.051, Florida
 1029 | Statutes, is amended to read:

1030 | 517.051 Exempt securities.--The exemptions provided herein
 1031 | from the registration requirements of s. 517.07 are self-
 1032 | executing and do not require any filing with the office prior to
 1033 | claiming such exemption. Any person who claims entitlement to
 1034 | any of these exemptions bears the burden of proving such
 1035 | entitlement in any proceeding brought under this chapter. The
 1036 | registration provisions of s. 517.07 do not apply to any of the
 1037 | following securities:

1038 | (9) A security issued by a corporation organized and
 1039 | operated exclusively for religious, educational, benevolent,
 1040 | fraternal, charitable, or reformatory purposes and not for
 1041 | pecuniary profit, no part of the net earnings of which
 1042 | corporation inures to the benefit of any private stockholder or
 1043 | individual, or any security of a fund that is excluded from the
 1044 | definition of an investment company under s. 3(c)(10)(B) of the
 1045 | Investment Company Act of 1940; provided that no person shall
 1046 | directly or indirectly offer or sell securities under this
 1047 | subsection except by an offering circular containing full and
 1048 | fair disclosure, as prescribed by the rules of the commission,
 1049 | of all material information, including, but not limited to, a
 1050 | description of the securities offered and terms of the offering,
 1051 | a description of the nature of the issuer's business, a
 1052 | statement of the purpose of the offering and the intended

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1053 application by the issuer of the proceeds thereof, and financial
 1054 statements of the issuer prepared in conformance with United
 1055 States generally accepted accounting principles. Section 6(c) of
 1056 the Philanthropy Protection Act of 1995, Pub. L. No. 104-62,
 1057 shall not preempt any provision of this chapter.

1058 Section 24. Subsection (18) of section 517.061, Florida
 1059 Statutes, is amended to read:

1060 517.061 Exempt transactions.--The exemption for each
 1061 transaction listed below is self-executing and does not require
 1062 any filing with the office prior to claiming such exemption. Any
 1063 person who claims entitlement to any of the exemptions bears the
 1064 burden of proving such entitlement in any proceeding brought
 1065 under this chapter. The registration provisions of s. 517.07 do
 1066 not apply to any of the following transactions; however, such
 1067 transactions are subject to the provisions of ss. 517.301,
 1068 517.311, and 517.312:

1069 (18) The offer or sale of any security effected by or
 1070 through a person in compliance with ~~registered pursuant to~~ s.
 1071 517.12(17).

1072 Section 25. Paragraph (g) of subsection (3) of section
 1073 517.081, Florida Statutes, is amended to read:

1074 517.081 Registration procedure.--

1075 (3) The office may require the applicant to submit to the
 1076 office the following information concerning the issuer and such
 1077 other relevant information as the office may in its judgment
 1078 deem necessary to enable it to ascertain whether such securities
 1079 shall be registered pursuant to the provisions of this section:

1080 (g)1. A specimen copy of the security and a copy of any
1081 circular, prospectus, advertisement, or other description of
1082 such securities.

1083 2. The commission shall adopt a form for a simplified
1084 offering circular to be used solely by corporations to register,
1085 under this section, securities of the corporation that are sold
1086 in offerings in which the aggregate offering price in any
1087 consecutive 12-month period does not exceed the amount provided
1088 in s. 3(b) of the Securities Act of 1933. The following issuers
1089 shall not be eligible to submit a simplified offering circular
1090 adopted pursuant to this subparagraph:

1091 a. An issuer seeking to register securities for resale by
1092 persons other than the issuer.

1093 b. An issuer who is subject to any of the
1094 disqualifications described in 17 C.F.R. s. 230.262, adopted
1095 pursuant to the Securities Act of 1933, or who has been or is
1096 engaged or is about to engage in an activity that would be
1097 grounds for denial, revocation, or suspension under s. 517.111.
1098 For purposes of this subparagraph, an issuer includes an
1099 issuer's director, officer, shareholder who owns at least 10
1100 percent of the shares of the issuer, promoter, or selling agent
1101 of the securities to be offered or any officer, director, or
1102 partner of such selling agent.

1103 c. An issuer who is a development-stage company that
1104 either has no specific business plan or purpose or has indicated
1105 that its business plan is to merge with an unidentified company
1106 or companies.

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1107 d. An issuer of offerings in which the specific business
1108 or properties cannot be described.

1109 e. Any issuer the office determines is ineligible if the
1110 form would not provide full and fair disclosure of material
1111 information for the type of offering to be registered by the
1112 issuer.

1113 f. Any corporation which has failed to provide the office
1114 the reports required for a previous offering registered pursuant
1115 to this subparagraph.

1116
1117 As a condition precedent to qualifying for use of the simplified
1118 offering circular, a corporation shall agree to provide the
1119 office with an annual financial report containing a balance
1120 sheet as of the end of the issuer's fiscal year and a statement
1121 of income for such year, prepared in accordance with United
1122 States generally accepted accounting principles and accompanied
1123 by an independent accountant's report. If the issuer has more
1124 than 100 security holders at the end of a fiscal year, the
1125 financial statements must be audited. Annual financial reports
1126 must be filed with the office within 90 days after the close of
1127 the issuer's fiscal year for each of the first 5 years following
1128 the effective date of the registration.

1129 Section 26. Subsections (7), (10), (11), (15), and (17) of
1130 section 517.12, Florida Statutes, are amended to read:

1131 517.12 Registration of dealers, associated persons,
1132 investment advisers, and branch offices.--

1133 (7) The application shall also contain such information as
1134 the commission or office may require about the applicant; any

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1135 partner, officer, or director of the applicant or any person
1136 having a similar status or performing similar functions; any
1137 person directly or indirectly controlling the applicant; or any
1138 employee of a dealer or of an investment adviser rendering
1139 investment advisory services. Each applicant shall file a
1140 complete set of fingerprints. Fingerprint cards submitted to the
1141 office shall be taken by an authorized law enforcement officer
1142 if such fingerprint card is submitted in paper form. In addition
1143 to the fees prescribed in s. 215.405, the commission may
1144 prescribe by rule an additional fee, not to exceed \$30, for
1145 processing the fingerprints. The commission may prescribe by
1146 rule procedures for submitting fingerprints and fees by
1147 electronic means to the office or a third party approved by the
1148 office. In order to implement the submission and processing of
1149 fingerprints as specified by rule pursuant to this section, the
1150 office may contract with any other state agency which provides
1151 fingerprinting services. Such fingerprints shall be submitted to
1152 the Department of Law Enforcement or the Federal Bureau of
1153 Investigation for state and federal processing. The commission
1154 may waive, by rule, the requirement that applicants must file a
1155 set of fingerprints or the requirement that such fingerprints
1156 must be processed by the Department of Law Enforcement or the
1157 Federal Bureau of Investigation. The commission or office may
1158 require information about any such applicant or person
1159 concerning such matters as:

1160 (a) His or her full name, and any other names by which he
1161 or she may have been known, and his or her age, photograph,
1162 qualifications, and educational and business history.

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1163 (b) Any injunction or administrative order by a state or
 1164 federal agency, national securities exchange, or national
 1165 securities association involving a security or any aspect of the
 1166 securities business and any injunction or administrative order
 1167 by a state or federal agency regulating banking, insurance,
 1168 finance, or small loan companies, real estate, mortgage brokers,
 1169 or other related or similar industries, which injunctions or
 1170 administrative orders relate to such person.

1171 (c) His or her conviction of, or plea of nolo contendere
 1172 to, a criminal offense or his or her commission of any acts
 1173 which would be grounds for refusal of an application under s.
 1174 517.161.

1175 (d) The names and addresses of other persons of whom the
 1176 office may inquire as to his or her character, reputation, and
 1177 financial responsibility.

1178 (10) An applicant for registration shall pay an assessment
 1179 fee of \$200, in the case of a dealer or investment adviser, or
 1180 \$40, in the case of an associated person. The assessment fee of
 1181 an associated person shall be reduced to \$30, but only after the
 1182 office determines, by final order, that sufficient funds have
 1183 been allocated to the Securities Guaranty Fund pursuant to s.
 1184 517.1203 to satisfy all valid claims filed in accordance with s.
 1185 517.1203(2) and after all amounts payable under any service
 1186 contract entered into by the office pursuant to s. 517.1204, and
 1187 all notes, bonds, certificates of indebtedness, other
 1188 obligations, or evidences of indebtedness secured by such notes,
 1189 bonds, certificates of indebtedness, or other obligations, have
 1190 been paid or provision has been made for the payment of such

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1191 amounts, notes, bonds, certificates of indebtedness, other
 1192 obligations, or evidences of indebtedness. An associated person
 1193 ~~may not having current fingerprint cards filed with the National~~
 1194 ~~Association of Securities Dealers or a national securities~~
 1195 ~~exchange registered with the Securities and Exchange Commission~~
 1196 shall be assessed an additional fee to cover the cost for said
 1197 fingerprint cards to be processed by the office. Such fee shall
 1198 be determined by rule of the commission. Each dealer and each
 1199 investment adviser shall pay an assessment fee of \$100 for each
 1200 office in this state, except its designated principal office.
 1201 Such fees become the revenue of the state, except for those
 1202 assessments provided for under s. 517.131(1) until such time as
 1203 the Securities Guaranty Fund satisfies the statutory limits, and
 1204 are not returnable in the event that registration is withdrawn
 1205 or not granted.

1206 (11) If the office finds that the applicant is of good
 1207 repute and character and has complied with the provisions of
 1208 this chapter and the rules made pursuant hereto, it shall
 1209 register the applicant. The registration of each dealer,
 1210 investment adviser, and associated person will expire on
 1211 December 31 of the year in which the registration became
 1212 effective unless the registrant has renewed such registration on
 1213 or before that date. ~~and~~ The registration of each branch office
 1214 will expire on March 31~~7~~ of the year in which it became
 1215 effective unless the registrant has renewed its registration on
 1216 or before that date, however, if the National Association of
 1217 Securities Dealers develops the capacity to process branch
 1218 office registrations through its Central Registration

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1219 Depository, the commission may establish by rule the beginning
 1220 year in which branch renewals shall be processed through the
 1221 Central Registration Depository and procedures for renewing
 1222 branch registrations through the Central Registration
 1223 Depository. Registration may be renewed by furnishing such
 1224 information as the commission may require, together with payment
 1225 of the fee required in subsection (10) for dealers, investment
 1226 advisers, associated persons, or branch offices and the payment
 1227 of any amount lawfully due and owing to the office pursuant to
 1228 any order of the office or pursuant to any agreement with the
 1229 office. Any dealer, investment adviser, or associated person
 1230 registrant who has not renewed a registration by the time the
 1231 current registration expires may request reinstatement of such
 1232 registration by filing with the office, on or before January 31
 1233 of the year following the year of expiration, such information
 1234 as may be required by the commission, together with payment of
 1235 the fee required in subsection (10) for dealers, investment
 1236 advisers, or associated persons and a late fee equal to the
 1237 amount of such fee. Any reinstatement of registration granted by
 1238 the office during the month of January shall be deemed effective
 1239 retroactive to January 1 of that year.

1240 (15) In lieu of filing with the office the applications
 1241 specified in subsection (6), the fees required by subsection
 1242 (10), and the termination notices required by subsection (12),
 1243 the commission may by rule establish procedures for the deposit
 1244 of such fees and documents with the Central Registration
 1245 Depository or the Investment Advisor Registration Depository of
 1246 the National Association of Securities Dealers, Inc., as

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1247 developed under contract with the North American Securities
 1248 Administrators Association, Inc.; provided, however, that such
 1249 procedures shall provide the office with the information and
 1250 data as required by this section.

1251 (17)(a) Provided the dealer has made a notice filing A
 1252 ~~dealer that is located in Canada and has no office or other~~
 1253 ~~physical presence in this state may, provided the dealer is~~
 1254 ~~registered in accordance with this section, a dealer that is~~
 1255 located in Canada and has no office or other physical presence
 1256 in this state shall be exempt from the registration requirements
 1257 of s. 512.12 and may effect transactions in securities with or
 1258 for, or induce or attempt to induce the purchase or sale of any
 1259 security by:

1260 1. A person from Canada who is present ~~temporarily resides~~
 1261 in this state and with whom the Canadian dealer had a bona fide
 1262 dealer-client relationship before the person entered the United
 1263 States; or

1264 2. A person from Canada who is present in ~~a resident of~~
 1265 this state, and whose transactions are in a self-directed tax
 1266 advantage retirement plan in Canada of which the person is the
 1267 holder or contributor.

1268 (b) A notice filing under this section shall consist of
 1269 documents that the commission by rule requires to be filed,
 1270 together with a consent to service of process and a filing fee
 1271 of \$200. The commission may establish by rule procedures for the
 1272 deposit of fees and the filing of documents to be made by
 1273 electronic means, provided such procedures provide the office
 1274 with the information and data required by this section ~~An~~

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1275 ~~associated person who represents a Canadian dealer registered~~
 1276 ~~under this section may, provided the agent is registered in~~
 1277 ~~accordance with this section, effect transactions in securities~~
 1278 ~~in this state as permitted for a dealer, under subsection (a).~~

1279 (c) A Canadian dealer may make a notice filing register
 1280 under this section provided that such dealer provides to the
 1281 office:

1282 1. A notice filing ~~Files an application~~ in the form
 1283 ~~required by the jurisdiction in which the~~ commission may by rule
 1284 require dealer has a head office.

1285 2. ~~Files~~ A consent to service of process.

1286 3. Evidence that the Canadian dealer is registered as a
 1287 dealer in good standing in the jurisdiction ~~in from~~ which its
 1288 main office is located ~~it is effecting transactions into this~~
 1289 ~~state~~ and files evidence of such registration with the office.

1290 4. Evidence that the Canadian dealer is a member of a
 1291 self-regulatory organization or stock exchange in Canada.

1292 (d) The office may issue a permit to evidence the
 1293 effectiveness of a notice filing for a Canadian dealer.

1294 (e) A notice filing shall be effective upon receipt. A
 1295 notice filing shall expire on December 31 of the year in which
 1296 the filing became effective unless the Canadian dealer has
 1297 renewed the filing on or before that date. A Canadian dealer may
 1298 renew annually a notice filing by furnishing to the office such
 1299 information as the office may require, together with a renewal
 1300 fee of \$200 and the payment of any amount due and owing the
 1301 office pursuant to any agreement with the office. Any Canadian
 1302 dealer who has not renewed a notice filing by the time a current

1303 notice filing expires may request reinstatement of such notice
 1304 filing by filing with the office, on or before January 31 of the
 1305 year following the year the notice filing expires, such
 1306 information as the commission may require, by rule, together
 1307 with the payment of \$200 and a late fee equal to \$200. Any
 1308 reinstatement of a notice filing granted by the office during
 1309 the month of January shall be deemed effective retroactively to
 1310 January 1 of that year.

1311 ~~(f)(d)~~ An associated person who represents a Canadian
 1312 dealer who has made a notice filing ~~registered~~ under this
 1313 section is exempt from the registration requirements of s.
 1314 517.12 and may effect ~~in effecting~~ transactions in securities in
 1315 this state as permitted for a dealer under paragraph (a), ~~may~~
 1316 ~~register under this section~~ provided that such person is
 1317 registered in the jurisdiction from which such person is
 1318 effecting transactions into this state.

1319 ~~1. Files an application in the form required by the~~
 1320 ~~jurisdiction in which the dealer has its head office.~~

1321 ~~2. Is registered in good standing in the jurisdiction from~~
 1322 ~~which he or she is effecting transactions into this state and~~
 1323 ~~files evidence of such registration with the office.~~

1324 ~~(e) If the office finds that the applicant is of good~~
 1325 ~~repute and character and has complied with the provisions of~~
 1326 ~~this chapter, the office shall register the applicant.~~

1327 ~~(g)(f)~~ A Canadian dealer who has made a notice of filing
 1328 ~~registered~~ under this section shall:

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1329 1. Maintain its provincial or territorial registration and
1330 its membership in a self-regulatory organization or stock
1331 exchange in good standing.

1332 2. Provide the office upon request with its books and
1333 records relating to its business in this state as a dealer.

1334 3. Provide the office notice of each civil, criminal, or
1335 administrative action initiated against the dealer.

1336 4. Disclose to its clients in this state that the dealer
1337 and its associated persons ~~agents~~ are not subject to the full
1338 regulatory requirements under this chapter.

1339 5. Correct any inaccurate information within 30 days, if
1340 the information contained in the notice of filing ~~application~~
1341 ~~form~~ becomes inaccurate for any reason ~~before or after the~~
1342 ~~dealer becomes registered.~~

1343 (h)(g) An associated person representing ~~of~~ a Canadian
1344 dealer who has made a notice of filing ~~registered~~ under this
1345 section shall:

1346 1. Maintain provincial or territorial registration in good
1347 standing.

1348 2. Provide the office upon request with notice of each
1349 civil, criminal, or administrative action initiated against such
1350 person.

1351 ~~3. Through the dealer, correct any inaccurate information~~
1352 ~~within 30 days, if the information contained in the application~~
1353 ~~form becomes inaccurate for any reason before or after the~~
1354 ~~associated person becomes registered.~~

1355 (i)(h) A notice filing may be terminated by filing notice
1356 of such termination with the office. Unless another date is

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1357 specified by the Canadian dealer, such notice shall be effective
 1358 upon its receipt by the office.

1359 (j) All fees collected under this section become the
 1360 revenue of the state, except for those assessments provided for
 1361 under s. 517.131(1), until such time as the Securities Guaranty
 1362 Fund satisfies the statutory limits, and are not returnable in
 1363 the event that a notice filing is withdrawn ~~Renewal applications~~
 1364 ~~for Canadian dealers and associated persons under this section~~
 1365 ~~must be filed before December 31 each year. Every applicant for~~
 1366 ~~registration or renewal registration under this section shall~~
 1367 ~~pay the fee for dealers and associated persons under this~~
 1368 ~~chapter.~~

1369 Section 27. Paragraphs (b) and (e) of subsection (3) of
 1370 section 517.131, Florida Statutes, are amended, and subsection
 1371 (5) is added to said section, to read:

1372 517.131 Securities Guaranty Fund.--

1373 (3) Any person is eligible to seek recovery from the
 1374 Securities Guaranty Fund if:

1375 (b) Such person has made all reasonable searches and
 1376 inquiries to ascertain whether the judgment debtor possesses
 1377 real or personal property or other assets subject to being sold
 1378 or applied in satisfaction of the judgment, and by her or his
 1379 search the person has discovered no property or assets; or she
 1380 or he has discovered property and assets and has taken all
 1381 necessary action and proceedings for the application thereof to
 1382 the judgment, but the amount thereby realized was insufficient
 1383 to satisfy the judgment. To verify compliance with such
 1384 condition, the office may require such person to have a writ of

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1385 execution be issued upon such judgment, ~~and~~ may further require
 1386 a showing that no personal or real property of the judgment
 1387 debtor liable to be levied upon in complete satisfaction of the
 1388 judgment can be found, or may require an affidavit from the
 1389 claimant setting forth the reasonable searches and inquires
 1390 undertaken and the result.

1391 (e) The office waives compliance with the requirements of
 1392 paragraph (a) or paragraph (b). The office may waive such
 1393 compliance if the dealer, investment adviser, or associated
 1394 person which is the subject of the claim filed with the office
 1395 is the subject of any proceeding in which a receiver has been
 1396 appointed by a court of competent jurisdiction. If the office
 1397 waives such compliance, the office may, upon petition by the
 1398 claimant, the debtor, or the court-appointed trustee, examiner,
 1399 or receiver, distribute funds from the Securities Guaranty Fund
 1400 up to the amount allowed under s. 517.141. Any waiver granted
 1401 pursuant to this section shall be considered a judgment for
 1402 purposes of complying with the requirements of this section and
 1403 of s. 517.141.

1404 (5) The commission may by rule specify the procedures for
 1405 complying with the requirements of subsections (2), (3), and
 1406 (4), including rules of the form of submission and guidelines
 1407 for the sufficiency and content of submissions of notices and
 1408 claims.

1409 Section 28. Subsections (2) and (5) of section 517.141,
 1410 Florida Statutes, are amended, and subsection (11) is added to
 1411 said section, to read:

1412 517.141 Payment from the fund.--

CODING: Words **stricken** are deletions; words **underlined** are additions.

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1413 (2) Regardless of the number of claims or claimants
 1414 involved, payments for claims shall be limited in the aggregate
 1415 to \$100,000 against any one dealer, investment adviser, or
 1416 associated person. If the total claims exceed the aggregate
 1417 limit of \$100,000, the office shall prorate the payment based
 1418 upon the ratio that the person's claim bears to the total claims
 1419 filed.

1420 (5) If the final judgment which gave rise to the claim is
 1421 overturned in any appeal or in any collateral proceeding, the
 1422 claimant shall reimburse the fund all amounts paid to the
 1423 claimant on the claim. If the claimant satisfies the judgment
 1424 referred to in s. 517.131(3)(a), the claimant shall reimburse
 1425 the fund all amounts paid to the claimant on the claim. Such
 1426 reimbursement shall be paid to the office within 60 days after
 1427 the final resolution of the appellate or collateral proceedings,
 1428 with the 60-day period commencing on the date the final order or
 1429 decision is entered in such proceedings.

1430 (11) The commission may by rule specify the procedures for
 1431 complying with the requirements of this section, including rules
 1432 of the form of submission and guidelines for the sufficiency and
 1433 content of submissions of notices and claims.

1434 Section 29. Paragraph (n) is added to subsection (1) of
 1435 section 517.161, Florida Statutes, to read:

1436 517.161 Revocation, denial, or suspension of registration
 1437 of dealer, investment adviser, associated person, or branch
 1438 office.--

1439 (1) Registration under s. 517.12 may be denied or any
 1440 registration granted may be revoked, restricted, or suspended by

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1441 the office if the office determines that such applicant or
1442 registrant:

1443 (n) Made payment to the office for a license or permit
1444 with a check or electronic transmission of funds that fails to
1445 clear the applicant's or registrant's financial institutions.

1446 Section 30. Subsection (2) of section 520.03, Florida
1447 Statutes, is amended to read:

1448 520.03 Licenses.--

1449 (2) An application for a license under this part must be
1450 submitted to the office in such form as the commission may
1451 prescribe by rule. If the office determines that an application
1452 should be granted, it shall issue the license for a period not
1453 to exceed 2 years. A nonrefundable application fee of \$175 shall
1454 accompany an initial application for the principal place of
1455 business and each application for a branch location of a retail
1456 installment seller who is required to be licensed under this
1457 chapter. An application shall be deemed received for purposes of
1458 s. 120.60 upon receipt of a completed application form as
1459 prescribed by the commission by rule, a nonrefundable
1460 application fee of \$175, and any other fee prescribed by law or
1461 rule.

1462 Section 31. Subsection (2) of section 520.32, Florida
1463 Statutes, is amended to read:

1464 520.32 Licenses.--

1465 (2) An application for a license under this part must be
1466 submitted to the office in such form as the commission may
1467 prescribe by rule. If the office determines that an application
1468 should be granted, it shall issue the license for a period not

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1469 | to exceed 2 years. A nonrefundable application fee of \$175 shall
 1470 | accompany an initial application for the principal place of
 1471 | business and each application for a branch location of a retail
 1472 | installment seller. An application shall be deemed received for
 1473 | purposes of s. 120.60 upon receipt of a completed application
 1474 | form as prescribed by the commission by rule, a nonrefundable
 1475 | application fee of \$175, and any other fee prescribed by law or
 1476 | rule.

1477 | Section 32. Subsection (2) of section 520.52, Florida
 1478 | Statutes, is amended to read:

1479 | 520.52 Licensees.--

1480 | (2) An application for a license under this part must be
 1481 | submitted to the office in such form as the commission may
 1482 | prescribe by rule. If the office determines that an application
 1483 | should be granted, it shall issue the license for a period not
 1484 | to exceed 2 years. A nonrefundable application fee of \$175 shall
 1485 | accompany an initial application for the principal place of
 1486 | business and each branch location of a sales finance company. An
 1487 | application shall be deemed received for purposes of s. 120.60
 1488 | upon receipt of a completed application form as prescribed by
 1489 | the commission by rule, a nonrefundable application fee of \$175,
 1490 | and any other fee prescribed by law or rule.

1491 | Section 33. Subsection (2) of section 520.63, Florida
 1492 | Statutes, is amended to read:

1493 | 520.63 Licensees.--

1494 | (2) An application for a license under this part must be
 1495 | submitted to the office in such form as the commission may
 1496 | prescribe by rule. If the office determines that an application

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1497 | should be granted, it shall issue the license for a period not
 1498 | to exceed 2 years. A nonrefundable application fee of \$175 shall
 1499 | accompany an initial application for the principal place of
 1500 | business and each application for a branch location of a home
 1501 | improvement finance seller. An application shall be deemed
 1502 | received for purposes of s. 120.60 upon receipt of a completed
 1503 | application form as prescribed by the commission by rule, a
 1504 | nonrefundable application fee of \$175, and any other fee
 1505 | prescribed by law or rule.

1506 | Section 34. Subsection (5) of section 520.994, Florida
 1507 | Statutes, is amended to read:

1508 | 520.994 Powers of office.--

1509 | (5) The office shall administer and enforce this chapter.
 1510 | The commission has authority to adopt rules pursuant to ss.
 1511 | 120.536(1) and 120.54 to implement the provisions of this
 1512 | chapter. The commission may adopt rules to require allow
 1513 | electronic submission of any form, document, or fee required by
 1514 | this chapter, provided such rules reasonably accommodate
 1515 | technological or financial hardship. The commission may
 1516 | prescribe by rule requirements and procedures for obtaining a
 1517 | technological or financial hardship exemption.

1518 | Section 35. Paragraph (j) is added to subsection (1) of
 1519 | section 520.995, Florida Statutes, to read:

1520 | 520.995 Grounds for disciplinary action.--

1521 | (1) The following acts are violations of this chapter and
 1522 | constitute grounds for the disciplinary actions specified in
 1523 | subsection (2):

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1524 (j) Payment to the office for a license or permit with a
 1525 check or electronic transmission of funds that fails to clear
 1526 the applicant's or licensee's financial institution.

1527 Section 36. Subsection (4) of section 520.997, Florida
 1528 Statutes, is amended to read:

1529 520.997 Books, accounts, and records.--

1530 (4) The commission may prescribe by rule the minimum
 1531 information to be shown in the books, accounts, documents, and
 1532 records of licensees so that such records will enable the office
 1533 to determine compliance with the provisions of this chapter. In
 1534 addition, the commission may prescribe by rule the requirements
 1535 for destruction of books, accounts, records, and documents
 1536 retained by the licensee after completion of the time period
 1537 specified in subsection (3). Notwithstanding the 2-year
 1538 retention period specified in subsection (3), if the office
 1539 identifies a statute of limitations in another civil or criminal
 1540 state or federal law or rule that is reasonably related by
 1541 subject matter to the administration of this chapter, the
 1542 commission may identify that statute of limitations by rule and
 1543 may prohibit the destruction of records required to be
 1544 maintained by this chapter for a period of time established by
 1545 rule that is reasonably related to such statute of limitations.
 1546 The commission shall prescribe by rule those documents or
 1547 records that are to be preserved that are related to the
 1548 identified statute of limitations.

1549 Section 37. Subsection (5) of section 537.009, Florida
 1550 Statutes, is amended to read:

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1551 537.009 Recordkeeping; reporting; safekeeping of
1552 property.--

1553 (5) The commission may prescribe by rule the books,
1554 accounts, documents, and records, and the minimum information to
1555 be shown in the books, accounts, documents, and records, of
1556 licensees so that such records will enable the office to
1557 determine compliance with the provisions of this act. In
1558 addition, the commission may prescribe by rule the requirements
1559 for destruction of books, accounts, records, and documents
1560 retained by the licensee after completion of the time period
1561 specified in subsection (3). Notwithstanding the 2-year
1562 retention period specified in subsection (3), if the office
1563 identifies a statute of limitations in another civil or criminal
1564 state or federal law or rule that is reasonably related by
1565 subject matter to the administration of this chapter, the
1566 commission may identify that statute of limitations by rule and
1567 may prohibit the destruction of records required to be
1568 maintained by this chapter for a period of time established by
1569 rule that is reasonably related to such statute of limitations.
1570 The commission shall prescribe by rule those documents or
1571 records that are to be preserved that are related to the
1572 identified statute of limitations.

1573 Section 38. Subsection (3) is added to section 560.105,
1574 Florida Statutes, to read:

1575 560.105 Supervisory powers; rulemaking.--

1576 (3) The commission may adopt rules which require
1577 electronic submission of any forms, documents, or fees required
1578 by this act, provided such rules reasonably accommodate

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1579 technological or financial hardship. The commission may
 1580 prescribe by rule requirements and procedures for obtaining a
 1581 technological or financial hardship exemption.

1582 Section 39. Paragraph (y) is added to subsection (1) of
 1583 section 560.114, Florida Statutes, to read:

1584 560.114 Disciplinary actions.--

1585 (1) The following actions by a money transmitter or money
 1586 transmitter-affiliated party are violations of the code and
 1587 constitute grounds for the issuance of a cease and desist order,
 1588 the issuance of a removal order, the denial of a registration
 1589 application or the suspension or revocation of any registration
 1590 previously issued pursuant to the code, or the taking of any
 1591 other action within the authority of the office pursuant to the
 1592 code:

1593 (y) Payment to the office for a license or permit with a
 1594 check or electronic transmission of funds that fails to clear
 1595 the applicant's or licensee's financial institution.

1596 Section 40. Paragraph (b) of subsection (2) of section
 1597 560.118, Florida Statutes, is amended to read:

1598 560.118 Examinations, reports, and internal audits;
 1599 penalty.--

1600 (2)

1601 (b) The commission may, by rule, require each money
 1602 transmitter or authorized vendor to submit quarterly reports to
 1603 the office. The commission may adopt rules which require
 1604 electronic submission of any forms, documents, or fees required
 1605 by this act, provided such rules reasonably accommodate
 1606 technological or financial hardship. The commission may

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1607 prescribe by rule requirements and procedures for obtaining a
 1608 technological or financial hardship exemption. The commission
 1609 may require that each report contain a declaration by an
 1610 officer, or any other responsible person authorized to make such
 1611 declaration, that the report is true and correct to the best of
 1612 her or his knowledge and belief. Such report must include such
 1613 information as the commission by rule requires for that type of
 1614 money transmitter.

1615 Section 41. Subsection (2) of section 560.121, Florida
 1616 Statutes, is amended to read:

1617 560.121 Records; limited restrictions upon public
 1618 access.--

1619 (2) The commission may prescribe by rule the minimum
 1620 information to be shown in the books, accounts, records, and
 1621 documents of licensees for purposes of enabling the office to
 1622 determine the licensee's compliance with ss. 560.101-560.408. In
 1623 addition, the commission may prescribe by rule the requirements
 1624 for destruction of books, accounts, records, and documents
 1625 retained by the licensee after completion of the time period
 1626 specified in this subsection. Notwithstanding the 3-year
 1627 retention period specified in this subsection, if the office
 1628 identifies a statute of limitations in another civil or criminal
 1629 state or federal law or rule that is reasonably related by
 1630 subject matter to the administration of this chapter, the
 1631 commission may identify that statute of limitations by rule and
 1632 may prohibit the destruction of records required to be
 1633 maintained by this chapter for a period of time established by
 1634 rule that is reasonably related to such statute of limitations.

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1635 | The commission shall prescribe by rule those documents or
 1636 | records that are to be preserved that are related to the
 1637 | identified statute of limitations. Examination reports,
 1638 | investigatory records, applications, and related information
 1639 | compiled by the office, or photographic copies thereof, shall be
 1640 | retained by the office for a period of at least 3 ~~10~~ years after
 1641 | the date the examination or investigation is closed or ceases to
 1642 | be active or the registration ceases to be active.

1643 | Section 42. Section 560.205, Florida Statutes, is amended
 1644 | to read:

1645 | 560.205 Qualifications of applicant for registration;
 1646 | contents.--

1647 | (1) To qualify for registration under this part, an
 1648 | applicant must demonstrate to the office such character and
 1649 | general fitness as to command the confidence of the public and
 1650 | warrant the belief that the registered business will be operated
 1651 | lawfully and fairly. The office may investigate each applicant
 1652 | to ascertain whether the qualifications and requirements
 1653 | prescribed by this part have been met. The office's
 1654 | investigation may include a criminal background investigation of
 1655 | all controlling shareholders, principals, officers, directors,
 1656 | members, and responsible persons of a funds transmitter and a
 1657 | payment instrument seller and all persons designated by a funds
 1658 | transmitter or payment instrument seller as an authorized
 1659 | vendor. Each controlling shareholder, principal, officer,
 1660 | director, member, and responsible person of a funds transmitter
 1661 | or payment instrument seller, unless the applicant is a publicly
 1662 | traded corporation as defined by the commission by rule, a

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1663 subsidiary thereof, or a subsidiary of a bank or bank holding
1664 company organized and regulated under the laws of any state or
1665 the United States, shall file a complete set of fingerprints.
1666 Fingerprint cards submitted to the office shall be taken by an
1667 authorized law enforcement officer if such fingerprint card is
1668 submitted to the office in paper form. In addition to the fees
1669 prescribed in s. 215.405, the commission may prescribe by rule
1670 an additional fee, not to exceed \$30, for processing the
1671 fingerprints. The commission may prescribe by rule procedures
1672 for submitting fingerprints and fees by electronic means to the
1673 office or to a third party approved by the office. In order to
1674 implement the submission and processing of fingerprints as
1675 specified by rule pursuant to this section, the office may
1676 contract with any other state agency which provides
1677 fingerprinting services. Such fingerprints must be submitted to
1678 the Department of Law Enforcement or the Federal Bureau of
1679 Investigation for state and federal processing. The commission
1680 may waive by rule the requirement that applicants file a set of
1681 fingerprints or the requirement that such fingerprints be
1682 processed by the Department of Law Enforcement or the Federal
1683 Bureau of Investigation.

1684 (2) Each application for registration must be submitted
1685 under oath to the office on such forms as the commission
1686 prescribes by rule and must be accompanied by a nonrefundable
1687 application fee. The commission may establish by rule procedures
1688 for depositing fees and filing documents by electronic means.
1689 Such fee may not exceed \$500 for each payment instrument seller
1690 or funds transmitter and \$50 for each authorized vendor or

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1691 location operating within this state. The application ~~forms~~
 1692 shall contain ~~set forth~~ such information as the commission
 1693 ~~reasonably~~ requires by rule, including, but not limited to:

1694 (a) The name and address of the applicant, including any
 1695 fictitious or trade names used by the applicant in the conduct
 1696 of its business.

1697 (b) The history of the applicant's material litigation,
 1698 criminal convictions, pleas of nolo contendere, and cases of
 1699 adjudication withheld.

1700 (c) A description of the activities conducted by the
 1701 applicant, the applicant's history of operations, and the
 1702 business activities in which the applicant seeks to engage in
 1703 this state.

1704 ~~(d) A list identifying the applicant's proposed authorized~~
 1705 ~~vendors in this state, including the location or locations in~~
 1706 ~~this state at which the applicant and its authorized vendors~~
 1707 ~~propose to conduct registered activities.~~

1708 (d)(e) A sample authorized vendor contract, if applicable.

1709 (e)(f) A sample form of payment instrument, if applicable.

1710 (f)(g) The name and address of the clearing financial
 1711 institution or financial institutions through which the
 1712 applicant's payment instruments will be drawn or through which
 1713 such payment instruments will be payable.

1714 (g)(h) Documents revealing that the net worth and bonding
 1715 requirements specified in s. 560.209 have been or will be
 1716 fulfilled.

1717 (3) Each application for registration by an applicant that
 1718 is a corporation shall contain ~~also set forth~~ such information

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1719 as the commission ~~reasonably~~ requires by rule, including, but
1720 not limited to:

1721 (a) The date of the applicant's incorporation and state of
1722 incorporation.

1723 (b) A certificate of good standing from the state or
1724 country in which the applicant was incorporated.

1725 (c) A description of the corporate structure of the
1726 applicant, including the identity of any parent or subsidiary of
1727 the applicant, and the disclosure of whether any parent or
1728 subsidiary is publicly traded on any stock exchange.

1729 (d) The name, business and residence addresses, and
1730 employment history for the past 5 years for each executive
1731 officer, each director, each controlling shareholder, and the
1732 responsible person who will be in charge of all the applicant's
1733 business activities in this state.

1734 (e) The history of material litigation and criminal
1735 convictions, pleas of nolo contendere, and cases of adjudication
1736 withheld for each executive officer, each director, each
1737 controlling shareholder, and the responsible person who will be
1738 in charge of the applicant's registered activities.

1739 (f) Copies of the applicant's audited financial statements
1740 for the current year and, if available, for the immediately
1741 preceding 2-year period. In cases where the applicant is a
1742 wholly owned subsidiary of another corporation, the parent's
1743 consolidated audited financial statements may be submitted to
1744 satisfy this requirement. An applicant who is not required to
1745 file audited financial statements may satisfy this requirement

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1746 | by filing unaudited financial statements verified under penalty
1747 | of perjury, as provided by the commission by rule.

1748 | (g) An applicant who is not required to file audited
1749 | financial statements may file copies of the applicant's
1750 | unconsolidated, unaudited financial statements for the current
1751 | year and, if available, for the immediately preceding 2-year
1752 | period.

1753 | (h) If the applicant is a publicly traded company, copies
1754 | of all filings made by the applicant with the United States
1755 | Securities and Exchange Commission, or with a similar regulator
1756 | in a country other than the United States, within the year
1757 | preceding the date of filing of the application.

1758 | (4) Each application for registration submitted to the
1759 | office by an applicant that is not a corporation shall contain
1760 | ~~also set forth~~ such information as the commission ~~reasonably~~
1761 | requires by rule, including, but not limited to:

1762 | (a) Evidence that the applicant is registered to do
1763 | business in this state.

1764 | (b) The name, business and residence addresses, personal
1765 | financial statement and employment history for the past 5 years
1766 | for each individual having a controlling ownership interest in
1767 | the applicant, and each responsible person who will be in charge
1768 | of the applicant's registered activities.

1769 | (c) The history of material litigation and criminal
1770 | convictions, pleas of nolo contendere, and cases of adjudication
1771 | withheld for each individual having a controlling ownership
1772 | interest in the applicant and each responsible person who will
1773 | be in charge of the applicant's registered activities.

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1774 (d) Copies of the applicant's audited financial statements
 1775 for the current year, and, if available, for the preceding 2
 1776 years. An applicant who is not required to file audited
 1777 financial statements may satisfy this requirement by filing
 1778 unaudited financial statements verified under penalty of
 1779 perjury, as provided by the commission by rule.

1780 (5) Each applicant shall designate and maintain an agent
 1781 in this state for service of process.

1782 (6) Changes in registration occasioned by changes in
 1783 personnel of a partnership or in the principals, members,
 1784 copartners, officers, directors, controlling shareholders, or
 1785 responsible persons of a money transmitter or by changes of any
 1786 material fact or method of doing business shall be reported by
 1787 written amendment in such form and at such time as the
 1788 commission shall specify by rule.

1789 Section 43. Subsection (1) of section 560.207, Florida
 1790 Statutes, is amended to read:

1791 560.207 Renewal of registration; registration fee.--

1792 (1) Registration may be renewed for a 24-month period or
 1793 the remainder of any such period without proration following the
 1794 date of its expiration, upon the filing with the office of an
 1795 application and other statements and documents as may reasonably
 1796 be required of registrants by the commission. The commission may
 1797 establish by rule procedures for depositing fees and filing
 1798 documents by electronic means. However, the registrant must
 1799 remain qualified for such registration under the provisions of
 1800 this part.

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1801 Section 44. Subsection (1) of section 560.210, Florida
1802 Statutes, is amended to read:

1803 560.210 Permissible investments.--

1804 (1) A registrant shall at all times possess permissible
1805 investments with an aggregate market value, calculated in
1806 accordance with United States generally accepted accounting
1807 principles, of not less than the aggregate face amount of all
1808 outstanding funds transmissions ~~transmitted~~ and ~~outstanding~~
1809 payment instruments issued or sold by the registrant or an
1810 authorized vendor in the United States.

1811 Section 45. Subsection (2) of section 560.211, Florida
1812 Statutes, is amended to read:

1813 560.211 Records.--

1814 (2) The records required to be maintained by the code may
1815 be maintained by the registrant at any location, provided that
1816 the registrant notifies the office in writing of the location of
1817 the records in its application or otherwise by amendment as
1818 prescribed by the commission by rule. The registrant shall make
1819 such records available to the office for examination and
1820 investigation in this state, as permitted by the code, within 7
1821 days after receipt of a written request.

1822 Section 46. Section 560.305, Florida Statutes, is amended
1823 to read:

1824 560.305 Application.--Each application for registration
1825 shall be in writing and under oath to the office, in such form
1826 as the commission prescribes. The commission may establish by
1827 rule procedures for depositing fees and filing documents by
1828 electronic means. The application shall contain such information

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1829 as the commission requires by rule, including, but not limited
 1830 to include the following:

1831 (1) The legal name and residence and business addresses of
 1832 the applicant if the applicant is a natural person, or, if the
 1833 applicant is a partnership, association, or corporation, the
 1834 name of every partner, officer, or director thereof.

1835 (2) The location of the principal office of the applicant.

1836 (3) The complete address of any other locations at which
 1837 the applicant proposes to engage in such activities since the
 1838 provisions of registration apply to each and every operating
 1839 location of a registrant.

1840 (4) Such other information as the commission or office
 1841 reasonably requires with respect to the applicant or any money
 1842 transmitter-affiliated party of the applicant; however, the
 1843 commission or office may not require more information than is
 1844 specified in part II.

1845 Section 47. Subsections (1) and (4) of section 560.306,
 1846 Florida Statutes, are amended, and subsection (6) is added to
 1847 said section, to read:

1848 560.306 Standards.--

1849 (1) In order to qualify for registration under this part,
 1850 an applicant must demonstrate to the office that he or she has
 1851 such character and general fitness as will command the
 1852 confidence of the public and warrant the belief that the
 1853 registered business will be operated lawfully and fairly. The
 1854 office may investigate each applicant to ascertain whether the
 1855 qualifications and requirements prescribed by this part have
 1856 been met. The office's investigation may include a criminal

1857 background investigation of all controlling shareholders,
 1858 principals, officers, directors, members, and responsible
 1859 persons of a check casher and a foreign currency exchanger and
 1860 all persons designated by a foreign currency exchanger or check
 1861 casher as an authorized vendor. Each controlling shareholder,
 1862 principal, officer, director, member, and responsible person of
 1863 a check casher or foreign currency exchanger, unless the
 1864 applicant is a publicly traded corporation as defined by the
 1865 commission by rule, a subsidiary thereof, or a subsidiary of a
 1866 bank or bank holding company organized and regulated under the
 1867 laws of any state or the United States, shall file a complete
 1868 set of fingerprints. Fingerprint cards submitted to the office
 1869 shall be taken by an authorized law enforcement officer if such
 1870 fingerprint card is submitted to the office in paper form. In
 1871 addition to the fees prescribed in s. 215.405, the commission
 1872 may prescribe by rule an additional fee, not to exceed \$30, for
 1873 processing the fingerprints. The commission may prescribe by
 1874 rule procedures for submitting fingerprints and fees by
 1875 electronic means to the office or to a third party approved by
 1876 the office. In order to implement the submission and processing
 1877 of fingerprints as specified by rule pursuant to this section,
 1878 the office may contract with any other state agency which
 1879 provides fingerprinting services. Such fingerprints must be
 1880 submitted to the Department of Law Enforcement or the Federal
 1881 Bureau of Investigation for state and federal processing. The
 1882 commission may waive by rule the requirement that applicants
 1883 file a set of fingerprints or the requirement that such

1884 fingerprints be processed by the Department of Law Enforcement
1885 or the Federal Bureau of Investigation.

1886 (4) Each registration application and renewal application
1887 must specify the location at which the applicant proposes to
1888 establish its principal place of business and any other
1889 location, including authorized vendors operating in this state.
1890 The registrant shall notify the office of any changes to any
1891 such locations. ~~Any registrant may satisfy this requirement by~~
1892 ~~providing the office with a list of such locations, including~~
1893 ~~all authorized vendors operating in this state, not less than~~
1894 ~~annually.~~ A registrant may not transact business as a check
1895 cashier or a foreign currency exchanger except pursuant to the
1896 name under which it is registered.

1897 (6) Changes in registration occasioned by changes in
1898 personnel of a partnership or in the principals, members,
1899 copartners, officers, directors, controlling shareholders, or
1900 responsible persons of a money transmitter or by changes of any
1901 material fact or method of doing business shall be reported by
1902 written amendment in such form and at such time as the
1903 commission shall specify by rule.

1904 Section 48. Subsection (2) of section 560.308, Florida
1905 Statutes, is amended to read:

1906 560.308 Registration terms; renewal; renewal fees.—

1907 (2) The office shall renew registration upon receipt of a
1908 completed renewal form and payment of a nonrefundable renewal
1909 fee not to exceed \$500. The completed renewal form and payment
1910 of the renewal fee shall occur on or after June 1 of the year in
1911 which the existing registration expires. The commission may

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1912 establish by rule procedures for depositing fees and filing
 1913 documents by electronic means.

1914 Section 49. Subsection (2) of section 560.310, Florida
 1915 Statutes, is amended to read:

1916 560.310 Records of check cashers and foreign currency
 1917 exchangers.--

1918 (2) The records required to be maintained by the code may
 1919 be maintained by the registrant at any location, provided that
 1920 the registrant notifies the office, in writing, of the location
 1921 of the records in its application or otherwise by amendment as
 1922 prescribed by the commission by rule. The registrant shall make
 1923 such records available to the office for examination and
 1924 investigation in this state, as permitted by the code, within 7
 1925 days after receipt of a written request.

1926 Section 50. Section 626.565, Florida Statutes, is created
 1927 to read:

1928 626.565 Disposition of records.--

1929 (1) An agent or other licensee of the department or office
 1930 shall be responsible for the prudent disposition of records
 1931 containing personal financial or health information regarding a
 1932 consumer, policyholder, applicant, or insured after any
 1933 applicable retention requirement has been met. Disposition shall
 1934 be by a method which protects the confidentiality of any of the
 1935 personal financial or health information. Each appointing entity
 1936 shall require compliance with this requirement by the licensee
 1937 in any appointment or representation agreement between the
 1938 appointing entity and the licensee.

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1939 (2) The department or commission may adopt rules governing
 1940 the disposition of records of personal financial or health
 1941 information of a consumer, policyholder, applicant, or insured
 1942 by agents and other licensees. The rules shall be designed to
 1943 protect the confidential and sensitive nature of the information
 1944 and to avoid identity theft.

1945 Section 51. This act shall take effect October 1, 2004.