

By Senator Sebesta

16-202A-05

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

1 commission to prescribe fees and procedures for
2 processing fingerprints; authorizing the office
3 to contract for fingerprinting services;
4 specifying that certain licenses are not
5 transferable or assignable; amending s.
6 494.0033, F.S.; clarifying requirements for
7 mortgage broker licensure; authorizing the
8 commission to waive certain examination
9 requirements under specified circumstances;
10 authorizing the commission to prescribe
11 additional testing fees; revising
12 fingerprinting requirements; authorizing the
13 commission to prescribe fees and procedures for
14 processing fingerprints; authorizing the office
15 to contract for certain fingerprinting
16 services; specifying criteria for receipt of
17 applications; deleting provisions relating to
18 cancellation and reinstatement of licenses;
19 amending s. 494.0034, F.S.; clarifying the
20 commission's authorization to prescribe license
21 renewal forms; amending s. 494.0036, F.S.;
22 clarifying provisions relating to issuance of
23 licenses to mortgage brokerage business branch
24 offices; specifying criteria for receipt of
25 certain applications; amending s. 494.0041,
26 F.S.; specifying an additional ground for
27 disciplinary action; amending s. 494.006, F.S.;
28 clarifying the application of an exemption from
29 mortgage lender licensure requirements to
30 certain entities; amending s. 494.0061, F.S.;
31 requiring licensure of mortgage lenders;

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

1 reference to professional continuing education
2 for certain licensees; amending s. 494.0065,
3 F.S.; specifying criteria for receipt of
4 applications; specifying education and testing
5 requirements for certain principal
6 representatives and for certain applications or
7 transfer applications; authorizing the
8 commission to waive specified examination
9 requirements under certain circumstances;
10 authorizing the commission to prescribe
11 additional testing fees; increasing a license
12 transfer fee; revising fingerprinting
13 requirements; authorizing the commission to
14 prescribe fees and procedures for processing
15 fingerprints; authorizing the office to
16 contract for certain fingerprinting services;
17 requiring mortgage lenders to designate a
18 principal representative; providing criteria
19 and requirements; requiring notice of a change
20 in principal representatives; amending s.
21 494.0066, F.S.; clarifying licensure
22 requirements for branch offices; amending s.
23 494.0067, F.S.; clarifying reference to
24 professional continuing education requirements;
25 amending s. 494.0072, F.S.; providing an
26 additional ground for disciplinary action;
27 amending s. 494.00721, F.S.; correcting
28 cross-references; amending s. 516.03, F.S.;
29 specifying criteria for receipt of certain
30 applications; providing that specified fees are
31 nonrefundable; authorizing the commission to

1 require electronic submission of forms,
2 documents, or fees; providing for accommodating
3 a technological or financial hardship;
4 authorizing the commission to make rules
5 relating to obtaining such an accommodation;
6 amending s. 516.05, F.S.; deleting provisions
7 relating to fees for licenses that have been
8 denied; amending s. 516.07, F.S.; providing an
9 additional ground for disciplinary action;
10 amending s. 516.12, F.S.; authorizing the
11 commission to prescribe minimum information
12 that must be shown in a licensee's books,
13 accounts, records, and documents; authorizing
14 the commission to prescribe requirements for
15 destroying books, accounts, records, and
16 documents; authorizing the commission to
17 recognize alternative statutes of limitation
18 for such destruction; providing for procedures;
19 amending s. 517.061, F.S.; revising provisions
20 related to exempt transactions; amending ss.
21 517.051, 517.081, F.S.; revising standards for
22 accounting principles to be used in preparing
23 certain financial statements; amending s.
24 517.12, F.S.; revising provisions for taking
25 and submitting fingerprints of dealers,
26 associated persons, and similarly situated
27 persons; revising provisions relating to
28 expiration and renewal of registration of such
29 persons; providing an exemption from
30 registration requirements for a Canadian dealer
31 and an associated person who represents a

1 Canadian dealer, under certain conditions;
2 providing for notice filing by a Canadian
3 dealer under certain conditions; authorizing
4 the Office of Financial Regulation of the
5 Financial Services Commission to issue a permit
6 to evidence the effectiveness of a notice
7 filing for a Canadian dealer; providing for the
8 renewal of a notice filing by a Canadian
9 dealer; providing for reinstatement of a notice
10 filing; providing obligations for a Canadian
11 dealer who has given notice of filing;
12 providing obligations for an associated person
13 representing a Canadian dealer who has given
14 notice of filing; providing for the termination
15 of a notice of filing; providing for the
16 collection of fees; amending s. 517.131, F.S.;
17 revising conditions under which recovery can be
18 made from the Securities Guaranty Fund;
19 amending s. 517.141, F.S.; prescribing
20 circumstances under which a claimant must
21 reimburse the fund; providing for rulemaking;
22 amending s. 517.161, F.S.; providing an
23 additional ground for revocation, restriction,
24 or suspension of a registration; amending ss.
25 520.03, 520.32, 520.52, and 520.63, F.S.;
26 specifying criteria for receipt of certain
27 applications; providing that certain fees are
28 nonrefundable; amending s. 520.994, F.S.;
29 authorizing the commission to require
30 electronic submission of forms, documents, or
31 fees; providing for accommodating a

1 technological or financial hardship; providing
2 for rulemaking; amending s. 520.995, F.S.;
3 providing an additional ground for disciplinary
4 action; amending ss. 520.997 and 537.009, F.S.;
5 authorizing the commission to prescribe certain
6 minimum information that must be shown in a
7 licensee's books, accounts, records, and
8 documents; authorizing the commission to
9 prescribe requirements for destroying books,
10 accounts, records, and documents; authorizing
11 the commission to recognize alternative
12 statutes of limitation for such destruction;
13 providing for procedures; amending ss. 560.105
14 and 560.118, F.S.; authorizing the commission
15 to require electronic submission of forms,
16 documents, or fees; providing for accommodating
17 a technological or financial hardship; amending
18 s. 560.114, F.S.; providing an additional
19 ground for disciplinary action; amending s.
20 560.121, F.S.; authorizing the commission to
21 prescribe certain minimum information that must
22 be shown in a licensee's books, accounts,
23 records, and documents; authorizing the
24 commission to prescribe requirements for
25 destroying books, accounts, records, and
26 documents; authorizing the commission to
27 recognize alternative statutes of limitation
28 for such destruction; providing for procedures;
29 decreasing the required time period for the
30 office to retain certain reports, records,
31 applications, and related information; amending

1 s. 560.126, F.S.; requiring notice of changes
2 in information contained in a registration
3 application; amending s. 560.205, F.S.;
4 revising fingerprinting requirements;
5 authorizing the commission to prescribe fees
6 and procedures for processing fingerprints;
7 authorizing the office to contract for certain
8 fingerprinting services; authorizing the
9 commission to establish procedures for
10 depositing fees and filing documents
11 electronically; deleting a requirement that an
12 applicant provide a list of certain vendors;
13 requiring the reporting of certain changes of
14 registration by written amendment; amending s.
15 560.207, F.S.; authorizing the commission to
16 establish procedures for depositing fees and
17 filing documents electronically; revising
18 procedures for renewing a registration;
19 providing that specified fees are
20 nonrefundable; providing conditions to the
21 reinstatement of a registration; amending s.
22 560.210, F.S.; revising permissible investment
23 requirements for certain registrants; amending
24 ss. 560.211 and 560.310, F.S.; requiring notice
25 to the office of the location of certain
26 amended records; amending ss. 560.305 and
27 560.308, F.S.; revising procedures for renewing
28 a registration; providing that specified fees
29 are nonrefundable; providing conditions to the
30 reinstatement of a registration; authorizing
31 the commission to establish procedures for

1 depositing fees and filing documents
2 electronically; amending s. 560.306, F.S.;
3 revising certain fingerprinting requirements;
4 authorizing the commission to prescribe fees
5 and procedures for processing fingerprints;
6 authorizing the office to contract for certain
7 fingerprinting services; requiring the
8 reporting of certain changes of registration by
9 written amendment; specifying in general that
10 accounting principles are those generally
11 accepted in the United States; specifying
12 commission authority by rules; amending s.
13 560.403, F.S.; revising requirements for giving
14 notice of intent in connection with the renewal
15 of registration; providing that specified fees
16 are nonrefundable; providing conditions to the
17 reinstatement of a notice of intent; creating
18 s. 626.565, F.S.; requiring an agent of the
19 Department of Insurance to dispose of records
20 containing personal financial or health
21 information concerning certain persons after
22 the retention requirement has been met;
23 requiring such disposition to protect the
24 confidentiality of personal financial or health
25 information; authorizing the department to
26 adopt rules for the disposition of personal
27 financial or health information; providing an
28 effective date.

29
30 Be It Enacted by the Legislature of the State of Florida:
31

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

4 494.0011 Powers and duties of the commission and
5 office.--

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

17 (6) The granting or denial of a license must be in
18 accordance with s. 120.60.

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

21 494.0016 Books, accounts, and records; maintenance;
22 examinations by the office.--

23 (4) The commission may prescribe by rule the minimum
24 information to be shown in the books, accounts, records, and
25 documents of licensees so that such records will enable the
26 office to determine the licensee's compliance with ss.
27 494.001-494.0077. In addition, the commission may prescribe by
28 rule the requirements for destruction of books, accounts,
29 records, and documents retained by the licensee after
30 completion of the time period indicated in subsection (3).
31 Notwithstanding the 3-year retention period provided in

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

12 Section 3. Subsections (1) and (2) of section
13 494.0029, Florida Statutes, are amended to read:

14 494.0029 Mortgage business schools.--

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

26 (b) An application is considered received for purposes
27 of s. 120.60 upon receipt of a completed application form as
28 prescribed by commission rule, a nonrefundable application fee
29 of \$500, and any other fee prescribed by law or rule.

30 (c) A permit issued under this section is not
31 transferable or assignable.

1 (2) All such schools shall maintain curriculum and
2 training materials necessary to determine the school's
3 compliance with this chapter and rules adopted under ~~pursuant~~
4 ~~to~~ this chapter. Any school that offers or conducts mortgage
5 business training shall at all times maintain an operation of
6 training, materials, and curriculum which is open to review by
7 the office to determine compliance and competency as a
8 mortgage business school. All such documents as prescribed by
9 commission rule must be submitted with the initial application
10 or recertification.

11 Section 4. Section 494.00295, Florida Statutes, is
12 amended to read:

13 494.00295 Professional continuing education.--

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

25 (2) Professional continuing education programs must
26 contribute directly to the professional competency of the
27 participants, may only be offered by permitted mortgage
28 business schools or entities specifically exempted from
29 permitting as mortgage business schools, and may include
30 electronically transmitted or distance education courses.
31

1 (3) The commission shall adopt rules necessary to
2 administer this section, including rules governing qualifying
3 hours for professional continuing education programs and
4 standards for electronically transmitted or distance education
5 courses, including course completion requirements.

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

9 494.003 Exemptions.--

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

12 (b) A state or federal chartered bank, ~~bank holding~~
13 ~~company~~, trust company, savings and loan association, savings
14 bank or credit union, bank holding company regulated under the
15 laws of any state or the United States, or consumer finance
16 company licensed pursuant to chapter 516.

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

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

27 (e) A wholly owned subsidiary of a state or federal
28 chartered bank or savings and loan association the sole
29 activity of which is to distribute the lending programs of
30 such state or federal chartered bank or savings and loan
31

1 association to persons who arrange loans for, or make loans
2 to, borrowers.

3 Section 6. Section 494.0031, Florida Statutes, is
4 amended to read:

5 494.0031 Licensure as a mortgage brokerage business.--

6 (1) Each person who acts as a mortgage brokerage
7 business must be licensed under this section.

8 (2)(1) The commission or office may require each
9 applicant for a mortgage brokerage business license to provide
10 any information reasonably necessary to determine the
11 applicant's eligibility for licensure. The office shall issue
12 a mortgage brokerage business license to each person who:

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

15 (b) Has a qualified principal broker pursuant to s.
16 494.0035.

17
18 An application is considered received for purposes of s.
19 120.60 upon receipt of a completed application form as
20 prescribed by the commission by rule, a nonrefundable
21 application fee of \$425, and any other fee prescribed by law
22 or rule.

23 (3)(2) The commission may require by rule that each
24 officer, director, and ultimate equitable owner of a
25 10-percent or greater interest in the mortgage brokerage
26 business submit a complete set of fingerprints. A fingerprint
27 card submitted to the office must be taken by an authorized
28 law enforcement officer if the fingerprint card is submitted
29 to the office in paper form. In addition to the fees
30 prescribed in s. 215.405, the commission may prescribe by rule
31 an additional fee, not to exceed \$30, for processing the

1 fingerprints. The commission may prescribe by rule procedures
2 for submitting fingerprints and fees by electronic means to
3 the office or to a third party approved by the office. In
4 order to implement the submission and processing of
5 fingerprints as specified by rule under this section, the
6 office may contract with another state agency that provides
7 fingerprinting services.

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

21 ~~(5)(4)~~ A mortgage brokerage business or branch office
22 license may be canceled if it was issued through mistake or
23 inadvertence of the office. A notice of cancellation must be
24 issued by the office within 90 days after the issuance of the
25 license. A notice of cancellation ~~is shall be~~ effective upon
26 receipt. The notice of cancellation ~~must shall~~ provide the
27 applicant with notification of the right to request a hearing
28 within 21 days after the applicant's receipt of the notice of
29 cancellation. A license ~~must shall~~ be reinstated if the
30 applicant can demonstrate that the requirements for obtaining
31

1 the license under ~~pursuant to~~ this chapter have been
2 satisfied.

3 ~~(6)(5) A license issued under this part is not~~
4 ~~transferable or assignable. If an initial mortgage brokerage~~
5 ~~business or branch office license has been issued but the~~
6 ~~check upon which the license is based is returned due to~~
7 ~~insufficient funds, the license shall be deemed canceled. A~~
8 ~~license deemed canceled pursuant to this subsection shall be~~
9 ~~reinstated if the office receives a certified check for the~~
10 ~~appropriate amount within 30 days after the date the check was~~
11 ~~returned due to insufficient funds.~~

12 Section 7. Subsections (1), (2), and (7) of section
13 494.0033, Florida Statutes, are amended to read:

14 494.0033 Mortgage broker's license.--

15 (1) Each natural person who acts as a mortgage broker
16 for a mortgage brokerage business or acts as an associate for
17 a mortgage lender or correspondent mortgage lender must be
18 licensed under ~~pursuant to~~ this section. To act as a mortgage
19 broker, an individual must be an associate of a mortgage
20 brokerage business, mortgage lender, or correspondent mortgage
21 lender. A mortgage broker is prohibited from being an
22 associate of more than one mortgage brokerage business,
23 mortgage lender, or correspondent mortgage lender.

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

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

1 (b) Has passed a written test adopted and administered
2 by the office, or has passed an electronic test adopted and
3 administered by the office or a third party approved by the
4 office, which is designed to determine competency in primary
5 and subordinate mortgage financing transactions as well as to
6 test knowledge of ss. 494.001-494.0077 and the rules adopted
7 pursuant thereto. The commission may prescribe by rule an
8 additional fee not to exceed \$100 for the electronic version
9 of the mortgage broker test. The commission may waive by rule
10 the examination requirement for any individual who has passed
11 a comparable test offered by a national group of state
12 mortgage regulators or a federal governmental agency which
13 test covers primary and subordinate mortgage financing
14 transactions.†

15 (c) Has submitted a completed application and a
16 nonrefundable application fee of \$200. An application is
17 considered received for purposes of s. 120.60 upon receipt of
18 a completed application form as prescribed by the commission
19 by rule, a nonrefundable application fee of \$200, and any
20 other fee prescribed by law or rule. ~~The commission may set by~~
21 rule an additional fee for a retake of the examination; and

22 (d) Has filed a complete set of fingerprints, ~~taken by~~
23 ~~an authorized law enforcement officer,~~ for submission by the
24 office to the Department of Law Enforcement or the Federal
25 Bureau of Investigation for processing. A fingerprint card
26 submitted to the office must be taken by an authorized law
27 enforcement officer if the fingerprint card is submitted to
28 the office in paper form. In addition to the fees prescribed
29 in s. 215.405, the commission may prescribe by rule additional
30 fees, not to exceed \$30, for processing the fingerprints. The
31 commission may prescribe by rule procedures for submitting

1 fingerprints and fees by electronic means to the office or to
2 a third party approved by the office. In order to implement
3 the submission and processing of fingerprints as specified by
4 rule under this section, the office may contract with another
5 state agency that provides fingerprinting services.

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

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

16 494.0034 Renewal of mortgage broker's license.--

17 (2) The commission shall adopt rules establishing a
18 procedure for the biennial renewal of mortgage broker's
19 licenses. The commission may prescribe the form of the renewal
20 ~~application~~ and may require an update of information since the
21 licensee's last renewal.

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

24 494.0036 Mortgage brokerage business branch offices.--

25 (2) The office shall issue a mortgage brokerage
26 business branch office license to a mortgage brokerage
27 business licensee after the office determines that the
28 licensee has submitted upon receipt of a completed branch
29 office application in a form as prescribed by commission rule
30 and payment of an initial nonrefundable branch office license
31 fee of \$225. Branch office licenses must be renewed in

1 conjunction with the renewal of the mortgage brokerage
2 business license. The branch office license shall be issued in
3 the name of the mortgage brokerage business that maintains the
4 branch office. An application is considered received for
5 purposes of s. 120.60 upon receipt of a completed application
6 form as prescribed by the commission by rule, a nonrefundable
7 application fee of \$225, and any other fee prescribed by law
8 or rule.

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

11 494.0041 Administrative penalties and fines; license
12 violations.--

13 (2) Each of the following acts constitutes a ground
14 for which the disciplinary actions specified in subsection (1)
15 may be taken:

16 (s) Payment to the office for a license or permit with
17 a check or electronic transmission of funds which fails to
18 clear the applicant's or licensee's financial institutions.

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

22 494.006 Exemptions.--

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

26 (a) A state or federal chartered bank, a ~~bank holding~~
27 ~~company,~~ trust company, a savings and loan association, a
28 savings bank or credit union, a bank holding company regulated
29 under the laws of any state or the United States, or an
30 insurance company if the insurance company is duly licensed in
31 this state.

1 (c) A wholly owned bank holding company subsidiary
2 formed and regulated under the laws of any state or the United
3 States or a wholly owned savings and loan association holding
4 company subsidiary that is approved or certified by the
5 Department of Housing and Urban Development, the Veterans
6 Administration, the Government National Mortgage Association,
7 the Federal National Mortgage Association, or the Federal Home
8 Loan Mortgage Corporation.

9 (2)(a) A natural person employed by a mortgage lender
10 or correspondent mortgage lender licensed under ss.
11 494.001-494.0077 is exempt from the licensure requirements of
12 ss. 494.001-494.0077 when acting within the scope of
13 employment with the licensee.

14 Section 12. Section 494.0061, Florida Statutes, is
15 amended to read:

16 494.0061 Mortgage lender's license requirements.--

17 (1) Each person who acts as a mortgage lender must be
18 licensed under this section.

19 ~~(2)(1)~~ The commission or office may require each
20 applicant for a mortgage lender license to provide any
21 information reasonably necessary to make a determination of
22 the applicant's eligibility for licensure. The office shall
23 issue an initial mortgage lender license to any person that
24 submits:

25 (a) A completed application form.~~+~~

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

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

1 (d) A surety bond in the amount of \$10,000, payable to
2 the state and conditioned upon compliance with ss.
3 494.001-494.0077, which inures to the office and which must be
4 continuously maintained thereafter in full force.†

5 (e) Documentation that the applicant is duly
6 incorporated, registered, or otherwise formed as a general
7 partnership, limited partnership, limited liability company,
8 or other lawful entity under the laws of this state or another
9 state of the United States.† and

10 (f) ~~For applications submitted after October 1, 2001,~~
11 Proof that the applicant's principal representative has
12 completed 24 hours of classroom instruction in primary and
13 subordinate financing transactions and in the provisions of
14 this chapter and rules adopted under this chapter. Proof that
15 the principal representative has continuously served in this
16 capacity for a licensed entity under this chapter for no less
17 than 1 year immediately prior to this application satisfies
18 this requirement.

19
20 An application is considered received for purposes of s.
21 120.60 upon receipt of a completed application form as
22 prescribed by the commission by rule, a nonrefundable
23 application fee of \$575, and any other fee prescribed by law
24 or rule.

25 (3)(2) Notwithstanding ~~the provisions~~ of subsection
26 (2)(1), it is a ground for denial of licensure if the
27 applicant, any principal officer or director of the applicant,
28 or any natural person owning a 10-percent or greater interest
29 in the applicant, or any natural person who is the ultimate
30 equitable owner of a 10-percent or greater interest in the
31 applicant has committed any violation specified in s.

1 494.0072, or has pending against her or him any criminal
2 prosecution or administrative enforcement action, in any
3 jurisdiction, which involves fraud, dishonest dealing, or any
4 act of moral turpitude.

5 ~~(4)(3)~~ Each initial application for a mortgage
6 lender's license must be in a form prescribed by the
7 commission. ~~The commission or office may require each~~
8 ~~applicant to provide any information reasonably necessary to~~
9 ~~make a determination of the applicant's eligibility for~~
10 ~~licensure.~~ The commission or office may require that each
11 officer, director, and ultimate equitable owner of a
12 10-percent or greater interest in the applicant submit a
13 complete set of fingerprints. A fingerprint card submitted to
14 the office must be taken by an authorized law enforcement
15 officer if the fingerprint card is submitted to the office in
16 paper form. In addition to the fees prescribed in s. 215.405,
17 the commission may prescribe by rule an additional fee, not to
18 exceed \$30, for processing the fingerprints. The commission
19 may prescribe by rule procedures for submitting fingerprints
20 and fees by electronic means to the office or to a third party
21 approved by the office. In order to implement the submission
22 and processing of fingerprints as specified by rule under this
23 section, the office may contract with another state agency
24 that provides fingerprinting services.

25 ~~(5)(4)~~ A person required to be licensed under ss.
26 494.006-494.0077, or an agent or employee thereof, is deemed
27 to have consented to the venue of courts of competent
28 jurisdiction in this state regarding any matter within the
29 authority of ss. 494.001-494.0077 regardless of where an act
30 or violation was committed.

31

1 ~~(6)~~⁽⁵⁾ A license issued in accordance with ss.
2 494.006-494.0077 is not transferable or assignable.

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

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

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

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

1 commission and administered by the office, or must pass an
2 electronic test prescribed by the commission and administered
3 by the office or a third party approved by the office, which
4 covers primary and subordinate mortgage financing transactions
5 and the provisions of this chapter and rules adopted under
6 this chapter. The commission may set by rule a fee not to
7 exceed \$100 for the electronic version of the mortgage broker
8 test. The commission may waive by rule the examination
9 requirement for any individual who has passed a comparable
10 test offered by a national group of state mortgage regulators
11 or a federal governmental agency which test covers primary and
12 subordinate mortgage financing transactions. Proof that the
13 principal representative has continuously served in this
14 capacity for a licensed entity under this chapter for no less
15 than 1 year immediately prior to this application satisfies
16 this requirement.

17 (10) A lender shall notify the office of any change in
18 the designation of its principal representative within 30
19 days. A new principal representative shall satisfy the name
20 and address of any new principal representative and shall
21 document that the person has completed the educational and
22 testing requirements of this section within 90 days after
23 being designated as upon the designation of a new principal
24 representative. Proof that the principal representative has
25 continuously served in this capacity for a licensed entity
26 under this chapter for no less than 1 year immediately prior
27 to this notification satisfies this requirement.

28 Section 13. Section 494.0062, Florida Statutes, is
29 amended to read:

30 494.0062 Correspondent mortgage lender's license
31 requirements.--

1 (1) Each person who acts as a correspondent mortgage
2 lender must be licensed under this section.

3 ~~(2)(1)~~ The office may require each applicant to
4 provide any information reasonably necessary to determine the
5 applicant's eligibility for licensure. The office shall issue
6 an initial correspondent mortgage lender license to any person
7 who submits:

8 (a) A completed application form;

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

10 (c) Audited financial statements ~~that, which~~ document
11 that the applicant application has a bona fide and verifiable
12 net worth, pursuant to United States generally accepted
13 accounting principles, of \$25,000 or more, which must be
14 continuously maintained as a condition of licensure;

15 (d) A surety bond in the amount of \$10,000, payable to
16 the State of Florida and conditioned upon compliance with ss.
17 494.001-494.0077, which inures to the office and which must be
18 continuously maintained, thereafter, in full force;

19 (e) Documentation that the applicant is duly
20 incorporated, registered, or otherwise formed as a general
21 partnership, limited partnership, limited liability company,
22 or other lawful entity under the laws of this state or another
23 state of the United States; and

24 (f) ~~For applications filed after October 1, 2001,~~
25 Proof that the applicant's principal representative has
26 completed 24 hours of classroom instruction in primary and
27 subordinate financing transactions and in the provisions of
28 this chapter and rules enacted under this chapter. Proof that
29 the principal representative has continuously served in this
30 capacity for a licensed entity under this chapter for no less
31

1 than 1 year immediately prior to this application satisfies
2 this requirement.

3
4 An application is considered received for purposes of s.
5 120.60 upon receipt of a completed application form as
6 prescribed by the commission by rule, a nonrefundable
7 application fee of \$500, and another fee prescribed by law or
8 rule.

9 ~~(3)(2)~~ Notwithstanding ~~the provisions of~~ subsection
10 ~~(2)(1)~~, it is a ground for denial of licensure if the
11 applicant, any principal officer or director of the applicant,
12 or any natural person who is the ultimate equitable owner of a
13 10-percent or greater interest in the applicant has committed
14 any violation specified in s. 494.0072, or has pending against
15 her or him any criminal prosecution or administrative
16 enforcement action, in any jurisdiction, which involves fraud,
17 dishonest dealing, or any act of moral turpitude.

18 ~~(4)(3)~~ Each initial application for a correspondent
19 mortgage lender's license must be in a form prescribed by the
20 commission. ~~The commission or office may require each~~
21 ~~applicant to provide any information reasonably necessary to~~
22 ~~make a determination of the applicant's eligibility for~~
23 ~~licensure.~~ The commission or office may require by rule that
24 each officer, director, and ultimate equitable owner of a
25 10-percent or greater interest submit a complete set of
26 fingerprints. A fingerprint card submitted to the office must
27 be taken by an authorized law enforcement officer if the
28 fingerprint card is submitted to the office in paper form. In
29 addition to the fees prescribed in s. 215.405, the commission
30 may prescribe by rule an additional fee, not to exceed \$30,
31 for processing the fingerprints. The commission may prescribe

1 by rule procedures for submitting fingerprints and fees by
2 electronic means to the office or to a third party approved by
3 the office. In order to implement the submission and
4 processing of fingerprints as specified by rule under this
5 section, the office may contract with another state agency
6 that provides fingerprinting services.

7 ~~(5)(4)~~ Each license is valid for the remainder of the
8 biennium in which the license is issued.

9 ~~(6)(5)~~ A person licensed as a correspondent mortgage
10 lender may make mortgage loans, but may not service a mortgage
11 loan for more than 4 months after the date the mortgage loan
12 was made or acquired by the correspondent mortgage lender.

13 ~~(7)(6)~~ A licensee under ss. 494.006-494.0077, or an
14 agent or employee thereof, is deemed to have consented to the
15 venue of courts of competent jurisdiction in this state
16 regarding any matter within the authority of ss.
17 494.001-494.0077 regardless of where an act or violation was
18 committed.

19 ~~(8)(7)~~ A correspondent mortgage lender is subject to
20 the same requirements and restrictions as a licensed mortgage
21 lender unless otherwise provided in this section.

22 ~~(9)(8)~~ A license issued under this section is not
23 transferable or assignable.

24 ~~(10)(9)~~ A correspondent mortgage lender or branch
25 office license may be canceled if it was issued through
26 mistake or inadvertence of the office. A notice of
27 cancellation must be issued by the office within 90 days after
28 the issuance of the license. A notice of cancellation shall be
29 effective upon receipt. The notice of cancellation shall
30 provide the applicant with notification of the right to
31 request a hearing within 21 days after the applicant's receipt

1 of the notice of cancellation. A license shall be reinstated
2 if the applicant can demonstrate that the requirements for
3 obtaining the license pursuant to this chapter have been
4 satisfied.

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

13 (11) Each correspondent lender shall designate a
14 principal representative who exercises control over the
15 business and shall maintain a form prescribed by the
16 commission designating the principal representative. If the
17 form is not accurately maintained, the business is considered
18 to be operated by each officer, director, or equitable owner
19 of a 10-percent or greater interest in the business.

20 (12) ~~After October 1, 2001,~~ An applicant's principal
21 representative must pass a written test prescribed by the
22 commission and administered by the office or a third party
23 approved by the office which test covers primary and
24 subordinate mortgage financing transactions and the provisions
25 of this chapter and rules adopted under this chapter. The
26 commission may waive by rule the examination requirement for
27 any individual who has passed a comparable test offered by a
28 national group of state mortgage regulators or a federal
29 governmental agency which test covers primary and subordinate
30 mortgage financing transactions. The commission may set by
31 rule a fee not to exceed \$100 for taking the examination.

1 Proof that the principal representative has continuously
2 served in this capacity for a licensed entity under this
3 chapter for no less than 1 year immediately prior to this
4 application satisfies this requirement.

5 (13) A correspondent lender shall notify the office of
6 any change in the designation of its principal representative
7 within 30 days. A new principal representative shall satisfy
8 ~~the name and address of any new principal representative and~~
9 ~~shall document that such person has completed~~ the educational
10 and testing requirements of this section within 90 days after
11 being designated as upon the lender's designation of a new
12 principal representative. Proof that the principal
13 representative has continuously served in this capacity for a
14 licensed entity under this chapter for no less than 1 year
15 immediately prior to this notification satisfies this
16 requirement.

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

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

21 (1)

22 (b) A licensee shall also submit, as part of the
23 renewal form, certification that during the preceding 2 years
24 the licensee's principal representative and~~7~~ loan originators~~7~~
25 ~~and associates~~ have completed the professional continuing
26 education requirements of s. 494.00295.

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

29 494.0065 Saving clause.--

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

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

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

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

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

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

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

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

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

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

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

22 | (c) For any transfer application filed after October
23 | 1, 2005:

24 | 1. An applicant must provide proof that the
25 | applicant's principal representative has completed 24 hours of
26 | instruction in primary and subordinate financing transactions
27 | and in the provisions of this chapter and rules adopted under
28 | this chapter. Proof that the principal representative has
29 | continuously served in this capacity for a licensed entity
30 | under this chapter for no less than 1 year immediately prior
31 | to this application satisfies this requirement.

1 2. An applicant's principal representative must pass a
2 written test prescribed by the commission and administered by
3 the office, or must pass an electronic test prescribed by the
4 commission and administered by the office or a third party
5 approved by the office which test covers primary and
6 subordinate mortgage financing transactions and the provisions
7 of this chapter and rules adopted under this chapter. The
8 commission may set by rule a fee not to exceed \$100 for the
9 electronic version of the mortgage broker test. The commission
10 may waive by rule the examination requirement for any
11 individual who has passed a comparable test offered by a
12 national group of state mortgage regulators or a federal
13 governmental agency which test covers primary and subordinate
14 mortgage financing transactions. Proof that the principal
15 representative has continuously served in this capacity for a
16 licensed entity under this chapter for no less than 1 year
17 immediately prior to this application satisfies this
18 requirement.

19 (5) The commission or office may require each
20 applicant for any transfer to provide any information
21 reasonably necessary to make a determination of the
22 applicant's eligibility for licensure. The office shall issue
23 the transfer of licensure to any person who submits the
24 following documentation at least 90 days prior to the
25 anticipated transfer:

- 26 (a) A completed application form.
27 (b) A nonrefundable fee set by rule of the commission
28 in the amount of ~~\$575~~\$500.
29 (c) Audited financial statements that substantiate
30 that the applicant has a bona fide and verifiable net worth,
31 according to United States generally accepted accounting

1 principles, of at least \$25,000, which must be continuously
2 maintained as a condition of licensure.

3 (d) Documentation that the applicant is incorporated,
4 registered, or otherwise formed as a general partnership,
5 limited partnership, limited liability company, or other
6 lawful entity under the laws of this state or another state of
7 the United States.

8
9 An application is considered received for purposes of s.
10 120.60 upon receipt of a completed application form as
11 prescribed by the commission by rule, a nonrefundable
12 application fee of \$575, and any other fee prescribed by law
13 or rule. The commission or office may require by rule that
14 each officer, director, and ultimate equitable owner of a
15 10-percent or greater interest in the applicant submit a
16 complete set of fingerprints. A fingerprint card submitted to
17 the office must be taken by an authorized law enforcement
18 officer if the fingerprint card is submitted to the office in
19 paper form. In addition to the fees prescribed in s. 215.405,
20 the commission may prescribe by rule an additional fee, not to
21 exceed \$30, for processing the fingerprints. The commission
22 may prescribe by rule procedures for submitting fingerprints
23 and fees by electronic means to the office or to a third party
24 approved by the office. In order to implement the submission
25 and processing of fingerprints as specified by rule under this
26 section, the office may contract with another state agency
27 that provides fingerprinting services.

28 (6) Notwithstanding subsection (5), a transfer under
29 subsection (4) may be denied if the applicant, any principal
30 officer or director of the applicant, or any natural person
31 owning a 10-percent or greater interest in the applicant has

1 committed any violation specified in s. 494.0072, or has
2 entered a plea of nolo contendere, regardless of adjudication,
3 or has an action pending against the applicant in any criminal
4 prosecution or administrative enforcement action, in any
5 jurisdiction, which involves fraud, dishonest dealing, or any
6 act of moral turpitude.

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

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

13 (9) Each mortgage lender shall designate a principal
14 representative who exercises control over the business and
15 shall maintain a form prescribed by the commission by rule
16 designating the principal representative. If the form is not
17 accurately maintained, the business is considered to be
18 operated by each officer, director, or equitable owner of a
19 10-percent or greater interest in the business.

20 (10) A lender shall notify the office of any change in
21 the designation of its principal representative within 30
22 days. A new principal agent shall satisfy the educational and
23 testing requirements of this section within 90 days after
24 being designated as new principal representative. Proof that
25 the principal representative has continuously served in this
26 capacity for a licensed entity under this chapter for no less
27 than 1 year immediately prior to this notification satisfies
28 this requirement.

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

31 494.0066 Branch offices.--

1 (2) The office shall issue a branch office license to
2 a licensee licensed under s. 494.0065(1) or a transfer
3 licensee after the office determines that the licensee has
4 submitted ~~upon receipt of~~ a completed branch office
5 application form as prescribed by rule by the commission and
6 an initial nonrefundable branch office license fee of \$325.
7 The branch office application must include the name and
8 license number of the licensee under ss. 494.006-494.0077, the
9 name of the licensee's employee in charge of the branch
10 office, and the address of the branch office. The branch
11 office license shall be issued in the name of the licensee
12 under ss. 494.006-494.0077 and must be renewed in conjunction
13 with the license renewal.

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

16 494.0067 Requirements of licensees under ss.
17 494.006-494.0077.--

18 (10)(a) Each licensee shall require the principal
19 representative and all loan originators ~~or associates~~ who
20 perform services for the licensee to complete 14 hours of
21 professional continuing education during each biennial license
22 period. The education shall cover primary and subordinate
23 mortgage financing transactions and the provisions of this
24 chapter and the rules adopted under this chapter.

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

27 494.0072 Administrative penalties and fines; license
28 violations.--

29 (2) Each of the following acts constitutes a ground
30 for which the disciplinary actions specified in subsection (1)
31 may be taken:

1 (s) Payment to the office for a license or permit with
2 a check or electronic transmission of funds which fails to
3 clear the applicant's or licensee's financial institution.

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

6 494.00721 Net worth.--

7 (2) If a mortgage lender or correspondent mortgage
8 lender fails to satisfy the net worth requirements, the
9 mortgage lender or correspondent mortgage lender shall
10 immediately cease taking any new mortgage loan applications.
11 Thereafter, the mortgage lender or correspondent mortgage
12 lender shall have up to 60 days within which to satisfy the
13 net worth requirements. If the licensee makes the office
14 aware, prior to an examination, that the licensee no longer
15 meets the net worth requirements, the mortgage lender or
16 correspondent mortgage lender shall have 120 days within which
17 to satisfy the net worth requirements. A mortgage lender or
18 correspondent mortgage lender shall not resume acting as a
19 mortgage lender or correspondent mortgage lender without
20 written authorization from the office, which authorization
21 shall be granted if the mortgage lender or correspondent
22 mortgage lender provides the office with documentation which
23 satisfies the requirements of s. 494.0061~~(2)~~~~(1)~~(c), s.
24 494.0062~~(2)~~~~(1)~~(c), or s. 494.0065(2), whichever is applicable.

25 Section 20. Section 516.03, Florida Statutes, is
26 amended to read:

27 516.03 Application for license; fees; etc.--

28 (1) APPLICATION.--Application for a license to make
29 loans under this chapter shall be in the form prescribed by
30 rule of the commission, and shall contain the name, residence
31 and business addresses of the applicant and, if the applicant

1 is a copartnership or association, of every member thereof
2 and, if a corporation, of each officer and director thereof,
3 also the county and municipality with the street and number or
4 approximate location where the business is to be conducted,
5 and such further relevant information as the commission or
6 office may require. At the time of making such application the
7 applicant shall pay to the office a nonrefundable biennial
8 license fee of \$625. Applications, except for applications to
9 renew or reactivate a license, must also be accompanied by a
10 nonrefundable ~~an~~ investigation fee of \$200. An application is
11 considered received for purposes of s. 120.60 upon receipt of
12 a completed application form as prescribed by the commission
13 by rule, a nonrefundable application fee of \$625, and any
14 other fee prescribed by law or rule. The commission may adopt
15 rules to require ~~allow~~ electronic submission of any form,
16 document, or fee required by this act if such rules reasonably
17 accommodate technological or financial hardship. The
18 commission may prescribe by rule requirements and procedures
19 for obtaining an exemption due to a technological or financial
20 hardship.

21 (2) FEES.--Fees herein provided for shall be collected
22 by the office and shall be turned into the State Treasury to
23 the credit of the regulatory trust fund under the office. The
24 office shall have full power to employ such examiners or
25 clerks to assist the office as may from time to time be deemed
26 necessary and fix their compensation. The commission may adopt
27 rules to require ~~allow~~ electronic submission of any fee
28 required by this section if such rules reasonably accommodate
29 technological or financial hardship. The commission may
30 prescribe by rule requirements and procedures for obtaining an
31 exemption due to a technological or financial hardship.

1 Section 21. Subsection (1) of section 516.05, Florida
2 Statutes, is amended to read:

3 516.05 License.--

4 (1) Upon the filing of an application for a license
5 and payment of all applicable fees, the office shall, unless
6 the application is to renew or reactivate an existing license,
7 make an investigation of the facts concerning the applicant's
8 proposed activities. If the office determines that a license
9 should be granted, it shall issue the license for a period not
10 to exceed 2 years. Biennial licensure periods and procedures
11 for renewal of licenses shall be established by the rule of
12 the commission. If the office determines that grounds exist
13 under this chapter for denial of an application other than an
14 application to renew a license, it shall deny such
15 application, ~~return to the applicant the sum paid as a license~~
16 ~~fee, and retain the investigation fee.~~

17 Section 22. Paragraph (p) is added to subsection (1)
18 of section 516.07, Florida Statutes, to read:

19 516.07 Grounds for denial of license or for
20 disciplinary action.--

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

25 (p) Payment to the office for a license or permit with
26 a check or electronic transmission of funds which fails to
27 clear the applicant's or licensee's financial institution.

28 Section 23. Subsection (3) is added to section 516.12,
29 Florida Statutes, to read:

30 516.12 Records to be kept by licensee.--

31

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

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

23 517.051 Exempt securities.--The exemptions provided
24 herein from the registration requirements of s. 517.07 are
25 self-executing and do not require any filing with the office
26 prior to claiming such exemption. Any person who claims
27 entitlement to any of these exemptions bears the burden of
28 proving such entitlement in any proceeding brought under this
29 chapter. The registration provisions of s. 517.07 do not apply
30 to any of the following securities:
31

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

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

24 517.061 Exempt transactions.--The exemption for each
25 transaction listed below is self-executing and does not
26 require any filing with the office prior to claiming such
27 exemption. Any person who claims entitlement to any of the
28 exemptions bears the burden of proving such entitlement in any
29 proceeding brought under this chapter. The registration
30 provisions of s. 517.07 do not apply to any of the following
31

1 transactions; however, such transactions are subject to the
2 provisions of ss. 517.301, 517.311, and 517.312:

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

6 Section 26. Paragraph (g) of subsection (3) of section
7 517.081, Florida Statutes, is amended to read:

8 517.081 Registration procedure.--

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

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

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

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

28 b. An issuer who is subject to any of the
29 disqualifications described in 17 C.F.R. s. 230.262, adopted
30 pursuant to the Securities Act of 1933, or who has been or is
31 engaged or is about to engage in an activity that would be

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

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

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

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

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

20
21 As a condition precedent to qualifying for use of the
22 simplified offering circular, a corporation shall agree to
23 provide the office with an annual financial report containing
24 a balance sheet as of the end of the issuer's fiscal year and
25 a statement of income for such year, prepared in accordance
26 with United States generally accepted accounting principles
27 and accompanied by an independent accountant's report. If the
28 issuer has more than 100 security holders at the end of a
29 fiscal year, the financial statements must be audited. Annual
30 financial reports must be filed with the office within 90 days
31 after the close of the issuer's fiscal year for each of the

1 first 5 years following the effective date of the
2 registration.

3 Section 27. Subsections (7), (10), (11), (15), and
4 (17) of section 517.12, Florida Statutes, are amended to read:

5 517.12 Registration of dealers, associated persons,
6 investment advisers, and branch offices.--

7 (7) The application shall also contain such
8 information as the commission or office may require about the
9 applicant; any partner, officer, or director of the applicant
10 or any person having a similar status or performing similar
11 functions; any person directly or indirectly controlling the
12 applicant; or any employee of a dealer or of an investment
13 adviser rendering investment advisory services. Each
14 applicant shall file a complete set of fingerprints. A
15 fingerprint card submitted to the office must be taken by an
16 authorized law enforcement officer if the fingerprint card is
17 submitted to the office in paper form. In addition to the fees
18 prescribed in s. 215.405, the commission may prescribe by rule
19 an additional fee, not to exceed \$30, for processing the
20 fingerprints. The commission may prescribe by rule procedures
21 for submitting fingerprints and fees by electronic means to
22 the office or to a third party approved by the office. In
23 order to implement the submission and processing of
24 fingerprints as specified by rule under this section, the
25 office may contract with another state agency that provides
26 fingerprint services. Such fingerprints shall be submitted to
27 the Department of Law Enforcement or the Federal Bureau of
28 Investigation for state and federal processing. The
29 commission may waive, by rule, the requirement that applicants
30 must file a set of fingerprints or the requirement that such
31 fingerprints must be processed by the Department of Law

1 Enforcement or the Federal Bureau of Investigation. The
2 commission or office may require information about any such
3 applicant or person concerning such matters as:

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

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

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

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

23 (10) An applicant for registration shall pay an
24 assessment fee of \$200, in the case of a dealer or investment
25 adviser, or \$40, in the case of an associated person. The
26 assessment fee of an associated person shall be reduced to
27 \$30, but only after the office determines, by final order,
28 that sufficient funds have been allocated to the Securities
29 Guaranty Fund pursuant to s. 517.1203 to satisfy all valid
30 claims filed in accordance with s. 517.1203(2) and after all
31 amounts payable under any service contract entered into by the

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

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

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

27 (15) In lieu of filing with the office the
28 applications specified in subsection (6), the fees required by
29 subsection (10), and the termination notices required by
30 subsection (12), the commission may by rule establish
31 procedures for the deposit of such fees and documents with the

1 Central Registration Depository or the Investment Advisor
2 Registration Depository of the National Association of
3 Securities Dealers, Inc., as developed under contract with the
4 North American Securities Administrators Association, Inc.;
5 provided, however, that such procedures shall provide the
6 office with the information and data as required by this
7 section.

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

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

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

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

29 (c) A Canadian dealer may make a notice filing under
30 this subsection if such dealer provides to the office:

31

1 1. A notice filing in the form that the commission by
2 rule requires;

3 2. A consent to service of process;

4 3. Evidence that the Canadian dealer is registered as
5 a dealer in the jurisdiction in which its main office is
6 located; and

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

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

11 (e) A notice filing is effective upon receipt. A
12 notice filing expires on December 31 of the year in which the
13 filing becomes effective unless the Canadian dealer has
14 renewed the filing on or before that date. A Canadian dealer
15 may annually renew a notice filing by furnishing to the office
16 such information as the office requires together with a
17 renewal fee of \$200 and the payment of any amount due and
18 owing the office pursuant to any agreement with the office.

19 Any Canadian dealer who has not renewed a notice filing by the
20 time a current notice filing expires may request reinstatement
21 of such notice filing by filing with the office, on or before
22 January 31 of the year following the year the notice filing
23 expires, such information as the commission requires, by rule,
24 together with the payment of \$200 and a late fee of \$200. Any
25 reinstatement of a notice filing granted by the office during
26 the month of January is effective retroactively to January 1
27 of that year.

28 (f) An associated person who represents a Canadian
29 dealer who has made a notice filing under this subsection is
30 exempt from the registration requirements of this section and
31 may effect transactions in securities in this state as

1 permitted for a dealer under paragraph (a) if such person is
2 registered in the jurisdiction from which he or she is
3 effecting transactions into this state.

4 (g) A Canadian dealer who has made a notice of filing
5 under this subsection shall:

6 1. Maintain its provincial or territorial registration
7 and its membership in a self-regulatory organization or stock
8 exchange in good standing.

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

11 3. Provide the office upon request notice of each
12 civil, criminal, or administrative action initiated against
13 the dealer.

14 4. Disclose to its clients in this state that the
15 dealer and its associated persons are not subject to the full
16 regulatory requirements under this chapter.

17 5. Correct any inaccurate information within 30 days
18 after the information contained in the notice of filing
19 becomes inaccurate for any reason.

20 (h) An associated person representing a Canadian
21 dealer who has made a notice of filing under this subsection
22 shall:

23 1. Maintain provincial or territorial registration in
24 good standing.

25 2. Provide the office upon request with notice of each
26 civil, criminal, or administrative action initiated against
27 such person.

28 (i) A notice filing may be terminated by filing notice
29 of such termination with the office. Unless another date is
30 specified by the Canadian dealer, such notice is effective
31 upon its receipt by the office.

1 (j) All fees collected under this subsection become
2 the revenue of the state, except for those assessments
3 provided for under s. 517.131(1), until the Securities
4 Guaranty Fund has satisfied the statutory limits, and these
5 fees are not returnable if a notice filing is withdrawn. A
6 ~~dealer that is located in Canada and has no office or other~~
7 ~~physical presence in this state may, provided the dealer is~~
8 ~~registered in accordance with this section, effect~~
9 ~~transactions in securities with or for, or induce or attempt~~
10 ~~to induce the purchase or sale of any security by:~~
11 1. ~~A person from Canada who temporarily resides in~~
12 ~~this state and with whom the Canadian dealer had a bona fide~~
13 ~~dealer client relationship before the person entered the~~
14 ~~United States; or~~
15 2. ~~A person from Canada who is a resident of this~~
16 ~~state, and whose transactions are in a self directed tax~~
17 ~~advantage retirement plan in Canada of which the person is the~~
18 ~~holder or contributor.~~
19 ~~(b) An associated person who represents a Canadian~~
20 ~~dealer registered under this section may, provided the agent~~
21 ~~is registered in accordance with this section, effect~~
22 ~~transactions in securities in this state as permitted for a~~
23 ~~dealer, under subsection (a).~~
24 ~~(c) A Canadian dealer may register under this section~~
25 ~~provided that such dealer:~~
26 1. ~~Files an application in the form required by the~~
27 ~~jurisdiction in which the dealer has a head office.~~
28 2. ~~Files a consent to service of process.~~
29 3. ~~Is registered as a dealer in good standing in the~~
30 ~~jurisdiction from which it is effecting transactions into this~~
31 ~~state and files evidence of such registration with the office.~~

1 4. ~~Is a member of a self regulatory organization or~~
2 ~~stock exchange in Canada.~~

3 (d) ~~An associated person who represents a Canadian~~
4 ~~dealer registered under this section in effecting transactions~~
5 ~~in securities in this state may register under this section~~
6 ~~provided that such person:~~

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

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

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

15 (f) ~~A Canadian dealer registered under this section~~
16 ~~shall:~~

17 1. ~~Maintain its provincial or territorial registration~~
18 ~~and its membership in a self regulatory organization or stock~~
19 ~~exchange in good standing.~~

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

22 3. ~~Provide the office notice of each civil, criminal,~~
23 ~~or administrative action initiated against the dealer.~~

24 4. ~~Disclose to its clients in this state that the~~
25 ~~dealer and its agents are not subject to the full regulatory~~
26 ~~requirements under this chapter.~~

27 5. ~~Correct any inaccurate information within 30 days,~~
28 ~~if the information contained in the application form becomes~~
29 ~~inaccurate for any reason before or after the dealer becomes~~
30 ~~registered.~~

31

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

3 ~~1. Maintain provincial or territorial registration in~~
4 ~~good standing.~~

5 ~~2. Provide the office with notice of each civil,~~
6 ~~criminal, or administrative action initiated against such~~
7 ~~person.~~

8 ~~3. Through the dealer, correct any inaccurate~~
9 ~~information within 30 days, if the information contained in~~
10 ~~the application form becomes inaccurate for any reason before~~
11 ~~or after the associated person becomes registered.~~

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

17 Section 28. Paragraphs (b) and (e) of subsection (3)
18 of section 517.131, Florida Statutes, are amended, and
19 subsection (5) is added to that section, to read:

20 517.131 Securities Guaranty Fund.--

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

23 (b) Such person has made all reasonable searches and
24 inquiries to ascertain whether the judgment debtor possesses
25 real or personal property or other assets subject to being
26 sold or applied in satisfaction of the judgment, and by her or
27 his search the person has discovered no property or assets; or
28 she or he has discovered property and assets and has taken all
29 necessary action and proceedings for the application thereof
30 to the judgment, but the amount thereby realized was
31 insufficient to satisfy the judgment. To verify compliance

1 with such condition, the office may require such person to
2 have a writ of execution be issued upon such judgment, ~~and~~ may
3 ~~further~~ require a showing that no personal or real property of
4 the judgment debtor liable to be levied upon in complete
5 satisfaction of the judgment can be found, or may require an
6 affidavit from the claimant setting forth the reasonable
7 searches and inquiries undertaken and the result.

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

21 (5) The commission may by rule specify the procedures
22 for complying with subsections (2), (3), and (4), including
23 rules for the form of submission and guidelines for the
24 sufficiency and content of submissions of notices and claims.

25 Section 29. Subsections (2) and (5) of section
26 517.141, Florida Statutes, are amended, and subsection (11) is
27 added to that section, to read:

28 517.141 Payment from the fund.--

29 (2) Regardless of the number of claims or claimants
30 involved, payments for claims shall be limited in the
31 aggregate to \$100,000 against any one dealer, investment

1 | adviser, or associated person. If the total claims exceed the
2 | aggregate limit of \$100,000, the office shall prorate the
3 | payment based upon the ratio that the person's claim bears to
4 | the total claims filed.

5 | (5) If the final judgment ~~that~~ ~~which~~ gave rise to the
6 | claim is overturned in any appeal or in any collateral
7 | proceeding, the claimant shall reimburse the fund all amounts
8 | paid from the fund to the claimant on the claim. If the
9 | claimant satisfies the judgment referred to in s.
10 | 517.131(3)(a), the claimant shall reimburse the fund all
11 | amounts paid from the fund to the claimant on the claim. Such
12 | reimbursement shall be paid to the office within 60 days after
13 | the final resolution of the appellate or collateral
14 | proceedings or the satisfaction of judgment, with the 60-day
15 | period commencing on the date the final order or decision is
16 | entered in such proceedings.

17 | (11) The commission may by rule specify the procedures
18 | for complying with this section, including rules for the form
19 | of submission and guidelines for the sufficiency and content
20 | of submissions of notices and claims.

21 | Section 30. Subsection (1) of section 517.161, Florida
22 | Statutes, is amended to read:

23 | 517.161 Revocation, denial, or suspension of
24 | registration of dealer, investment adviser, associated person,
25 | or branch office.--

26 | (1) Registration under s. 517.12 may be denied or any
27 | registration granted may be revoked, restricted, or suspended
28 | by the office if the office determines that such applicant or
29 | registrant:

30 | (a) Has violated any provision of this chapter or any
31 | rule or order made under this chapter;

1 (b) Has made a material false statement in the
2 application for registration;

3 (c) Has been guilty of a fraudulent act in connection
4 with rendering investment advice or in connection with any
5 sale of securities, has been or is engaged or is about to
6 engage in making fictitious or pretended sales or purchases of
7 any such securities or in any practice involving the rendering
8 of investment advice or the sale of securities which is
9 fraudulent or in violation of the law;

10 (d) Has made a misrepresentation or false statement
11 to, or concealed any essential or material fact from, any
12 person in the rendering of investment advice or the sale of a
13 security to such person;

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

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

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

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

25 (i) Has exercised management or policy control over or
26 owned 10 percent or more of the securities of any dealer or
27 investment adviser that has been declared bankrupt, or had a
28 trustee appointed under the Securities Investor Protection
29 Act; or is, in the case of a dealer or investment adviser,
30 insolvent;

31

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

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

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

13 (m) Has been the subject of any decision, finding,
14 injunction, suspension, prohibition, revocation, denial,
15 judgment, or administrative order by any court of competent
16 jurisdiction, administrative law judge, or by any state or
17 federal agency, national securities, commodities, or option
18 exchange, or national securities, commodities, or option
19 association, involving a violation of any federal or state
20 securities or commodities law or any rule or regulation
21 promulgated thereunder, or any rule or regulation of any
22 national securities, commodities, or options exchange or
23 national securities, commodities, or options association, or
24 has been the subject of any injunction or adverse
25 administrative order by a state or federal agency regulating
26 banking, insurance, finance or small loan companies, real
27 estate, mortgage brokers, or other related or similar
28 industries. For purposes of this subsection, the office may
29 not deny registration to any applicant who has been
30 continuously registered with the office for 5 years from the
31 entry of such decision, finding, injunction, suspension,

1 prohibition, revocation, denial, judgment, or administrative
2 order provided such decision, finding, injunction, suspension,
3 prohibition, revocation, denial, judgment, or administrative
4 order has been timely reported to the office pursuant to the
5 commission's rules; ~~or-~~

6 (n) Made payment to the office for a license or permit
7 with a check or electronic transmission of funds which fails
8 to clear the applicant's or registrant's financial
9 institution.

10 Section 31. Subsections (2) and (3) of section 520.03,
11 Florida Statutes, are amended to read:

12 520.03 Licenses.--

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

26 (3) The nonrefundable renewal fee for a motor vehicle
27 retail installment seller license shall be \$175. The
28 commission shall establish by rule biennial licensure periods
29 and procedures for renewal of licenses. A license that is not
30 renewed by the end of the biennium established by the
31 commission shall revert from active to inactive status. An

1 | inactive license may be reactivated within 6 months after
2 | becoming inactive upon filing a completed reactivation form,
3 | payment of the nonrefundable renewal fee, and payment of a
4 | nonrefundable reactivation fee equal to the renewal fee. A
5 | license that is not reactivated within 6 months after becoming
6 | inactive automatically expires.

7 | Section 32. Subsections (2) and (3) of section 520.32,
8 | Florida Statutes, are amended to read:

9 | 520.32 Licenses.--

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

22 | (3) The nonrefundable renewal fee for a retail seller
23 | license shall be \$175. Biennial licensure periods and
24 | procedures for renewal of licenses may also be established by
25 | the commission by rule. A license that is not renewed at the
26 | end of the biennium established by the commission shall revert
27 | from active to inactive status. An inactive license may be
28 | reactivated within 6 months after becoming inactive upon
29 | filing a completed reactivation form, payment of the
30 | nonrefundable renewal fee, and payment of a reactivation fee
31 | equal to the nonrefundable renewal fee. A license that is not

1 reactivated within 6 months after becoming inactive
2 automatically expires.

3 Section 33. Subsections (2) and (3) of section 520.52,
4 Florida Statutes, are amended to read:

5 520.52 Licensees.--

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

18 (3) The nonrefundable renewal fee for a sales finance
19 company license shall be \$175. Biennial licensure periods and
20 procedures for renewal of licenses may also be established by
21 the commission by rule. A license that is not renewed at the
22 end of the biennium established by the commission shall revert
23 from active to inactive status. An inactive license may be
24 reactivated within 6 months after becoming inactive upon
25 filing a completed reactivation form, payment of the
26 nonrefundable renewal fee, and payment of a reactivation fee
27 equal to the nonrefundable renewal fee. A license that is not
28 reactivated within 6 months after becoming inactive
29 automatically expires.

30 Section 34. Subsections (2) and (3) of section 520.63,
31 Florida Statutes, are amended to read:

1 520.63 Licensees.--

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

14 (3) The nonrefundable renewal fee for a home
15 improvement finance license shall be \$175. Biennial licensure
16 periods and procedures for renewal of licenses may also be
17 established by the commission by rule. A license that is not
18 renewed at the end of the biennium established by the
19 commission shall automatically revert from active to inactive
20 status. An inactive license may be reactivated within 6 months
21 after becoming inactive upon filing a completed reactivation
22 form, payment of the nonrefundable renewal fee, and payment of
23 a nonrefundable reactivation fee equal to the renewal fee. A
24 license that is not reactivated within 6 months after becoming
25 inactive automatically expires.

26 Section 35. Subsection (5) of section 520.994, Florida
27 Statutes, is amended to read:

28 520.994 Powers of office.--

29 (5) The office shall administer and enforce this
30 chapter. The commission has authority to adopt rules pursuant
31 to ss. 120.536(1) and 120.54 to implement the provisions of

1 | this chapter. The commission may adopt rules to require allow
2 | electronic submission of any form, document, or fee required
3 | by this chapter if such rules reasonably accommodate
4 | technological or financial hardship. The commission may
5 | prescribe by rule requirements and procedures for obtaining an
6 | exemption due to a technological or financial hardship.

7 | Section 36. Paragraph (k) is added to subsection (1)
8 | of section 520.995, Florida Statutes, to read:

9 | 520.995 Grounds for disciplinary action.--

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

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

16 | Section 37. Subsection (4) of section 520.997, Florida
17 | Statutes, is amended to read:

18 | 520.997 Books, accounts, and records.--

19 | (4) The commission may prescribe by rule the minimum
20 | information to be shown in the books, accounts, documents, and
21 | records of licensees so that such records will enable the
22 | office to determine compliance with ~~the provisions of~~ this
23 | chapter. In addition, the commission may prescribe by rule the
24 | requirements for destruction of books, accounts, records, and
25 | documents retained by the licensee after completion of the
26 | time period specified in subsection (3). Notwithstanding the
27 | 2-year retention period specified in subsection (3), if the
28 | office identifies a statute of limitations in another civil or
29 | criminal state or federal law or rule which statute of
30 | limitations is reasonably related by subject matter to the
31 | administration of this chapter, the commission may identify

1 that statute of limitations by rule and may prohibit the
2 destruction of records required to be maintained by this
3 chapter for a period of time, established by rule, which is
4 reasonably related to such statute of limitations. The
5 commission shall prescribe by rule those documents or records
6 that are to be preserved under the identified statute of
7 limitations.

8 Section 38. Subsection (5) of section 537.009, Florida
9 Statutes, is amended to read:

10 537.009 Recordkeeping; reporting; safekeeping of
11 property.--

12 (5) The commission may prescribe by rule the books,
13 accounts, documents, and records, and the minimum information
14 to be shown in the books, accounts, documents, and records, of
15 licensees so that such records will enable the office to
16 determine compliance with the provisions of this act. In
17 addition, the commission may prescribe by rule the
18 requirements for destruction of books, accounts, records, and
19 documents retained by the licensee after completion of the
20 time period specified in subsection (3). Notwithstanding the
21 2-year retention period specified in subsection (3), if the
22 office identifies a statute of limitations in another civil or
23 criminal state or federal law or rule which statute of
24 limitations is reasonably related by subject matter to the
25 administration of this chapter, the commission may identify
26 that statute of limitations by rule and may prohibit the
27 destruction of records required to be maintained by this
28 chapter for a period of time, established by rule, which is
29 reasonably related to such statute of limitations. The
30 commission shall prescribe by rule those documents or records
31

1 that are to be preserved under the identified statute of
2 limitations.

3 Section 39. Subsection (3) is added to section
4 560.105, Florida Statutes, to read:

5 560.105 Supervisory powers; rulemaking.--

6 (3) The commission may adopt rules that require
7 electronic submission of any forms, documents, or fees
8 required by this act if such rules reasonably accommodate
9 technological or financial hardship. The commission may
10 prescribe by rule requirements and procedures for obtaining an
11 exemption due to a technological or financial hardship.

12 Section 40. Paragraph (y) is added to subsection (1)
13 of section 560.114, Florida Statutes, to read:

14 560.114 Disciplinary actions.--

15 (1) The following actions by a money transmitter or
16 money transmitter-affiliated party are violations of the code
17 and constitute grounds for the issuance of a cease and desist
18 order, the issuance of a removal order, the denial of a
19 registration application or the suspension or revocation of
20 any registration previously issued pursuant to the code, or
21 the taking of any other action within the authority of the
22 office pursuant to the code:

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

26 Section 41. Paragraph (b) of subsection (2) of section
27 560.118, Florida Statutes, is amended to read:

28 560.118 Examinations, reports, and internal audits;
29 penalty.--

30 (2)

31

1 (b) The commission may, by rule, require each money
2 transmitter or authorized vendor to submit quarterly reports
3 to the office. The commission may adopt rules that require
4 electronic submission of any forms, documents, or fees
5 required by this act if such rules reasonably accommodate
6 technological or financial hardship. The commission may
7 prescribe by rule requirements and procedures for obtaining an
8 exemption due to a technological or financial hardship. The
9 commission may require that each report contain a declaration
10 by an officer, or any other responsible person authorized to
11 make such declaration, that the report is true and correct to
12 the best of her or his knowledge and belief. Such report must
13 include such information as the commission by rule requires
14 for that type of money transmitter.

15 Section 42. Subsection (2) of section 560.121, Florida
16 Statutes, is amended to read:

17 560.121 Records; limited restrictions upon public
18 access.--

19 (2) The commission may prescribe by rule the minimum
20 information that must be shown in the books, accounts,
21 records, and documents of licensees for purposes of enabling
22 the office to determine the licensee's compliance with ss.
23 560.101-560.408. In addition, the commission may prescribe by
24 rule the requirements for destruction of books, accounts,
25 records, and documents retained by the licensee after
26 completion of the time period specified in this subsection.
27 Notwithstanding the 3-year retention period specified in this
28 subsection, if the office identifies a statute of limitations
29 in another civil or criminal state or federal law or rule
30 which statute of limitations is reasonably related by subject
31 matter to the administration of this chapter, the commission

1 may identify that statute of limitations by rule and may
2 prohibit the destruction of records required to be maintained
3 by this chapter for a period of time, established by rule,
4 which is reasonably related to such statute of limitations.
5 The commission shall prescribe by rule those documents or
6 records that are to be preserved under the identified statute
7 of limitations. Examination reports, investigatory records,
8 applications, and related information compiled by the office,
9 or photographic copies thereof, shall be retained by the
10 office for a period of at least 3 years following the date
11 that the examination or investigation ceases to be active.
12 Application records, and related information compiled by the
13 office, or photographic copies thereof, shall be retained by
14 the office for a period of at least 2 years following the date
15 that the registration ceases to be active.

16 Section 43. Section 560.126, Florida Statutes, is
17 amended to read:

18 560.126 Significant events; notice required.--

19 (1) Unless exempted by the office, every money
20 transmitter must provide the office with a written notice
21 within 30 ~~15~~ days after the occurrence or knowledge of,
22 whichever period of time is greater, any of the following
23 events:

24 (a)(1) The filing of a petition under the United
25 States Bankruptcy Code for bankruptcy or reorganization by the
26 money transmitter.

27 (b)(2) The commencement of any registration suspension
28 or revocation proceeding, either administrative or judicial,
29 or the denial of any original registration request or a
30 registration renewal, by any state, the District of Columbia,
31 any United States territory, or any foreign country, in which

1 | the money transmitter operates or plans to operate or has
2 | registered to operate.

3 | ~~(c)(3)~~ A felony indictment relating to the money
4 | transmission business involving the money transmitter or a
5 | money transmitter-affiliated party of the money transmitter.

6 | ~~(d)(4)~~ The felony conviction, guilty plea, or plea of
7 | nolo contendere, if the court adjudicates the nolo contendere
8 | pleader guilty, or the adjudication of guilt of a money
9 | transmitter or money transmitter-affiliated party.

10 | ~~(e)(5)~~ The interruption of any corporate surety bond
11 | required by the code.

12 | ~~(f)(6)~~ Any suspected criminal act, as defined by the
13 | commission by rule, perpetrated in this state against a money
14 | transmitter or authorized vendor.

15 |
16 | However, ~~a person does not incur liability~~ ~~no liability shall~~
17 | ~~be incurred by any person~~ as a result of making a good-faith
18 | ~~good faith~~ effort to fulfill this disclosure requirement.

19 | (2) If the information contained in any registration
20 | application or any amendment thereto has changed, the
21 | registrant shall, within 30 days after the change occurs, file
22 | an amendment correcting the information on forms prescribed by
23 | the commission.

24 | Section 44. Section 560.205, Florida Statutes, is
25 | amended to read:

26 | 560.205 Qualifications of applicant for registration;
27 | contents.--

28 | (1) To qualify for registration under this part, an
29 | applicant must demonstrate to the office such character and
30 | general fitness as to command the confidence of the public and
31 | warrant the belief that the registered business will be

1 | operated lawfully and fairly. The office may investigate each
2 | applicant to ascertain whether the qualifications and
3 | requirements prescribed by this part have been met. The
4 | office's investigation may include a criminal background
5 | investigation of all controlling shareholders, principals,
6 | officers, directors, members, and responsible persons of a
7 | funds transmitter and a payment instrument seller and all
8 | persons designated by a funds transmitter or payment
9 | instrument seller as an authorized vendor. Each controlling
10 | shareholder, principal, officer, director, member, and
11 | responsible person of a funds transmitter or payment
12 | instrument seller, unless the applicant is a publicly traded
13 | corporation as defined by the commission by rule, a subsidiary
14 | thereof, or a subsidiary of a bank or bank holding company
15 | organized and regulated under the laws of any state or the
16 | United States, shall file a complete set of fingerprints. A
17 | fingerprint card submitted to the office must be taken by an
18 | authorized law enforcement officer if the fingerprint card is
19 | submitted to the office in paper form. In addition to the fees
20 | prescribed in s. 215.405, the commission may prescribe by rule
21 | an additional fee, not to exceed \$30, for processing the
22 | fingerprints. The commission may prescribe by rule procedures
23 | for submitting fingerprints and fees by electronic means to
24 | the office or to a third party approved by the office. In
25 | order to implement the submission and processing of
26 | fingerprints as specified by rule under this section, the
27 | office may contract with another state agency that provides
28 | fingerprinting services. Such fingerprints must be submitted
29 | to the Department of Law Enforcement or the Federal Bureau of
30 | Investigation for state and federal processing. The commission
31 | may waive by rule the requirement that applicants file a set

1 of fingerprints or the requirement that such fingerprints be
2 processed by the Department of Law Enforcement or the Federal
3 Bureau of Investigation.

4 (2) Each application for registration must be
5 submitted under oath to the office on such forms as the
6 commission prescribes by rule and must be accompanied by a
7 nonrefundable application fee. The commission may establish by
8 rule procedures for depositing fees and filing documents by
9 electronic means. Such fee may not exceed \$500 for each
10 payment instrument seller or funds transmitter and \$50 for
11 each authorized vendor or location operating within this
12 state. The application must contain ~~forms shall set forth~~ such
13 information as the commission ~~reasonably~~ requires by rule,
14 including, but not limited to:

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

18 (b) The history of the applicant's material
19 litigation, criminal convictions, pleas of nolo contendere,
20 and cases of adjudication withheld.

21 (c) A description of the activities conducted by the
22 applicant, the applicant's history of operations, and the
23 business activities in which the applicant seeks to engage in
24 this state.

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

29 ~~(d)(e)~~ (e) A sample authorized vendor contract, if
30 applicable.

31

1 ~~(e)(f)~~ A sample form of payment instrument, if
2 applicable.

3 ~~(f)(g)~~ The name and address of the clearing financial
4 institution or financial institutions through which the
5 applicant's payment instruments will be drawn or through which
6 such payment instruments will be payable.

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

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

14 (a) The date of the applicant's incorporation and
15 state of incorporation.

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

18 (c) A description of the corporate structure of the
19 applicant, including the identity of any parent or subsidiary
20 of the applicant, and the disclosure of whether any parent or
21 subsidiary is publicly traded on any stock exchange.

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

27 (e) The history of material litigation and criminal
28 convictions, pleas of nolo contendere, and cases of
29 adjudication withheld for each ~~executive~~ officer, each
30 director, each controlling shareholder, and the responsible
31

1 person who will be in charge of the applicant's registered
2 activities.

3 (f) Copies of the applicant's audited financial
4 statements for the current year and, if available, for the
5 immediately preceding 2-year period. In cases where the
6 applicant is a wholly owned subsidiary of another corporation,
7 the parent's consolidated audited financial statements may be
8 submitted to satisfy this requirement. An applicant who is not
9 required to file audited financial statements may satisfy this
10 requirement by filing unaudited financial statements verified
11 under penalty of perjury, as provided by the commission by
12 rule.

13 (g) An applicant who is not required to file audited
14 financial statements may file copies of the applicant's
15 unconsolidated, unaudited financial statements for the current
16 year and, if available, for the immediately preceding 2-year
17 period.

18 (h) If the applicant is a publicly traded company,
19 copies of all filings made by the applicant with the United
20 States Securities and Exchange Commission, or with a similar
21 regulator in a country other than the United States, within
22 the year preceding the date of filing of the application.

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

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

29 (b) The name, business and residence addresses,
30 personal financial statement, and employment history for the
31 past 5 years for each individual having a controlling

1 ownership interest in the applicant, and each responsible
2 person who will be in charge of the applicant's registered
3 activities.

4 (c) The history of material litigation and criminal
5 convictions, pleas of nolo contendere, and cases of
6 adjudication withheld for each individual having a controlling
7 ownership interest in the applicant and each responsible
8 person who will be in charge of the applicant's registered
9 activities.

10 (d) Copies of the applicant's audited financial
11 statements for the current year, and, if available, for the
12 preceding 2 years. An applicant who is not required to file
13 audited financial statements may satisfy this requirement by
14 filing unaudited financial statements verified under penalty
15 of perjury, as provided by the commission by rule.

16 (6) Changes in registration occasioned by changes in
17 personnel of a partnership or in the principals, members,
18 copartners, officers, directors, controlling shareholders, or
19 responsible persons of a money transmitter or by changes of
20 any material fact or method of doing business shall be
21 reported by written amendment in such form and at such time as
22 the commission specifies by rule.

23 Section 45. Section 560.207, Florida Statutes, is
24 amended to read:

25 560.207 Renewal of registration; registration fee.--

26 (1) Registration may be renewed for a 24-month period
27 or the remainder of any such period without proration
28 following the date of its expiration by furnishing such
29 information as the commission requires by rule, together with
30 the payment of the fees required under subsections (2), (3),
31 and (4), upon the filing with the office of an application and

1 ~~other statements and documents as may reasonably be required~~
2 ~~of registrants by the commission. The commission may establish~~
3 ~~by rule procedures for depositing fees and filing documents by~~
4 ~~electronic means. However, the registrant must remain~~
5 ~~qualified for such registration under the provisions of this~~
6 ~~part.~~

7 (2) Each application for renewal of All registration
8 ~~must renewal applications shall~~ be accompanied by a
9 nonrefundable renewal fee not to exceed \$1,000. A registration
10 expires on April 30 of the year in which the existing
11 registration expires, unless the registrant has renewed its
12 registration on or before that date. All renewal applications
13 ~~must be filed on or after January 1 of the year in which the~~
14 ~~existing registration expires, but before the expiration date~~
15 ~~of April 30. If the renewal application is filed prior to the~~
16 ~~expiration date of an existing registration, no late fee shall~~
17 ~~be paid in connection with such renewal application. If the~~
18 ~~renewal application is filed within 60 calendar days after the~~
19 ~~expiration date of an existing registration, then, in addition~~
20 ~~to the \$1,000 renewal fee, the renewal application shall be~~
21 ~~accompanied by a nonrefundable late fee of \$500. If the~~
22 ~~registrant has not filed a renewal application within 60~~
23 ~~calendar days after the expiration date of an existing~~
24 ~~registration, a new application shall be filed with the office~~
25 ~~pursuant to s. 560.205.~~

26 (3) In addition to the renewal fee required under
27 subsection (2), each registrant must pay ~~Every~~ registration
28 ~~renewal application shall also include~~ a 2-year nonrefundable
29 registration renewal fee of \$50 for each authorized vendor or
30 location operating within this state or, at the option of the
31 registrant, a total 2-year nonrefundable renewal fee of

1 \$20,000 may be paid to renew the registration of all such
2 locations currently registered at the time of renewal.

3 (4) A registration may be reinstated only if the
4 renewal fee and a nonrefundable late fee of \$500 are filed
5 within 60 calendar days after the expiration of the existing
6 registration. The office must grant a reinstatement of
7 registration for which application is filed during the 60
8 calendar days, and the reinstatement is effective upon receipt
9 of the required fees and any information that the commission
10 requires by rule. If the registrant has not filed application
11 for reinstatement of the registration within the 60 calendar
12 days after the expiration of an existing registration, the
13 registration expires, and a new application must be filed with
14 the office pursuant to s. 560.205.

15 Section 46. Subsection (1) of section 560.210, Florida
16 Statutes, is amended to read:

17 560.210 Permissible investments.--

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

25 Section 47. Subsection (2) of section 560.211, Florida
26 Statutes, is amended to read:

27 560.211 Records.--

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

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

5 Section 48. Section 560.305, Florida Statutes, is
6 amended to read:

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

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

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

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

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

31

1 Section 49. Subsections (1) and (4) of section
2 560.306, Florida Statutes, are amended, and subsection (6) is
3 added to that section, to read:

4 560.306 Standards.--

5 (1) In order to qualify for registration under this
6 part, an applicant must demonstrate to the office that he or
7 she has such character and general fitness as will command the
8 confidence of the public and warrant the belief that the
9 registered business will be operated lawfully and fairly. The
10 office may investigate each applicant to ascertain whether the
11 qualifications and requirements prescribed by this part have
12 been met. The office's investigation may include a criminal
13 background investigation of all controlling shareholders,
14 principals, officers, directors, members, and responsible
15 persons of a check casher and a foreign currency exchanger and
16 all persons designated by a foreign currency exchanger or
17 check casher as an authorized vendor. Each controlling
18 shareholder, principal, officer, director, member, and
19 responsible person of a check casher or foreign currency
20 exchanger, unless the applicant is a publicly traded
21 corporation as defined by the commission by rule ~~if the~~
22 ~~fingerprint card is submitted to the office in paper form as~~
23 ~~defined by the commission by rule~~, a subsidiary thereof, or a
24 subsidiary of a bank or bank holding company organized and
25 regulated under the laws of any state or the United States,
26 shall file a complete set of fingerprints. A fingerprint card
27 submitted to the office must be taken by an authorized law
28 enforcement officer if the fingerprint card is submitted to
29 the office in paper form. In addition to the fees prescribed
30 in s. 215.405, the commission may prescribe by rule an
31 additional fee, not to exceed \$30, for processing the

1 fingerprints. The commission may prescribe by rule procedures
2 for submitting fingerprints and fees by electronic means to
3 the office or to a third party approved by the office. In
4 order to implement the submission and processing of
5 fingerprints as specified by rule under this section, the
6 office may contract with another state agency that provides
7 fingerprinting services. Such fingerprints must be submitted
8 to the Department of Law Enforcement or the Federal Bureau of
9 Investigation for state and federal processing. The commission
10 may waive by rule the requirement that applicants file a set
11 of fingerprints or the requirement that such fingerprints be
12 processed by the Department of Law Enforcement or the Federal
13 Bureau of Investigation.

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

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

1 Section 50. Section 560.308, Florida Statutes, is
2 amended to read:

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

4 (1) Registration may be renewed for a 24-month period
5 or the remainder of any such period without proration
6 following the date of its expiration, by furnishing such
7 information as the commission requires by rule, together with
8 the payment of the fees required under subsections (2), (3),
9 and (4). The commission may establish by rule procedures for
10 depositing fees and filing documents by electronic means.
11 ~~Registration pursuant to this part shall remain effective~~
12 ~~through the remainder of the second calendar year following~~
13 ~~its date of issuance unless during such calendar year the~~
14 ~~registration is surrendered, suspended, or revoked.~~

15 (2) Each application for renewal of registration must
16 be accompanied by ~~The office shall renew registration upon~~
17 ~~receipt of a completed renewal form and payment of a~~
18 ~~nonrefundable renewal fee not to exceed \$500. The registration~~
19 ~~expires on December 30 of the year in which the existing~~
20 ~~registration expires, unless the registrant has renewed its~~
21 ~~registration on or before that date. The completed renewal~~
22 ~~form and payment of the renewal fee shall occur on or after~~
23 ~~June 1 of the year in which the existing registration expires.~~

24 (3) In addition to the renewal fee required by
25 subsection (2), each registrant must pay a 2-year
26 nonrefundable registration renewal fee of \$50 for each
27 authorized vendor or location operating within this state or,
28 at the option of the registrant, a total 2-year nonrefundable
29 renewal fee of \$20,000 may be paid to renew the registration
30 of all such locations currently registered at the time of
31 renewal.

1 (4) ~~Registration that is not renewed on or before the~~
2 ~~expiration date of the registration period automatically~~
3 ~~expires.~~ A renewal ~~application and fee,~~ and a nonrefundable
4 late fee of \$250~~7~~ must be filed within 60 calendar days after
5 the expiration of an existing registration in order for the
6 registration to be reinstated. The office must grant a
7 reinstatement of registration for which application is filed
8 during the 60 calendar days, and the reinstatement is
9 effective upon receipt of the required fees and any
10 information that the commission requires by rule. If the
11 registrant has not filed an a renewal application for
12 reinstatement within 60 calendar days after the expiration
13 date of an existing registration, the registration expires and
14 a new application must be filed with the office pursuant to s.
15 560.307.

16 Section 51. Subsection (2) of section 560.310, Florida
17 Statutes, is amended to read:

18 560.310 Records of check cashers and foreign currency
19 exchangers.--

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

28 Section 52. Subsections (2) and (4) of section
29 560.403, Florida Statutes, are amended to read:

30 560.403 Requirements of registration; declaration of
31 intent.--

1 (2) A registrant under this part shall renew his or
2 her intent to engage in the business of deferred presentment
3 transactions or to act as a deferred presentment provider upon
4 renewing his or her registration under part II or part III and
5 shall do so by indicating his or her intent ~~on the renewal~~
6 ~~form and~~ by submitting a nonrefundable deferred presentment
7 provider renewal fee of \$1,000, in addition to any fees
8 required for renewal of registration under part II or part
9 III.

10 (4) The notice of intent of a registrant under this
11 part who fails to timely renew his or her intent to engage in
12 the business of deferred presentment transactions or to act as
13 a deferred presentment provider on or before the expiration
14 date of the registration period automatically expires. A
15 renewal ~~declaration of intent and fee,~~ and a nonrefundable
16 late fee of \$500~~,~~ must be filed within 60 calendar days after
17 the expiration of an existing registration in order for the
18 declaration of intent to be reinstated. The office must grant
19 a reinstatement of a notice of intent for which application is
20 filed during the 60 calendar days, and the reinstatement is
21 effective upon receipt of the required fees and any
22 information that the commission requires by rule. If the
23 registrant has not filed a reinstatement of a renewal
24 declaration of intent within 60 calendar days after the
25 expiration date of an existing registration, the notice of
26 intent expires and a new declaration of intent must be filed
27 with the office.

28 Section 53. Section 626.565, Florida Statutes, is
29 created to read:

30 626.565 Disposition of records.--
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1 (1) An agent or other licensee of the department or
2 office shall provide for the prudent disposition of records
3 containing personal financial or health information regarding
4 a consumer, policyholder, applicant, or insured after any
5 applicable retention requirement has been met. Disposition
6 must be by a method that protects the confidentiality of any
7 of the personal financial or health information. Each
8 appointing entity shall comply with this requirement by the
9 licensee in any appointment or representation agreement
10 between the appointing entity and the licensee.

11 (2) The department or commission may adopt rules
12 governing the disposition of records of personal financial or
13 health information of a consumer, policyholder, applicant, or
14 insured by agents and other licensees. The rules must be
15 designed to protect the confidential and sensitive nature of
16 the information and to avoid identity theft.

17 Section 54. This act shall take effect October 1,
18 2005.

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SENATE SUMMARY

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3 Amends provisions relating to banking regulation,
4 including mortgage brokerage and mortgage lending,
5 consumer finance, securities transactions, retail
6 installment sales, title loans, the money transmitters'
7 code, and insurance field representatives and operations.
8 Revises certain requirements for licensure; continuing
9 education; the required content of certain licensees'
10 books, accounts, records, and documents; standards for
11 accounting principles; and the destruction of documents.
12 Provides additional grounds for the revocation,
13 restriction, or suspension of certain licenses or
14 registrations. Allows the Financial Services Commission
15 to require that certain forms, documents, or fees be
16 submitted electronically. Authorizes the commission to
17 prescribe specified fees, e.g., for processing
18 fingerprints and for testing. Requires the licensure of
19 correspondent mortgage lenders. Requires mortgage lenders
20 to designate a principal representative. Revises
21 conditions under which recovery can be made from the
22 Securities Guaranty Fund. Prescribes circumstances in
23 which a claimant must reimburse the fund. Imposes
24 requirements on the Department of Insurance for the
25 disposition of information relating to personal finances
26 or health. Specifies related rulemaking powers of the
27 commission and the Department of Insurance.
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