

By Senator Atwater

25-1333A-06

1                                   A bill to be entitled  
2           An act relating to financial entities and  
3           transactions; amending s. 494.001, F.S.;  
4           defining the term "control person" for purposes  
5           of provisions governing mortgage brokerage and  
6           mortgage lending; amending s. 494.0011, F.S.;  
7           authorizing the Financial Services Commission  
8           to require electronic submission of forms,  
9           documents, or fees; providing for accommodating  
10          a technological or financial hardship;  
11          authorizing the commission to adopt rules  
12          governing such an accommodation; requiring that  
13          the commission grant or deny a license in  
14          accordance with ch. 120, F.S.; amending s.  
15          494.0016, F.S.; authorizing the commission to  
16          prescribe requirements for destroying books,  
17          accounts, records, and documents; amending s.  
18          494.0029, F.S.; requiring that certain persons  
19          who offer or conduct mortgage business training  
20          obtain a permit from the commission;  
21          authorizing the commission to require certain  
22          information from applicants seeking such a  
23          permit; specifying criteria for receipt of  
24          certain applications; specifying that certain  
25          permits are not transferable or assignable;  
26          requiring mortgage business schools to notify  
27          the Office of Financial Regulation of changes  
28          in information contained in the initial  
29          application or any amendments thereto;  
30          providing for expiration and recertification of  
31          permits; authorizing permit fees; requiring

1 | that curriculum, training, and training  
2 | materials be available for inspection;  
3 | requiring permitted persons providing mortgage  
4 | business training to electronically notify the  
5 | office of certain information; requiring that  
6 | the commission adopt rules for administering  
7 | notification requirements; amending s.  
8 | 494.00295, F.S.; revising provisions that  
9 | require continuing education for certain  
10 | professions; providing for a waiver of the  
11 | requirement for continuing education under  
12 | certain circumstances; amending s. 494.003,  
13 | F.S.; clarifying the entities that are exempt  
14 | from certain requirements for obtaining a  
15 | mortgage broker licensure; amending s.  
16 | 494.0031, F.S.; requiring licensure of mortgage  
17 | brokerage businesses; authorizing the  
18 | commission to adopt application forms;  
19 | authorizing the commission or the office to  
20 | require specified information from applicants;  
21 | specifying criteria for receipt of  
22 | applications; revising certain fingerprinting  
23 | requirements; prescribing procedures for  
24 | processing fingerprints; specifying that  
25 | certain licenses are not transferable or  
26 | assignable; authorizing the commission to  
27 | require an applicant to provide information  
28 | concerning certain persons; revising the  
29 | grounds on which a license may be denied;  
30 | deleting certain provisions relating to  
31 | cancellation and reinstatement of licenses;

1 amending s. 494.0032, F.S.; requiring that the  
2 license for a branch office be renewed in  
3 conjunction with a mortgage brokerage business  
4 license; authorizing the commission to adopt  
5 certain renewal forms by rule; amending s.  
6 494.0033, F.S.; clarifying the requirements for  
7 obtaining a license as a mortgage broker;  
8 authorizing the commission to adopt certain  
9 application forms by rule; authorizing the  
10 commission to prescribe additional testing  
11 fees; authorizing the commission to waive  
12 certain examination requirements under  
13 specified circumstances; specifying criteria  
14 for receipt of applications; revising  
15 fingerprinting requirements; prescribing  
16 procedures for processing fingerprints;  
17 authorizing the commission to adopt rules to  
18 require certain information from applicants;  
19 deleting provisions relating to cancellation  
20 and reinstatement of licenses; amending s.  
21 494.0034, F.S.; clarifying the commission's  
22 authorization to prescribe license renewal  
23 forms for a mortgage broker's license;  
24 authorizing the commission to adopt certain  
25 renewal forms by rule; amending s. 494.0036,  
26 F.S.; clarifying provisions governing the  
27 issuance of licenses to branch offices of a  
28 mortgage brokerage business; authorizing the  
29 commission to adopt certain application forms  
30 by rule; specifying criteria for receipt of  
31 certain applications; deleting a requirement

1 for displaying licenses; amending s. 494.0039,  
2 F.S.; deleting a requirement for a mortgage  
3 brokerage business to report a change of  
4 address; deleting a requirement for displaying  
5 licenses; amending s. 494.004, F.S.; conforming  
6 cross-references; requiring licensees to report  
7 changes in information contained in the initial  
8 application or any amendments thereto;  
9 requiring licensees to report changes in  
10 persons associated with the licensee and  
11 changes in the licensee's form of business  
12 organization; requiring the submission of an  
13 initial application before a person may acquire  
14 a controlling interest in a licensee;  
15 authorizing the commission to waive the  
16 requirement for an initial application under  
17 certain circumstances; authorizing the  
18 commission to require licensees to provide  
19 information concerning persons who have not  
20 previously complied with certain provisions;  
21 authorizing the office to bring an  
22 administrative action if it determines a  
23 licensee no longer meets licensure  
24 requirements; amending s. 494.0041, F.S.;  
25 specifying additional grounds for disciplinary  
26 action; amending s. 494.006, F.S.; clarifying  
27 that certain entities are exempt from the  
28 licensure requirements for mortgage lenders;  
29 amending s. 494.0061, F.S.; requiring the  
30 licensure of mortgage lenders; authorizing the  
31 commission to adopt application forms by rule;

1 specifying criteria for receipt of  
2 applications; clarifying provisions concerning  
3 audited financial statements; clarifying  
4 provisions relating to the principal  
5 representatives; revising fingerprint  
6 requirements; authorizing the commission to  
7 require the applicant to provide fingerprints  
8 from certain persons; prescribing procedures  
9 for processing fingerprints; authorizing the  
10 commission to require the applicant to provide  
11 information concerning certain persons;  
12 revising provisions governing grounds for  
13 imposing discipline; deleting certain  
14 provisions relating to cancellation and  
15 reinstatement of licenses; authorizing the  
16 commission to waive specified examination  
17 requirements under certain circumstances;  
18 authorizing the commission to prescribe  
19 additional testing fees; revising provisions  
20 governing principal representatives; amending  
21 s. 494.0062, F.S.; requiring licensure of  
22 correspondent mortgage lenders; authorizing the  
23 commission to adopt application forms by rule;  
24 authorizing the office to require applicants to  
25 provide certain information; specifying  
26 criteria for receipt of applications;  
27 clarifying provisions concerning audited  
28 financial statements; providing educational  
29 requirements for principal representatives;  
30 revising fingerprinting requirements;  
31 prescribing procedures for processing

1 fingerprints; authorizing the commission to  
2 require information from persons associated  
3 with the applicant; revising grounds for  
4 disciplinary action; deleting certain  
5 provisions relating to cancellation and  
6 reinstatement of licenses; authorizing the  
7 commission to waive specified examination  
8 requirements under certain circumstances;  
9 authorizing the commission to prescribe  
10 additional testing fees; requiring that the  
11 commission be notified of a change in the  
12 principal representatives; amending s.  
13 494.0064, F.S.; clarifying a requirement for  
14 professional continuing education for a  
15 licensee operating a branch office; authorizing  
16 the commission to adopt renewal forms by rule;  
17 amending s. 494.0065, F.S.; authorizing the  
18 commission to adopt application forms by rule;  
19 authorizing the commission to require that  
20 applicants provide certain information;  
21 specifying criteria for receipt of  
22 applications; providing requirements for  
23 education and testing for certain principal  
24 representatives and for transfer applications;  
25 authorizing the commission to waive specified  
26 examination requirements under certain  
27 circumstances; authorizing the commission to  
28 prescribe additional testing fees; authorizing  
29 the commission to prescribe application forms  
30 by rule; specifying criteria for receipt of  
31 applications; clarifying provisions governing

1 audited financial statements; revising  
2 fingerprinting requirements; prescribing  
3 procedures for processing fingerprints;  
4 authorizing the commission to require  
5 applicants to provide information concerning  
6 certain persons; revising provisions governing  
7 the denial of transfers; requiring that a  
8 mortgage lender designate a principal  
9 representative; providing criteria and  
10 requirements; requiring notice of a change in  
11 the principal representative; amending s.  
12 494.0066, F.S.; clarifying licensure  
13 requirements for branch offices; authorizing  
14 the commission to adopt application forms by  
15 rule; amending s. 494.0067, F.S.; deleting a  
16 requirement that the license be displayed;  
17 revising requirements for reporting  
18 information; requiring licensees to report  
19 changes in persons associated with the licensee  
20 and changes in the licensee's form of business  
21 organization; requiring the submission of an  
22 initial application before persons may acquire  
23 a controlling interest in a licensee;  
24 authorizing the commission to waive the  
25 requirement for an initial application under  
26 certain circumstances; authorizing the  
27 commission to require licensees to provide  
28 information concerning persons who have not  
29 previously complied with certain provisions;  
30 authorizing the office to bring an  
31 administrative action if it determines a

1 licensee no longer meets licensure  
2 requirements; clarifying the requirements for  
3 professional continuing education; amending s.  
4 494.0072, F.S.; providing additional grounds  
5 for disciplinary action; amending s. 494.00721,  
6 F.S.; conforming cross-references; amending s.  
7 501.137, F.S.; imposing attorney's fees and  
8 costs on lenders under certain circumstances;  
9 amending s. 516.01, F.S.; defining the term  
10 "control person" for purposes of the Florida  
11 Consumer Finance Act; amending s. 516.03, F.S.;  
12 revising the information that the commission  
13 may require from the applicant as part of the  
14 licensure process; requiring that an applicant  
15 provide evidence of liquid assets; specifying  
16 criteria for receipt of certain applications;  
17 providing that specified fees are  
18 nonrefundable; authorizing the commission to  
19 require electronic submission of forms,  
20 documents, or fees; providing for accommodating  
21 a technological or financial hardship;  
22 authorizing the commission to adopt rules  
23 governing such an accommodation; amending s.  
24 516.031, F.S.; increasing a reimbursement  
25 charge for certain investigation costs;  
26 amending s. 516.05, F.S.; revising  
27 investigation procedures; deleting provisions  
28 relating to fees for licenses that have been  
29 denied; requiring licensees to report changes  
30 to the initial application and any amendments  
31 to the application; requiring licensees to



1 report changes in certain persons associated  
2 with the licensee and changes in the licensee's  
3 form of business organization; requiring the  
4 submission of an initial application before a  
5 person may acquire a controlling interest in a  
6 licensee; authorizing the commission to waive  
7 the requirement for an initial application  
8 under certain circumstances; authorizing the  
9 commission to require licensees to provide  
10 information concerning persons who have not  
11 previously complied with certain provisions;  
12 authorizing the office to bring an  
13 administrative action if it determines that a  
14 licensee no longer meets licensure  
15 requirements; deleting provisions authorizing  
16 the office to grant temporary licenses;  
17 amending s. 516.07, F.S.; providing an  
18 additional ground for disciplinary action;  
19 repealing s. 516.08, F.S., relating to  
20 requirements for displaying a license; amending  
21 s. 516.12, F.S.; authorizing the commission to  
22 prescribe minimum information that must be  
23 shown in a licensee's books, accounts, records,  
24 and documents; authorizing the commission to  
25 prescribe requirements for destroying books,  
26 accounts, records, and documents; amending s.  
27 517.021, F.S.; redefining the term "branch  
28 office" for purposes of a consumer finance  
29 licensee; amending s. 517.051, F.S.; requiring  
30 the use of certain accounting standards;  
31 amending s. 517.061, F.S.; revising provisions

1 governing exempt transactions; amending s.  
2 517.081, F.S.; revising standards for  
3 accounting principles to be used in preparing  
4 certain financial statements; amending s.  
5 517.12, F.S.; deleting a requirement that  
6 applications be verified under oath; revising  
7 provisions for taking and submitting  
8 fingerprints of dealers, associated persons,  
9 and similarly situated persons; revising  
10 provisions governing the expiration and renewal  
11 of registration of such persons; authorizing  
12 the commission to adopt uniform forms by rule;  
13 authorizing the commission to require  
14 submission of uniform forms and fees through  
15 central registration systems; providing an  
16 exemption from registration requirements for a  
17 Canadian dealer and an associated person who  
18 represents a Canadian dealer, under certain  
19 conditions; requiring a notice filing by a  
20 Canadian dealer under certain conditions;  
21 providing that certain fees are nonrefundable;  
22 authorizing the Office of Financial Regulation  
23 of the Financial Services Commission to issue a  
24 permit to evidence the effectiveness of a  
25 notice filing for a Canadian dealer; providing  
26 for the renewal of a notice filing by a  
27 Canadian dealer; providing for reinstatement of  
28 a notice filing; providing obligations for a  
29 Canadian dealer who has given notice of filing;  
30 providing obligations for an associated person  
31 representing a Canadian dealer who has given

1 notice of filing; providing for the termination  
2 of a notice of filing; providing for the  
3 collection of fees; amending s. 517.131, F.S.;  
4 revising conditions under which recovery can be  
5 made from the Securities Guaranty Fund;  
6 authorizing the commission to adopt rules;  
7 amending s. 517.141, F.S.; prescribing  
8 circumstances under which a claimant must  
9 reimburse the fund; providing for rulemaking;  
10 amending s. 517.161, F.S.; clarifying and  
11 providing an additional ground for revocation,  
12 restriction, or suspension of a registration;  
13 amending s. 520.02, F.S.; defining the term  
14 "control person" for purposes of the Motor  
15 Vehicle Retail Sales Finance Act; amending s.  
16 520.03, F.S.; authorizing the commission to  
17 require information from the applicant and  
18 others; authorizing the commission to require  
19 the applicant to provide certain information  
20 concerning persons associated with the  
21 applicant; specifying criteria for receipt of  
22 applications; deleting a requirement that the  
23 licensee display a license; amending s. 520.31,  
24 F.S.; defining the term "control person" for  
25 purposes of the Retail Installment Sales Act;  
26 amending s. 520.32, F.S.; authorizing the  
27 commission to require additional information  
28 from an applicant for licensure; specifying  
29 criteria for receipt of an application;  
30 amending s. 520.52, F.S.; providing additional  
31 requirements for a license to engage in

1 business as a sales finance company; specifying  
2 criteria for receipt of an application;  
3 amending s. 520.61, F.S.; defining the term  
4 "control person" for purposes of the Home  
5 Improvement Sales and Finance Act; amending s.  
6 520.63, F.S.; authorizing the commission to  
7 require information from the applicant and  
8 others; authorizing the commission to require  
9 the applicant to provide certain information  
10 concerning persons associated with the  
11 applicant; specifying criteria for receipt of  
12 applications; deleting a requirement that the  
13 licensee display a license; amending s.  
14 520.994, F.S.; authorizing the commission to  
15 require electronic submission of forms,  
16 documents, or fees; providing for accommodating  
17 a technological or financial hardship;  
18 authorizing the commission to adopt rules  
19 governing such an accommodation; amending s.  
20 520.995, F.S.; providing an additional ground  
21 for disciplinary action; revising provisions  
22 regarding disciplinary action; amending s.  
23 520.997, F.S.; authorizing the commission to  
24 prescribe certain minimum information that must  
25 be shown in a licensee's books, accounts,  
26 records, and documents; authorizing the  
27 commission to prescribe requirements for  
28 destroying books, accounts, records, and  
29 documents; providing for procedures; creating  
30 s. 520.999, F.S.; providing additional  
31 requirements of licensees in sales and finance;

1 requiring licensees to report changes to the  
2 initial application and any amendments to the  
3 application; requiring licensees to report  
4 changes in persons associated with the licensee  
5 and changes in the licensee's form of business  
6 organization; requiring the submission of an  
7 initial application before persons may acquire  
8 a controlling interest in a licensee;  
9 authorizing the commission to waive the  
10 requirement for an initial application under  
11 certain circumstances; authorizing the office  
12 to bring an administrative action if it  
13 determines that a licensee no longer meets  
14 licensure requirements; amending s. 537.009,  
15 F.S., relating to the Florida Title Loan Act;  
16 authorizing the commission to prescribe certain  
17 minimum information that must be shown in a  
18 licensee's books, accounts, records, and  
19 documents; authorizing the commission to  
20 prescribe requirements for destroying books,  
21 accounts, records, and documents; providing for  
22 procedures; amending s. 560.105, F.S., relating  
23 to the Money Transmitters' Code; authorizing  
24 the commission to require electronic submission  
25 of forms, documents, or fees; amending s.  
26 560.114, F.S.; providing an additional ground  
27 for disciplinary action; amending s. 560.121,  
28 F.S.; authorizing the commission to prescribe  
29 certain minimum information that must be shown  
30 in a licensee's books, accounts, records, and  
31 documents; authorizing the commission to

1           prescribe requirements for destroying books,  
2           accounts, records, and documents; amending s.  
3           560.126, F.S.; requiring notice of changes in  
4           information contained in a registration  
5           application; requiring licensees to report  
6           changes in persons associated with the licensee  
7           and changes in the licensee's form of business  
8           organization; requiring the submission of an  
9           initial application before persons may acquire  
10          a controlling interest in a licensee;  
11          authorizing the commission to waive the  
12          requirement for an initial application under  
13          certain circumstances; authorizing the  
14          commission to require licensees to provide  
15          information concerning persons who have not  
16          previously complied with certain provisions;  
17          authorizing the office to bring an  
18          administrative action if it determines a  
19          licensee no longer meets licensure  
20          requirements; amending s. 560.127, F.S.;  
21          revising the provisions specifying the  
22          conditions under which a person has control  
23          over a money transmitter; deleting provisions  
24          governing the acquisition or purchase of a  
25          money transmitter; amending s. 560.205, F.S.;  
26          revising fingerprinting requirements;  
27          prescribing procedures for processing  
28          fingerprints; deleting a requirement that an  
29          applicant provide a list of certain vendors;  
30          authorizing the commission to require  
31          additional information concerning persons

1 associated with the applicant; requiring the  
2 reporting of changes of registration; amending  
3 s. 560.207, F.S.; revising procedures for  
4 renewing a registration; providing that  
5 specified fees are nonrefundable; providing  
6 conditions for reinstating a registration;  
7 amending s. 560.210, F.S.; revising permissible  
8 investment requirements for certain  
9 registrants; specifying acceptable accounting  
10 principles; amending s. 560.211, F.S.;  
11 requiring notice to the office of the location  
12 of certain amended records; amending s.  
13 560.305, F.S., relating to the Check Cashing  
14 and Foreign Currency Exchange Act; revising  
15 application procedures for registration under  
16 the act; amending s. 560.306, F.S.; revising  
17 certain fingerprinting requirements;  
18 prescribing procedures for processing  
19 fingerprints; amending s. 560.308, F.S.;  
20 revising requirements for renewal of  
21 registration; providing that specified fees are  
22 nonrefundable; providing conditions to the  
23 reinstatement of a registration; amending s.  
24 560.310, F.S.; requiring that the commission be  
25 notified of the location of certain records;  
26 amending s. 560.403, F.S.; revising  
27 requirements for giving notice of intent in  
28 connection with the renewal of registration;  
29 providing that specified fees are  
30 nonrefundable; providing conditions to the  
31 reinstatement of a notice of intent; amending

1 s. 655.935, F.S.; authorizing the search of a  
2 safe-deposit box co-leased by a decedent;  
3 providing limitations; amending s. 655.936,  
4 F.S.; providing for the delivery of a  
5 safe-deposit box to a court-appointed personal  
6 representative; amending s. 655.937, F.S.;  
7 revising provisions for access to safe-deposit  
8 boxes; amending s. 733.6065, F.S.; revising  
9 provisions related to the initial opening of a  
10 safe-deposit box leased or co-leased by a  
11 decedent; providing an appropriation; providing  
12 an effective date.

13  
14 Be It Enacted by the Legislature of the State of Florida:

15  
16 Section 1. Present subsections (9) through (30) of  
17 section 494.001, Florida Statutes, are redesignated as  
18 subsections (10) through (31), respectively, and a new  
19 subsection (9) is added to that section, to read:

20 494.001 Definitions.--As used in ss. 494.001-494.0077,  
21 the term:

22 (9) "Control person" means an individual, partnership,  
23 corporation, trust, or other organization that possesses the  
24 power, directly or indirectly, to direct the management or  
25 policies of a company, whether through ownership of  
26 securities, by contract, or otherwise. A person is presumed to  
27 control a company if, with respect to a particular company,  
28 that person:

29 (a) Is a director, general partner, or officer  
30 exercising executive responsibility or having similar status  
31 or functions;



1           (b) Directly or indirectly has the right to vote 10  
2 percent or more of a class of a voting security or has the  
3 power to sell or direct the sale of 10 percent or more of a  
4 class of voting securities; or

5           (c) In the case of a partnership, has the right to  
6 receive upon dissolution, or has contributed, 10 percent or  
7 more of the capital.

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

11           494.0011 Powers and duties of the commission and  
12 office.--

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

24           (6) The grant or denial of a license must be in  
25 accordance with s. 120.60.

26           Section 3. Subsection (4) of section 494.0016, Florida  
27 Statutes, is amended to read:

28           494.0016 Books, accounts, and records; maintenance;  
29 examinations by the office.--

30           (4) The commission may prescribe by rule the minimum  
31 information to be shown in the books, accounts, records, and

1 documents of licensees so that such records will enable the  
2 office to determine the licensee's compliance with ss.  
3 494.001-494.0077. In addition, the commission may prescribe by  
4 rule requirements for the destruction of books, accounts,  
5 records, and documents retained by the licensee after  
6 completion of the time period indicated in subsection (3).

7 Section 4. Section 494.0029, Florida Statutes, is  
8 amended to read:

9 494.0029 Mortgage business schools.--

10 (1)(a) Each person, school, or institution, except  
11 accredited colleges, universities, community colleges, and  
12 career centers in this state, which offers or conducts  
13 mortgage business training for the purpose of meeting  
14 professional continuing education requirements, or as a  
15 condition precedent to licensure as a mortgage broker,  
16 mortgage ~~or~~ lender, or a correspondent mortgage lender must  
17 shall obtain a permit from the office to operate as a mortgage  
18 business school before offering or conducting mortgage  
19 business training and must abide by the regulations imposed  
20 upon such person, school, or institution by this chapter and  
21 rules adopted pursuant to this chapter. The commission may  
22 require by rule that each applicant for a mortgage business  
23 school permit provide any information reasonably necessary to  
24 determine the applicant's eligibility. Each person, school, or  
25 institution that applies for a permit under this part must do  
26 so on forms adopted by the commission by rule. The commission  
27 shall, by rule, recertify the permits annually with initial  
28 and renewal permit fees that do not exceed \$500 plus the cost  
29 of accreditation.

30 (b) An application is considered received for purposes  
31 of s. 120.60 upon receipt of a completed application form as

1 prescribed by commission rule, a nonrefundable application fee  
2 of \$500, the cost of accreditation as defined by commission  
3 rule, and any other fee prescribed by law.

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

6 (d) Each permitted mortgage business school shall  
7 report, on a form prescribed by the commission, any change to  
8 the information contained in the initial application form or  
9 any amendment thereto, not later than 30 days after the change  
10 is effective.

11 (e) A permit issued under this section expires on  
12 September 30th of each year. The office shall recertify a  
13 permit annually upon submission of information the commission  
14 requires by rule, together with a nonrefundable permit fee of  
15 \$500, and the cost of accreditation as defined by commission  
16 rule, which shall be for the annual period beginning October 1  
17 of each year.

18 ~~(2) All such schools shall maintain curriculum and~~  
19 ~~training materials necessary to determine the school's~~  
20 ~~compliance with this chapter and rules adopted pursuant to~~  
21 ~~this chapter. Any school that offers or conducts mortgage~~  
22 ~~business training shall at all times maintain an operation of~~  
23 ~~training, materials, and curriculum which is open to review by~~  
24 ~~the office to determine compliance and competency as a~~  
25 ~~mortgage business school.~~

26 (2)(3)(a) It is unlawful for any such person, school,  
27 or institution to offer or conduct mortgage business courses,  
28 regardless of the number of pupils, without first procuring a  
29 permit or to guarantee that the pupils will pass any mortgage  
30 business examination given on behalf of the office or to  
31 represent that the issuance of a permit is any recommendation

1 or endorsement of the person, school, or institution to which  
2 it is issued or of any course of instruction given thereunder.  
3 Any person who violates this paragraph commits a misdemeanor  
4 of the second degree, punishable as provided in s. 775.082 or  
5 s. 775.083.

6 (b) The location of classes and the frequency of class  
7 meetings shall be in the discretion of the school offering the  
8 courses, if such courses conform to this chapter and related  
9 rules adopted by the commission.

10 (c) A mortgage business school may not use advertising  
11 of any nature which is false, inaccurate, misleading, or  
12 exaggerated. Publicity and advertising of a mortgage business  
13 school, or of its representative, shall be based upon relevant  
14 facts and supported by evidence establishing their truth.

15 (d) A representative of a mortgage business school  
16 subject to the provisions of this chapter may not promise or  
17 guarantee employment or placement of any pupil or prospective  
18 pupil, using information, training, or skill purported to be  
19 provided or otherwise enhanced by a course or school as  
20 inducement to enroll in the school, unless such person offers  
21 the pupil or prospective pupil a bona fide contract of  
22 employment.

23 (e) A school shall advertise only as a school and  
24 under the permitted name of such school as recognized by the  
25 office.

26 (f) Reference may not be made in any publication or  
27 communication medium as to a pass/fail ratio on mortgage  
28 business examinations by any school permitted by the office.

29 (3) Each person, school, or institution that is  
30 required to be permitted under this section as a mortgage  
31 business school shall maintain and make available for the

1 office's review, inspection, and observation such training,  
2 curriculum, and training materials as necessary for the office  
3 to determine compliance with this chapter and the rules  
4 adopted under this chapter. All documents prescribed by  
5 commission rule must be submitted with the initial application  
6 or recertification.

7       (4) Each person, school, or institution that is  
8 required to be permitted under this section as a mortgage  
9 business school must provide electronic notification to the  
10 office, in a manner prescribed by commission rule, of those  
11 pupils who have successfully completed the 24-hour  
12 prelicensure classroom instruction for mortgage brokers and  
13 principal representatives and those pupils who have completed  
14 the 14-hour professional continuing education for mortgage  
15 brokers.

16       Section 5. Section 494.00295, Florida Statutes, is  
17 amended to read:

18       494.00295 Professional continuing education.--

19       (1) A mortgage broker, and the principal  
20 representative and loan originator of a mortgage lender,  
21 correspondent mortgage lender, or mortgage lender pursuant to  
22 the savings clause, must successfully complete at least 14  
23 hours of professional continuing education covering primary  
24 and subordinate mortgage financing transactions and the  
25 provisions of this chapter during the 2-year period  
26 immediately preceding the renewal deadline for a mortgage  
27 broker, mortgage lender, correspondent mortgage lender, or  
28 mortgage lender pursuant to the savings clause. At the time of  
29 license renewal, a licensee must certify to the office that  
30 the professional continuing education requirements of this  
31 section have been met. Licensees shall maintain records

1 documenting compliance with this subsection for 4 years. The  
2 requirements for professional continuing education are waived  
3 for the license renewal of a mortgage broker for the biennial  
4 license period immediately following the period in which the  
5 person became licensed as a mortgage broker. The requirements  
6 for professional continuing education for a principal  
7 representative are waived for the license renewal of a  
8 mortgage lender, correspondent mortgage lender, or mortgage  
9 lender pursuant to the savings clause for the biennial license  
10 period immediately following the period in which the principal  
11 representative completed the 24 hours of classroom education  
12 and passed a written test in order to qualify to be a  
13 principal representative. Each mortgage broker, mortgage  
14 lender, and correspondent mortgage lender must certify to the  
15 office at the time of renewal that during the 2 years prior to  
16 an application for license renewal, all mortgage brokers and  
17 the principal representative, loan originators, and associates  
18 of a mortgage lender or correspondent mortgage lender have  
19 successfully completed at least 14 hours of professional  
20 education programs covering primary and subordinate mortgage  
21 financing transactions and the provisions of this chapter.  
22 ~~Licensees shall maintain records documenting compliance with~~  
23 ~~this subsection for a period of 4 years.~~

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

30 (3) The commission shall adopt rules necessary to  
31 administer this section, including rules governing qualifying

1 hours for professional continuing education programs and  
2 standards for electronically transmitted or distance education  
3 courses, including course completion requirements.

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

7 494.003 Exemptions.--

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

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

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

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

25 (e) A wholly owned subsidiary of a state or federal  
26 chartered bank or savings and loan association the sole  
27 activity of which is to distribute the lending programs of  
28 such state or federal chartered bank or savings and loan  
29 association to persons who arrange loans for, or make loans  
30 to, borrowers.  
31

1 Section 7. Section 494.0031, Florida Statutes, is  
2 amended to read:

3 494.0031 Licensure as a mortgage brokerage business.--

4 (1) Each person who acts as a mortgage brokerage  
5 business must be licensed under this section unless otherwise  
6 exempt from licensure.

7 (2)(1) Each initial application for a mortgage  
8 brokerage business license must be in the form prescribed by  
9 rule of the commission. In order to facilitate uniformity, the  
10 commission may adopt by rule a uniform application form  
11 approved by the Conference of State Bank Supervisors or the  
12 American Association of Residential Mortgage Regulators, and  
13 any subsequent amendments to the form, if the form is  
14 substantially consistent with the requirements of this  
15 chapter. The commission may require by rule that each  
16 applicant submit the uniform application form to the office,  
17 or such organization as the commission designates, in a  
18 computer-readable form that is compatible with the electronic  
19 data-processing system specified by the commission. The  
20 commission may require each applicant to provide any  
21 information reasonably necessary to determine the applicant's  
22 eligibility for licensure. The office shall issue a mortgage  
23 brokerage business license to each person who:

24 (a) Has submitted a completed application form and a  
25 nonrefundable application fee of \$425. An application is  
26 considered received for purposes of s. 120.60 upon receipt of  
27 a completed application form as prescribed by commission rule,  
28 a nonrefundable application fee of \$425, and any other fee  
29 prescribed by law.; ~~and~~

30 (b) Has a qualified principal broker pursuant to s.  
31 494.0035.



1           ~~(c)(2)~~ Has provided a complete set of fingerprints as  
2 the commission may require by rule for that each officer,  
3 director, control person, member, partner, or joint venturer  
4 of the applicant and each ultimate equitable owner of a  
5 10-percent or greater interest in the mortgage brokerage  
6 business. A fingerprint card submitted to the office must be  
7 ~~submit a complete set of fingerprints~~ taken by an authorized  
8 law enforcement ~~agency officer~~. The office shall submit the  
9 fingerprints to the Department of Law Enforcement for state  
10 processing and the Department of Law Enforcement shall forward  
11 the fingerprints to the Federal Bureau of Investigation for  
12 federal processing. The cost of the fingerprint processing may  
13 be borne by the office, the employer, or the person subject to  
14 the background check. The Department of Law Enforcement shall  
15 submit an invoice to the office for the fingerprints received  
16 each month. The office shall screen the background results to  
17 determine if the applicant meets licensure requirements.

18           (d) Has provided information that the commission  
19 requires by rule concerning any designated principal mortgage  
20 broker; any officer, director, control person, member,  
21 partner, or joint venturer of the applicant; or any individual  
22 who is the ultimate equitable owner of a 10-percent or greater  
23 interest in the mortgage brokerage business. The commission  
24 may require information about any such applicant or person,  
25 including his or her full name or other names by which he or  
26 she may have been known, age, social security number,  
27 qualifications and educational and business history, and  
28 disciplinary and criminal history.

29           (3) Notwithstanding ~~the provisions of~~ subsection (2)  
30 ~~(1)~~, it is a ground for denial of licensure if the applicant;  
31 designated principal mortgage broker; any officer, director,

1 control person, member, partner, or joint venturer of the  
2 applicant; ~~any natural person owning a 10 percent or greater~~  
3 ~~interest in the mortgage brokerage business~~; or any individual  
4 ~~natural~~ person who is the ultimate equitable owner of a  
5 10-percent or greater interest in the mortgage brokerage  
6 business has committed any violation specified in ss.  
7 494.001-494.0077 or has pending against him or her in any  
8 jurisdiction any criminal prosecution or administrative  
9 enforcement action ~~that, in any jurisdiction, which~~ involves  
10 fraud, dishonest dealing, or any other act of moral turpitude.

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

23 ~~(5) If an initial mortgage brokerage business or~~  
24 ~~branch office license has been issued but the check upon which~~  
25 ~~the license is based is returned due to insufficient funds,~~  
26 ~~the license shall be deemed canceled. A license deemed~~  
27 ~~canceled pursuant to this subsection shall be reinstated if~~  
28 ~~the office receives a certified check for the appropriate~~  
29 ~~amount within 30 days after the date the check was returned~~  
30 ~~due to insufficient funds.~~

31

1           Section 8. Subsections (1) and (2) of section  
2 494.0032, Florida Statutes, are amended to read:

3           494.0032 Renewal of mortgage brokerage business  
4 license or branch office license.--

5           (1) The office shall renew a mortgage brokerage  
6 business license upon receipt of a completed renewal form and  
7 payment of a nonrefundable renewal fee of \$375. Each licensee  
8 shall pay at the time of renewal a nonrefundable renewal fee  
9 of \$225 for the renewal of each branch office license. The  
10 license for a branch office must be renewed in conjunction  
11 with the renewal of the mortgage brokerage business license.

12           (2) The commission shall adopt rules establishing a  
13 procedure for the biennial renewal of mortgage brokerage  
14 business licenses and branch office licenses. The commission  
15 may prescribe the form for renewal and may require an update  
16 of all information provided in the licensee's initial  
17 application. In order to facilitate uniformity, the commission  
18 may adopt by rule a uniform renewal form that is approved by  
19 the Conference of State Bank Supervisors or the American  
20 Association of Residential Mortgage Regulators, and any  
21 subsequent amendments to the form, if the form is  
22 substantially consistent with the requirements of this  
23 chapter. The commission may require by rule that each licensee  
24 submit the uniform renewal form to the office, or such  
25 organization as the commission designates, in a  
26 computer-readable form that is compatible with the electronic  
27 data-processing system specified by the commission.

28           Section 9. Subsections (1), (2), and (7) of section  
29 494.0033, Florida Statutes, are amended to read:

30           494.0033 Mortgage broker's license.--  
31

1           (1) Each natural person who acts as a mortgage broker  
2 for a mortgage brokerage business or acts as an associate for  
3 a mortgage lender or correspondent mortgage lender must be  
4 licensed under ~~pursuant to~~ this section. To act as a mortgage  
5 broker, an individual must be an associate of a mortgage  
6 brokerage business, a mortgage lender, or a correspondent  
7 mortgage lender. A mortgage broker may not be ~~is prohibited~~  
8 ~~from being~~ an associate of more than one mortgage brokerage  
9 business, mortgage lender, or correspondent mortgage lender.

10           (2) Each initial application for a mortgage broker's  
11 license must be in the form prescribed by rule of the  
12 commission. In order to facilitate uniformity, the commission  
13 may adopt by rule a uniform application form that is approved  
14 by the Conference of State Bank Supervisors or the American  
15 Association of Residential Mortgage Regulators, and any  
16 subsequent amendments to the form, if the form is  
17 substantially consistent with the requirements of this  
18 chapter. The commission may require by rule that each  
19 applicant submit the uniform application form to the office,  
20 or such organization as the commission designates, in a  
21 computer-readable form that is compatible with the electronic  
22 data-processing system specified by the commission. The  
23 commission may require each applicant to provide any  
24 information reasonably necessary to make a determination of  
25 the applicant's eligibility for licensure. The office shall  
26 issue an initial license to any natural person who:

27           (a) Is at least 18 years of age.†

28           (b) Has passed a written test adopted and administered  
29 by the office, or has passed an electronic test adopted and  
30 administered by the office or a third party approved by the  
31 office, which is designed to determine competency in primary

1 and subordinate mortgage financing transactions as well as to  
2 test knowledge of ss. 494.001-494.0077 and the rules adopted  
3 pursuant thereto. The commission may prescribe by rule an  
4 additional fee that may not exceed \$100 for the electronic  
5 version of the mortgage broker test. The commission may waive  
6 by rule the examination requirement for any person who has  
7 passed a test approved by the Conference of State Bank  
8 Supervisors, the American Association of Residential Mortgage  
9 Regulators, or the United States Department of Housing and  
10 Urban Development if the test covers primary and subordinate  
11 mortgage financing transactions.†

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

19 (d) Has filed a complete set of fingerprints, ~~taken by~~  
20 ~~an authorized law enforcement officer,~~ for submission by the  
21 office to the Department of Law Enforcement or the Federal  
22 Bureau of Investigation for processing. A fingerprint card  
23 submitted to the office must be taken by an authorized law  
24 enforcement agency. The office shall submit the fingerprints  
25 to the Department of Law Enforcement for state processing and  
26 the Department of Law Enforcement shall forward the  
27 fingerprints to the Federal Bureau of Investigation for  
28 federal processing. The cost of the fingerprint processing may  
29 be borne by the office, the employer, or the person subject to  
30 the background check. The Department of Law Enforcement shall  
31 submit an invoice to the office for the fingerprints received

1 each month. The office shall screen the background results to  
2 determine if the applicant meets licensure requirements.

3  
4 The commission may require by rule information concerning any  
5 such applicant or person, including his or her full name and  
6 any other names by which he or she may have been known, age,  
7 social security number, qualifications and educational and  
8 business history, and disciplinary and criminal history.

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

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

19 494.0034 Renewal of mortgage broker's license.--

20 (2) The commission shall adopt rules establishing a  
21 procedure for the biennial renewal of mortgage broker's  
22 licenses. The commission may prescribe the form of the renewal  
23 application and may require an update of information since the  
24 licensee's last renewal. In order to facilitate uniformity,  
25 the commission may adopt by rule a uniform renewal form that  
26 is approved by the Conference of State Bank Supervisors or the  
27 American Association of Residential Mortgage Regulators, and  
28 any subsequent amendments to the form, if the form is  
29 substantially consistent with the requirements of this  
30 chapter. The commission may require by rule that each licensee  
31 submit the uniform renewal form to the office, or such

1 organization as the commission designates, in a  
2 computer-readable form that is compatible with the electronic  
3 data-processing system specified by the commission.

4 Section 11. Subsections (2) and (3) of section  
5 494.0036, Florida Statutes, are amended to read:

6 494.0036 Mortgage brokerage business branch offices.--

7 (2) The office shall issue a mortgage brokerage  
8 business branch office license to a mortgage brokerage  
9 business licensee after the office determines that the  
10 licensee has submitted ~~upon receipt of~~ a completed application  
11 for a branch office in a form as prescribed by commission rule  
12 and payment of an initial nonrefundable branch office license  
13 fee of \$225. In order to facilitate uniformity, the commission  
14 may adopt by rule a uniform branch office application form  
15 that is approved by the Conference of State Bank Supervisors  
16 or the American Association of Residential Mortgage  
17 Regulators, and any subsequent amendments to the form, if the  
18 form is substantially consistent with the requirements of this  
19 chapter. The commission may require by rule that each  
20 applicant submit the uniform branch office application form to  
21 the office, or such organization as the commission designates,  
22 in a computer-readable form that is compatible with the  
23 electronic data-processing system specified by the commission.  
24 ~~Branch office licenses must be renewed in conjunction with the~~  
25 ~~renewal of the mortgage brokerage business license.~~ The branch  
26 office license shall be issued in the name of the mortgage  
27 brokerage business that maintains the branch office. An  
28 application is considered received for purposes of s. 120.60  
29 upon receipt of a completed application form as prescribed by  
30 commission rule, a nonrefundable application fee of \$225, and  
31 any other fee prescribed by law.

1           ~~(3) Each branch office must prominently display the~~  
2 ~~license issued for such branch office. Each person licensed as~~  
3 ~~a mortgage broker must prominently display his or her license~~  
4 ~~in the office where such person acts as a mortgage broker.~~

5           Section 12. Section 494.0039, Florida Statutes, is  
6 amended to read:

7           494.0039 Principal place of business requirements.--

8           ~~(1)~~ Each mortgage brokerage business licensee shall  
9 maintain and transact business from a principal place of  
10 business.

11           ~~(2) A licensee under ss. 494.003-494.0043 shall report~~  
12 ~~any change of address of the principal place of business or~~  
13 ~~any branch office within 15 days after the change.~~

14           ~~(3) Each mortgage brokerage business must prominently~~  
15 ~~display its license at the principal place of business. Each~~  
16 ~~licensed mortgage broker must prominently display his or her~~  
17 ~~license in the office where such person acts as a mortgage~~  
18 ~~broker.~~

19           Section 13. Section 494.004, Florida Statutes, is  
20 amended to read:

21           494.004 Requirements of licensees.--

22           (1) Each licensee under ss. 494.003-494.0043 shall  
23 report, in writing, any conviction of, or plea of nolo  
24 contendere to, regardless of adjudication, any crime or  
25 administrative violation that involves fraud, dishonest  
26 dealing, or any other act of moral turpitude, in any  
27 jurisdiction, by the licensee or any natural person named in  
28 s. 494.0031(2)(d) ~~s. 494.0031(3)~~, not later than 30 days after  
29 the date of conviction, entry of a plea of nolo contendere, or  
30 final administrative action.

31



1           (2) Each licensee under ss. 494.003-494.0043 shall  
2 report, in a form prescribed by rule of the commission, any  
3 conviction of, or plea of nolo contendere to, regardless of  
4 whether adjudication is withheld, any felony committed by the  
5 licensee or any natural person named in s. 494.0031(2)(d) ~~s.~~  
6 ~~494.0031(3)~~, not later than 30 days after the date of  
7 conviction or the date the plea of nolo contendere is entered.

8           (3) Each licensee under ss. 494.003-494.0043 shall  
9 report any action in bankruptcy, voluntary or involuntary, to  
10 the office not later than 7 business days after the action is  
11 instituted.

12           (4) Each licensee under ss. 494.003-494.0043 shall  
13 report on a form prescribed by rule of the commission any  
14 change to the information contained in any initial application  
15 form, or any amendment thereto, any change in the form of  
16 ~~business organization or any change of a person named,~~  
17 ~~pursuant to s. 494.0031(3), to the office in writing~~ not later  
18 than 30 days after the change is effective.

19           (5) A license issued under ss. 494.003-494.0043 is not  
20 transferable or assignable.

21           (6) Each licensee under ss. 494.003-494.0043 shall  
22 report any change in the principal broker, partners, officers,  
23 members, joint venturers, directors, control persons of any  
24 licensee, or any individual who is the ultimate equitable  
25 owner of a 10-percent or greater interest in the licensee, or  
26 any change in the form of business organization, by written  
27 amendment in the form and at the time that the commission  
28 specifies by rule.

29           (a) In any case in which a person or a group of  
30 persons, directly or indirectly or acting by or through one or  
31 more persons, proposes to purchase or acquire a controlling

1 interest in a licensee, such person or group must submit an  
2 initial application for licensure as a mortgage brokerage  
3 business before such purchase or acquisition and at the time  
4 and in the form that the commission prescribes by rule.

5 (b) As used in this subsection, the term "controlling  
6 interest" means possession of the power to direct or cause the  
7 direction of the management or policies of a company whether  
8 through ownership of securities, by contract, or otherwise.  
9 Any person who directly or indirectly has the right to vote 25  
10 percent or more of the voting securities of a company or is  
11 entitled to 25 percent or more of its profits is presumed to  
12 possess a controlling interest.

13 (c) Any addition of a partner, officer, member, joint  
14 venturer, director, control person, or ultimate equitable  
15 owner of the applicant who does not have a controlling  
16 interest and who has not previously complied with the  
17 provisions of ss. 494.0031(2)(c) and 494.0031(2)(d) is subject  
18 thereto unless required to file an initial application in  
19 accordance with paragraph (a). If the office finds that the  
20 licensee does not continue to meet licensure requirements, the  
21 office may bring an administrative action in accordance with  
22 s. 494.0041 to enforce the provisions of this chapter.

23 (d) The commission shall adopt rules providing for the  
24 waiver of the application required by this subsection if the  
25 person or group of persons proposing to purchase or acquire a  
26 controlling interest in a licensee has previously complied  
27 with the provisions of ss. 494.0031(2)(c) and 494.0031(2)(d)  
28 with respect to the same legal entity or is currently licensed  
29 by the office under this chapter.

30 (7)(6) On or before April 30, 2000, each mortgage  
31 brokerage business shall file an initial report stating the

1 name, social security number, date of birth, mortgage broker  
2 license number, date of hire and, if applicable, date of  
3 termination for each person who was an associate of the  
4 mortgage brokerage business during the immediate preceding  
5 quarter. Thereafter, a mortgage brokerage business shall file  
6 a quarterly report only if a person became an associate or  
7 ceased to be an associate of the mortgage brokerage business  
8 during the immediate preceding quarter. Such report shall be  
9 filed within 30 days after the last day of each calendar  
10 quarter and shall contain the name, social security number,  
11 date of birth, mortgage broker license number, date of hire  
12 and, if applicable, the date of termination of each person who  
13 became or ceased to be an associate of the mortgage brokerage  
14 business during the immediate preceding quarter. The  
15 commission shall prescribe, by rule, the procedures for filing  
16 reports required by this subsection.

17 Section 14. Paragraphs (s), (t), and (u) are added to  
18 subsection (2) and subsection (3) of section 494.0041, Florida  
19 Statutes, is amended, to read:

20 494.0041 Administrative penalties and fines; license  
21 violations.--

22 (2) Each of the following acts constitutes a ground  
23 for which the disciplinary actions specified in subsection (1)  
24 may be taken:

25 (s) Payment to the office for a license or permit with  
26 a check or electronic transmission of funds that is dishonored  
27 by the applicant's or licensee's financial institution.

28 (t) Having a final judgment entered against her or him  
29 in a civil action upon grounds of fraud, embezzlement,  
30 misrepresentation, or deceit.

31

1           (u)1. Having been the subject of any decision,  
2 finding, injunction, suspension, prohibition, revocation,  
3 denial, judgment, or administrative order by any court of  
4 competent jurisdiction, administrative law judge, state or  
5 federal agency, national securities exchange, national  
6 commodities exchange, national option exchange, national  
7 securities association, national commodities association, or  
8 national option association involving a violation of any  
9 federal or state securities or commodities law, or any rule or  
10 regulation adopted thereunder, or involving a violation of any  
11 rule or regulation of any national securities, commodities, or  
12 options exchange or national securities, commodities, or  
13 options association.

14           2. Having been the subject of any injunction or  
15 adverse administrative order by a state or federal agency  
16 regulating banking, insurance, finance or small loan  
17 companies, real estate, mortgage brokers or lenders, money  
18 transmitters, or other related or similar industries.

19           (3) A mortgage brokerage business is subject to the  
20 disciplinary actions specified in subsection (1) for a  
21 violation of subsection (2) by any officer, member, director,  
22 control person, joint venturer, partner, ultimate equitable  
23 owner of a 10-percent or greater interest in the mortgage  
24 brokerage business, or associate mortgage broker of the  
25 licensee.

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

29           494.006 Exemptions.--  
30  
31

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

4 (a) A state or federal chartered bank, a bank holding  
5 ~~company,~~ trust company, a savings and loan association, a  
6 savings bank or credit union, a bank holding company  
7 regulated under the laws of any state or the United States, or  
8 an insurance company if the insurance company is duly licensed  
9 in this state.

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

18 (2)(a) A natural person employed by a mortgage lender  
19 or correspondent mortgage lender licensed under ss.  
20 494.001-494.0077 is exempt from the licensure requirements of  
21 ss. 494.001-494.0077 when acting within the scope of  
22 employment with the licensee.

23 Section 16. Section 494.0061, Florida Statutes, is  
24 amended to read:

25 494.0061 Mortgage lender's license requirements.--

26 (1) Each person who acts as a mortgage lender must be  
27 licensed under this section unless otherwise exempt from  
28 licensure.

29 (2)(1) Each initial application for a mortgage lender  
30 license must be in the form prescribed by rule of the  
31 commission. In order to facilitate uniformity, the commission

1 may adopt by rule a uniform application form approved by the  
2 Conference of State Bank Supervisors or the American  
3 Association of Residential Mortgage Regulators, and any  
4 subsequent amendments to the form, if the form is  
5 substantially consistent with the requirements of this  
6 chapter. The commission may require by rule that each  
7 applicant submit the uniform application form to the office,  
8 or such organization as the commission designates, in a  
9 computer-readable form that is compatible with the electronic  
10 data-processing system specified by the commission. The  
11 commission or office may require each applicant for a mortgage  
12 lender license to provide any information reasonably necessary  
13 to make a determination of the applicant's eligibility for  
14 licensure. The office shall issue an initial mortgage lender  
15 license to any person that submits:

16 (a) A completed application form.‡  
17 (b) A nonrefundable application fee of \$575. An  
18 application is considered received for purposes of s. 120.60  
19 upon receipt of a completed application form as prescribed by  
20 commission rule, a nonrefundable application fee of \$575, and  
21 any other fee prescribed by law.‡

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

27 (d) A surety bond in the amount of \$10,000, payable to  
28 the state and conditioned upon compliance with ss.  
29 494.001-494.0077, which inures to the office and which must be  
30 continuously maintained thereafter in full force.‡  
31

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

6           (f) ~~For applications submitted after October 1, 2001,~~  
7 Proof that the applicant's principal representative has  
8 completed 24 hours of classroom instruction in primary and  
9 subordinate financing transactions and in the provisions of  
10 this chapter and rules adopted under this chapter. This  
11 requirement is satisfied if the principal representative has  
12 continuously served in the capacity of a principal  
13 representative for a licensed entity under this chapter for at  
14 least 1 year and has not had a lapse in designation as a  
15 principal representative of more than 2 years before the date  
16 of the submission of the application or amendment in the case  
17 of a change in the principal representative. This requirement  
18 is also satisfied if the principal representative currently  
19 holds an active license as a mortgage broker in this state.

20           (g) A complete set of fingerprints as the commission  
21 requires by rule for the designated principal representative  
22 and each officer, director, control person, member, partner,  
23 or joint venturer of the applicant, and ultimate equitable  
24 owner of a 10-percent or greater interest in the applicant. A  
25 fingerprint card submitted to the office must be taken by an  
26 authorized law enforcement agency. The office shall submit the  
27 fingerprints to the Department of Law Enforcement for state  
28 processing and the Department of Law Enforcement shall forward  
29 the fingerprints to the Federal Bureau of Investigation for  
30 federal processing. The cost for the fingerprint processing  
31 may be borne by the office, the employer, or the person

1 subject to the background check. The Department of Law  
2 Enforcement shall submit an invoice to the office for the  
3 fingerprints received each month. The office shall screen the  
4 background results to determine if the applicant meets  
5 licensure requirements.

6 (h) Information that the commission requires by rule  
7 concerning any designated principal representative; any  
8 officer, director, control person, member, partner, or joint  
9 venturer of the applicant, or any person having the same or  
10 substantially similar status or performing substantially  
11 similar functions; or any natural person who is the ultimate  
12 equitable owner of a 10-percent or greater interest in the  
13 mortgage lender. The commission may require information  
14 concerning any such applicant or person, including his or her  
15 full name and any other names by which he or she may have been  
16 known, social security number, age, qualifications and  
17 educational and business history, and disciplinary and  
18 criminal history.

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

31



1           ~~(3) Each initial application for a mortgage lender's~~  
2 ~~license must be in a form prescribed by the commission. The~~  
3 ~~commission or office may require each applicant to provide any~~  
4 ~~information reasonably necessary to make a determination of~~  
5 ~~the applicant's eligibility for licensure. The commission or~~  
6 ~~office may require that each officer, director, and ultimate~~  
7 ~~equitable owner of a 10 percent or greater interest in the~~  
8 ~~applicant submit a complete set of fingerprints taken by an~~  
9 ~~authorized law enforcement officer.~~

10           (4) A person required to be licensed under ss.  
11 494.006-494.0077, or an agent or employee thereof, is deemed  
12 to have consented to the venue of courts of competent  
13 jurisdiction in this state regarding any matter within the  
14 authority of ss. 494.001-494.0077 regardless of where an act  
15 or violation was committed.

16           (5) A license issued in accordance with ss.  
17 494.006-494.0077 is not transferable or assignable.

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

29           ~~(7) If an initial mortgage lender or branch office~~  
30 ~~license has been issued but the check upon which the license~~  
31 ~~is based is returned due to insufficient funds, the license~~

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

6       ~~(7)(8)~~ Each lender, regardless of the number of  
7 branches it operates, shall designate a principal  
8 representative who exercises control of the licensee's  
9 business and shall maintain a form prescribed by the  
10 commission designating the principal representative. If the  
11 form is not accurately maintained, the business is considered  
12 to be operated by each officer, director, or equitable owner  
13 of a 10-percent or greater interest in the business.

14       ~~(8)(9)~~ ~~After October 1, 2001,~~ An applicant's principal  
15 representative must pass a written test prescribed by the  
16 commission and administered by the office, or must pass an  
17 electronic test prescribed by the commission and administered  
18 by the office or a third party approved by the office, which  
19 covers primary and subordinate mortgage financing transactions  
20 and the provisions of this chapter and rules adopted under  
21 this chapter. The commission may set a fee by rule, which may  
22 not exceed \$100, for the electronic version of the mortgage  
23 broker test. The commission may waive by rule the examination  
24 requirement for any person who has passed a test approved by  
25 the Conference of State Bank Supervisors, the American  
26 Association of Residential Mortgage Regulators, or the United  
27 States Department of Housing and Urban Development if the test  
28 covers primary and subordinate mortgage financing  
29 transactions. This requirement is satisfied if the principal  
30 representative has continuously served in the capacity of a  
31 principal representative for a licensed entity under this

1 chapter for at least 1 year and has not had a lapse in  
2 designation as a principal representative of more than 2 years  
3 before the date of the submission of the application or  
4 amendment in the case of a change in the principal  
5 representative. This requirement is also satisfied if the  
6 principal representative holds an active license as a mortgage  
7 broker in this state.

8 ~~(9)(10)~~ A lender shall notify the office of any change  
9 in the designation of its principal representative within 30  
10 days after the change is effective. A new principal  
11 representative shall satisfy the name and address of any new  
12 principal representative and shall document that the person  
13 ~~has completed~~ the educational and testing requirements of this  
14 section within 90 days after being designated as ~~upon~~ the  
15 designation of a new principal representative. This  
16 requirement is satisfied if the principal representative has  
17 continuously served in the capacity of a principal  
18 representative for a licensed entity under this chapter for at  
19 least 1 year and has not had a lapse in designation as a  
20 principal representative of more than 2 years before the date  
21 of the submission of the application or amendment in the case  
22 of a change in the principal representative. This requirement  
23 is also satisfied if the principal representative holds an  
24 active license as a mortgage broker in this state.

25 Section 17. Section 494.0062, Florida Statutes, is  
26 amended to read:

27 494.0062 Correspondent mortgage lender's license  
28 requirements.--

29 (1) Each person who acts as a correspondent mortgage  
30 lender must be licensed under this section unless otherwise  
31 exempt from licensure.

1           ~~(2)(1)~~ Each initial application for a correspondent  
2 mortgage lender's license must be in the form prescribed by  
3 rule of the commission. In order to facilitate uniformity, the  
4 commission may adopt by rule a uniform application form  
5 approved by the Conference of State Bank Supervisors or the  
6 American Association of Residential Mortgage Regulators, and  
7 any subsequent amendments to the form, if the form is  
8 substantially consistent with the requirements of this  
9 chapter. The commission may require by rule that each  
10 applicant submit the uniform application form to the office,  
11 or such organization as the commission designates, in a  
12 computer-readable form that is compatible with the electronic  
13 data-processing system specified by the commission. The office  
14 may require each applicant to provide any information  
15 reasonably necessary to determine the applicant's eligibility  
16 for licensure. The office shall issue an initial correspondent  
17 mortgage lender license to any person who submits:  
18           (a) A completed application form.~~+~~  
19           (b) A nonrefundable application fee of \$500. An  
20 application is considered received for purposes of s. 120.60  
21 upon receipt of a completed application form as prescribed by  
22 commission rule, a nonrefundable application fee of \$500, and  
23 any other fee prescribed by law.~~+~~  
24           (c) Audited financial statements ~~that, which~~ document  
25 that the applicant ~~application~~ has a bona fide and verifiable  
26 net worth pursuant to United States generally accepted  
27 accounting principles of \$25,000 or more, which must be  
28 continuously maintained as a condition of licensure.~~+~~  
29           (d) A surety bond in the amount of \$10,000, payable to  
30 the State of Florida and conditioned upon compliance with ss.  
31

1 494.001-494.0077, which inures to the office and which must be  
2 continuously maintained, thereafter, in full force.†

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

8 (f) ~~For applications filed after October 1, 2001,~~  
9 Proof that the applicant's principal representative has  
10 completed 24 hours of classroom instruction in primary and  
11 subordinate financing transactions and in the provisions of  
12 this chapter and rules enacted under this chapter. This  
13 requirement is satisfied if the principal representative has  
14 continuously served in the capacity of a principal  
15 representative for a licensed entity under this chapter for at  
16 least 1 year and has not had a lapse in designation as a  
17 principal representative of more than 2 years before the date  
18 of the submission of the application or amendment in the case  
19 of a change in the principal representative. This requirement  
20 is also satisfied if the principal representative holds an  
21 active license as a mortgage broker in this state.

22 (g) A complete set of fingerprints as the commission  
23 requires by rule for the designated principal representative  
24 and each officer, director, control person, member, partner,  
25 or joint venturer of the applicant, and ultimate equitable  
26 owner of a 10-percent or greater interest in the applicant. A  
27 fingerprint card submitted to the office must be taken by an  
28 authorized law enforcement agency. The office shall submit the  
29 fingerprints to the Department of Law Enforcement for state  
30 processing and the Department of Law Enforcement shall forward  
31 the fingerprints to the Federal Bureau of Investigation for

1 federal processing. The cost of the fingerprint processing may  
2 be borne by the office, the employer, or the person subject to  
3 the background check. The Department of Law Enforcement shall  
4 submit an invoice to the office for the fingerprints received  
5 each month. The office shall screen the background results to  
6 determine if the applicant meets licensure requirements.

7 (h) Information that the commission requires by rule  
8 concerning any designated principal representative; any  
9 officer, director, control person, member, partner, or joint  
10 venturer of the applicant or any person having the same or  
11 substantially similar status or performing substantially  
12 similar functions; or any natural person who is the ultimate  
13 equitable owner of a 10-percent or greater interest in the  
14 correspondent mortgage lender. The office may require  
15 information concerning any such applicant or person, including  
16 his or her full name and any other names by which he or she  
17 may have been known, age, social security number,  
18 qualifications and educational and business history, and  
19 disciplinary and criminal history.

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

31

1           ~~(3) Each initial application for a correspondent~~  
2 ~~mortgage lender's license must be in a form prescribed by the~~  
3 ~~commission. The commission or office may require each~~  
4 ~~applicant to provide any information reasonably necessary to~~  
5 ~~make a determination of the applicant's eligibility for~~  
6 ~~licensure. The commission or office may require that each~~  
7 ~~officer, director, and ultimate equitable owner of a~~  
8 ~~10 percent or greater interest submit a complete set of~~  
9 ~~fingerprints taken by an authorized law enforcement officer.~~

10           (4) Each license is valid for the remainder of the  
11 biennium in which the license is issued.

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

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

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

24           (8) A license issued under this section is not  
25 transferable or assignable.

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

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

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

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

21 ~~(11)(12)~~ ~~After October 1, 2001,~~ An applicant's  
22 principal representative must pass a written test prescribed  
23 by the commission and administered by the office or must pass  
24 an electronic test prescribed by the commission and  
25 administered by the office or a third party approved by the  
26 office which covers primary and subordinate mortgage financing  
27 transactions and the provisions of this chapter and rules  
28 adopted under this chapter. The commission may waive by rule  
29 the examination requirement for any person who has passed a  
30 test approved by the Conference of State Bank Supervisors, the  
31 American Association of Residential Mortgage Regulators, or



1 the United States Department of Housing and Urban Development  
2 if the test covers primary and subordinate mortgage financing  
3 transactions. The commission may set by rule a fee not to  
4 exceed \$100 for taking the examination. This requirement is  
5 satisfied if the principal representative has continuously  
6 served in the capacity of a principal representative for a  
7 licensed entity under this chapter for at least 1 year and has  
8 not had a lapse in designation as a principal representative  
9 of more than 2 years before the date of the submission of the  
10 application or amendment in the case of a change in the  
11 principal representative. This requirement is also satisfied  
12 if the principal representative holds an active license as a  
13 mortgage broker in this state.

14 ~~(12)(13)~~ A correspondent lender shall notify the  
15 office of any change in the designation of its principal  
16 representative within 30 days after the change is effective. A  
17 new principal representative shall satisfy the name and  
18 address of any new principal representative and shall document  
19 that such person has completed the educational and testing  
20 requirements of this section within 90 days after being  
21 designated as upon the lender's designation of a new principal  
22 representative. This requirement is satisfied if the principal  
23 representative has continuously served in the capacity of a  
24 principal representative for a licensed entity under this  
25 chapter for at least 1 year and has not had a lapse in  
26 designation as a principal representative of more than 2 years  
27 before the date of the submission of the application or  
28 amendment in the case of a change in the principal  
29 representative. This requirement is also satisfied if the  
30 principal representative holds an active license as a mortgage  
31 broker in this state.

1           Section 18. Paragraph (b) of subsection (1) and  
2 subsection (2) of section 494.0064, Florida Statutes, are  
3 amended to read:

4           494.0064 Renewal of mortgage lender's license; branch  
5 office license renewal.--

6           (1)

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

12           (2) The commission shall adopt rules establishing a  
13 procedure for the biennial renewal of mortgage lender's  
14 licenses, correspondent lender's licenses, and branch office  
15 licenses ~~permits~~. The commission may prescribe the form for  
16 renewal and may require an update of all information provided  
17 in the licensee's initial application. In order to facilitate  
18 uniformity, the commission may adopt by rule a uniform renewal  
19 form approved by the Conference of State Bank Supervisors or  
20 the American Association of Residential Mortgage Regulators,  
21 and any subsequent amendments to the form, if the form is  
22 substantially consistent with the requirements of this  
23 chapter. The commission may require by rule that each licensee  
24 submit the uniform renewal form to the office, or such  
25 organization as the commission designates, in a  
26 computer-readable form that is compatible with the electronic  
27 data-processing system specified by the commission.

28           Section 19. Section 494.0065, Florida Statutes, is  
29 amended to read:

30           494.0065 Saving clause.--

31

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

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

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

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

15           (b) A licensee pursuant to paragraph (a) may operate a  
16 wholly owned subsidiary or affiliate for the purpose of  
17 servicing accounts if the subsidiary or affiliate is  
18 operational as of September 30, 1991. Such subsidiary or  
19 affiliate is not required to obtain a separate license, but is  
20 subject to all the requirements of a licensee under ss.  
21 494.006-494.0077.

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

29           (3) The commission may prescribe by rule forms and  
30 procedures for application for licensure, and amendment and  
31 withdrawal of application for licensure, or transfer,

1 including any existing branch offices, in accordance with  
2 subsections (4) and (5), and for renewal of licensure of  
3 licensees under this section. In order to facilitate  
4 uniformity, the commission may adopt by rule uniform forms  
5 approved by the Conference of State Bank Supervisors or the  
6 American Association of Residential Mortgage Regulators, and  
7 any subsequent amendments to the forms, if the forms are  
8 substantially consistent with the requirements of this  
9 chapter. The commission may require by rule that the forms be  
10 submitted to the office, or such organization as the  
11 commission designates, in a computer-readable form compatible  
12 with the electronic data-processing system specified by the  
13 commission. The office may require each applicant to provide  
14 any information reasonably necessary to determine the  
15 applicant's eligibility for licensure. An application is  
16 considered received for purposes of s. 120.60 upon receipt of  
17 a completed application form as prescribed by commission rule,  
18 a nonrefundable application fee of \$500, and any other fee  
19 prescribed by law.

20 (4)(a) Notwithstanding ss. 494.0061(5) and  
21 494.0067(3), the ultimate equitable owner, as of the effective  
22 date of this act, of a mortgage lender licensed under this  
23 section may transfer, one time, at least 50 percent of the  
24 ownership, control, or power to vote any class of equity  
25 securities of such mortgage lender, except as provided in  
26 paragraph (b). For purposes of this subsection, satisfaction  
27 of the amount of the ownership transferred may be met in  
28 multiple transactions or in a single transaction.

29 (b) A person who is an ultimate equitable owner on the  
30 effective date of this act may transfer, at any time, at least  
31 50 percent of the ownership, control, or power to vote any

1 class of equity securities of such person to the person's  
2 spouse or child, and any such transferee may transfer, at any  
3 time, such ownership, control, or power to vote to a spouse or  
4 child of such transferee, in perpetuity.

5 (c) For any transfer application filed on or after  
6 October 1, 2006:

7 1. An applicant must provide proof that the  
8 applicant's principal representative has completed 24 hours of  
9 instruction in primary and subordinate financing transactions  
10 and in the provisions of this chapter and rules adopted under  
11 this chapter. This requirement is satisfied if the principal  
12 representative has continuously served in the capacity of a  
13 principal representative for a licensed entity under this  
14 chapter for at least 1 year and has not had a lapse in  
15 designation as a principal representative of more than 2 years  
16 before the date of the submission of the application or  
17 amendment in the case of a change in the principal  
18 representative. This requirement is also satisfied if the  
19 principal representative holds an active license as a mortgage  
20 broker in this state.

21 2. An applicant's principal representative must pass a  
22 written test prescribed by the commission and administered by  
23 the office, or must pass an electronic test prescribed by the  
24 commission and administered by the office or a third party  
25 approved by the office, which covers primary and subordinate  
26 mortgage financing transactions and the provisions of this  
27 chapter and rules adopted under this chapter. The commission  
28 may set by rule a fee not to exceed \$100 for the electronic  
29 version of the mortgage broker test. The commission may waive  
30 by rule the examination requirement for any person who has  
31 passed a test approved by the Conference of State Bank

1 Supervisors, the American Association of Residential Mortgage  
2 Regulators, or the United States Department of Housing and  
3 Urban Development if the test covers primary and subordinate  
4 mortgage financing transactions. This requirement is satisfied  
5 if the principal representative has continuously served in the  
6 capacity of a principal representative for a licensed entity  
7 under this chapter for at least 1 year and has not had a lapse  
8 in designation as a principal representative of more than 2  
9 years before the date of the submission of the application or  
10 amendment in the case of a change in the principal  
11 representative. This requirement is also satisfied if the  
12 principal representative holds an active license as a mortgage  
13 broker in this state.

14       (5) Each initial application for a transfer must be in  
15 the form prescribed by rule of the commission. The commission  
16 or office may require each applicant for any transfer to  
17 provide any information reasonably necessary to make a  
18 determination of the applicant's eligibility for licensure.  
19 The office shall issue the transfer of licensure to any person  
20 who submits the following documentation at least 90 days prior  
21 to the anticipated transfer:

22       (a) A completed application form.

23       (b) A nonrefundable fee set by rule of the commission  
24 in the amount of \$500. An application is considered received  
25 for purposes of s. 120.60 upon receipt of a completed  
26 application form as prescribed by commission rule, a  
27 nonrefundable application fee of \$500, and any other fee  
28 prescribed by law.

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 (e) A complete set of fingerprints as the commission  
9 requires by rule for ~~or office may require that~~ each  
10 designated principal representative, officer, director,  
11 control person, member, partner, or joint venturer of the  
12 applicant and the ultimate equitable owner of a 10-percent or  
13 greater interest in the applicant. A fingerprint card  
14 submitted to the office must be ~~submit a complete set of~~  
15 ~~fingerprints~~ taken by an authorized law enforcement agency  
16 ~~officer. The office shall submit the fingerprints to the~~  
17 Department of Law Enforcement for state processing and the  
18 Department of Law Enforcement shall forward the fingerprints  
19 to the Federal Bureau of Investigation for federal processing.  
20 The cost of the fingerprint processing may be borne by the  
21 office, the employer, or the person subject to the background  
22 check. The Department of Law Enforcement shall submit an  
23 invoice to the office for the fingerprints received each  
24 month. The office shall screen the background results to  
25 determine if the applicant meets licensure requirements.

26 (f) Information that the commission requires by rule  
27 concerning any designated principal representative; any  
28 officer, director, control person, members, partner, or joint  
29 venturer of the applicant or any person having the same or  
30 substantially similar status or performing substantially  
31 similar functions; or any individual who is the ultimate

1 equitable owner of a 10-percent or greater interest in the  
2 mortgage lender. The commission may require information  
3 concerning such applicant or person, including his or her full  
4 name and any other names by which he or she may have been  
5 known, age, social security number, qualifications and  
6 educational and business history, and disciplinary and  
7 criminal history.

8 (6) Notwithstanding subsection (5), a transfer under  
9 subsection (4) may be denied if the applicant; designated  
10 principal representative; any principal officer, ~~or~~ director,  
11 control person, member, partner, or joint venturer of the  
12 applicant; or any natural person owning a 10-percent or  
13 greater interest in the applicant has committed any violation  
14 specified in s. 494.0072, or has entered a plea of nolo  
15 contendere, regardless of adjudication, or has an action  
16 pending against the applicant in any criminal prosecution or  
17 administrative enforcement action, in any jurisdiction, which  
18 involves fraud, dishonest dealing, or any act of moral  
19 turpitude.

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

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

26 (9) Each mortgage lender shall designate a principal  
27 representative who exercises control over the business and  
28 shall keep the designation current on a form prescribed by  
29 commission rule designating the principal representative. If  
30 the information on the form is not kept current, the business  
31 is considered to be operated by each officer, director, or



1 equitable owner of a 10-percent or greater interest in the  
2 business.

3       (10) A lender shall notify the office of any change in  
4 the designation of its principal representative within 30 days  
5 after the change is effective. A new principal representative  
6 must satisfy the educational and testing requirements of this  
7 section within 90 days after being designated as the new  
8 principal representative. This requirement is satisfied if the  
9 principal representative has continuously served in the  
10 capacity of a principal representative for a licensed entity  
11 under this chapter for at least 1 year and has not had a lapse  
12 in designation as a principal representative of more than 2  
13 years before the date of the submission of the application or  
14 amendment in the case of a change in the principal  
15 representative. This requirement is also satisfied if the  
16 principal representative currently holds an active license as  
17 mortgage broker in this state.

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

20       494.0066 Branch offices.--

21       (2) The office shall issue a branch office license to  
22 a licensee licensed under ss. 494.006-494.0077 after the  
23 office determines that the licensee has submitted ~~upon receipt~~  
24 ~~of~~ a completed branch office application form as prescribed by  
25 rule by the commission and an initial nonrefundable branch  
26 office license fee of \$325. In order to facilitate uniformity,  
27 the commission may adopt by rule a uniform branch office  
28 application form to establish a branch office which is  
29 approved by the Conference of State Bank Supervisors or the  
30 American Association of Residential Mortgage Regulators, and  
31 any subsequent amendments to the form, if the form is

1 substantially consistent with the requirements of this  
2 chapter. The commission may require by rule that each  
3 applicant submit the uniform application form to the office,  
4 or such organization as the commission designates, in a  
5 computer-readable form compatible with the electronic  
6 data-processing system specified by the commission. The branch  
7 office application must include the name and license number of  
8 the licensee under ss. 494.006-494.0077, the name of the  
9 licensee's employee in charge of the branch office, and the  
10 address of the branch office. The branch office license shall  
11 be issued in the name of the licensee under ss.  
12 494.006-494.0077 and must be renewed in conjunction with the  
13 license renewal.

14 Section 21. Section 494.0067, Florida Statutes, is  
15 amended to read:

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

18 ~~(1) Each license of a mortgage lender, correspondent~~  
19 ~~mortgage lender, or branch office shall be prominently~~  
20 ~~displayed in the office for which it is issued.~~

21 (1)(2) Each licensee under ss. 494.006-494.0077 which  
22 makes mortgage loans on real estate in this state shall  
23 transact business from a principal place of business. Each  
24 principal place of business and each branch office shall be  
25 operated under the full charge, control, and supervision of  
26 the licensee under ss. 494.006-494.0077.

27 (2)(3) A license issued under ss. 494.006-494.0077 is  
28 not transferable or assignable.

29 (3) Each licensee under ss. 494.006-494.0077 shall  
30 report, on a form prescribed by rule of the commission, any  
31 change in the information contained in any initial application

1 form, or any amendment thereto, not later than 30 days after  
2 the change is effective.

3 (4) Each licensee under ss. 494.006-494.0077 shall  
4 report any changes in the partners, officers, members, joint  
5 venturers, directors, or control persons of any licensee or  
6 changes in the form of business organization by written  
7 amendment in such form and at such time that the commission  
8 specifies by rule.

9 (a) In any case in which a person or a group of  
10 persons, directly or indirectly or acting by or through one or  
11 more persons, proposes to purchase or acquire a controlling  
12 interest in a licensee, such person or group must submit an  
13 initial application for licensure as a mortgage lender or  
14 correspondent mortgage lender before such purchase or  
15 acquisition and at the time and in the form prescribed by the  
16 commission by rule.

17 (b) As used in this subsection, the term "controlling  
18 interest" means possession of the power to direct or cause the  
19 direction of the management or policies of a company whether  
20 through ownership of securities, by contract, or otherwise.  
21 Any person who directly or indirectly has the right to vote 25  
22 percent or more of the voting securities of a company or who  
23 is entitled to 25 percent or more of its profits is presumed  
24 to possess a controlling interest.

25 (c) Any addition of a designated principal  
26 representative, partner, officer, member, joint venturer,  
27 director, or control person of the applicant who does not have  
28 a controlling interest and who has not previously complied  
29 with the provisions of ss. 494.0061(2)(g) and 494.0061(2)(h),  
30 ss. 494.0062(2)(g) and 494.0062(2)(h), or ss. 494.0065(5)(e)  
31 and 494.0065(5)(f) shall be subject thereto unless required to

1 file an initial application in accordance with paragraph (a).  
2 If the office determines that the licensee does not continue  
3 to meet licensure requirements, the office may bring  
4 administrative action in accordance with s. 494.0072 to  
5 enforce the provisions of this section.

6 (d) The commission shall adopt rules providing for the  
7 waiver of the application required by this subsection if the  
8 person or group of persons proposing to purchase or acquire a  
9 controlling interest in a licensee has previously complied  
10 with the provisions of ss. 494.0061(2)(g) and 494.0061(2)(h),  
11 ss. 494.0062(2)(g) and 494.0062(2)(h), or ss. 494.0065(5)(e)  
12 and 494.0065(5)(f) with the same legal entity or is currently  
13 licensed with the office under this chapter.

14 ~~(4) The commission or office may require each licensee~~  
15 ~~under ss. 494.006-494.0077 to report any change of address of~~  
16 ~~the principal place of business, change of address of any~~  
17 ~~branch office, or change of principal officer, director, or~~  
18 ~~ultimate equitable owner of 10 percent or more of the licensed~~  
19 ~~corporation to the office in a form prescribed by rule of the~~  
20 ~~commission not later than 30 business days after the change is~~  
21 ~~effective.~~

22 (5) Each licensee under ss. 494.006-494.0077 shall  
23 report in a form prescribed by rule by the commission any  
24 indictment, information, charge, conviction, plea of nolo  
25 contendere, or plea of guilty to any crime or administrative  
26 violation that involves fraud, dishonest dealing, or any other  
27 act of moral turpitude, in any jurisdiction, by the licensee  
28 under ss. 494.006-494.0077 or any principal officer, director,  
29 or ultimate equitable owner of 10 percent or more of the  
30 licensed corporation, not later than 30 business days after  
31

1 the indictment, information, charge, conviction, or final  
2 administrative action.

3 (6) Each licensee under ss. 494.006-494.0077 shall  
4 report any action in bankruptcy, voluntary or involuntary, to  
5 the office, not later than 7 business days after the action is  
6 instituted.

7 (7) Each licensee under ss. 494.006-494.0077 shall  
8 designate a registered agent in this state for service of  
9 process.

10 (8) Each licensee under ss. 494.006-494.0077 shall  
11 provide an applicant for a mortgage loan a good faith estimate  
12 of the costs the applicant can reasonably expect to pay in  
13 obtaining a mortgage loan. The good faith estimate of costs  
14 shall be mailed or delivered to the applicant within a  
15 reasonable time after the licensee receives a written loan  
16 application from the applicant. The estimate of costs may be  
17 provided to the applicant by a person other than the licensee  
18 making the loan. The commission may adopt rules that set forth  
19 the disclosure requirements of this section.

20 (9) On or before April 30, 2000, each mortgage lender  
21 or correspondent mortgage lender shall file an initial report  
22 stating the full legal name, residential address, social  
23 security number, date of birth, mortgage broker license  
24 number, date of hire, and, if applicable, date of termination  
25 for each person who acted as a loan originator or an associate  
26 of the mortgage lender or correspondent mortgage lender during  
27 the immediate preceding quarter. Thereafter, a mortgage lender  
28 or correspondent mortgage lender shall file a report only if a  
29 person became or ceased to be a loan originator or an  
30 associate of the mortgage lender or correspondent mortgage  
31 lender during the immediate preceding quarter. Such report

1 shall be filed within 30 days after the last day of each  
2 calendar quarter and shall contain the full legal name,  
3 residential address, social security number, date of birth,  
4 date of hire and, if applicable, the mortgage broker license  
5 number and date of termination of each person who became or  
6 ceased to be a loan originator or an associate of the mortgage  
7 lender or correspondent mortgage lender during the immediate  
8 preceding quarter. The commission shall prescribe, by rule,  
9 the procedures for filing reports required by this subsection.

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

17 (b) The licensee shall maintain records of such  
18 training for a period of 4 years, including records of the  
19 content of and hours designated for each program and the date  
20 and location of the program.

21 (c) Evidence of completion of such programs shall be  
22 included with the licensee's renewal application.

23 Section 22. Paragraphs (s), (t), and (u) are added to  
24 subsection (2) and subsection (3) of section 494.0072, Florida  
25 Statutes, is amended, to read:

26 494.0072 Administrative penalties and fines; license  
27 violations.--

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

31

1           (s) Payment to the office for a license or permit with  
2 a check or electronic transmission of funds that is dishonored  
3 by the applicant's or licensee's financial institution.

4           (t) Having a final judgment entered against her or him  
5 in a civil action upon grounds of fraud, embezzlement,  
6 misrepresentation, or deceit.

7           (u)1. Having been the subject of any decision,  
8 finding, injunction, suspension, prohibition, revocation,  
9 denial, judgment, or administrative order by any court of  
10 competent jurisdiction, administrative law judge, state or  
11 federal agency, national securities exchange, national  
12 commodities exchange, national option exchange, national  
13 securities association, national commodities association, or  
14 national option association involving a violation of any  
15 federal or state securities or commodities law, or any rule or  
16 regulation adopted thereunder, or involving a violation of any  
17 rule or regulation of any national securities, commodities, or  
18 options exchange or national securities, commodities, or  
19 options association.

20           2. Having been the subject of any injunction or  
21 adverse administrative order by a state or federal agency  
22 regulating banking, insurance, finance or small loan  
23 companies, real estate, mortgage brokers or lenders, money  
24 transmitters, or other related or similar industries.

25           (3) A mortgage lender or correspondent mortgage lender  
26 is subject to the disciplinary actions specified in subsection  
27 (1) if any officer, member, director, control person, joint  
28 venturer, or ultimate equitable owner of a 10-percent or  
29 greater interest in the mortgage lender or correspondent  
30 mortgage lender, associate, or employee of the mortgage lender  
31

1 or correspondent mortgage lender violates any provision of  
2 subsection (2).

3 Section 23. Subsection (2) of section 494.00721,  
4 Florida Statutes, is amended to read:

5 494.00721 Net worth.--

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

25 Section 24. Paragraph (c) of subsection (3) of section  
26 501.137, Florida Statutes, is amended to read:

27 501.137 Mortgage lenders; tax and insurance payments  
28 from escrow accounts; duties.--

29 (3)

30 (c) If the lender violates paragraph (a) and the  
31 premium payment is more than 90 days overdue or if the insurer



1 refuses to reinstate the insurance policy, the lender shall  
2 pay the difference between the cost of the previous insurance  
3 policy and a new, comparable insurance policy for a period of  
4 2 years. If the lender refuses, the lender is liable for the  
5 reasonable attorney's fees and costs of the property owner for  
6 a violation of this section.

7 Section 25. Subsection (8) is added to section 516.01,  
8 Florida Statutes, to read:

9 516.01 Definitions.--As used in this chapter, the  
10 term:

11 (8) "Control person" means an individual, partnership,  
12 corporation, trust, or other organization that possesses the  
13 power, directly or indirectly, to direct the management or  
14 policies of a company, whether through ownership of  
15 securities, by contract, or otherwise. A person is presumed to  
16 control a company if, with respect to a particular company,  
17 that person:

18 (a) Is a director, general partner, or officer  
19 exercising executive responsibility or having similar status  
20 or functions;

21 (b) Directly or indirectly has the right to vote 10  
22 percent or more of a class of a voting security or has the  
23 power to sell or direct the sale of 10 percent or more of a  
24 class of voting securities; or

25 (c) In the case of a partnership, has the right to  
26 receive upon dissolution, or has contributed, 10 percent or  
27 more of the capital.

28 Section 26. Section 516.03, Florida Statutes, is  
29 amended to read:

30 516.03 Application for license; fees; etc.--  
31

1           (1) APPLICATION.--Application for a license to make  
2 loans under this chapter shall be in the form prescribed by  
3 rule of the commission. The commission may require each  
4 applicant to provide any information reasonably necessary to  
5 determine the applicant's eligibility for licensure. The  
6 applicant shall also provide information that the office  
7 requires concerning any officer, director, control person,  
8 member, partner, or joint venturer of the applicant or any  
9 person having the same or substantially similar status or  
10 performing substantially similar functions, or concerning any  
11 individual who is the ultimate equitable owner of a 10-percent  
12 or greater interest in the applicant. The office may require  
13 information concerning any such applicant or person, including  
14 his or her full name and any other names by which he or she  
15 may have been known, age, social security number, residential  
16 history, qualifications, educational and business history, and  
17 disciplinary and criminal history. The applicant must provide  
18 evidence of liquid assets of at least \$25,000., and shall  
19 ~~contain the name, residence and business addresses of the~~  
20 ~~applicant and, if the applicant is a copartnership or~~  
21 ~~association, of every member thereof and, if a corporation, of~~  
22 ~~each officer and director thereof, also the county and~~  
23 ~~municipality with the street and number or approximate~~  
24 ~~location where the business is to be conducted, and such~~  
25 ~~further relevant information as the commission or office may~~  
26 ~~require.~~ At the time of making such application the applicant  
27 shall pay to the office a nonrefundable biennial license fee  
28 of \$625. Applications, except for applications to renew or  
29 reactivate a license, must also be accompanied by a  
30 nonrefundable ~~an~~ investigation fee of \$200. An application is  
31 considered received for purposes of s. 120.60 upon receipt of

1 a completed application form as prescribed by commission rule,  
2 a nonrefundable application fee of \$625, and any other fee  
3 prescribed by law. The commission may adopt rules to require  
4 ~~allow~~ electronic submission of any form, document, or fee  
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.

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

21 Section 27. Paragraph (a) of subsection (3) of section  
22 516.031, Florida Statutes, is amended to read:

23 516.031 Finance charge; maximum rates.--

24 (3) OTHER CHARGES.--

25 (a) In addition to the interest, delinquency, and  
26 insurance charges herein provided for, no further or other  
27 charges or amount whatsoever for any examination, service,  
28 commission, or other thing or otherwise shall be directly or  
29 indirectly charged, contracted for, or received as a condition  
30 to the grant of a loan, except:

31

- 1           1. An amount not to exceed~~\$25~~\$10 to reimburse a  
2 portion of the costs for investigating the character and  
3 credit of the person applying for the loan;
- 4           2. An annual fee of \$25 on the anniversary date of  
5 each line-of-credit account;
- 6           3. Charges paid for brokerage fee on a loan or line of  
7 credit of more than \$10,000, title insurance, and the  
8 appraisal of real property offered as security when paid to a  
9 third party and supported by an actual expenditure;
- 10          4. Intangible personal property tax on the loan note  
11 or obligation when secured by a lien on real property;
- 12          5. The documentary excise tax and lawful fees, if any,  
13 actually and necessarily paid out by the licensee to any  
14 public officer for filing, recording, or releasing in any  
15 public office any instrument securing the loan, which fees may  
16 be collected when the loan is made or at any time thereafter;
- 17          6. The premium payable for any insurance in lieu of  
18 perfecting any security interest otherwise required by the  
19 licensee in connection with the loan, if the premium does not  
20 exceed the fees which would otherwise be payable, which  
21 premium may be collected when the loan is made or at any time  
22 thereafter;
- 23          7. Actual and reasonable attorney's fees and court  
24 costs as determined by the court in which suit is filed;
- 25          8. Actual and commercially reasonable expenses of  
26 repossession, storing, repairing and placing in condition for  
27 sale, and selling of any property pledged as security; or
- 28          9. A delinquency charge not to exceed \$10 for each  
29 payment in default for a period of not less than 10 days, if  
30 the charge is agreed upon, in writing, between the parties  
31 before imposing the charge.

1  
2 Any charges, including interest, in excess of the combined  
3 total of all charges authorized and permitted by this chapter  
4 constitute a violation of chapter 687 governing interest and  
5 usury, and the penalties of that chapter apply. In the event  
6 of a bona fide error, the licensee shall refund or credit the  
7 borrower with the amount of the overcharge immediately but  
8 within 20 days from the discovery of such error.

9 Section 28. Section 516.05, Florida Statutes, is  
10 amended to read:

11 516.05 License.--

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

25 (2) A license that is not renewed at the end of the  
26 biennium established by the commission shall automatically  
27 revert to inactive status. An inactive license may be  
28 reactivated upon submission of a completed reactivation  
29 application, payment of the biennial license fee, and payment  
30 of a reactivation fee which shall equal the biennial license  
31

1 fee. A license expires on the date at which it has been  
2 inactive for 6 months.

3 (3) Only one place of business for the purpose of  
4 making loans under this chapter may be maintained under one  
5 license, but the office may issue additional licenses to a  
6 licensee upon compliance with all the provisions of this  
7 chapter governing issuance of a single license.

8 (4) Each licensee shall report, on a form prescribed  
9 by rule of the commission, any change to the information  
10 contained in any initial application form, or any amendment  
11 thereto, not later than 30 days after the change is effective.

12 (5) Each licensee shall report any changes in the  
13 partners, officers, members, joint venturers, directors, or  
14 control persons of any licensee, or changes in the form of  
15 business organization, by written amendment in such form and  
16 at such time as the commission specifies by rule.

17 (a) In any case in which a person or a group of  
18 persons, directly or indirectly or acting by or through one or  
19 more persons, proposes to purchase or acquire a controlling  
20 interest in a licensee, such person or group must submit an  
21 initial application for licensure before such purchase or  
22 acquisition at such time and in such form as the commission  
23 prescribes by rule.

24 (b) As used in this subsection, the term "controlling  
25 interest" means possession of the power to direct or cause the  
26 direction of the management or policies of a company whether  
27 through ownership of securities, by contract, or otherwise.  
28 Any person who directly or indirectly has the right to vote 25  
29 percent or more of the voting securities of a company or is  
30 entitled to 25 percent or more of its profits is presumed to  
31 possess a controlling interest.

1        (c) Any addition of a partner, officer, member, joint  
2 venturer, director, or control person of the applicant who  
3 does not have a controlling interest and who has not  
4 previously complied with the provisions of s. 516.03(1) shall  
5 be subject thereto unless required to file an initial  
6 application in accordance with paragraph (a). If the office  
7 determines that the licensee does not continue to meet  
8 licensure requirements, the office may bring administrative  
9 action in accordance with s. 516.07 to enforce the provisions  
10 of this chapter.

11        (d) The commission shall adopt rules providing for the  
12 waiver of the application required by this subsection if the  
13 person or group of persons proposing to purchase or acquire a  
14 controlling interest in a licensee has previously complied  
15 with the provisions of s. 516.03(1) with the same legal entity  
16 or is currently licensed with the office under this chapter.

17        ~~(4) Prior to relocating his or her place of business,~~  
18 ~~a licensee must file with the office, in the manner prescribed~~  
19 ~~by commission rule, notice of the relocation.~~

20        ~~(6)~~<sup>(5)</sup> A licensee may conduct the business of making  
21 loans under this chapter within a place of business in which  
22 other business is solicited or engaged in, unless the office  
23 shall find that the conduct of such other business by the  
24 licensee results in an evasion of this chapter. Upon such  
25 finding, the office shall order the licensee to desist from  
26 such evasion; provided, however, that no license shall be  
27 granted to or renewed for any person or organization engaged  
28 in the pawnbroker business.

29        ~~(6) If any person purchases substantially all of the~~  
30 ~~assets of any existing licensed place of business, the~~  
31 ~~purchaser shall give immediate notice thereof to the office~~

1 ~~and shall be granted a 90 day temporary license for the place~~  
2 ~~of business within 10 days after the office's receipt of an~~  
3 ~~application for a permanent license. Issuance of a temporary~~  
4 ~~license for a place of business nullifies the existing license~~  
5 ~~for the place of business, and the temporary licensee is~~  
6 ~~subject to any disciplinary action provided for by this~~  
7 ~~chapter.~~

8           (7) Licenses are not transferable or assignable. A  
9 licensee may invalidate any license by delivering it to the  
10 office with a written notice of the delivery, but such  
11 delivery does not affect any civil or criminal liability or  
12 the authority to enforce this chapter for acts committed in  
13 violation thereof.

14           (8) The office may refuse to process an initial  
15 application for a license if the applicant or any person with  
16 power to direct the management or policies of the applicant's  
17 business is the subject of a pending criminal prosecution in  
18 any jurisdiction until conclusion of such criminal  
19 prosecution.

20           (9) A licensee that is the subject of a voluntary or  
21 involuntary bankruptcy filing must report such filing to the  
22 office within 7 business days after the filing date.

23           Section 29. Subsection (1) of section 516.07, Florida  
24 Statutes, is amended to read:

25           516.07 Grounds for denial of license or for  
26 disciplinary action.--

27           (1) The following acts are violations of this chapter  
28 and constitute grounds for denial of an application for a  
29 license to make consumer finance loans and grounds for any of  
30 the disciplinary actions specified in subsection (2):  
31



1 (a) A material misstatement of fact in an application  
2 for a license.+

3 (b) Failure to maintain liquid assets of at least  
4 \$25,000 at all times for the operation of business at a  
5 licensed location or proposed location.+

6 (c) Failure to demonstrate financial responsibility,  
7 experience, character, or general fitness, such as to command  
8 the confidence of the public and to warrant the belief that  
9 the business operated at the licensed or proposed location is  
10 lawful, honest, fair, efficient, and within the purposes of  
11 this chapter.+

12 (d) The violation, either knowingly or without the  
13 exercise of due care, of any provision of this chapter, any  
14 rule or order adopted under this chapter, or any written  
15 agreement entered into with the office.+

16 (e) Any act of fraud, misrepresentation, or deceit,  
17 regardless of reliance by or damage to a borrower, or any  
18 illegal activity, where such acts are in connection with a  
19 loan under this chapter. Such acts include, but are not  
20 limited to:

21 1. Willful imposition of illegal or excessive charges;  
22 or

23 2. Misrepresentation, circumvention, or concealment of  
24 any matter required to be stated or furnished to a borrower.+

25 (f) The use of unreasonable collection practices or of  
26 false, deceptive, or misleading advertising, where such acts  
27 are in connection with the operation of a business to make  
28 consumer finance loans.+

29 (g) Any violation of part III of chapter 817 or part  
30 II of chapter 559 or of any rule adopted under part II of  
31 chapter 559.+

1           (h) Failure to maintain, preserve, and keep available  
2 for examination, all books, accounts, or other documents  
3 required by this chapter, by any rule or order adopted under  
4 this chapter, or by any agreement entered into with the  
5 office.+

6           (i) Refusal to permit inspection of books and records  
7 in an investigation or examination by the office or refusal to  
8 comply with a subpoena issued by the office.+

9           (j) Pleading nolo contendere to, or having been  
10 convicted or found guilty of, a crime involving fraud,  
11 dishonest dealing, or any act of moral turpitude, regardless  
12 of whether adjudication is withheld.+

13           (k) Paying money or anything else of value, directly  
14 or indirectly, to any person as compensation, inducement, or  
15 reward for referring loan applicants to a licensee.+

16           (l) Allowing any person other than the licensee to use  
17 the licensee's business name, address, or telephone number in  
18 an advertisement.+

19           (m) Accepting or advertising that the licensee accepts  
20 money on deposit or as consideration for the issuance or  
21 delivery of certificates of deposit, savings certificates, or  
22 similar instruments, except to the extent permitted under  
23 chapter 517.+~~or~~

24           (n) Failure to pay any fee, charge, or fine imposed or  
25 assessed pursuant to this chapter or any rule adopted under  
26 this chapter.

27           (o) Using the name or logo of a financial institution,  
28 as defined in s. 655.005(1), or its affiliates or subsidiaries  
29 when marketing or soliciting existing or prospective customers  
30 if such marketing materials are used without the written  
31 consent of the financial institution and in a manner that

1 would lead a reasonable person to believe that the material or  
2 solicitation originated from, was endorsed by, or is related  
3 to or the responsibility of the financial institution or its  
4 affiliates or subsidiaries.

5 (p) Payment to the office for a license or permit with  
6 a check or electronic transmission of funds which is  
7 dishonored by the applicant's or licensee's financial  
8 institution.

9 Section 30. Section 516.08, Florida Statutes, is  
10 repealed.

11 Section 31. Subsection (3) is added to section 516.12,  
12 Florida Statutes, to read:

13 516.12 Records to be kept by licensee.--

14 (3) The commission may prescribe by rule the minimum  
15 information to be shown in the books, accounts, records, and  
16 documents of licensees for purposes of enabling the office to  
17 determine the licensee's compliance with ss. 516.001-516.36.  
18 In addition, the commission may prescribe by rule the  
19 requirements for the destruction of books, accounts, records,  
20 and documents retained by the licensee after completion of the  
21 time period specified in subsection (1).

22 Section 32. Subsection (4) of section 517.021, Florida  
23 Statutes, is amended to read:

24 517.021 Definitions.--When used in this chapter,  
25 unless the context otherwise indicates, the following terms  
26 have the following respective meanings:

27 (4) "Branch office" means any location in this state  
28 of a dealer or investment adviser where one or more associated  
29 persons regularly conduct the business of rendering investment  
30 advice or effecting any transactions in, or inducing or  
31 attempting to induce the purchase or sale of, any security, or

1 which is held out as such. The commission may adopt by rule  
2 exceptions to this definition in order to maintain consistency  
3 with the definition of a branch office used by self-regulatory  
4 organizations authorized by the Securities and Exchange  
5 Commission, including, but not limited to, the National  
6 Association of Securities Dealers or the New York Stock  
7 Exchange. ~~office of a dealer or investment adviser located in~~  
8 ~~this state, other than the principal office of the dealer or~~  
9 ~~investment adviser, which nonprincipal office is owned or~~  
10 ~~controlled by the dealer or investment adviser for the purpose~~  
11 ~~of conducting a securities business.~~

12 Section 33. Subsection (9) of section 517.051, Florida  
13 Statutes, is amended to read:

14 517.051 Exempt securities.--The exemptions provided  
15 herein from the registration requirements of s. 517.07 are  
16 self-executing and do not require any filing with the office  
17 prior to claiming such exemption. Any person who claims  
18 entitlement to any of these exemptions bears the burden of  
19 proving such entitlement in any proceeding brought under this  
20 chapter. The registration provisions of s. 517.07 do not apply  
21 to any of the following securities:

22 (9) A security issued by a corporation organized and  
23 operated exclusively for religious, educational, benevolent,  
24 fraternal, charitable, or reformatory purposes and not for  
25 pecuniary profit, no part of the net earnings of which  
26 corporation inures to the benefit of any private stockholder  
27 or individual, or any security of a fund that is excluded from  
28 the definition of an investment company under s. 3(c)(10)(B)  
29 of the Investment Company Act of 1940; provided that no person  
30 shall directly or indirectly offer or sell securities under  
31 this subsection except by an offering circular containing full

1 and fair disclosure, as prescribed by the rules of the  
2 commission, of all material information, including, but not  
3 limited to, a description of the securities offered and terms  
4 of the offering, a description of the nature of the issuer's  
5 business, a statement of the purpose of the offering and the  
6 intended application by the issuer of the proceeds thereof,  
7 and financial statements of the issuer prepared in conformance  
8 with United States generally accepted accounting principles.  
9 Section 6(c) of the Philanthropy Protection Act of 1995, Pub.  
10 L. No. 104-62, shall not preempt any provision of this  
11 chapter.

12 Section 34. Subsection (18) of section 517.061,  
13 Florida Statutes, is amended to read:

14 517.061 Exempt transactions.--The exemption for each  
15 transaction listed below is self-executing and does not  
16 require any filing with the office prior to claiming such  
17 exemption. Any person who claims entitlement to any of the  
18 exemptions bears the burden of proving such entitlement in any  
19 proceeding brought under this chapter. The registration  
20 provisions of s. 517.07 do not apply to any of the following  
21 transactions; however, such transactions are subject to the  
22 provisions of ss. 517.301, 517.311, and 517.312:

23 (18) The offer or sale of any security effected by or  
24 through a person in compliance with ~~registered pursuant to~~ s.  
25 517.12(17).

26 Section 35. Paragraph (g) of subsection (3) of section  
27 517.081, Florida Statutes, is amended to read:

28 517.081 Registration procedure.--

29 (3) The office may require the applicant to submit to  
30 the office the following information concerning the issuer and  
31 such other relevant information as the office may in its

1 judgment deem necessary to enable it to ascertain whether such  
2 securities shall be registered pursuant to the provisions of  
3 this section:

4 (g)1. A specimen copy of the security and a copy of  
5 any circular, prospectus, advertisement, or other description  
6 of such securities.

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

15 a. An issuer seeking to register securities for resale  
16 by persons other than the issuer.

17 b. An issuer who is subject to any of the  
18 disqualifications described in 17 C.F.R. s. 230.262, adopted  
19 pursuant to the Securities Act of 1933, or who has been or is  
20 engaged or is about to engage in an activity that would be  
21 grounds for denial, revocation, or suspension under s.  
22 517.111. For purposes of this subparagraph, an issuer includes  
23 an issuer's director, officer, shareholder who owns at least  
24 10 percent of the shares of the issuer, promoter, or selling  
25 agent of the securities to be offered or any officer,  
26 director, or partner of such selling agent.

27 c. An issuer who is a development-stage company that  
28 either has no specific business plan or purpose or has  
29 indicated that its business plan is to merge with an  
30 unidentified company or companies.

31

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

3           e. Any issuer the office determines is ineligible if  
4 the form would not provide full and fair disclosure of  
5 material information for the type of offering to be registered  
6 by the issuer.

7           f. Any corporation which has failed to provide the  
8 office the reports required for a previous offering registered  
9 pursuant to this subparagraph.

10  
11 As a condition precedent to qualifying for use of the  
12 simplified offering circular, a corporation shall agree to  
13 provide the office with an annual financial report containing  
14 a balance sheet as of the end of the issuer's fiscal year and  
15 a statement of income for such year, prepared in accordance  
16 with United States generally accepted accounting principles  
17 and accompanied by an independent accountant's report. If the  
18 issuer has more than 100 security holders at the end of a  
19 fiscal year, the financial statements must be audited. Annual  
20 financial reports must be filed with the office within 90 days  
21 after the close of the issuer's fiscal year for each of the  
22 first 5 years following the effective date of the  
23 registration.

24           Section 36. Subsections (6), (7), (10), (11), (15),  
25 and (17) of section 517.12, Florida Statutes, are amended to  
26 read:

27           517.12 Registration of dealers, associated persons,  
28 investment advisers, and branch offices.--

29           (6) A dealer, associated person, investment adviser,  
30 or branch office, in order to obtain registration, must file  
31 with the office a written application, on a form which the

1 | commission may by rule prescribe, ~~verified under oath~~. The  
2 | commission may establish, by rule, procedures for depositing  
3 | fees and filing documents by electronic means provided such  
4 | procedures provide the office with the information and data  
5 | required by this section. Each dealer or investment adviser  
6 | must also file an irrevocable written consent to service of  
7 | civil process similar to that provided for in s. 517.101. The  
8 | application shall contain such information as the commission  
9 | or office may require concerning such matters as:

10 |       (a) The name of the applicant and the address of its  
11 | principal office and each office in this state.

12 |       (b) The applicant's form and place of organization;  
13 | and, if the applicant is a corporation, a copy of its articles  
14 | of incorporation and amendments to the articles of  
15 | incorporation or, if a partnership, a copy of the partnership  
16 | agreement.

17 |       (c) The applicant's proposed method of doing business  
18 | and financial condition and history, including a certified  
19 | financial statement showing all assets and all liabilities,  
20 | including contingent liabilities of the applicant as of a date  
21 | not more than 90 days prior to the filing of the application.

22 |       (d) The names and addresses of all associated persons  
23 | of the applicant to be employed in this state and the offices  
24 | to which they will be assigned.

25 |       (7) The application shall also contain such  
26 | information as the commission or office may require about the  
27 | applicant; any partner, officer, or director of the applicant  
28 | or any person having a similar status or performing similar  
29 | functions; any person directly or indirectly controlling the  
30 | applicant; or any employee of a dealer or of an investment  
31 | adviser rendering investment advisory services. Each



1 applicant shall file a complete set of fingerprints. A  
2 fingerprint card submitted to the office must be taken by an  
3 authorized law enforcement agency officer. The office shall  
4 submit the ~~Such~~ fingerprints ~~shall be submitted~~ to the  
5 Department of Law Enforcement for state processing and the  
6 Department of Law Enforcement shall forward the fingerprints  
7 to ~~or~~ the Federal Bureau of Investigation for ~~state and~~  
8 federal processing. The cost of the fingerprint processing may  
9 be borne by the office, the employer, or the person subject to  
10 the background check. The Department of Law Enforcement shall  
11 submit an invoice to the office for the fingerprints received  
12 each month. The office shall screen the background results to  
13 determine if the applicant meets licensure requirements. The  
14 commission may waive, by rule, the requirement that applicants  
15 must file a set of fingerprints or the requirement that such  
16 fingerprints must be processed by the Department of Law  
17 Enforcement or the Federal Bureau of Investigation. The  
18 commission or office may require information about any such  
19 applicant or person concerning such matters as:

20 (a) His or her full name, and any other names by which  
21 he or she may have been known, and his or her age, social  
22 security number, photograph, qualifications, and educational  
23 and business history.

24 (b) Any injunction or administrative order by a state  
25 or federal agency, national securities exchange, or national  
26 securities association involving a security or any aspect of  
27 the securities business and any injunction or administrative  
28 order by a state or federal agency regulating banking,  
29 insurance, finance, or small loan companies, real estate,  
30 mortgage brokers, or other related or similar industries,  
31

1 | which injunctions or administrative orders relate to such  
2 | person.

3 |           (c) His or her conviction of, or plea of nolo  
4 | contendere to, a criminal offense or his or her commission of  
5 | any acts which would be grounds for refusal of an application  
6 | under s. 517.161.

7 |           (d) The names and addresses of other persons of whom  
8 | the office may inquire as to his or her character, reputation,  
9 | and financial responsibility.

10 |           (10) An applicant for registration shall pay an  
11 | assessment fee of \$200, in the case of a dealer or investment  
12 | adviser, or \$40, in the case of an associated person. The  
13 | assessment fee of an associated person shall be reduced to  
14 | \$30, but only after the office determines, by final order,  
15 | that sufficient funds have been allocated to the Securities  
16 | Guaranty Fund pursuant to s. 517.1203 to satisfy all valid  
17 | claims filed in accordance with s. 517.1203(2) and after all  
18 | amounts payable under any service contract entered into by the  
19 | office pursuant to s. 517.1204, and all notes, bonds,  
20 | certificates of indebtedness, other obligations, or evidences  
21 | of indebtedness secured by such notes, bonds, certificates of  
22 | indebtedness, or other obligations, have been paid or  
23 | provision has been made for the payment of such amounts,  
24 | notes, bonds, certificates of indebtedness, other obligations,  
25 | or evidences of indebtedness. An associated person may not  
26 | ~~having current fingerprint cards filed with the National~~  
27 | ~~Association of Securities Dealers or a national securities~~  
28 | ~~exchange registered with the Securities and Exchange~~  
29 | ~~Commission shall~~ be assessed an additional fee to cover the  
30 | cost for the said fingerprint cards to be processed by the  
31 | office. Such fee shall be determined by rule of the

1 | commission. Each dealer and each investment adviser shall pay  
2 | an assessment fee of \$100 for each office in this state,  
3 | ~~except its designated principal office~~. Such fees become the  
4 | revenue of the state, except for those assessments provided  
5 | for under s. 517.131(1) until such time as the Securities  
6 | Guaranty Fund satisfies the statutory limits, and are not  
7 | returnable in the event that registration is withdrawn or not  
8 | granted.

9 |         (11) If the office finds that the applicant is of good  
10 | repute and character and has complied with the provisions of  
11 | this chapter and the rules made pursuant hereto, it shall  
12 | register the applicant. The registration of each dealer,  
13 | investment adviser, branch office, and associated person  
14 | expires will expire on December 31 of the year the  
15 | registration became effective unless the registrant has  
16 | renewed his or her registration on or before that date. The  
17 | commission may establish by rule the initial year in which  
18 | renewals for branch offices shall be processed through the  
19 | Central Registration Depository, and the registration of each  
20 | branch office will expire on March 31, of the year in which it  
21 | became effective unless the registrant has renewed its  
22 | registration on or before that date. Registration may be  
23 | renewed by furnishing such information as the commission may  
24 | require, together with payment of the fee required in  
25 | subsection (10) for dealers, investment advisers, associated  
26 | persons, or branch offices and the payment of any amount  
27 | lawfully due and owing to the office pursuant to any order of  
28 | the office or pursuant to any agreement with the office. Any  
29 | dealer, investment adviser, or associated person registrant  
30 | who has not renewed a registration by the time the current  
31 | registration expires may request reinstatement of such

1 registration by filing with the office, on or before January  
2 31 of the year following the year of expiration, such  
3 information as may be required by the commission, together  
4 with payment of the fee required in subsection (10) for  
5 dealers, investment advisers, or associated persons and a late  
6 fee equal to the amount of such fee. Any reinstatement of  
7 registration granted by the office during the month of January  
8 shall be deemed effective retroactive to January 1 of that  
9 year.

10 (15) (a) In order to facilitate uniformity and  
11 streamline procedures for persons who are subject to  
12 registration in multiple jurisdictions, the commission may  
13 adopt by rule uniform forms that have been approved by the  
14 Securities and Exchange Commission, and any subsequent  
15 amendments to such forms, if the forms are substantially  
16 consistent with the provisions of this chapter. Uniform forms  
17 that the commission may adopt to administer this section  
18 include, but are not limited to:

19 1. Form BR, Uniform Branch Office Registration Form,  
20 adopted October 2005.

21 2. Form U4, Uniform Application for Securities  
22 Industry Registration or Transfer, adopted October 2005.

23 3. Form U5, Uniform Termination Notice for Securities  
24 Industry Registration, adopted October 2005.

25 4. Form ADV, Uniform Application for Investment  
26 Adviser Registration, adopted October 2003.

27 5. Form ADV-W, Notice of Withdrawal from Registration  
28 as an Investment Adviser, adopted October 2003.

29 6. Form BD, Uniform Application for Broker-Dealer  
30 Registration, adopted July 1999.

31

1           7. Form BDW, Uniform Request for Broker-Dealer  
2 Withdrawal, adopted August 1999.

3           (b) In lieu of filing with the office the applications  
4 specified in subsection (6), the fees required by subsection  
5 (10), renewals required under subsection (11), and the  
6 termination notices required by subsection (12), the  
7 commission may by rule establish procedures for the deposit of  
8 such fees and documents with the Central Registration  
9 Depository or the Investment Adviser Registration Depository  
10 of the National Association of Securities Dealers, Inc., as  
11 developed under contract with the North American Securities  
12 Administrators Association, Inc.; ~~provided, however, that such~~  
13 ~~procedures shall provide the office with the information and~~  
14 ~~data as required by this section.~~

15           (17)(a) A dealer that is located in Canada, does not  
16 have an ~~and has no~~ office or other physical presence in this  
17 state, and has made a notice filing in accordance with this  
18 subsection is exempt from the registration requirements of  
19 this section and may, ~~provided the dealer is registered in~~  
20 ~~accordance with this section,~~ effect transactions in  
21 securities with or for, or induce or attempt to induce the  
22 purchase or sale of any security by:

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

27           2. A person from Canada who is present in a resident  
28 ~~of~~ this state, and whose transactions are in a self-directed,  
29 tax-advantaged ~~tax-advantage~~ retirement plan in Canada of  
30 which the person is the holder or contributor.

31

1           (b) A notice filing under this subsection must consist  
2 of documents that the commission by rule requires to be filed,  
3 together with a consent to service of process and a  
4 nonrefundable filing fee of \$200. The commission may establish  
5 by rule procedures for the deposit of fees and the filing of  
6 documents to be made by electronic means, if such procedures  
7 provide the office with the information and data required by  
8 this section.

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

11           1. A notice filing in the form that the commission by  
12 rule requires.

13           2. A consent to service of process.

14           3. Evidence that the Canadian dealer is registered as  
15 a dealer in the jurisdiction in which its main office is  
16 located.

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

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

21           (e) A notice filing is effective upon receipt. A  
22 notice filing expires on December 31 of the year in which the  
23 filing becomes effective unless the Canadian dealer has  
24 renewed the filing on or before that date. A Canadian dealer  
25 may annually renew a notice filing by furnishing to the office  
26 such information as the office requires together with a  
27 renewal fee of \$200 and the payment of any amount due and  
28 owing the office pursuant to any agreement with the office.  
29 Any Canadian dealer who has not renewed a notice filing by the  
30 time a current notice filing expires may request reinstatement  
31 of such notice filing by filing with the office, on or before

1 January 31 of the year following the year the notice filing  
2 expires, such information as the commission requires, by rule,  
3 together with the payment of \$200 and a late fee of \$200. Any  
4 reinstatement of a notice filing granted by the office during  
5 the month of January is effective retroactively to January 1  
6 of that year.

7 (f) An associated person who represents a Canadian  
8 dealer who has made a notice filing under this subsection is  
9 exempt from the registration requirements of this section and  
10 may effect transactions in securities in this state as  
11 permitted for a dealer under paragraph (a) if such person is  
12 registered in the jurisdiction from which he or she is  
13 effecting transactions into this state.

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

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

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

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

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

27 5. Correct any inaccurate information within 30 days  
28 after the information contained in the notice of filing  
29 becomes inaccurate for any reason.

30  
31

1           (h) An associated person representing a Canadian  
2 dealer who has made a notice of filing under this subsection  
3 shall:

4           1. Maintain provincial or territorial registration in  
5 good standing.

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

9           (i) A notice filing may be terminated by filing notice  
10 of such termination with the office. Unless another date is  
11 specified by the Canadian dealer, such notice is effective  
12 upon its receipt by the office.

13           (j) All fees collected under this subsection become  
14 the revenue of the state, except for those assessments  
15 provided for under s. 517.131(1), until the Securities  
16 Guaranty Fund has satisfied the statutory limits, and these  
17 fees are not returnable if a notice filing is withdrawn.

18           ~~(b) An associated person who represents a Canadian~~  
19 ~~dealer registered under this section may, provided the agent~~  
20 ~~is registered in accordance with this section, effect~~  
21 ~~transactions in securities in this state as permitted for a~~  
22 ~~dealer, under subsection (a).~~

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

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

27           ~~2. Files a consent to service of process.~~

28           ~~3. Is registered as a dealer in good standing in the~~  
29 ~~jurisdiction from which it is effecting transactions into this~~  
30 ~~state and files evidence of such registration with the office.~~

31



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 37. 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 of those  
8 searches and inquiries.

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

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

26 Section 38. Subsections (2) and (5) of section  
27 517.141, Florida Statutes, are amended, and subsection (11) is  
28 added to that section, to read:

29 517.141 Payment from the fund.--

30 (2) Regardless of the number of claims or claimants  
31 involved, payments for claims shall be limited in the

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

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

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

22 Section 39. Subsection (1) of section 517.161, Florida  
23 Statutes, is amended to read:

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

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

31

- 1           (a) Has violated any provision of this chapter or any  
2 rule or order made under this chapter;
- 3           (b) Has made a material false statement in the  
4 application for registration;
- 5           (c) Has been guilty of a fraudulent act in connection  
6 with rendering investment advice or in connection with any  
7 sale of securities, has been or is engaged or is about to  
8 engage in making fictitious or pretended sales or purchases of  
9 any such securities or in any practice involving the rendering  
10 of investment advice or the sale of securities which is  
11 fraudulent or in violation of the law;
- 12           (d) Has made a misrepresentation or false statement  
13 to, or concealed any essential or material fact from, any  
14 person in the rendering of investment advice or the sale of a  
15 security to such person;
- 16           (e) Has failed to account to persons interested for  
17 all money and property received;
- 18           (f) Has not delivered, after a reasonable time, to  
19 persons entitled thereto securities held or agreed to be  
20 delivered by the dealer, broker, or investment adviser, as and  
21 when paid for, and due to be delivered;
- 22           (g) Is rendering investment advice or selling or  
23 offering for sale securities through any associated person not  
24 registered in compliance with the provisions of this chapter;
- 25           (h) Has demonstrated unworthiness to transact the  
26 business of dealer, investment adviser, or associated person;
- 27           (i) Has exercised management or policy control over or  
28 owned 10 percent or more of the securities of any dealer or  
29 investment adviser that has been declared bankrupt, or had a  
30 trustee appointed under the Securities Investor Protection  
31

1 Act; or is, in the case of a dealer or investment adviser,  
2 insolvent;

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

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

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

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

1 applicant who has been continuously registered with the office  
2 for 5 years from the entry of such decision, finding,  
3 injunction, suspension, prohibition, revocation, denial,  
4 judgment, or administrative order provided such decision,  
5 finding, injunction, suspension, prohibition, revocation,  
6 denial, judgment, or administrative order has been timely  
7 reported to the office pursuant to the commission's rules; ~~or-~~

8 (n) Made payment to the office for a registration or  
9 notice filing with a check or electronic transmission of funds  
10 which is dishonored by the applicant's, registrant's, or  
11 notice filer's financial institution.

12 Section 40. Present subsection (18) of section 520.02,  
13 Florida Statutes, is redesignated as subsection (19), and a  
14 new subsection (18) is added to that section, to read:

15 520.02 Definitions.--In this act, unless the context  
16 or subject matter otherwise requires:

17 (18) "Control person" means an individual,  
18 partnership, corporation, trust, or other organization that  
19 possesses the power, directly or indirectly, to direct the  
20 management or policies of a company, whether through ownership  
21 of securities, by contract, or otherwise. A person is presumed  
22 to control a company if, with respect to a particular company,  
23 that person:

24 (a) Is a director, general partner, or officer  
25 exercising executive responsibility or having similar status  
26 or functions;

27 (b) Directly or indirectly has the right to vote 25  
28 percent or more of a class of a voting security or has the  
29 power to sell or direct the sale of 25 percent or more of a  
30 class of voting securities; or

31

1           (c) In the case of a partnership, has the right to  
2 receive upon dissolution, or has contributed, 25 percent or  
3 more of the capital.

4           Section 41. Subsections (2), (3), (4), and (5) of  
5 section 520.03, Florida Statutes, are amended to read:

6           520.03 Licenses.--

7           (2) An application for a license under this part must  
8 be submitted to the office in such form as the commission may  
9 prescribe by rule. The commission may require each applicant  
10 to provide any information reasonably necessary to determine  
11 the applicant's eligibility for licensure. The applicant shall  
12 also provide information that the office requires concerning  
13 any officer, director, control person, member, partner, or  
14 joint venturer of the applicant or any person having the same  
15 or substantially similar status or performing substantially  
16 similar functions, or any individual who is the ultimate  
17 equitable owner of a 10-percent or greater interest in the  
18 applicant. The office may require information concerning any  
19 such applicant or person, including his or her full name and  
20 any other names by which he or she may have been known, age,  
21 social security number, residential history, qualifications,  
22 educational and business history, and disciplinary and  
23 criminal history. If the office determines that an application  
24 should be granted, it shall issue the license for a period not  
25 to exceed 2 years. A nonrefundable application fee of \$175  
26 shall accompany an initial application for the principal place  
27 of business and each application for a branch location of a  
28 retail installment seller who is required to be licensed under  
29 this chapter. An application is considered received for  
30 purposes of s. 120.60 upon receipt of a completed application  
31



1 form as prescribed by commission rule, a nonrefundable  
2 application fee of \$175, and any other fee prescribed by law.

3 (3) The nonrefundable renewal fee for a motor vehicle  
4 retail installment seller license shall be \$175. The  
5 commission shall establish by rule biennial licensure periods  
6 and procedures for renewal of licenses. A license that is not  
7 renewed by the end of the biennium established by the  
8 commission shall revert from active to inactive status. An  
9 inactive license may be reactivated within 6 months after  
10 becoming inactive upon filing a completed reactivation form,  
11 payment of the nonrefundable renewal fee, and payment of a  
12 reactivation fee equal to the nonrefundable renewal fee. A  
13 license that is not reactivated within 6 months after becoming  
14 inactive automatically expires.

15 (4) ~~Each license shall specify the location for which~~  
16 ~~it is issued and must be conspicuously displayed at that~~  
17 ~~location. Prior to relocating a principal place of business or~~  
18 ~~any branch location, the licensee must provide to the office~~  
19 ~~notice of the relocation in a form prescribed by commission~~  
20 ~~rule.~~ A licensee may not transact business as a motor vehicle  
21 retail installment seller except under the name by which it is  
22 licensed. Licenses issued under this part are not transferable  
23 or assignable.

24 (5) The office may deny an initial application for a  
25 license under this part if the applicant or any officer,  
26 director, control person, member, partner, or joint venturer  
27 ~~person with power to direct the management or policies~~ of the  
28 applicant is the subject of a pending criminal prosecution or  
29 governmental enforcement action, in any jurisdiction, until  
30 conclusion of such criminal prosecution or enforcement action.

31

1           Section 42. Subsection (19) is added to section  
2 520.31, Florida Statutes, to read:

3           520.31 Definitions.--Unless otherwise clearly  
4 indicated by the context, the following words when used in  
5 this act, for the purposes of this act, shall have the  
6 meanings respectively ascribed to them in this section:

7           (19) "Control person" means an individual,  
8 partnership, corporation, trust, or other organization that  
9 possesses the power, directly or indirectly, to direct the  
10 management or policies of a company, whether through ownership  
11 of securities, by contract, or otherwise. A person is presumed  
12 to control a company if, with respect to a particular company,  
13 that person:

14           (a) Is a director, general partner, or officer  
15 exercising executive responsibility or having similar status  
16 or functions;

17           (b) Directly or indirectly has the right to vote 10  
18 percent or more of a class of a voting security or has the  
19 power to sell or direct the sale of 10 percent or more of a  
20 class of voting securities; or

21           (c) In the case of a partnership, has the right to  
22 receive upon dissolution, or has contributed, 10 percent or  
23 more of the capital.

24           Section 43. Subsections (2), (3), (4), and (5) of  
25 section 520.32, Florida Statutes, are amended to read:

26           520.32 Licenses.--

27           (2) An application for a license under this part must  
28 be submitted to the office in such form as the commission may  
29 prescribe by rule. The commission may require each applicant  
30 to provide any information reasonably necessary to determine  
31 the applicant's eligibility for licensure. The applicant shall

1 also provide information that the office requires concerning  
2 any officer, director, control person, member, partner, or  
3 joint venturer of the applicant or any person having the same  
4 or substantially similar status or performing substantially  
5 similar functions, or any individual who is the ultimate  
6 equitable owner of a 10-percent or greater interest in the  
7 applicant. The office may require information concerning any  
8 such applicant or person, including his or her full name and  
9 any other names by which he or she may have been known, age,  
10 social security number, residential history, qualifications,  
11 educational and business history, and disciplinary and  
12 criminal history. If the office determines that an application  
13 should be granted, it shall issue the license for a period not  
14 to exceed 2 years. A nonrefundable application fee of \$175  
15 shall accompany an initial application for the principal place  
16 of business and each application for a branch location of a  
17 retail installment seller. An application is considered  
18 received for purposes of s. 120.60 upon receipt of a completed  
19 application form as prescribed by commission rule, a  
20 nonrefundable application fee of \$175, and any other fee  
21 prescribed by law.

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       (4) ~~Each license must specify the location for which~~  
4 ~~it is issued and must be conspicuously displayed at that~~  
5 ~~location. If a licensee's principal place of business or~~  
6 ~~branch location changes, the licensee shall notify the office~~  
7 ~~and the office shall endorse the change of location without~~  
8 ~~charge.~~ A licensee may not transact business as a retail  
9 installment seller except under the name by which it is  
10 licensed. A license issued under this part is not  
11 transferable or assignable.

12       (5) The office may deny an initial application for a  
13 license under this part if the applicant or any officer,  
14 director, control person, member, partner, or joint venturer  
15 ~~person with power to direct the management or policies~~ of the  
16 applicant is the subject of a pending criminal prosecution or  
17 governmental enforcement action, in any jurisdiction, until  
18 conclusion of such criminal prosecution or enforcement action.

19       Section 44. Subsections (2), (3), (4), and (5) of  
20 section 520.52, Florida Statutes, are amended to read:

21       520.52 Licensees.--

22       (2) An application for a license under this part must  
23 be submitted to the office in such form as the commission may  
24 prescribe by rule. The commission may require each applicant  
25 to provide any information reasonably necessary to determine  
26 the applicant's eligibility for licensure. The applicant shall  
27 also provide information that the office requires concerning  
28 any officer, director, control person, member, partner, or  
29 joint venturer of the applicant or any person having the same  
30 or substantially similar status or performing substantially  
31 similar functions, or any individual who is the ultimate

1 equitable owner of a 10-percent or greater interest in the  
2 applicant. The office may require information concerning any  
3 such applicant or person, including his or her full name and  
4 any other names by which he or she may have been known, age,  
5 social security number, residential history, qualifications,  
6 educational and business history, and disciplinary and  
7 criminal history. If the office determines that an application  
8 should be granted, it shall issue the license for a period not  
9 to exceed 2 years. A nonrefundable application fee of \$175  
10 shall accompany an initial application for the principal place  
11 of business and each branch location of a sales finance  
12 company. An application is considered received for purposes of  
13 s. 120.60 upon receipt of a completed application form as  
14 prescribed by commission rule, a nonrefundable application fee  
15 of \$175, and any other fee prescribed by law.

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

28 (4) ~~Each license must specify the location for which~~  
29 ~~it is issued and must be conspicuously displayed at that~~  
30 ~~location. If a licensee's principal place of business or~~  
31 ~~branch location changes, the licensee shall notify the office~~

1 ~~and the office shall endorse the change of location without~~  
2 ~~charge.~~ A licensee may not transact business as a sales  
3 finance company except under the name by which it is licensed.  
4 A license issued under this part is not transferable or  
5 assignable.

6 (5) The office may deny an initial application for a  
7 license under this part if the applicant or any officer,  
8 director, control person, member, partner, or joint venturer  
9 ~~person with power to direct the management or policies~~ of the  
10 applicant is the subject of a pending criminal prosecution or  
11 governmental enforcement action, in any jurisdiction, until  
12 conclusion of such criminal prosecution or enforcement action.

13 Section 45. Subsection (23) is added to section  
14 520.61, Florida Statutes, to read:

15 520.61 Definitions.--As used in this act:

16 (23) "Control person" means an individual,  
17 partnership, corporation, trust, or other organization that  
18 possesses the power, directly or indirectly, to direct the  
19 management or policies of a company, whether through ownership  
20 of securities, by contract, or otherwise. A person is presumed  
21 to control a company if, with respect to a particular company,  
22 that person:

23 (a) Is a director, general partner, or officer  
24 exercising executive responsibility or having similar status  
25 or functions;

26 (b) Directly or indirectly has the right to vote 10  
27 percent or more of a class of a voting security or has the  
28 power to sell or direct the sale of 10 percent or more of a  
29 class of voting securities; or

1           (c) In the case of a partnership, has the right to  
2 receive upon dissolution, or has contributed, 10 percent or  
3 more of the capital.

4           Section 46. Subsections (2), (3), (4), and (5) of  
5 section 520.63, Florida Statutes, are amended to read:

6           520.63 Licensees.--

7           (2) An application for a license under this part must  
8 be submitted to the office in such form as the commission may  
9 prescribe by rule. The commission may require each applicant  
10 to provide any information reasonably necessary to determine  
11 the applicant's eligibility for licensure. The applicant shall  
12 also provide information that the office requires concerning  
13 any officer, director, control person, member, partner, or  
14 joint venturer of the applicant or any person having the same  
15 or substantially similar status or performing substantially  
16 similar functions, or any individual who is the ultimate  
17 equitable owner of a 10-percent or greater interest in the  
18 applicant. The office may require information concerning any  
19 such applicant or person, including his or her full name and  
20 any other names by which he or she may have been known, age,  
21 social security number, residential history, qualifications,  
22 educational and business history, and disciplinary and  
23 criminal history. If the office determines that an application  
24 should be granted, it shall issue the license for a period not  
25 to exceed 2 years. A nonrefundable application fee of \$175  
26 shall accompany an initial application for the principal place  
27 of business and each application for a branch location of a  
28 home improvement finance seller. An application is considered  
29 received for purposes of s. 120.60 upon receipt of a completed  
30 application form as prescribed by commission rule, a  
31

1 nonrefundable application fee of \$175, and any other fee  
2 prescribed by law.

3           (3) The nonrefundable renewal fee for a home  
4 improvement finance license shall be \$175. Biennial licensure  
5 periods and procedures for renewal of licenses may also be  
6 established by the commission by rule. A license that is not  
7 renewed at the end of the biennium established by the  
8 commission shall automatically revert from active to inactive  
9 status. An inactive license may be reactivated within 6 months  
10 after becoming inactive upon filing a completed reactivation  
11 form, payment of the nonrefundable renewal fee, and payment of  
12 a reactivation fee equal to the nonrefundable renewal fee. A  
13 license that is not reactivated within 6 months after becoming  
14 inactive automatically expires.

15           (4) ~~Each license must specify the location for which~~  
16 ~~it is issued and must be conspicuously displayed at that~~  
17 ~~location. If a home improvement finance seller's principal~~  
18 ~~place of business or any branch location changes, the licensee~~  
19 ~~shall notify the office and the office shall endorse the~~  
20 ~~change of location without charge.~~ A licensee may not transact  
21 business as a home improvement finance seller except under the  
22 name by which it is licensed. A license issued under this part  
23 is not transferable or assignable.

24           (5) The office may deny an initial application for a  
25 license under this part if the applicant or any officer,  
26 director, control person, member, partner, or joint venturer  
27 ~~person with power to direct the management or policies~~ of the  
28 applicant is the subject of a pending criminal prosecution or  
29 governmental enforcement action, in any jurisdiction, until  
30 conclusion of such criminal prosecution or enforcement action.

31



1           Section 47. Subsection (5) of section 520.994, Florida  
2 Statutes, is amended to read:

3           520.994 Powers of office.--

4           (5) The office shall administer and enforce this  
5 chapter. The commission has authority to adopt rules pursuant  
6 to ss. 120.536(1) and 120.54 to implement the provisions of  
7 this chapter. The commission may adopt rules to require ~~allow~~  
8 electronic submission of any form, document, or fee required  
9 by this chapter if such rules reasonably accommodate  
10 technological or financial hardship. The commission may  
11 prescribe by rule requirements and procedures for obtaining an  
12 exemption due to a technological or financial hardship.

13           Section 48. Subsections (1) and (4) of section  
14 520.995, Florida Statutes, are amended to read:

15           520.995 Grounds for disciplinary action.--

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

19           (a) Failure to comply with any provision of this  
20 chapter, any rule or order adopted pursuant to this chapter,  
21 or any written agreement entered into with the office.†

22           (b) Fraud, misrepresentation, deceit, or gross  
23 negligence in any home improvement finance transaction or  
24 retail installment transaction, regardless of reliance by or  
25 damage to the buyer or owner.†

26           (c) Fraudulent misrepresentation, circumvention, or  
27 concealment of any matter required to be stated or furnished  
28 to a retail buyer or owner pursuant to this chapter,  
29 regardless of reliance by or damage to the buyer or owner.†

30  
31

1 (d) Willful imposition of illegal or excessive charges  
2 in any retail installment transaction or home improvement  
3 finance transaction.~~†~~

4 (e) False, deceptive, or misleading advertising by a  
5 seller or home improvement finance seller.~~†~~

6 (f) Failure to maintain, preserve, and keep available  
7 for examination, all books, accounts, or other documents  
8 required by this chapter, by any rule or order adopted  
9 pursuant to this chapter, or by any agreement entered into  
10 with the office.~~†~~

11 (g) Refusal to permit inspection of books and records  
12 in an investigation or examination by the office or refusal to  
13 comply with a subpoena issued by the office.~~†~~

14 (h) Criminal conduct in the course of a person's  
15 business as a seller, as a home improvement finance seller, or  
16 as a sales finance company.~~†~~~~or~~

17 (i) Failure to timely pay any fee, charge, or fine  
18 imposed or assessed pursuant to this chapter or any rule  
19 adopted under this chapter.

20 (j) Using the name or logo of a financial institution,  
21 as defined in s. 655.005(1), or its affiliates or subsidiaries  
22 when marketing or soliciting existing or prospective customers  
23 if such marketing materials are used without the written  
24 consent of the financial institution and in a manner that  
25 would lead a reasonable person to believe that the material or  
26 solicitation originated from, was endorsed by, or is related  
27 to or the responsibility of the financial institution or its  
28 affiliates or subsidiaries.

29 (k) Payment to the office for a license or permit with  
30 a check or electronic transmission of funds which is  
31

1 dishonored by the applicant's or licensee's financial  
2 institution.

3 (4) It is sufficient cause for the office to take any  
4 of the actions specified in subsection (2) as to any  
5 partnership, corporation, or association, if the office finds  
6 grounds for such action as to any member of the partnership,  
7 as to any officer or director of the corporation or  
8 association, or as to any control person, partner, or joint  
9 venturer ~~person with power to direct the management or~~  
10 ~~policies~~ of the partnership, corporation, or association.

11 Section 49. Subsection (4) of section 520.997, Florida  
12 Statutes, is amended to read:

13 520.997 Books, accounts, and records.--

14 (4) The commission may prescribe by rule the minimum  
15 information to be shown in the books, accounts, documents, and  
16 records of licensees so that such records will enable the  
17 office to determine compliance with ~~the provisions of this~~  
18 chapter. In addition, the commission may prescribe by rule  
19 requirements for the destruction of books, accounts, records,  
20 and documents retained by the licensee after completion of the  
21 time period specified in subsection (3).

22 Section 50. Section 520.999, Florida Statutes, is  
23 created to read:

24 520.999 Requirements of licensees.--

25 (1) Each licensee under ss. 520.01-520.999 shall  
26 report, on a form prescribed by rule of the commission, any  
27 change in the information contained in any initial application  
28 form, or any amendment thereto, not later than 30 days after  
29 the change is effective.

30 (2) Each licensee under ss. 520.01-520.999 shall  
31 report any changes in the partners, officers, members, joint

1 venturers, directors, or control persons of any licensee or  
2 changes in the form of business organization by written  
3 amendment in such form and at such time as the commission  
4 specifies by rule.

5 (a) In any case in which a person or a group of  
6 persons, directly or indirectly or acting by or through one or  
7 more persons, proposes to purchase or acquire a controlling  
8 interest in a licensee, such person or group must submit an  
9 initial application for licensure before such purchase or  
10 acquisition at such time and in such form as the commission  
11 prescribes by rule.

12 (b) As used in subsection, the term "controlling  
13 interest" means possession of the power to direct or cause the  
14 direction of the management or policies of a company whether  
15 through ownership of securities, by contract, or otherwise.  
16 Any person who directly or indirectly has the right to vote 25  
17 percent or more of the voting securities of a company or is  
18 entitled to 25 percent or more of its profits is presumed to  
19 possess a controlling interest.

20 (c) Any addition of a partner, officer, member, joint  
21 venturer, director, or control person of the applicant who  
22 does not have a controlling interest and who has not  
23 previously complied with the provisions of ss. 520.03(2),  
24 520.32(2), 520.52(2), and 520.63(2) shall be subject thereto  
25 unless required to file an initial application in accordance  
26 with paragraph (a). If the office determines that the licensee  
27 does not continue to meet licensure requirements, the office  
28 may bring administrative action in accordance with s. 520.995  
29 to enforce the provisions of this chapter.

30 (d) The commission shall adopt rules providing for the  
31 waiver of the application required by this subsection if the

1 person or group of persons proposing to purchase or acquire a  
2 controlling interest in a licensee has previously complied  
3 with the provisions of ss. 520.03(2), 520.32(2), 520.52(2),  
4 and 520.63(2) with the same legal entity or is currently  
5 licensed with the office under this chapter.

6 Section 51. Subsection (5) of section 537.009, Florida  
7 Statutes, is amended to read:

8 537.009 Recordkeeping; reporting; safekeeping of  
9 property.--

10 (5) The commission may prescribe by rule the books,  
11 accounts, documents, and records, and the minimum information  
12 to be shown in the books, accounts, documents, and records, of  
13 licensees so that such records will enable the office to  
14 determine compliance with the provisions of this act. In  
15 addition, the commission may prescribe by rule requirements  
16 for the destruction of books, accounts, records, and documents  
17 retained by the licensee after completion of the time period  
18 specified in subsection (3).

19 Section 52. Subsection (3) is added to section  
20 560.105, Florida Statutes, to read:

21 560.105 Supervisory powers; rulemaking.--

22 (3) The commission may adopt rules that require  
23 electronic submission of any forms, documents, or fees  
24 required by this code if such rules reasonably accommodate  
25 technological or financial hardship. The commission may  
26 prescribe by rule requirements and procedures for obtaining an  
27 exemption due to a technological or financial hardship.

28 Section 53. Paragraph (y) is added to subsection (1)  
29 of section 560.114, Florida Statutes, to read:

30 560.114 Disciplinary actions.--

31

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

9           (y) Payment to the office for a license or permit with  
10 a check or electronic transmission of funds which is  
11 dishonored by the applicant's or licensee's financial  
12 institution.

13           Section 54. Subsection (2) of section 560.121, Florida  
14 Statutes, is amended to read:

15           560.121 Records; limited restrictions upon public  
16 access.--

17           (2) The commission may prescribe by rule the minimum  
18 information that must be shown in the books, accounts,  
19 records, and documents of licensees for purposes of enabling  
20 the office to determine the licensee's compliance with ss.  
21 560.101-560.408. In addition, the commission may prescribe by  
22 rule requirements for the destruction of books, accounts,  
23 records, and documents retained by the licensee after  
24 completion of the time period specified in this subsection.

25 Examination reports, investigatory records, applications, and  
26 related information compiled by the office, or photographic  
27 copies thereof, shall be retained by the office for a period  
28 of at least 3 years following the date that the examination or  
29 investigation ceases to be active. Application records, and  
30 related information compiled by the office, or photographic  
31 copies thereof, shall be retained by the office for a period

1 of at least 2 years following the date that the registration  
2 ceases to be active.

3 Section 55. Section 560.126, Florida Statutes, is  
4 amended to read:

5 560.126 Significant events; notice required.--

6 (1) Unless exempted by the office, every money  
7 transmitter must provide the office with a written notice  
8 within 30 ~~15~~ days after the occurrence or knowledge of,  
9 whichever period of time is greater, any of the following  
10 events:

11 ~~(a)(1)~~ The filing of a petition under the United  
12 States Bankruptcy Code for bankruptcy or reorganization by the  
13 money transmitter.

14 ~~(b)(2)~~ The commencement of any registration suspension  
15 or revocation proceeding, either administrative or judicial,  
16 or the denial of any original registration request or a  
17 registration renewal, by any state, the District of Columbia,  
18 any United States territory, or any foreign country, in which  
19 the money transmitter operates or plans to operate or has  
20 registered to operate.

21 ~~(c)(3)~~ A felony indictment relating to the money  
22 transmission business involving the money transmitter or a  
23 money transmitter-affiliated party of the money transmitter.

24 ~~(d)(4)~~ The felony conviction, guilty plea, or plea of  
25 nolo contendere, if the court adjudicates the nolo contendere  
26 pleader guilty, or the adjudication of guilt of a money  
27 transmitter or money transmitter-affiliated party.

28 ~~(e)(5)~~ The interruption of any corporate surety bond  
29 required by the code.

30  
31

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

4  
5 However, ~~a person does not incur liability no liability shall~~  
6 ~~be incurred by any person~~ as a result of making a good-faith  
7 ~~good faith~~ effort to fulfill this disclosure requirement.

8           (2)(a) Each registrant under this code shall report,  
9 on a form prescribed by rule of the commission, any change in  
10 the information contained in any initial application form, or  
11 any amendment thereto, not later than 30 days after the change  
12 is effective.

13           (b) Each registrant under the code shall report any  
14 changes in the partners, officers, members, joint venturers,  
15 directors, controlling shareholders, or responsible persons of  
16 any registrant or changes in the form of business organization  
17 by written amendment in such form and at such time as the  
18 commission specifies by rule.

19           1. In any case in which a person or a group of  
20 persons, directly or indirectly or acting by or through one or  
21 more persons, proposes to purchase or acquire a controlling  
22 interest in a licensee, such person or group must submit an  
23 initial application for registration as a money transmitter  
24 before such purchase or acquisition at such time and in such  
25 form as the commission prescribes by rule.

26           2. As used in this subsection, the term "controlling  
27 interest" means possession of the power to direct or cause the  
28 direction of the management or policies of a company whether  
29 through ownership of securities, by contract, or otherwise.  
30 Any person who directly or indirectly has the right to vote 25  
31 percent or more of the voting securities of a company or is



1 entitled to 25 percent or more of its profits is presumed to  
2 possess a controlling interest.

3 3. Any addition of a partner, officer, member, joint  
4 venturer, director, controlling shareholder, or responsible  
5 person of the applicant who does not have a controlling  
6 interest and who has not previously complied with ss. 560.205  
7 and 560.306 shall be subject thereto unless required to file  
8 an initial application in accordance with subparagraph 1. If  
9 the office determines that the registrant does not continue to  
10 meet registration requirements, the office may bring  
11 administrative action in accordance with s. 560.114 to enforce  
12 the provisions of this code.

13 4. The commission shall adopt rules providing for the  
14 waiver of the application required by this subsection if the  
15 person or group of persons proposing to purchase or acquire a  
16 controlling interest in a registrant has previously complied  
17 with the provisions of ss. 560.205 and 560.306 with the same  
18 legal entity or is currently registered with the office under  
19 this code.

20 Section 56. Section 560.127, Florida Statutes, is  
21 amended to read:

22 560.127 Control of a money transmitter.--

23 ~~(1)~~ A person has control over a money transmitter if:

24 ~~(1)(a)~~ The individual, partnership, corporation,  
25 trust, or other organization possesses the power, directly or  
26 indirectly, to direct the management or policies of a company,  
27 whether through ownership of securities, by contract, or  
28 otherwise. A person is presumed to control a company if, with  
29 respect to a particular company, that person:

1           (a) Is a director, general partner, or officer  
2 exercising executive responsibility or having similar status  
3 or functions;

4           (b) Directly or indirectly has the right to vote 25  
5 percent or more of a class of a voting security or has the  
6 power to sell or direct the sale of 25 percent or more of a  
7 class of voting securities; or

8           (c) In the case of a partnership, has the right to  
9 receive upon dissolution, or has contributed, 25 percent or  
10 more of the capital. The person directly or indirectly or  
11 acting through one or more other persons owns, controls, or  
12 has power to vote 25 percent or more of any class of voting  
13 securities of the money transmitter; or

14           ~~(2)(b)~~ The office determines, after notice and  
15 opportunity for hearing, that the person directly or  
16 indirectly exercises a controlling influence over the  
17 activities of the money transmitter.

18           ~~(2)~~ In any case in which a person or a group of  
19 persons, directly or indirectly or acting by or through one or  
20 more persons, proposes to purchase or acquire a controlling  
21 interest in a money transmitter, and thereby to change the  
22 control of that money transmitter, each person or group of  
23 persons shall provide written notice to the office.

24           ~~(a)~~ A money transmitter whose stock is traded on an  
25 organized stock exchange shall provide the office with written  
26 notice within 15 days after knowledge of such change in  
27 control.

28           ~~(b)~~ A money transmitter whose stock is not publicly  
29 traded shall provide the office with not less than 30 days'  
30 prior written notice of such proposed change in control.

31

1           ~~(3) After a review of the written notification, the~~  
2 ~~office may require the money transmitter to provide additional~~  
3 ~~information relating to other and former addresses, and the~~  
4 ~~reputation, character, responsibility, and business~~  
5 ~~affiliations, of the proposed new owner or each of the~~  
6 ~~proposed new owners of the money transmitter.~~

7           ~~(a) The office may deny the person or group of persons~~  
8 ~~proposing to purchase, or who have acquired control of, a~~  
9 ~~money transmitter if, after investigation, the office~~  
10 ~~determines that the person or persons are not qualified by~~  
11 ~~reputation, character, experience, or financial responsibility~~  
12 ~~to control or operate the money transmitter in a legal and~~  
13 ~~proper manner and that the interests of the other~~  
14 ~~stockholders, if any, or the interests of the public generally~~  
15 ~~may be jeopardized by the proposed change in ownership,~~  
16 ~~controlling interest, or management.~~

17           ~~(b) The office may disapprove any person who has been~~  
18 ~~convicted of, or pled guilty or nolo contendere to, a~~  
19 ~~violation of s. 560.123, s. 655.50, chapter 896, or any~~  
20 ~~similar state, federal, or foreign law.~~

21           Section 57. Section 560.205, Florida Statutes, is  
22 amended to read:

23           560.205 Qualifications of applicant for registration;  
24 contents.--

25           (1) To qualify for registration under this part, an  
26 applicant must demonstrate to the office such character and  
27 general fitness as to command the confidence of the public and  
28 warrant the belief that the registered business will be  
29 operated lawfully and fairly. The office may investigate each  
30 applicant to ascertain whether the qualifications and  
31 requirements prescribed by this part have been met. The

1 office's investigation may include a criminal background  
2 investigation of all controlling shareholders, principals,  
3 officers, directors, members, and responsible persons of a  
4 funds transmitter and a payment instrument seller and all  
5 persons designated by a funds transmitter or payment  
6 instrument seller as an authorized vendor. Each controlling  
7 shareholder, principal, officer, director, member, and  
8 responsible person of a funds transmitter or payment  
9 instrument seller, unless the applicant is a publicly traded  
10 corporation as defined by the commission by rule, a subsidiary  
11 thereof, or a subsidiary of a bank or bank holding company  
12 organized and regulated under the laws of any state or the  
13 United States, shall file a complete set of fingerprints. A  
14 fingerprint card submitted to the office must be taken by an  
15 authorized law enforcement agency officer. The office shall  
16 submit the ~~Such~~ fingerprints ~~must be submitted~~ to the  
17 Department of Law Enforcement for state processing and the  
18 Department of Law Enforcement shall forward the fingerprints  
19 to ~~or~~ the Federal Bureau of Investigation for state and  
20 federal processing. The cost of the fingerprint processing  
21 may be borne by the office, the employer, or the person  
22 subject to the background check. The Department of Law  
23 Enforcement shall submit an invoice to the office for the  
24 fingerprints received each month. The office shall screen the  
25 background results to determine if the applicant meets  
26 licensure requirements. The commission may waive by rule the  
27 requirement that applicants file a set of fingerprints or the  
28 requirement that such fingerprints be processed by the  
29 Department of Law Enforcement or the Federal Bureau of  
30 Investigation.

31

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

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

13           (b) The history of the applicant's material  
14 litigation, criminal convictions, pleas of nolo contendere,  
15 and cases of adjudication withheld.

16           (c) A description of the activities conducted by the  
17 applicant, the applicant's history of operations, and the  
18 business activities in which the applicant seeks to engage in  
19 this state.

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

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

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

28           (f)(g) The name and address of the clearing financial  
29 institution or financial institutions through which the  
30 applicant's payment instruments will be drawn or through which  
31 such payment instruments will be payable.

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

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

8           (a) The date of the applicant's incorporation and  
9 state of incorporation.

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

12           (c) A description of the corporate structure of the  
13 applicant, including the identity of any parent or subsidiary  
14 of the applicant, and the disclosure of whether any parent or  
15 subsidiary is publicly traded on any stock exchange.

16           (d) The name, social security number, business and  
17 residence addresses, and employment history for the past 5  
18 years for each executive officer, each director, each  
19 controlling shareholder, and the responsible person who will  
20 be in charge of all the applicant's business activities in  
21 this state.

22           (e) The history of material litigation and criminal  
23 convictions, pleas of nolo contendere, and cases of  
24 adjudication withheld for each ~~executive~~ officer, each  
25 director, each controlling shareholder, and the responsible  
26 person who will be in charge of the applicant's registered  
27 activities.

28           (f) Copies of the applicant's audited financial  
29 statements for the current year and, if available, for the  
30 immediately preceding 2-year period. In cases where the  
31 applicant is a wholly owned subsidiary of another corporation,

1 the parent's consolidated audited financial statements may be  
2 submitted to satisfy this requirement. An applicant who is not  
3 required to file audited financial statements may satisfy this  
4 requirement by filing unaudited financial statements verified  
5 under penalty of perjury, as provided by the commission by  
6 rule.

7 (g) An applicant who is not required to file audited  
8 financial statements may file copies of the applicant's  
9 unconsolidated, unaudited financial statements for the current  
10 year and, if available, for the immediately preceding 2-year  
11 period.

12 (h) If the applicant is a publicly traded company,  
13 copies of all filings made by the applicant with the United  
14 States Securities and Exchange Commission, or with a similar  
15 regulator in a country other than the United States, within  
16 the year preceding the date of filing of the application.

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

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

23 (b) The name, business and residence addresses,  
24 personal financial statement and employment history for the  
25 past 5 years for each individual having a controlling  
26 ownership interest in the applicant, and each responsible  
27 person who will be in charge of the applicant's registered  
28 activities.

29 (c) The history of material litigation and criminal  
30 convictions, pleas of nolo contendere, and cases of  
31 adjudication withheld 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 (d) Copies of the applicant's audited financial  
5 statements for the current year, and, if available, for the  
6 preceding 2 years. An applicant who is not required to file  
7 audited financial statements may satisfy this requirement by  
8 filing unaudited financial statements verified under penalty  
9 of perjury, as provided by the commission by rule.

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

12 Section 58. Section 560.207, Florida Statutes, is  
13 amended to read:

14 560.207 Renewal of registration; registration fee.--

15 (1) Registration may be renewed for a 24-month period  
16 or the remainder of any such period without proration  
17 following the date of its expiration by furnishing such  
18 information as the commission requires by rule, together with  
19 the payment of the fees required under subsections (2), (3),  
20 and (4), upon the filing with the office of an application and  
21 other statements and documents as may reasonably be required  
22 of registrants by the commission. However, the registrant must  
23 remain qualified for such registration under the provisions of  
24 this part.

25 (2) Each renewal of All registration must renewal  
26 applications shall be accompanied by a nonrefundable renewal  
27 fee not to exceed \$1,000. A registration expires on April 30  
28 of the year in which the existing registration expires, unless  
29 the registrant has renewed his or her registration on or  
30 before that date. In no event shall a registration be issued  
31 for a period in excess of 24 months. The commission may adopt



1 ~~rules to implement this section. All renewal applications must~~  
2 ~~be filed on or after January 1 of the year in which the~~  
3 ~~existing registration expires, but before the expiration date~~  
4 ~~of April 30. If the renewal application is filed prior to the~~  
5 ~~expiration date of an existing registration, no late fee shall~~  
6 ~~be paid in connection with such renewal application. If the~~  
7 ~~renewal application is filed within 60 calendar days after the~~  
8 ~~expiration date of an existing registration, then, in addition~~  
9 ~~to the \$1,000 renewal fee, the renewal application shall be~~  
10 ~~accompanied by a nonrefundable late fee of \$500. If the~~  
11 ~~registrant has not filed a renewal application within 60~~  
12 ~~calendar days after the expiration date of an existing~~  
13 ~~registration, a new application shall be filed with the office~~  
14 ~~pursuant to s. 560.205.~~

15       (3) In addition to the renewal fee required under  
16 subsection (2), each registrant must pay ~~Every registration~~  
17 ~~renewal application shall also include~~ a 2-year nonrefundable  
18 registration renewal fee of \$50 for each authorized vendor or  
19 location operating within this state or, at the option of the  
20 registrant, a total 2-year nonrefundable renewal fee of  
21 \$20,000 may be paid to renew the registration of all such  
22 locations currently registered at the time of renewal.

23       (4) A registration may be reinstated only if the  
24 renewal fee and a nonrefundable late fee of \$500 are filed  
25 within 60 calendar days after the expiration of the existing  
26 registration. The office shall grant a reinstatement of  
27 registration if application is filed during the 60-day period,  
28 and the reinstatement is effective upon receipt of the  
29 required fees and any information that the commission requires  
30 by rule. If a registrant does not file an application for  
31 reinstatement of the registration within the 60 calendar days

1 after expiration of an existing registration, the registration  
2 expires and a new application must be filed with the office  
3 pursuant to s. 560.205.

4 Section 59. Subsection (1) of section 560.210, Florida  
5 Statutes, is amended to read:

6 560.210 Permissible investments.--

7 (1) A registrant shall at all times possess  
8 permissible investments with an aggregate market value  
9 calculated in accordance with generally accepted accounting  
10 principles of the United States of not less than the aggregate  
11 face amount of all outstanding funds transmissions ~~transmitted~~  
12 and ~~outstanding~~ payment instruments issued or sold by the  
13 registrant or an authorized vendor in the United States.

14 Section 60. Subsection (2) of section 560.211, Florida  
15 Statutes, is amended to read:

16 560.211 Records.--

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

25 Section 61. Section 560.305, Florida Statutes, is  
26 amended to read:

27 560.305 Application.--Each application for  
28 registration must ~~shall~~ be in writing and under oath to the  
29 office, in such form as the commission prescribes. The  
30 application must contain such information as the commission  
31

1 requires by rule, including, but not limited to ~~shall include~~  
2 ~~the following:~~

3 (1) The legal name, social security number, and  
4 residence and business addresses of the applicant if the  
5 applicant is a natural person, or, if the applicant is a  
6 partnership, association, or corporation, the name of every  
7 partner, officer, ~~or~~ director, member, controlling  
8 shareholder, or responsible person thereof.

9 (2) The location of the principal office of the  
10 applicant.

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

15 (4) Such other information as the commission or office  
16 reasonably requires with respect to the applicant or any money  
17 transmitter-affiliated party of the applicant; however, the  
18 commission or office may not require more information than is  
19 specified in part II.

20 Section 62. Subsections (1) and (4) of section  
21 560.306, Florida Statutes, are amended to read:

22 560.306 Standards.--

23 (1) In order to qualify for registration under this  
24 part, an applicant must demonstrate to the office that he or  
25 she has such character and general fitness as will command the  
26 confidence of the public and warrant the belief that the  
27 registered business will be operated lawfully and fairly. The  
28 office may investigate each applicant to ascertain whether the  
29 qualifications and requirements prescribed by this part have  
30 been met. The office's investigation may include a criminal  
31 background investigation of all controlling shareholders,

1 principals, officers, directors, members, and responsible  
2 persons of a check casher and a foreign currency exchanger and  
3 all persons designated by a foreign currency exchanger or  
4 check casher as an authorized vendor. Each controlling  
5 shareholder, principal, officer, director, member, and  
6 responsible person of a check casher or foreign currency  
7 exchanger, unless the applicant is a publicly traded  
8 corporation as defined by the commission by rule, a subsidiary  
9 thereof, or a subsidiary of a bank or bank holding company  
10 organized and regulated under the laws of any state or the  
11 United States, shall file a complete set of fingerprints. A  
12 fingerprint card submitted to the office must be taken by an  
13 authorized law enforcement agency officer. The office shall  
14 submit the ~~Such~~ fingerprints ~~must be submitted~~ to the  
15 Department of Law Enforcement for state processing and the  
16 Department of Law Enforcement shall forward the fingerprints  
17 to ~~or~~ the Federal Bureau of Investigation for ~~state and~~  
18 federal processing. The cost for the fingerprint processing  
19 may be borne by the office, the employer, or the person  
20 subject to the background check. The Department of Law  
21 Enforcement shall submit an invoice to the office for the  
22 fingerprints received each month. The office shall screen the  
23 background results to determine if the applicant meets  
24 licensure requirements. The commission may waive by rule the  
25 requirement that applicants file a set of fingerprints or the  
26 requirement that such fingerprints be processed by the  
27 Department of Law Enforcement or the Federal Bureau of  
28 Investigation.

29 (4) Each registration application and renewal  
30 application must specify the location at which the applicant  
31 proposes to establish its principal place of business and any

1 other location, including authorized vendors operating in this  
2 state. The registrant shall notify the office of any changes  
3 to any such locations. ~~Any registrant may satisfy this~~  
4 ~~requirement by providing the office with a list of such~~  
5 ~~locations, including all authorized vendors operating in this~~  
6 ~~state, not less than annually.~~ A registrant may not transact  
7 business as a check casher or a foreign currency exchanger  
8 except pursuant to the name under which it is registered.

9 Section 63. Section 560.308, Florida Statutes, is  
10 amended to read:

11 560.308 Registration terms; renewal; renewal fees.--

12 (1) Registration may be renewed for a 24-month period,  
13 or the remainder of any such period without proration,  
14 following the date of its expiration by furnishing such  
15 information as the commission requires by rule, together with  
16 the payment of the fees required under subsections (2), (3),  
17 and (4). Registration pursuant to this part shall remain  
18 effective through the remainder of the second calendar year  
19 following its date of issuance unless during such calendar  
20 year the registration is surrendered, suspended, or revoked.

21 (2) Each application for renewal of registration must  
22 be accompanied by ~~The office shall renew registration upon~~  
23 ~~receipt of a completed renewal form and payment of a~~  
24 nonrefundable renewal fee not to exceed \$500. A registration  
25 expires on December 31 of the year in which the existing  
26 registration expires, unless the registrant has renewed his or  
27 her registration on or before that date. ~~The completed renewal~~  
28 ~~form and payment of the renewal fee shall occur on or after~~  
29 ~~June 1 of the year in which the existing registration expires.~~

30 (3) In addition to the renewal fee required by  
31 subsection (2), each registrant must pay a 2-year

1 nonrefundable registration renewal fee of \$50 for each  
2 authorized vendor or location operating within this state or,  
3 at the option of the registrant, a total 2-year nonrefundable  
4 renewal fee of \$20,000 may be paid to renew the registration  
5 of all such locations currently registered at the time of  
6 renewal.

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

21 Section 64. Subsection (2) of section 560.310, Florida  
22 Statutes, is amended to read:

23 560.310 Records of check cashers and foreign currency  
24 exchangers.--

25 (2) The records required to be maintained by the code  
26 may be maintained by the registrant at any location if~~7~~  
27 ~~provided that~~ the registrant notifies the office, in writing,  
28 of the location of the records in its application or otherwise  
29 by amendment as prescribed by commission rule. The registrant  
30 shall make such records available to the office for  
31

1 examination and investigation in this state, as permitted by  
2 the code, within 7 days after receipt of a written request.

3 Section 65. Subsections (2) and (4) of section  
4 560.403, Florida Statutes, are amended to read:

5 560.403 Requirements of registration; declaration of  
6 intent.--

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

16 (4) The notice of intent of a registrant under this  
17 part who fails to timely renew his or her intent to engage in  
18 the business of deferred presentment transactions or to act as  
19 a deferred presentment provider on or before the expiration  
20 date of the registration period automatically expires. A  
21 renewal ~~declaration of intent and fee,~~ and a nonrefundable  
22 late fee of \$500~~,~~ must be filed within 60 calendar days after  
23 the expiration of an existing registration in order for the  
24 declaration of intent to be reinstated. The office shall grant  
25 a reinstatement of registration if application is filed during  
26 the 60-day period, and the reinstatement is effective upon  
27 receipt of the required fees and any information that the  
28 commission requires by rule. If the registrant has not filed a  
29 reinstatement of a renewal declaration of intent within 60  
30 calendar days after the expiration date of an existing  
31

1 registration, the notice of intent expires and a new  
2 declaration of intent must be filed with the office.

3 Section 66. Section 655.935, Florida Statutes, is  
4 amended to read:

5 655.935 Search procedure on death of lessee.--If  
6 satisfactory proof of the death of the lessee is presented, a  
7 lessor shall permit the person named in a court order for the  
8 purpose, or if no order has been served upon the lessor, the  
9 spouse, a parent, an adult descendant, or a person named as a  
10 personal representative in a copy of a purported will produced  
11 by such person, to open and examine the contents of a  
12 safe-deposit box leased or co-leased by a decedent, or any  
13 documents delivered by a decedent for safekeeping, in the  
14 presence of an officer of the lessor; and the lessor, if so  
15 requested by such person, shall deliver:

16 (1) Any writing purporting to be a will of the  
17 decedent, to the court having probate jurisdiction in the  
18 county in which the financial institution is located;

19 (2) Any writing purporting to be a deed to a burial  
20 plot or to give burial instructions, to the person making the  
21 request for a search; and

22 (3) Any document purporting to be an insurance policy  
23 on the life of the decedent, to the beneficiary named therein.

24

25 No other contents may be removed pursuant to this section and  
26 access granted pursuant to this section shall not be  
27 considered the initial opening of the safe-deposit box  
28 pursuant to s. 733.6065 by a personal representative appointed  
29 by a court in this state.

30 Section 67. Section 655.936, Florida Statutes, is  
31 amended to read:



1           655.936 Delivery of safe-deposit box contents or  
2 property held in safekeeping to personal representative.--

3           (1) Subject to the provisions of subsection (3), the  
4 lessor shall immediately deliver to a ~~resident~~ personal  
5 representative appointed by a court in this state, upon  
6 presentation of a certified copy of his or her letters of  
7 authority, all property deposited with it by the decedent for  
8 safekeeping, and shall grant the ~~resident~~ personal  
9 representative access to any safe-deposit box in the  
10 decedent's name and permit him or her to remove from such box  
11 any part or all of the contents thereof.

12           (2) If a ~~foreign~~ personal representative of a deceased  
13 lessee has been appointed by a court of any other state, a  
14 lessor may, at its discretion, after 3 months from the  
15 issuance to such ~~foreign~~ personal representative of his or her  
16 letters of authority, deliver to such ~~foreign~~ personal  
17 representative all properties deposited with it for  
18 safekeeping and the contents of any safe-deposit box in the  
19 name of the decedent if at such time the lessor has not  
20 received written notice of the appointment of a personal  
21 representative in this state, and such delivery is a valid  
22 discharge of the lessor for all property or contents so  
23 delivered. ~~A Such foreign~~ personal representative appointed by  
24 a court of any other state shall furnish the lessor with an  
25 affidavit setting forth facts showing the domicile of the  
26 deceased lessee to be other than this state and stating that  
27 there are no unpaid creditors of the deceased lessee in this  
28 state, together with a certified copy of his or her letters of  
29 authority. A lessor making delivery pursuant to this  
30 subsection shall maintain in its files a receipt executed by  
31

1 such ~~foreign~~ personal representative which itemizes in detail  
2 all property so delivered.

3 (3) Notwithstanding the provisions of subsection (1),  
4 after the death of a lessee of a safe-deposit box, the lessor  
5 shall permit the initial opening of the safe-deposit box and  
6 the removal of the contents of the safe-deposit box in  
7 accordance with s. 733.6065.

8 (4) A lessor is not liable for damages or penalty by  
9 reason of any delivery made pursuant to this section.

10 Section 68. Section 655.937, Florida Statutes, is  
11 amended to read:

12 655.937 Access to safe-deposit boxes leased in two or  
13 more names.--

14 (1) Unless ~~When~~ specifically provided in the lease or  
15 rental agreement to the contrary, if covering a safe-deposit  
16 box is ~~heretofore or hereafter~~ rented or leased in the names  
17 of two or more lessees, ~~that~~ access to the safe-deposit box  
18 will be granted to either lessee, or to ~~either or the~~  
19 ~~survivor, access to the safe deposit box shall be granted to:~~

20 (a) Either or any of such lessees, regardless of  
21 whether or not the other lessee or lessees or any of them are  
22 living or competent. ~~;~~ ~~or~~

23 (b) Subject to s. 655.933, those persons named in s.  
24 655.933.

25 (c) Subject to s. 655.935, those persons named in s.  
26 655.935.

27 (d)(b) Subject to s. 773.6065, the personal  
28 representative of the estate of either or any of such lessees  
29 who is deceased, or the guardian of the property of either or  
30 any of such lessees who is incapacitated.

31

1           ~~(2) In all cases described in subsection (1), and, in~~  
2 ~~either such case, the provisions of s. 655.933 apply, and the~~  
3 ~~signature on the safe-deposit entry or access record, (or the~~  
4 ~~receipt or acquittance, in the case of property or documents~~  
5 ~~otherwise held for safekeeping, ) is a valid and sufficient~~  
6 ~~release and discharge to the lessor for granting access to~~  
7 ~~such safe-deposit box or for the delivery of such property or~~  
8 ~~documents otherwise held for safekeeping.~~

9           ~~(3)(2)~~ A lessor may not be held liable for damages or  
10 penalty by reason of any access granted or delivery made  
11 pursuant to this section.

12           (4) The right of access by a co-lessee is separate  
13 from the rights and responsibilities of other persons who may  
14 be granted access to a safe-deposit box after the death or  
15 incapacity of another co-lessee and such right of access is  
16 not subject to the provisions of s. 655.935 or s. 733.6065 or  
17 other requirements imposed upon personal representatives,  
18 guardians, or other fiduciaries.

19           (5) After the death of a co-lessee, the surviving  
20 co-lessee or any other person who is granted access to the  
21 safe-deposit box pursuant to this section may make a written  
22 inventory of the box, which must be conducted by the person  
23 making the request in the presence of one other person as  
24 specified in this section. Each person present shall verify  
25 the contents of the box by signing a copy of the inventory  
26 under penalty of perjury.

27           (a) If the person making the written inventory is the  
28 surviving co-lessee, the other person may be any other person  
29 granted access pursuant to this section, an employee of the  
30 institution where the box is located, or an attorney licensed  
31 in this state.

1           (b) If the person making the written inventory is not  
2 a surviving co-lessee, the other person may be a surviving  
3 co-lessee, an employee of the institution where the box is  
4 located, or an attorney licensed in this state.

5           Section 69. Section 733.6065, Florida Statutes, is  
6 amended to read:

7           733.6065 Opening safe-deposit box.--

8           (1) Subject to the provisions of s. 655.936(2), the  
9 initial opening of ~~a the decedent's~~ safe-deposit box that is  
10 leased or co-leased by the decedent shall be conducted in the  
11 presence of any two of the following persons: an employee of  
12 the institution where the box is located, the personal  
13 representative, or the personal representative's attorney of  
14 record. Each person who is present must verify the contents  
15 of the box by signing a copy of the inventory under penalties  
16 of perjury. The personal representative shall file the  
17 safe-deposit box inventory, together with a copy of the box  
18 entry record from a date which is 6 months prior to the date  
19 of death to the date of inventory, with the court within 10  
20 days after the box is opened. Unless otherwise ordered by the  
21 court, this inventory and the attached box entry record is  
22 subject to inspection only by persons entitled to inspect an  
23 inventory under s. 733.604(1). The personal representative  
24 may remove the contents of the box.

25           (2) The right to open and examine the contents of a  
26 safe-deposit box leased by a decedent, or any documents  
27 delivered by a decedent for safekeeping, and to receive items  
28 as provided for in s. 655.935 are separate from ~~in addition to~~  
29 the rights provided for in subsection (1).

30           Section 70. For the 2006-2007 fiscal year, the  
31 recurring sum of \$700,515 is appropriated from the Regulatory

1 Trust Fund to the Office of Financial Regulation for the  
2 purpose of implementing the provisions of s. 494.0033(2)(b),  
3 Florida Statutes, for third-party administration of the  
4 mortgage broker test.

5 Section 71. This act shall take effect October 1,  
6 2006.

8 \*\*\*\*\*

9 SENATE SUMMARY

10 Revises various licensing and registration requirements  
11 for professions regulated by the Financial Services  
12 Commission and the Office of Financial Regulation.  
13 Authorizes the commission to require additional  
14 information from applicants for licensure or  
15 registration. Revises continuing education requirements  
16 for mortgage brokers. Provides requirements for the  
17 fingerprinting of applicants and for background checks.  
18 Requires that licensees report information concerning  
19 certain persons associated with the business. Defines the  
20 term "control person." Requires that information be  
21 provided concerning persons who acquire a controlling  
22 interest in a licensee. Revises such requirements with  
23 respect to mortgage lenders, correspondent mortgage  
24 lenders, persons making consumer finance loans, and  
25 certain securities dealers. Revises such requirements  
26 with respect to persons licensed under the Motor Vehicle  
27 Retail Sales Finance Act, the Retail Installment Sales  
28 Act, the Home Improvement Sales and Finance Act, the  
29 Florida Title Loan Act, the Money Transmitters' Code, and  
30 the Check Cashing and Foreign Currency Exchange Act.  
31 Revises requirements for Canadian dealers relating to  
notice of filings. Revises requirements for accessing  
safe-deposit boxes. (See bill for details.)