

1 waiving such requirements for license renewals
2 for certain persons under certain
3 circumstances; amending s. 494.003, F.S.;
4 revising the list of entities exempt from
5 certain mortgage broker licensure requirements;
6 amending s. 494.0031, F.S.; requiring licensure
7 of mortgage brokerage businesses; revising
8 requirements and procedures for issuing
9 licenses; providing duties and authority of the
10 commission and office; providing duties of the
11 Department of Law Enforcement; specifying that
12 certain licenses are not transferable or
13 assignable; revising the grounds on which a
14 license may be denied; deleting certain
15 provisions relating to cancellation and
16 reinstatement of licenses; amending s.
17 494.0032, F.S.; requiring renewal of branch
18 office licenses with renewal of mortgage
19 brokerage business licenses; amending s.
20 494.0033, F.S.; revising mortgage broker
21 licensure requirements and procedures;
22 authorizing the commission to prescribe
23 additional testing fees; authorizing the
24 commission to waive certain examination
25 requirements under specified circumstances;
26 providing duties and authority of the
27 commission and office; providing duties of the
28 Department of Law Enforcement; deleting
29 provisions relating to cancellation and
30 reinstatement of licenses; amending s.
31 494.0036, F.S.; revising mortgage brokerage

1 business branch office licensure requirements
2 and procedures; deleting a requirement for
3 displaying licenses; amending s. 494.0039,
4 F.S.; deleting mortgage brokerage business
5 change of address reporting and license display
6 requirements; amending s. 494.004, F.S.;
7 revising mortgage broker licensee requirements;
8 providing requirements for acquiring a
9 controlling interest in a licensee; providing a
10 definition; providing duties and authority of
11 the commission; authorizing the office to bring
12 an administrative action under certain
13 circumstances; amending s. 494.0041, F.S.;
14 specifying additional grounds for taking
15 disciplinary action; amending s. 494.006, F.S.;
16 revising the list of entities exempt from
17 mortgage lender licensure requirements;
18 amending s. 494.0061, F.S.; requiring the
19 licensure of mortgage lenders; revising
20 mortgage lender license requirements and
21 procedures; providing duties and authority of
22 the commission and office; providing duties of
23 the Department of Law Enforcement; providing
24 for commission rules; revising provisions
25 governing grounds for imposing discipline;
26 deleting certain provisions relating to
27 cancellation and reinstatement of licenses;
28 authorizing the commission to prescribe
29 additional testing fees; revising provisions
30 governing principal representatives; amending
31 s. 494.0062, F.S.; requiring licensure of

1 correspondent mortgage lenders; revising
2 correspondent mortgage lender license
3 requirements and procedures; providing duties
4 and authority of the commission and office;
5 providing duties of the Department of Law
6 Enforcement; providing educational requirements
7 for principal representatives; revising grounds
8 for disciplinary action; deleting certain
9 provisions relating to cancellation and
10 reinstatement of licenses; authorizing the
11 commission to prescribe additional testing
12 fees; providing for commission rules; amending
13 s. 494.0064, F.S.; revising mortgage lender
14 branch office licensee professional continuing
15 education requirements; amending s. 494.0065,
16 F.S.; revising saving clause requirements and
17 procedures; revising the duties and authority
18 of the office and commission; providing duties
19 of the Department of Law Enforcement; providing
20 for commission rules; providing requirements
21 for education and testing for certain principal
22 representatives and for transfer applications;
23 authorizing the commission to prescribe
24 additional testing fees; revising provisions
25 governing the denial of transfers; providing
26 personal representative designation
27 requirements; amending s. 494.0066, F.S.;
28 revising branch office licensure requirements;
29 providing for commission rules; amending s.
30 494.0067, F.S.; deleting a license display
31 requirement; providing information reporting

1 requirements; providing requirements for
2 acquiring a controlling interest in a licensee;
3 providing a definition; providing duties and
4 authority of the commission; authorizing the
5 office to bring an administrative action under
6 certain circumstances; revising professional
7 continuing education requirements; amending s.
8 494.0072, F.S.; providing additional grounds
9 for taking disciplinary action; amending s.
10 494.00721, F.S.; conforming cross-references;
11 amending s. 501.137, F.S.; providing mortgage
12 lender liability for attorney's fees and costs
13 for certain violations; amending s. 516.01,
14 F.S.; defining the term "control person";
15 amending s. 516.03, F.S.; revising requirements
16 and procedures for issuing consumer finance
17 loan licenses; specifying certain fees as
18 nonrefundable; authorizing the commission to
19 adopt rules; revising certain fee requirements;
20 providing for technological or financial
21 hardship exemptions under certain
22 circumstances; amending s. 516.031, F.S.;
23 increasing a reimbursement charge for certain
24 investigation costs; amending s. 516.05, F.S.;
25 revising investigation procedures; deleting
26 provisions relating to certain fees for
27 licenses that have been denied; providing
28 licensee information reporting requirements;
29 providing requirements for acquiring a
30 controlling interest in a licensee; providing a
31 definition; providing duties and authority of

1 the commission and office; providing for
2 commission rules; authorizing the office to
3 bring an administrative action under certain
4 circumstances; deleting provisions authorizing
5 the office to grant temporary licenses;
6 amending s. 516.07, F.S.; providing an
7 additional ground for taking disciplinary
8 action; repealing s. 516.08, F.S., relating to
9 requirements for posting a license; amending s.
10 516.12, F.S.; authorizing the commission to
11 adopt rules specifying the minimum information
12 to be shown in a licensee's books, accounts,
13 records, and documents and the requirements for
14 destroying a licensee's books, accounts,
15 records, and documents; amending s. 516.19,
16 F.S.; correcting cross-references; amending s.
17 517.021, F.S.; redefining the term "branch
18 office"; authorizing the commission to adopt
19 rules; amending s. 517.051, F.S.; revising
20 required accounting principles; amending s.
21 517.061, F.S.; revising a provision governing
22 exempt transactions; amending s. 517.081, F.S.;
23 revising required accounting principles;
24 amending s. 517.12, F.S.; revising requirements
25 and procedures for registration of dealers,
26 associated persons, investment advisers, and
27 branch offices; revising duties and authority
28 of the commission and office; providing for
29 commission rules; providing duties of the
30 Department of Law Enforcement; revising
31 requirements, procedures, and exemptions

1 relating to activities of Canadian dealers and
2 associated persons; providing for certain fees;
3 providing that certain fees are nonrefundable;
4 providing for the collection of fees; amending
5 s. 517.131, F.S.; revising criteria under which
6 recovery can be made from the Securities
7 Guaranty Fund; authorizing the commission to
8 adopt rules; amending s. 517.141, F.S. ;
9 revising requirements for claimant
10 reimbursements to the fund; authorizing the
11 commission to adopt rules; amending s. 517.161,
12 F.S.; revising a ground for a registration
13 adverse action; providing an additional ground;
14 amending ss. 520.02, 520.31, and 520.61, F.S. ;
15 defining the term "control person"; amending
16 ss. 520.03, 520.32, 520.52, and 520.63, F.S. ;
17 revising requirements and procedures for
18 licensing motor vehicle retail installment
19 sellers, retail installment transaction retail
20 sellers, sales finance companies, and home
21 improvement finance sellers; revising duties
22 and authority of the commission and office;
23 specifying certain fees as nonrefundable;
24 amending s. 520.994, F.S.; revising commission
25 authority to adopt rules to include electronic
26 submissions; providing for accommodating a
27 technological or financial hardship; amending
28 s. 520.995, F.S.; providing an additional
29 ground for taking disciplinary action; revising
30 a provision applying disciplinary actions to
31 certain persons; amending s. 520.997, F.S. ;

1 revising commission authority to adopt rules
2 relating to a licensee's books, accounts,
3 records, and documents; creating s. 520.999,
4 F.S.; providing additional requirements of
5 licensees in sales and finance; authorizing the
6 office to bring an administrative action under
7 certain circumstances; authorizing the
8 commission to adopt rules; amending s. 537.009,
9 F.S., relating to the Florida Title Loan Act;
10 revising provisions relating to a licensee's
11 books, accounts, records, and documents;
12 amending s. 559.9232, F.S.; correcting
13 cross-references; amending s. 560.105, F.S.,
14 relating to the Money Transmitters' Code;
15 authorizing the commission to adopt rules for
16 electronic submission of money transmitter
17 licensee forms, documents, or fees; providing
18 for exemptions due to technological or
19 financial hardship; amending s. 560.114, F.S.;
20 providing an additional ground for taking
21 disciplinary action; amending s. 560.121, F.S.;
22 authorizing the commission to adopt rules
23 relating to a licensee's books, accounts,
24 records, and documents; amending s. 560.126,
25 F.S.; revising information reporting
26 requirements; providing requirements for
27 acquiring a controlling interest; authorizing
28 the office to bring an administrative action
29 under certain circumstances; authorizing the
30 commission to adopt rules; amending s. 560.127,
31 F.S.; revising criteria for determining control

1 over a money transmitter; deleting provisions
2 regulating the acquisition or purchase of a
3 money transmitter; amending s. 560.205, F.S.;
4 revising requirements and procedures for
5 registering money transmitters; revising duties
6 of the commission and office; providing duties
7 of the Department of Law Enforcement; amending
8 s. 560.207, F.S.; revising requirements and
9 procedures for renewing a registration;
10 authorizing the commission to adopt rules;
11 providing that specified fees are
12 nonrefundable; providing conditions for
13 reinstating a registration; providing an
14 additional fee; providing for expiration of
15 registration; amending s. 560.210, F.S.;
16 revising required accounting principles;
17 amending s. 560.211, F.S.; revising certain
18 recordkeeping requirements; amending s.
19 560.305, F.S., relating to the Check Cashing
20 and Foreign Currency Exchange Act; revising
21 requirements and procedures for registration;
22 amending s. 560.306, F.S.; revising
23 fingerprinting requirements and procedures;
24 providing duties of the office and Department
25 of Law Enforcement; amending s. 560.308, F.S.;
26 revising requirements for renewal of
27 registration; providing for expiration of
28 registration; providing that specified fees are
29 nonrefundable; providing conditions for
30 reinstatement of a registration; amending s.
31 560.310, F.S.; revising certain recordkeeping

1 requirements; amending s. 560.403, F.S.;
2 revising requirements for registration renewal
3 notices of intent; providing that specified
4 fees are nonrefundable; providing conditions
5 for reinstatement of a notice of intent;
6 amending s. 655.935, F.S.; authorizing the
7 search of a safe-deposit box co-leased by a
8 decedent; providing construction; amending s.
9 655.936, F.S.; providing for the delivery of a
10 safe-deposit box to a court-appointed personal
11 representative; amending s. 655.937, F.S.;
12 revising provisions for access to safe-deposit
13 boxes; providing a penalty; amending s.
14 733.6065, F.S.; revising provisions relating to
15 the initial opening of certain safe-deposit
16 boxes; amending s. 679.705, F.S.; extending the
17 time that a financial statement is effective
18 under certain circumstances; providing an
19 appropriation; providing effective dates.
20

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

22
23 Section 1. Present subsections (9) through (30) of
24 section 494.001, Florida Statutes, are redesignated as
25 subsections (10) through (31), respectively, and a new
26 subsection (9) is added to that section to read:

27 494.001 Definitions.--As used in ss. 494.001-494.0077,
28 the term:

29 (9) "Control person" means an individual, partnership,
30 corporation, trust, or other organization that possesses the
31 power, directly or indirectly, to direct the management or

1 policies of a company, whether through ownership of
2 securities, by contract, or otherwise. A person is presumed to
3 control a company if, with respect to a particular company,
4 that person:

5 (a) Is a director, general partner, or officer
6 exercising executive responsibility or having similar status
7 or functions;

8 (b) Directly or indirectly may vote 10 percent or more
9 of a class of voting securities or sell or direct the sale of
10 10 percent or more of a class of voting securities; or

11 (c) In the case of a partnership, may receive upon
12 dissolution or has contributed 10 percent or more of the
13 capital.

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

17 494.0011 Powers and duties of the commission and
18 office.--

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

30 (6) The grant or denial of any license under this
31 chapter must be in accordance with s. 120.60.

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

3 494.0016 Books, accounts, and records; maintenance;
4 examinations by the office.--

5 (4) The commission may prescribe by rule the minimum
6 information to be shown in the books, accounts, records, and
7 documents of licensees so that such records will enable the
8 office to determine the licensee's compliance with ss.
9 494.001-494.0077. In addition, the commission may prescribe by
10 rule requirements for the destruction of books, accounts,
11 records, and documents retained by the licensee after
12 completion of the time period specified in subsection (3).

13 Section 4. Section 494.0029, Florida Statutes, is
14 amended to read:

15 494.0029 Mortgage business schools.--

16 (1)(a) Each person, school, or institution, except
17 accredited colleges, universities, community colleges, and
18 career centers in this state, which offers or conducts
19 mortgage business training for the purpose of meeting
20 professional continuing education requirements or as a
21 condition precedent to licensure as a mortgage broker,
22 mortgage ~~or~~ lender, or a correspondent mortgage lender must
23 shall obtain a permit from the office to operate as a mortgage
24 business school before offering or conducting mortgage
25 business training and must abide by the regulations imposed
26 upon such person, school, or institution by this chapter and
27 rules adopted pursuant to this chapter. The commission may
28 require by rule that each applicant for a mortgage business
29 school permit provide any information reasonably necessary to
30 determine the applicant's eligibility. Each person, school, or
31 institution that applies for a permit under this section must

1 ~~do so on forms adopted by the commission by rule~~ The
2 ~~commission shall, by rule, recertify the permits annually with~~
3 ~~initial and renewal permit fees that do not exceed \$500 plus~~
4 ~~the cost of accreditation.~~

5 (b) An application is considered received for purposes
6 of s. 120.60 upon receipt of a completed application form as
7 prescribed by commission rule, a nonrefundable application fee
8 of \$500, the cost of accreditation as defined by commission
9 rule, and any other fee prescribed by law.

10 (c) A permit issued under this section is not
11 transferable or assignable.

12 (d) Each permitted mortgage business school shall
13 report, on a form prescribed by the commission, any change in
14 the information contained in the initial application form or
15 any amendment to such form not later than 30 days after the
16 change is effective.

17 (e) A permit issued under this section expires on
18 September 30th of each year. The office shall recertify a
19 permit annually upon submission of information the commission
20 requires by rule, together with a nonrefundable permit fee of
21 \$500, and the cost of accreditation as defined by commission
22 rule, which shall be for the annual period beginning October 1
23 of each year.

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

1 ~~(2)~~(3)(a) It is unlawful for any such person, school,
2 or institution to offer or conduct mortgage business courses,
3 regardless of the number of pupils, without first procuring a
4 permit or to guarantee that the pupils will pass any mortgage
5 business examination given on behalf of the office or to
6 represent that the issuance of a permit is any recommendation
7 or endorsement of the person, school, or institution to which
8 it is issued or of any course of instruction given thereunder.
9 Any person who violates this paragraph commits a misdemeanor
10 of the second degree, punishable as provided in s. 775.082 or
11 s. 775.083.

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

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

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

29 (e) A school shall advertise only as a school and
30 under the permitted name of such school as recognized by the
31 office.

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

4 (3) Each person, school, or institution that is
5 required to be permitted as a mortgage business school under
6 this section shall maintain and make available for the
7 office's review, inspection, and observation any training,
8 curriculum, and training materials necessary for the office to
9 determine compliance with this chapter and the rules adopted
10 under this chapter. All documents prescribed by commission
11 rule must be submitted with the initial application or
12 recertification.

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

22 Section 5. Section 494.00295, Florida Statutes, is
23 amended to read:

24 494.00295 Professional continuing education.--

25 (1) Mortgage brokers, and the principal
26 representatives and loan originators of a mortgage lender,
27 correspondent mortgage lender, or mortgage lender pursuant to
28 s. 494.0065, must successfully complete at least 14 hours of
29 professional continuing education covering primary and
30 subordinate mortgage financing transactions and the provisions
31 of this chapter during the 2-year period immediately preceding

1 the renewal deadline for a mortgage broker, mortgage lender,
2 correspondent mortgage lender, or mortgage lender pursuant to
3 s. 494.0065. At the time of license renewal, a licensee must
4 certify to the office that the professional continuing
5 education requirements of this section have been met.
6 Licensees shall maintain records documenting compliance with
7 this subsection for a period of 4 years. The requirements for
8 professional continuing education are waived for the license
9 renewal of a mortgage broker for the biennial license period
10 immediately following the period in which the person became
11 licensed as a mortgage broker. The requirements for
12 professional continuing education for a principal
13 representative are waived for the license renewal of a
14 mortgage lender, correspondent mortgage lender, or mortgage
15 lender pursuant to s. 494.0065 for the biennial license period
16 immediately following the period in which the principal
17 representative completed the 24 hours of classroom education
18 and passed a written test in order to qualify to be a
19 principal representative ~~Each mortgage broker, mortgage~~
20 ~~lender, and correspondent mortgage lender must certify to the~~
21 ~~office at the time of renewal that during the 2 years prior to~~
22 ~~an application for license renewal, all mortgage brokers and~~
23 ~~the principal representative, loan originators, and associates~~
24 ~~of a mortgage lender or correspondent mortgage lender have~~
25 ~~successfully completed at least 14 hours of professional~~
26 ~~education programs covering primary and subordinate mortgage~~
27 ~~financing transactions and the provisions of this chapter.~~
28 ~~Licensees shall maintain records documenting compliance with~~
29 ~~this subsection for a period of 4 years.~~

30 (2) Professional continuing education programs must
31 contribute directly to the professional competency of the

1 participants, may only be offered by permitted mortgage
2 business schools or entities specifically exempted from
3 permitting as mortgage business schools, and may include
4 electronically transmitted or distance education courses.

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

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

13 494.003 Exemptions.--

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

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

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

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

31

1 (e) A wholly owned subsidiary of a state or federal
2 chartered bank or savings and loan association the sole
3 activity of which is to distribute the lending programs of
4 such state or federal chartered bank or savings and loan
5 association to persons who arrange loans for, or make loans
6 to, borrowers.

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

9 494.0031 Licensure as a mortgage brokerage business.--

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

13 ~~(2)(1)~~ Each initial application for a mortgage
14 brokerage business license must be in the form prescribed by
15 rule of the commission. The commission may require each
16 applicant to provide any information reasonably necessary to
17 determine the applicant's eligibility for licensure. The
18 office shall issue a mortgage brokerage business license to
19 each person who:

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

26 (b) Has a qualified principal broker pursuant to s.
27 494.0035.

28 ~~(c)(2)~~ Has provided a complete set of fingerprints as
29 the commission may require by rule for ~~that~~ each officer,
30 director, control person, member, partner, or joint venturer
31 of the applicant and each ultimate equitable owner of a

1 10-percent or greater interest in the mortgage brokerage
2 business. A fingerprint card submitted to the office must be
3 ~~submit a complete set of fingerprints~~ taken by an authorized
4 law enforcement agency officer. The office shall submit the
5 fingerprints to the Department of Law Enforcement for state
6 processing and the Department of Law Enforcement shall forward
7 the fingerprints to the Federal Bureau of Investigation for
8 national processing. The cost of the fingerprint processing
9 may be borne by the office, the employer, or the person
10 subject to the background check. The Department of Law
11 Enforcement shall submit an invoice to the office for the
12 fingerprints received each month. The office shall screen the
13 background results to determine if the applicant meets
14 licensure requirements.

15 (d) Has provided information that the commission
16 requires by rule concerning any designated principal mortgage
17 broker; any officer, director, control person, member,
18 partner, or joint venturer of the applicant; or any individual
19 who is the ultimate equitable owner of a 10-percent or greater
20 interest in the mortgage brokerage business. The commission
21 may require information about any such applicant or person,
22 including, but not limited to, his or her full name or other
23 names by which he or she may have been known, age, social
24 security number, qualifications, educational and business
25 history, and disciplinary and criminal history.

26 (3) ~~Notwithstanding the provisions of subsection (2)~~
27 ~~(1)~~, it is a ground for denial of licensure if the applicant;
28 designated principal mortgage broker; any officer, director,
29 control person, member, partner, or joint venturer of the
30 applicant; any natural person owning a 10 percent or greater
31 interest in the mortgage brokerage business; or any individual

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

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

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

28 Section 8. Subsection (1) of section 494.0032, Florida
29 Statutes, is amended to read:

30 494.0032 Renewal of mortgage brokerage business
31 license or branch office license.--

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

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

10 494.0033 Mortgage broker's license.--

11 (1) Each natural person who acts as a mortgage broker
12 for a mortgage brokerage business or acts as an associate for
13 a mortgage lender or correspondent mortgage lender must be
14 licensed under ~~pursuant to~~ this section. To act as a mortgage
15 broker, an individual must be an associate of a mortgage
16 brokerage business, a mortgage lender, or a correspondent
17 mortgage lender. A mortgage broker ~~may not be is prohibited~~
18 ~~from being~~ an associate of more than one mortgage brokerage
19 business, mortgage lender, or correspondent mortgage lender.

20 (2) Each initial application for a mortgage broker's
21 license must be in the form prescribed by rule of the
22 commission. The commission may require each applicant to
23 provide any information reasonably necessary to make a
24 determination of the applicant's eligibility for licensure.
25 The office shall issue an initial license to any natural
26 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 national processing. The cost of the fingerprint processing
29 may be borne by the office, the employer, or the person
30 subject to the background check. The Department of Law
31 Enforcement shall submit an invoice to the office for the

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

4
5 The commission may require by rule information concerning any
6 such applicant or person, including, but not limited to, his
7 or her full name and any other names by which he or she may
8 have been known, age, social security number, qualifications
9 and educational and business history, and disciplinary and
10 criminal history.

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

19 Section 10. Subsections (2) and (3) of section
20 494.0036, Florida Statutes, are amended to read:

21 494.0036 Mortgage brokerage business branch offices.--

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

1 branch office. An application is considered received for
2 purposes of s. 120.60 upon receipt of a completed application
3 form as prescribed by commission rule, a nonrefundable
4 application fee of \$225, and any other fee prescribed by law.

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

9 Section 11. Section 494.0039, Florida Statutes, is
10 amended to read:

11 494.0039 Principal place of business requirements.--

12 ~~(1)~~ Each mortgage brokerage business licensee shall
13 maintain and transact business from a principal place of
14 business.

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

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

23 Section 12. Section 494.004, Florida Statutes, is
24 amended to read:

25 494.004 Requirements of licensees.--

26 (1) Each licensee under ss. 494.003-494.0043 shall
27 report, in writing, any conviction of, or plea of nolo
28 contendere to, regardless of adjudication, any crime or
29 administrative violation that involves fraud, dishonest
30 dealing, or any other act of moral turpitude, in any
31 jurisdiction, by the licensee or any natural person named in

1 s. 494.0031(2)(d)(~~3~~), not later than 30 days after the date of
2 conviction, entry of a plea of nolo contendere, or final
3 administrative action.

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

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

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

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

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

1 (a) In any case in which a person or a group of
2 persons, directly or indirectly or acting by or through one or
3 more persons, proposes to purchase or acquire a controlling
4 interest in a licensee, such person or group shall submit an
5 initial application for licensure as a mortgage brokerage
6 business before such purchase or acquisition and at the time
7 and in the form the commission prescribes by rule.

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

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

26 (d) The commission shall adopt rules pursuant to ss.
27 120.536(1) and 120.54 providing for the waiver of the
28 application required by this subsection if the person or group
29 of persons proposing to purchase or acquire a controlling
30 interest in a licensee has previously complied with the
31 provisions of s. 494.0031(2)(c) and (d) with respect to the

1 same legal entity or is currently licensed by the office under
2 this chapter.

3 ~~(7)(6)~~ On or before April 30, 2000, each mortgage
4 brokerage business shall file an initial report stating the
5 name, social security number, date of birth, mortgage broker
6 license number, date of hire and, if applicable, date of
7 termination for each person who was an associate of the
8 mortgage brokerage business during the immediate preceding
9 quarter. Thereafter, a mortgage brokerage business shall file
10 a quarterly report only if a person became an associate or
11 ceased to be an associate of the mortgage brokerage business
12 during the immediate preceding quarter. Such report shall be
13 filed within 30 days after the last day of each calendar
14 quarter and shall contain the name, social security number,
15 date of birth, mortgage broker license number, date of hire
16 and, if applicable, the date of termination of each person who
17 became or ceased to be an associate of the mortgage brokerage
18 business during the immediate preceding quarter. The
19 commission shall prescribe, by rule, the procedures for filing
20 reports required by this subsection.

21 Section 13. Paragraphs (s), (t), and (u) are added to
22 subsection (2) of section 494.0041, Florida Statutes, and
23 subsection (3) of that section is amended, to read:

24 494.0041 Administrative penalties and fines; license
25 violations.--

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

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

1 (t) Having a final judgment entered against the
2 applicant or licensee in a civil action upon grounds of fraud,
3 embezzlement, misrepresentation, or deceit.

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

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

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

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

31 494.006 Exemptions.--

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, bank holding
5 ~~company,~~ trust company, savings and loan association, savings
6 bank ~~or,~~ credit union, bank holding company regulated under
7 the laws of any state or the United States, or insurance
8 company if the insurance company is duly licensed in this
9 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 15. 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. The commission or office may require each

1 applicant for a mortgage lender license to provide any
2 information reasonably necessary to make a determination of
3 the applicant's eligibility for licensure. The office shall
4 issue an initial mortgage lender license to any person that
5 submits:

6 (a) A completed application form.~~†~~

7 (b) A nonrefundable application fee of \$575. An
8 application is considered received for purposes of s. 120.60
9 upon receipt of a completed application form as prescribed by
10 commission rule, a nonrefundable application fee of \$575, and
11 any other fee prescribed by law.~~†~~

12 (c) Audited financial statements, which documents
13 disclose that the applicant has a bona fide and verifiable net
14 worth, pursuant to United States generally accepted accounting
15 principles, of at least \$250,000, which must be continuously
16 maintained as a condition of licensure.~~†~~

17 (d) A surety bond in the amount of \$10,000, payable to
18 the state and conditioned upon compliance with ss.
19 494.001-494.0077, which inures to the office and which must be
20 continuously maintained thereafter in full force.~~†~~

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

26 (f) ~~For applications submitted after October 1, 2001,~~
27 Proof that the applicant's principal representative has
28 completed 24 hours of classroom instruction in primary and
29 subordinate financing transactions and in the provisions of
30 this chapter and rules adopted under this chapter. This
31 requirement is satisfied if the principal representative has

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

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

26 (h) Information the commission requires by rule
27 concerning any designated principal representative; any
28 officer, director, control person, member, 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 natural person 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 any such applicant or person, including, but not
4 limited to, his or her full name and any other names by which
5 he or she may have been known, social security number, age,
6 qualifications and educational and business history, and
7 disciplinary and criminal history.

8 ~~(3)(2)~~ Notwithstanding the provisions of subsection
9 ~~(2)(1)~~, it is a ground for denial of licensure if the
10 applicant; designated principal representative; any principal
11 officer, ~~or~~ director, control person, member, partner, or
12 joint venturer of the applicant; ~~or~~ any natural person owning
13 a 10-percent or greater interest in the applicant; ~~or~~ any
14 natural person who is the ultimate equitable owner of a
15 10-percent or greater interest in the applicant has committed
16 any violation specified in s. 494.0072, or has pending against
17 her or him any criminal prosecution or administrative
18 enforcement action, in any jurisdiction, which involves fraud,
19 dishonest dealing, or any act of moral turpitude.

20 ~~(3) Each initial application for a mortgage lender's~~
21 ~~license must be in a form prescribed by the commission. The~~
22 ~~commission or office may require each applicant to provide any~~
23 ~~information reasonably necessary to make a determination of~~
24 ~~the applicant's eligibility for licensure. The commission or~~
25 ~~office may require that each officer, director, and ultimate~~
26 ~~equitable owner of a 10 percent or greater interest in the~~
27 ~~applicant submit a complete set of fingerprints taken by an~~
28 ~~authorized law enforcement officer.~~

29 (4) A person required to be licensed under ss.
30 494.006-494.0077, or an agent or employee thereof, is deemed
31 to have consented to the venue of courts of competent

1 jurisdiction in this state regarding any matter within the
2 authority of ss. 494.001-494.0077 regardless of where an act
3 or violation was committed.

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

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

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

25 (7)(8) Each lender, regardless of the number of
26 branches it operates, shall designate a principal
27 representative who exercises control of the licensee's
28 business and shall maintain a form prescribed by the
29 commission designating the principal representative. If the
30 form is not accurately maintained, the business is considered
31

1 to be operated by each officer, director, or equitable owner
2 of a 10-percent or greater interest in the business.

3 ~~(8)(9)~~ After ~~October 1, 2001,~~ An applicant's principal
4 representative must pass a written test prescribed by the
5 commission and administered by the office, or must pass an
6 electronic test prescribed by the commission and administered
7 by the office or a third party approved by the office, which
8 covers primary and subordinate mortgage financing transactions
9 and the provisions of this chapter and rules adopted under
10 this chapter. The commission may set a fee by rule, which may
11 not exceed \$100, for the electronic version of the mortgage
12 broker test. The commission may waive by rule the examination
13 requirement for any person who has passed a test approved by
14 the Conference of State Bank Supervisors, the American
15 Association of Residential Mortgage Regulators, or the United
16 States Department of Housing and Urban Development if the test
17 covers primary and subordinate mortgage financing
18 transactions. This requirement is satisfied if the principal
19 representative has continuously served in the capacity of a
20 principal representative for a licensed entity under this
21 chapter for at least 1 year and has not had a lapse in
22 designation as a principal representative of more than 2 years
23 before the date of the submission of the application or
24 amendment in the case of a change in the principal
25 representative. This requirement is also satisfied if the
26 principal representative holds an active license as a mortgage
27 broker in this state.

28 ~~(9)(10)~~ A lender shall notify the office of any change
29 in the designation of its principal representative within 30
30 days after the change is effective. A new principal
31 representative shall satisfy the name and address of any new

1 ~~principal representative and shall document that the person~~
2 ~~has completed~~ the educational and testing requirements of
3 this section within 90 days after being designated as upon the
4 ~~designation of a~~ new principal representative. This
5 requirement is satisfied if the principal representative has
6 continuously served in the capacity of a principal
7 representative for a licensed entity under this chapter for at
8 least 1 year and has not had a lapse in designation as a
9 principal representative of more than 2 years before the date
10 of the submission of the application or amendment in the case
11 of a change in the principal representative. This requirement
12 is also satisfied if the principal representative holds an
13 active license as a mortgage broker in this state.

14 Section 16. Section 494.0062, Florida Statutes, is
15 amended to read:

16 494.0062 Correspondent mortgage lender's license
17 requirements.--

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

21 (2)(1) Each initial application for a correspondent
22 mortgage lender's license must be in the form prescribed by
23 rule of the commission. The office may require each applicant
24 to provide any information reasonably necessary to determine
25 the applicant's eligibility for licensure. The office shall
26 issue an initial correspondent mortgage lender license to any
27 person who submits:

- 28 (a) A completed application form.†
29 (b) A nonrefundable application fee of \$500. An
30 application is considered received for purposes of s. 120.60
31 upon receipt of a completed application form as prescribed by

1 commission rule, a nonrefundable application fee of \$500, and
2 any other fee prescribed by law.†

3 (c) Audited financial statements ~~that, which~~ document
4 that the applicant application has a bona fide and verifiable
5 net worth pursuant to United States generally accepted
6 accounting principles of \$25,000 or more, which must be
7 continuously maintained as a condition of licensure.†

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

12 (e) Documentation that the applicant is duly
13 incorporated, registered, or otherwise formed as a general
14 partnership, limited partnership, limited liability company,
15 or other lawful entity under the laws of this state or another
16 state of the United States.† ~~and~~

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

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

18 (h) Information the commission requires by rule
19 concerning any designated principal representative; any
20 officer, director, control person, member, partner, or joint
21 venturer of the applicant or any person having the same or
22 substantially similar status or performing substantially
23 similar functions; or any natural person who is the ultimate
24 equitable owner of a 10-percent or greater interest in the
25 correspondent mortgage lender. The office may require
26 information concerning any such applicant or person,
27 including, but not limited to, his or her full name and any
28 other names by which he or she may have been known, age,
29 social security number, qualifications and educational and
30 business history, and disciplinary and criminal history.

31

1 ~~(3)(2)~~ Notwithstanding ~~the provisions of~~ subsection
2 ~~(2)(1)~~, it is a ground for denial of licensure if the
3 applicant; any designated principal representative; any
4 principal officer, ~~or~~ director, control person, member,
5 partner, or joint venturer of the applicant; or any natural
6 person who is the ultimate equitable owner of a 10-percent or
7 greater interest in the applicant has committed any violation
8 specified in s. 494.0072, or has pending against her or him
9 any criminal prosecution or administrative enforcement action,
10 in any jurisdiction, which involves fraud, dishonest dealing,
11 or any act of moral turpitude.

12 ~~(3) Each initial application for a correspondent~~
13 ~~mortgage lender's license must be in a form prescribed by the~~
14 ~~commission. The commission or office may require each~~
15 ~~applicant to provide any information reasonably necessary to~~
16 ~~make a determination of the applicant's eligibility for~~
17 ~~licensure. The commission or office may require that each~~
18 ~~officer, director, and ultimate equitable owner of a~~
19 ~~10 percent or greater interest submit a complete set of~~
20 ~~fingerprints taken by an authorized law enforcement officer.~~

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

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

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

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

4 (8) A license issued under this section is not
5 transferable or assignable.

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

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

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

1 ~~(11)(12)~~ After ~~October 1, 2001~~, An applicant's
2 principal representative must pass a written test prescribed
3 by the commission and administered by the office, or must pass
4 an electronic test prescribed by the commission and
5 administered by the office or a third party approved by the
6 office, which covers primary and subordinate mortgage
7 financing transactions and the provisions of this chapter and
8 rules adopted under this chapter. The commission may waive by
9 rule the examination requirement for any person who has passed
10 a test approved by the Conference of State Bank Supervisors,
11 the American Association of Residential Mortgage Regulators,
12 or the United States Department of Housing and Urban
13 Development if the test covers primary and subordinate
14 mortgage financing transactions. The commission may set by
15 rule a fee not to exceed \$100 for taking the examination. 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 ~~(12)(13)~~ A correspondent lender shall notify the
26 office of any change in the designation of its principal
27 representative within 30 days after the change is effective. A
28 new principal representative shall satisfy the name and
29 address of any new principal representative and shall document
30 that such person has completed the educational and testing
31 requirements of this section within 90 days after being

1 designated as upon the lender's designation of a new principal
2 representative. This requirement is satisfied if the principal
3 representative has continuously served in the capacity of a
4 principal representative for a licensed entity under this
5 chapter for at least 1 year and has not had a lapse in
6 designation as a principal representative of more than 2 years
7 before the date of the submission of the application or
8 amendment in the case of a change in the principal
9 representative. This requirement is also satisfied if the
10 principal representative holds an active license as a mortgage
11 broker in this state.

12 Section 17. Paragraph (b) of subsection (1) and
13 subsection (2) of section 494.0064, Florida Statutes, are
14 amended to read:

15 494.0064 Renewal of mortgage lender's license; branch
16 office license renewal.--

17 (1)

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

23 (2) The commission shall adopt rules establishing a
24 procedure for the biennial renewal of mortgage lender's
25 licenses, correspondent lender's licenses, and branch office
26 licenses ~~permits~~. The commission may prescribe the form for
27 renewal and may require an update of all information provided
28 in the licensee's initial application.

29 Section 18. Section 494.0065, Florida Statutes, is
30 amended to read:

31 494.0065 Saving clause.--

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. The office may require each
4 applicant to provide any information reasonably necessary to
5 determine the applicant's eligibility for licensure. An
6 application is considered received for purposes of s. 120.60
7 upon receipt of a completed application form as prescribed by
8 commission rule, a nonrefundable application fee of \$500, and
9 any other fee prescribed by law.

10 (4)(a) Notwithstanding ss. 494.0061(5) and
11 494.0067~~(2)(3)~~, the ultimate equitable owner, as of the
12 effective date of this act, of a mortgage lender licensed
13 under this section may transfer, one time, at least 50 percent
14 of the ownership, control, or power to vote any class of
15 equity securities of such mortgage lender, except as provided
16 in paragraph (b). For purposes of this subsection,
17 satisfaction of the amount of the ownership transferred may be
18 met in multiple transactions or in a single transaction.

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

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

28 1. An applicant must provide proof that the
29 applicant's principal representative has completed 24 hours of
30 instruction in primary and subordinate financing transactions
31 and in the provisions of this chapter and rules adopted under

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

11 2. An applicant's principal representative must pass a
12 written test prescribed by the commission and administered by
13 the office, or must pass an electronic test prescribed by the
14 commission and administered by the office or a third party
15 approved by the office, which covers primary and subordinate
16 mortgage financing transactions and the provisions of this
17 chapter and rules adopted under this chapter. The commission
18 may set by rule a fee not to exceed \$100 for the electronic
19 version of the mortgage broker test. The commission may waive
20 by rule the examination requirement for any person who has
21 passed a test approved by the Conference of State Bank
22 Supervisors, the American Association of Residential Mortgage
23 Regulators, or the United States Department of Housing and
24 Urban Development if the test covers primary and subordinate
25 mortgage financing transactions. This requirement is satisfied
26 if the principal representative has continuously served in the
27 capacity of a principal representative for a licensed entity
28 under this chapter for at least 1 year and has not had a lapse
29 in designation as a principal representative of more than 2
30 years before the date of the submission of the application or
31 amendment in the case of a change in the principal

1 representative. This requirement is also satisfied if the
2 principal representative holds an active license as a mortgage
3 broker in this state.

4 (5) Each initial application for a transfer must be in
5 the form prescribed by rule of the commission. The commission
6 or office may require each applicant for any transfer to
7 provide any information reasonably necessary to make a
8 determination of the applicant's eligibility for licensure.
9 The office shall issue the transfer of licensure to any person
10 who submits the following documentation at least 90 days prior
11 to the anticipated transfer:

12 (a) A completed application form.

13 (b) A nonrefundable fee set by rule of the commission
14 in the amount of \$500. An application is considered received
15 for purposes of s. 120.60 upon receipt of a completed
16 application form as prescribed by commission rule, a
17 nonrefundable application fee of \$500, and any other fee
18 prescribed by law.

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

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

29 (e) A complete set of fingerprints as the commission
30 requires by rule for ~~or office may require that~~ each
31 designated principal representative, officer, director,

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

16 (f) Information that the commission requires by rule
17 concerning any designated principal representative; any
18 officer, director, control person, member, partner, or joint
19 venturer of the applicant or any person having the same or
20 substantially similar status or performing substantially
21 similar functions; or any individual who is the ultimate
22 equitable owner of a 10-percent or greater interest in the
23 mortgage lender. The commission may require information
24 concerning such applicant or person, including, but not
25 limited to, his or her full name and any other names by which
26 he or she may have been known, age, social security number,
27 qualifications and educational and business history, and
28 disciplinary and criminal history.

29 (6) Notwithstanding subsection (5), a transfer under
30 subsection (4) may be denied if the applicant; designated
31 principal representative; any principal officer, ~~or~~ director,

1 control person, member, partner, or joint venturer of the
2 applicant; ~~or~~ or any natural person owning a 10-percent or
3 greater interest in the applicant has committed any violation
4 specified in s. 494.0072, or has entered a plea of nolo
5 contendere, regardless of adjudication, or has an action
6 pending against the applicant in any criminal prosecution or
7 administrative enforcement action, in any jurisdiction, which
8 involves fraud, dishonest dealing, or any act of moral
9 turpitude.

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

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

16 (9) Each mortgage lender shall designate a principal
17 representative who exercises control over the business and
18 shall keep the designation current on a form prescribed by
19 commission rule designating the principal representative. If
20 the information on the form is not kept current, the business
21 is considered to be operated by each officer, director, or
22 equitable owner of a 10-percent or greater interest in the
23 business.

24 (10) A lender shall notify the office of any change in
25 the designation of its principal representative within 30 days
26 after the change is effective. A new principal representative
27 must satisfy the educational and testing requirements of this
28 section within 90 days after being designated as the new
29 principal representative. This requirement is satisfied if the
30 principal representative has continuously served in the
31 capacity of a principal representative for a licensed entity

1 under this chapter for at least 1 year and has not had a lapse
2 in designation as a principal representative of more than 2
3 years 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 currently holds an active license as
7 a mortgage broker in this state.

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

10 494.0066 Branch offices.--

11 (2) The office shall issue a branch office license to
12 a licensee licensed under ss. 494.006-494.0077 after the
13 office determines that the licensee has submitted ~~upon receipt~~
14 ~~of~~ a completed branch office application form as prescribed by
15 rule by the commission and an initial nonrefundable branch
16 office license fee of \$325. The branch office application must
17 include the name and license number of the licensee under ss.
18 494.006-494.0077, the name of the licensee's employee in
19 charge of the branch office, and the address of the branch
20 office. The branch office license shall be issued in the name
21 of the licensee under ss. 494.006-494.0077 and must be renewed
22 in conjunction with the license renewal.

23 Section 20. Section 494.0067, Florida Statutes, is
24 amended to read:

25 494.0067 Requirements of licensees under ss.
26 494.006-494.0077.--

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

30 ~~(1)(2)~~ Each licensee under ss. 494.006-494.0077 which
31 makes mortgage loans on real estate in this state shall

1 | transact business from a principal place of business. Each
2 | principal place of business and each branch office shall be
3 | operated under the full charge, control, and supervision of
4 | the licensee under ss. 494.006-494.0077.

5 | ~~(2)(3)~~ A license issued under ss. 494.006-494.0077 is
6 | not transferable or assignable.

7 | (3) Each licensee under ss. 494.006-494.0077 shall
8 | report, on a form prescribed by rule of the commission, any
9 | change in the information contained in any initial application
10 | form, or any amendment thereto, not later than 30 days after
11 | the change is effective.

12 | (4) Each licensee under ss. 494.006-494.0077 shall
13 | report any changes in the partners, officers, members, joint
14 | venturers, directors, or control persons of any licensee or
15 | changes in the form of business organization by written
16 | amendment in such form and at such time that the commission
17 | specifies by rule.

18 | (a) 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 licensee, such person or group must submit an
22 | initial application for licensure as a mortgage lender or
23 | correspondent mortgage lender before such purchase or
24 | acquisition and at the time and in the form prescribed by the
25 | commission by rule.

26 | (b) 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 who

1 is entitled to 25 percent or more of the company's profits is
2 presumed to possess a controlling interest.

3 (c) Any addition of a designated principal
4 representative, partner, officer, member, joint venturer,
5 director, or control person of the applicant who does not have
6 a controlling interest and who has not previously complied
7 with the provisions of s. 494.0061(2)(g) and (h), s.
8 494.0062(2)(g) and (h), or s. 494.0065(5)(e) and (f) shall be
9 subject to such provisions unless required to file an initial
10 application in accordance with paragraph (a). If the office
11 determines that the licensee does not continue to meet
12 licensure requirements, the office may bring administrative
13 action in accordance with s. 494.0072 to enforce the
14 provisions of this section.

15 (d) The commission shall adopt rules pursuant to ss.
16 120.536(1) and 120.54 providing for the waiver of the
17 application required by this subsection if the person or group
18 of persons proposing to purchase or acquire a controlling
19 interest in a licensee has previously complied with the
20 provisions of s. 494.0061(2)(g) and (h), s. 494.0062(2)(g) and
21 (h), or s. 494.0065(5)(e) and (f) with the same legal entity
22 or is currently licensed with the office under this chapter.

23 ~~(4) The commission or office may require each licensee~~
24 ~~under ss. 494.006 494.0077 to report any change of address of~~
25 ~~the principal place of business, change of address of any~~
26 ~~branch office, or change of principal officer, director, or~~
27 ~~ultimate equitable owner of 10 percent or more of the licensed~~
28 ~~corporation to the office in a form prescribed by rule of the~~
29 ~~commission not later than 30 business days after the change is~~
30 ~~effective.~~

1 (5) Each licensee under ss. 494.006-494.0077 shall
2 report in a form prescribed by rule by the commission any
3 indictment, information, charge, conviction, plea of nolo
4 contendere, or plea of guilty to any crime or administrative
5 violation that involves fraud, dishonest dealing, or any other
6 act of moral turpitude, in any jurisdiction, by the licensee
7 under ss. 494.006-494.0077 or any principal officer, director,
8 or ultimate equitable owner of 10 percent or more of the
9 licensed corporation, not later than 30 business days after
10 the indictment, information, charge, conviction, or final
11 administrative action.

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

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

19 (8) Each licensee under ss. 494.006-494.0077 shall
20 provide an applicant for a mortgage loan a good faith estimate
21 of the costs the applicant can reasonably expect to pay in
22 obtaining a mortgage loan. The good faith estimate of costs
23 shall be mailed or delivered to the applicant within a
24 reasonable time after the licensee receives a written loan
25 application from the applicant. The estimate of costs may be
26 provided to the applicant by a person other than the licensee
27 making the loan. The commission may adopt rules that set forth
28 the disclosure requirements of this section.

29 (9) On or before April 30, 2000, each mortgage lender
30 or correspondent mortgage lender shall file an initial report
31 stating the full legal name, residential address, social

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

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

26 (b) The licensee shall maintain records of such
27 training for a period of 4 years, including records of the
28 content of and hours designated for each program and the date
29 and location of the program.

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

1 Section 21. Paragraphs (s), (t), and (u) are added to
2 subsection (2) of section 494.0072, Florida Statutes, and
3 subsection (3) of that section is amended, to read:

4 494.0072 Administrative penalties and fines; license
5 violations.--

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

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

12 (t) Having a final judgment entered against the
13 applicant or licensee in a civil action upon grounds of fraud,
14 embezzlement, misrepresentation, or deceit.

15 (u)1. Having been the subject of any decision,
16 finding, injunction, suspension, prohibition, revocation,
17 denial, judgment, or administrative order by any court of
18 competent jurisdiction, administrative law judge, state or
19 federal agency, national securities exchange, national
20 commodities exchange, national option exchange, national
21 securities association, national commodities association, or
22 national option association involving a violation of any
23 federal or state securities or commodities law, or any rule or
24 regulation adopted under such law, or involving a violation of
25 any rule or regulation of any national securities,
26 commodities, or options exchange or association.

27 2. Having been the subject of any injunction or
28 adverse administrative order by a state or federal agency
29 regulating banking, insurance, finance or small loan
30 companies, real estate, mortgage brokers or lenders, money
31 transmitters, or other related or similar industries.

1 (3) A mortgage lender or correspondent mortgage lender
2 is subject to the disciplinary actions specified in subsection
3 (1) if any officer, member, director, control person, joint
4 venturer, or ultimate equitable owner of a 10-percent or
5 greater interest in the mortgage lender or correspondent
6 mortgage lender, associate, or employee of the mortgage lender
7 or correspondent mortgage lender violates any provision of
8 subsection (2).

9 Section 22. Subsection (2) of section 494.00721,
10 Florida Statutes, is amended to read:

11 494.00721 Net worth.--

12 (2) If a mortgage lender or correspondent mortgage
13 lender fails to satisfy the net worth requirements, the
14 mortgage lender or correspondent mortgage lender shall
15 immediately cease taking any new mortgage loan applications.
16 Thereafter, the mortgage lender or correspondent mortgage
17 lender shall have up to 60 days within which to satisfy the
18 net worth requirements. If the licensee makes the office
19 aware, prior to an examination, that the licensee no longer
20 meets the net worth requirements, the mortgage lender or
21 correspondent mortgage lender shall have 120 days within which
22 to satisfy the net worth requirements. A mortgage lender or
23 correspondent mortgage lender shall not resume acting as a
24 mortgage lender or correspondent mortgage lender without
25 written authorization from the office, which authorization
26 shall be granted if the mortgage lender or correspondent
27 mortgage lender provides the office with documentation which
28 satisfies the requirements of s. 494.0061~~(2)~~~~(1)~~(c), s.
29 494.0062~~(2)~~~~(1)~~(c), or s. 494.0065(2), whichever is applicable.

30 Section 23. Paragraph (c) of subsection (3) of section
31 501.137, Florida Statutes, is amended to read:

1 501.137 Mortgage lenders; tax and insurance payments
2 from escrow accounts; duties.--

3 (3)

4 (c) If the lender violates paragraph (a) and the
5 premium payment is more than 90 days overdue or if the insurer
6 refuses to reinstate the insurance policy, the lender shall
7 pay the difference between the cost of the previous insurance
8 policy and a new, comparable insurance policy for a period of
9 2 years. If the lender refuses, the lender is liable for the
10 reasonable attorney's fees and costs of the property owner for
11 a violation of this section.

12 Section 24. Subsection (8) is added to section 516.01,
13 Florida Statutes, to read:

14 516.01 Definitions.--As used in this chapter, the
15 term:

16 (8) "Control person" means an individual, partnership,
17 corporation, trust, or other organization that possesses the
18 power, directly or indirectly, to direct the management or
19 policies of a company, whether through ownership of
20 securities, by contract, or otherwise. A person is presumed to
21 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 may vote 10 percent or more
27 of a class of a voting security or sell or direct the sale of
28 10 percent or more of a class of voting securities; or

29 (c) In the case of a partnership, may receive upon
30 dissolution or has contributed 10 percent or more of the
31 capital.

1 Section 25. Section 516.03, Florida Statutes, is
2 amended to read:

3 516.03 Application for license; fees; etc.--

4 (1) APPLICATION.--Application for a license to make
5 loans under this chapter shall be in the form prescribed by
6 rule of the commission. The commission may require each
7 applicant to provide any information reasonably necessary to
8 determine the applicant's eligibility for licensure. The
9 applicant shall also provide information that the office
10 requires concerning any officer, director, control person,
11 member, partner, or joint venturer of the applicant or any
12 person having the same or substantially similar status or
13 performing substantially similar functions or concerning any
14 individual who is the ultimate equitable owner of a 10-percent
15 or greater interest in the applicant. The office may require
16 information concerning any such applicant or person,
17 including, but not limited to, his or her full name and any
18 other names by which he or she may have been known, age,
19 social security number, residential history, qualifications,
20 educational and business history, and disciplinary and
21 criminal history. The applicant must provide evidence of
22 liquid assets of at least \$25,000, and shall contain the name,
23 residence and business addresses of the applicant and, if the
24 applicant is a copartnership or association, of every member
25 thereof and, if a corporation, of each officer and director
26 thereof, also the county and municipality with the street and
27 number or approximate location where the business is to be
28 conducted, and such further relevant information as the
29 commission or office may require. At the time of making such
30 application the applicant shall pay to the office a
31 nonrefundable biennial license fee of \$625. Applications,

1 | except for applications to renew or reactivate a license, must
2 | also be accompanied by a nonrefundable ~~an~~ investigation fee of
3 | \$200. An application is considered received for purposes of s.
4 | 120.60 upon receipt of a completed application form as
5 | prescribed by commission rule, a nonrefundable application fee
6 | of \$625, and any other fee prescribed by law. The commission
7 | may adopt rules requiring ~~to allow~~ electronic submission of
8 | any form, document, or fee required by this act if such rules
9 | reasonably accommodate technological or financial hardship.
10 | The commission may prescribe by rule requirements and
11 | procedures for obtaining an exemption due to a technological
12 | or financial hardship.

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

25 | Section 26. Paragraph (a) of subsection (3) of section
26 | 516.031, Florida Statutes, is amended to read:

27 | 516.031 Finance charge; maximum rates.--

28 | (3) OTHER CHARGES.--

29 | (a) In addition to the interest, delinquency, and
30 | insurance charges herein provided for, no further or other
31 | charges or amount whatsoever for any examination, service,

1 | commission, or other thing or otherwise shall be directly or
2 | indirectly charged, contracted for, or received as a condition
3 | to the grant of a loan, except:

4 | 1. An amount not to exceed ~~\$25~~\$10 to reimburse a
5 | portion of the costs for investigating the character and
6 | credit of the person applying for the loan;

7 | 2. An annual fee of \$25 on the anniversary date of
8 | each line-of-credit account;

9 | 3. Charges paid for brokerage fee on a loan or line of
10 | credit of more than \$10,000, title insurance, and the
11 | appraisal of real property offered as security when paid to a
12 | third party and supported by an actual expenditure;

13 | 4. Intangible personal property tax on the loan note
14 | or obligation when secured by a lien on real property;

15 | 5. The documentary excise tax and lawful fees, if any,
16 | actually and necessarily paid out by the licensee to any
17 | public officer for filing, recording, or releasing in any
18 | public office any instrument securing the loan, which fees may
19 | be collected when the loan is made or at any time thereafter;

20 | 6. The premium payable for any insurance in lieu of
21 | perfecting any security interest otherwise required by the
22 | licensee in connection with the loan, if the premium does not
23 | exceed the fees which would otherwise be payable, which
24 | premium may be collected when the loan is made or at any time
25 | thereafter;

26 | 7. Actual and reasonable attorney's fees and court
27 | costs as determined by the court in which suit is filed;

28 | 8. Actual and commercially reasonable expenses of
29 | repossession, storing, repairing and placing in condition for
30 | sale, and selling of any property pledged as security; or
31 |

1 9. A delinquency charge not to exceed \$10 for each
2 payment in default for a period of not less than 10 days, if
3 the charge is agreed upon, in writing, between the parties
4 before imposing the charge.

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

13 Section 27. Section 516.05, Florida Statutes, is
14 amended to read:

15 516.05 License.--

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

29 (2) A license that is not renewed at the end of the
30 biennium established by the commission shall automatically
31 revert to inactive status. An inactive license may be

1 reactivated upon submission of a completed reactivation
2 application, payment of the biennial license fee, and payment
3 of a reactivation fee which shall equal the biennial license
4 fee. A license expires on the date at which it has been
5 inactive for 6 months.

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

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

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

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

28 (b) As used in this subsection, the term "controlling
29 interest" means possession of the power to direct or cause the
30 direction of the management or policies of a company whether
31 through ownership of securities, by contract, or otherwise.

1 Any person who directly or indirectly has the right to vote 25
2 percent or more of the voting securities of a company or is
3 entitled to 25 percent or more of the company's profits is
4 presumed to possess a controlling interest.

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

15 (d) The commission shall adopt rules pursuant to ss.
16 120.536(1) and 120.54 providing for the waiver of the
17 application required by this subsection if the person or group
18 of persons proposing to purchase or acquire a controlling
19 interest in a licensee has previously complied with the
20 provisions of s. 516.03(1) with the same legal entity or is
21 currently licensed with the office under this chapter.

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

25 ~~(6)(5)~~ A licensee may conduct the business of making
26 loans under this chapter within a place of business in which
27 other business is solicited or engaged in, unless the office
28 shall find that the conduct of such other business by the
29 licensee results in an evasion of this chapter. Upon such
30 finding, the office shall order the licensee to desist from
31 such evasion; provided, however, that no license shall be

1 granted to or renewed for any person or organization engaged
2 in the pawnbroker business.

3 ~~(6) If any person purchases substantially all of the~~
4 ~~assets of any existing licensed place of business, the~~
5 ~~purchaser shall give immediate notice thereof to the office~~
6 ~~and shall be granted a 90 day temporary license for the place~~
7 ~~of business within 10 days after the office's receipt of an~~
8 ~~application for a permanent license. Issuance of a temporary~~
9 ~~license for a place of business nullifies the existing license~~
10 ~~for the place of business, and the temporary licensee is~~
11 ~~subject to any disciplinary action provided for by this~~
12 ~~chapter.~~

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

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

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

28 Section 28. Subsection (1) of section 516.07, Florida
29 Statutes, is amended to read:

30 516.07 Grounds for denial of license or for
31 disciplinary action.--

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

5 (a) A material misstatement of fact in an application
6 for a license.+

7 (b) Failure to maintain liquid assets of at least
8 \$25,000 at all times for the operation of business at a
9 licensed location or proposed location.+

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

16 (d) The violation, either knowingly or without the
17 exercise of due care, of any provision of this chapter, any
18 rule or order adopted under this chapter, or any written
19 agreement entered into with the office.+

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

25 1. Willful imposition of illegal or excessive charges;

26 or

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

29 (f) The use of unreasonable collection practices or of
30 false, deceptive, or misleading advertising, where such acts
31

1 are in connection with the operation of a business to make
2 consumer finance loans.†

3 (g) Any violation of part III of chapter 817 or part
4 II of chapter 559 or of any rule adopted under part II of
5 chapter 559.†

6 (h) 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 under
9 this chapter, or by any agreement entered into with the
10 office.†

11 (i) 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 (j) Pleading nolo contendere to, or having been
15 convicted or found guilty of, a crime involving fraud,
16 dishonest dealing, or any act of moral turpitude, regardless
17 of whether adjudication is withheld.†

18 (k) Paying money or anything else of value, directly
19 or indirectly, to any person as compensation, inducement, or
20 reward for referring loan applicants to a licensee.†

21 (l) Allowing any person other than the licensee to use
22 the licensee's business name, address, or telephone number in
23 an advertisement.†

24 (m) Accepting or advertising that the licensee accepts
25 money on deposit or as consideration for the issuance or
26 delivery of certificates of deposit, savings certificates, or
27 similar instruments, except to the extent permitted under
28 chapter 517.† ~~or~~

29 (n) Failure to pay any fee, charge, or fine imposed or
30 assessed pursuant to this chapter or any rule adopted under
31 this chapter.

1 (o) Using the name or logo of a financial institution,
2 as defined in s. 655.005(1), or its affiliates or subsidiaries
3 when marketing or soliciting existing or prospective customers
4 if such marketing materials are used without the written
5 consent of the financial institution and in a manner that
6 would lead a reasonable person to believe that the material or
7 solicitation originated from, was endorsed by, or is related
8 to or the responsibility of the financial institution or its
9 affiliates or subsidiaries.

10

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

13 Section 29. Section 516.08, Florida Statutes, is
14 repealed.

15 Section 30. Subsection (3) is added to section 516.12,
16 Florida Statutes, to read:

17 516.12 Records to be kept by licensee.--

18

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

26 Section 31. Section 516.19, Florida Statutes, is
27 amended to read:

28 516.19 Penalties.--Any person who violates any of the
29 provisions of s. 516.02, s. 516.031, s. 516.05(3), ~~s.~~
30 ~~516.05(4)~~, s. 516.05(6)(5), or s. 516.07(1)(e) is guilty of a
31

1 | misdemeanor of the first degree, punishable as provided in s.
2 | 775.082 or s. 775.083.

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

5 | 517.021 Definitions.--When used in this chapter,
6 | unless the context otherwise indicates, the following terms
7 | have the following respective meanings:

8 | (4) "Branch office" means any location in this state
9 | of a dealer or investment adviser at which one or more
10 | associated persons regularly conduct the business of rendering
11 | investment advice or effecting any transactions in, or
12 | inducing or attempting to induce the purchase or sale of, any
13 | security or any location that is held out as such. The
14 | commission may adopt by rule exceptions to this definition for
15 | dealers in order to maintain consistency with the definition
16 | of a branch office used by self-regulatory organizations
17 | authorized by the Securities and Exchange Commission,
18 | including, but not limited to, the National Association of
19 | Securities Dealers or the New York Stock Exchange. The
20 | commission may adopt by rule exceptions to this definition for
21 | investment advisers ~~office of a dealer or investment adviser~~
22 | ~~located in this state, other than the principal office of the~~
23 | ~~dealer or investment adviser, which nonprincipal office is~~
24 | ~~owned or controlled by the dealer or investment adviser for~~
25 | ~~the purpose of conducting a securities business.~~

26 | Section 33. Subsection (9) of section 517.051, Florida
27 | Statutes, is amended to read:

28 | 517.051 Exempt securities.--The exemptions provided
29 | herein from the registration requirements of s. 517.07 are
30 | self-executing and do not require any filing with the office
31 | prior to claiming such exemption. Any person who claims

1 entitlement to any of these exemptions bears the burden of
2 proving such entitlement in any proceeding brought under this
3 chapter. The registration provisions of s. 517.07 do not apply
4 to any of the following securities:

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

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

28 517.061 Exempt transactions.--The exemption for each
29 transaction listed below is self-executing and does not
30 require any filing with the office prior to claiming such
31 exemption. Any person who claims entitlement to any of the

1 exemptions bears the burden of proving such entitlement in any
2 proceeding brought under this chapter. The registration
3 provisions of s. 517.07 do not apply to any of the following
4 transactions; however, such transactions are subject to the
5 provisions of ss. 517.301, 517.311, and 517.312:

6 (18) The offer or sale of any security effected by or
7 through a person in compliance with ~~registered pursuant to~~ s.
8 517.12(17).

9 Section 35. Paragraph (g) of subsection (3) of section
10 517.081, Florida Statutes, is amended to read:

11 517.081 Registration procedure.--

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

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

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

29 a. An issuer seeking to register securities for resale
30 by persons other than the issuer.

31

1 b. An issuer who is subject to any of the
2 disqualifications described in 17 C.F.R. s. 230.262, adopted
3 pursuant to the Securities Act of 1933, or who has been or is
4 engaged or is about to engage in an activity that would be
5 grounds for denial, revocation, or suspension under s.
6 517.111. For purposes of this subparagraph, an issuer includes
7 an issuer's director, officer, shareholder who owns at least
8 10 percent of the shares of the issuer, promoter, or selling
9 agent of the securities to be offered or any officer,
10 director, or partner of such selling agent.

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

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

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

21 f. Any corporation which has failed to provide the
22 office the reports required for a previous offering registered
23 pursuant to this subparagraph.

24
25 As a condition precedent to qualifying for use of the
26 simplified offering circular, a corporation shall agree to
27 provide the office with an annual financial report containing
28 a balance sheet as of the end of the issuer's fiscal year and
29 a statement of income for such year, prepared in accordance
30 with United States generally accepted accounting principles
31 and accompanied by an independent accountant's report. If the

1 issuer has more than 100 security holders at the end of a
2 fiscal year, the financial statements must be audited. Annual
3 financial reports must be filed with the office within 90 days
4 after the close of the issuer's fiscal year for each of the
5 first 5 years following the effective date of the
6 registration.

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

10 517.12 Registration of dealers, associated persons,
11 investment advisers, and branch offices.--

12 (6) A dealer, associated person, investment adviser,
13 or branch office, in order to obtain registration, must file
14 with the office a written application, on a form which the
15 commission may by rule prescribe, ~~verified under oath~~. The
16 commission may establish, by rule, procedures for depositing
17 fees and filing documents by electronic means provided such
18 procedures provide the office with the information and data
19 required by this section. Each dealer or investment adviser
20 must also file an irrevocable written consent to service of
21 civil process similar to that provided for in s. 517.101. The
22 application shall contain such information as the commission
23 or office may require concerning such matters as:

24 (a) The name of the applicant and the address of its
25 principal office and each office in this state.

26 (b) The applicant's form and place of organization;
27 and, if the applicant is a corporation, a copy of its articles
28 of incorporation and amendments to the articles of
29 incorporation or, if a partnership, a copy of the partnership
30 agreement.

31

1 (c) The applicant's proposed method of doing business
2 and financial condition and history, including a certified
3 financial statement showing all assets and all liabilities,
4 including contingent liabilities of the applicant as of a date
5 not more than 90 days before ~~prior to~~ the filing of the
6 application.

7 (d) The names and addresses of all associated persons
8 of the applicant to be employed in this state and the offices
9 to which they will be assigned.

10 (7) The application shall also contain such
11 information as the commission or office may require about the
12 applicant; any partner, officer, or director of the applicant
13 or any person having a similar status or performing similar
14 functions; any person directly or indirectly controlling the
15 applicant; or any employee of a dealer or of an investment
16 adviser rendering investment advisory services. Each applicant
17 shall file a complete set of fingerprints. A fingerprint card
18 submitted to the office must be taken by an authorized law
19 enforcement agency officer. The office shall submit the Such
20 fingerprints shall be submitted to the Department of Law
21 Enforcement for state processing and the Department of Law
22 Enforcement shall forward the fingerprints to ~~or~~ the Federal
23 Bureau of Investigation for national state and federal
24 processing. The cost of the fingerprint processing may be
25 borne by the office, the employer, or the person subject to
26 the background check. The Department of Law Enforcement shall
27 submit an invoice to the office for the fingerprints received
28 each month. The office shall screen the background results to
29 determine if the applicant meets licensure requirements. The
30 commission may waive, by rule, the requirement that applicants
31 must file a set of fingerprints or the requirement that such

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

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

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

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

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

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

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

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

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

25 (15)(a) In order to facilitate uniformity and
26 streamline procedures for persons who are subject to
27 registration in multiple jurisdictions, the commission may
28 adopt by rule uniform forms that have been approved by the
29 Securities and Exchange Commission, and any subsequent
30 amendments to such forms, if the forms are substantially
31 consistent with the provisions of this chapter. Uniform forms

1 that the commission may adopt to administer this section
2 include, but are not limited to:

3 1. Form BR, Uniform Branch Office Registration Form,
4 adopted October 2005.

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

7 3. Form U5, Uniform Termination Notice for Securities
8 Industry Registration, adopted October 2005.

9 4. Form ADV, Uniform Application for Investment
10 Adviser Registration, adopted October 2003.

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

13 6. Form BD, Uniform Application for Broker-Dealer
14 Registration, adopted July 1999.

15 7. Form BDW, Uniform Request for Broker-Dealer
16 Withdrawal, adopted August 1999.

17 (b) In lieu of filing with the office the applications
18 specified in subsection (6), the fees required by subsection
19 (10), ~~the renewals required by subsection (11), and the~~
20 termination notices required by subsection (12), the
21 commission may by rule establish procedures for the deposit of
22 such fees and documents with the Central Registration
23 Depository ~~or the Investment Adviser Registration Depository~~
24 of the National Association of Securities Dealers, Inc., as
25 developed under contract with the North American Securities
26 Administrators Association, Inc.; ~~provided, however, that such~~
27 ~~procedures shall provide the office with the information and~~
28 ~~data as required by this section.~~

29 (17)(a) A dealer that is located in Canada, ~~does not~~
30 ~~have an and has no~~ office or other physical presence in this
31 state, and has made a notice filing in accordance with this

1 subsection is exempt from the registration requirements of
2 this section and may, ~~provided the dealer is registered in~~
3 ~~accordance with this section,~~ effect transactions in
4 securities with or for, or induce or attempt to induce the
5 purchase or sale of any security by:

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

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

14 (b) A notice filing under this subsection must consist
15 of documents the commission by rule requires to be filed,
16 together with a consent to service of process and a
17 nonrefundable filing fee of \$200. The commission may establish
18 by rule procedures for the deposit of fees and the filing of
19 documents to be made by electronic means, if such procedures
20 provide the office with the information and data required by
21 this section ~~An associated person who represents a Canadian~~
22 ~~dealer registered under this section may, provided the agent~~
23 ~~is registered in accordance with this section,~~ effect
24 ~~transactions in securities in this state as permitted for a~~
25 ~~dealer, under subsection (a).~~

26 (c) A Canadian dealer may make a notice filing
27 ~~register~~ under this subsection if the section provided that
28 ~~such~~ dealer provides to the office:

29 1. A notice filing ~~Files an application~~ in the form
30 the commission requires by rule ~~required by the jurisdiction~~
31 ~~in which the dealer has a head office.~~

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

2 3. Evidence that the Canadian dealer is registered as
3 a dealer ~~in good standing~~ in the jurisdiction in which the
4 dealer's main office is located from which it is effecting
5 transactions into this state and files evidence of such
6 registration with the office.

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

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

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

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

1 in securities in this state as permitted for a dealer under
2 paragraph (a) if such person may register under this section
3 ~~provided that such person:~~

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

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

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

12 ~~(g)(f)~~ A Canadian dealer who has made a notice filing
13 ~~registered~~ under this subsection ~~section~~ shall:

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

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

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

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

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

29 ~~(h)(g)~~ An associated person representing ~~of~~ a Canadian
30 dealer who has made a notice filing ~~registered~~ under this
31 subsection ~~section~~ shall:

1 1. Maintain provincial or territorial registration in
2 good standing.

3 2. Provide the office upon request with notice of each
4 civil, criminal, or administrative action initiated against
5 such person.

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

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

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

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

24 Section 37. Paragraphs (b) and (e) of subsection (3)
25 of section 517.131, Florida Statutes, are amended, and
26 subsection (5) is added to that section, to read:

27 517.131 Securities Guaranty Fund.--

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

30 (b) Such person has made all reasonable searches and
31 inquiries to ascertain whether the judgment debtor possesses

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

16 (e) The office waives compliance with the requirements
17 of paragraph (a) or paragraph (b). The office may waive such
18 compliance if the dealer, investment adviser, or associated
19 person which is the subject of the claim filed with the office
20 is the subject of any proceeding in which a receiver has been
21 appointed by a court of competent jurisdiction. If the office
22 waives such compliance, the office may, upon petition by the
23 debtor or the court-appointed trustee, examiner, or receiver,
24 distribute funds from the Securities Guaranty Fund up to the
25 amount allowed under s. 517.141. Any waiver granted pursuant
26 to this section shall be considered a judgment for purposes of
27 complying with the requirements of this section and of s.
28 517.141.

29 (5) The commission may adopt rules pursuant to ss.
30 120.536(1) and 120.54 specifying the procedures for complying
31 with subsections (2), (3), and (4), including rules for the

1 form of submission and guidelines for the sufficiency and
2 content of submissions of notices and claims.

3 Section 38. Subsections (2) and (5) of section
4 517.141, Florida Statutes, are amended, and subsection (11) is
5 added to that section, to read:

6 517.141 Payment from the fund.--

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

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

26 (11) The commission may adopt rules pursuant to ss.
27 120.536(1) and 120.54 specifying procedures for complying with
28 this section, including rules for the form of submission and
29 guidelines for the sufficiency and content of submissions of
30 notices and claims.

31

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

3 517.161 Revocation, denial, or suspension of
4 registration of dealer, investment adviser, associated person,
5 or branch office.--

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

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

12 (b) Has made a material false statement in the
13 application for registration;

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

21 (d) Has made a misrepresentation or false statement
22 to, or concealed any essential or material fact from, any
23 person in the rendering of investment advice or the sale of a
24 security to such person;

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

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

31

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

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

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

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

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

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

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

1 promulgated thereunder, or any rule or regulation of any
2 national securities, commodities, or options exchange or
3 national securities, commodities, or options association, or
4 has been the subject of any injunction or adverse
5 administrative order by a state or federal agency regulating
6 banking, insurance, finance or small loan companies, real
7 estate, mortgage brokers or lenders, money transmitters, or
8 other related or similar industries. For purposes of this
9 subsection, the office may not deny registration to any
10 applicant who has been continuously registered with the office
11 for 5 years from the entry of such decision, finding,
12 injunction, suspension, prohibition, revocation, denial,
13 judgment, or administrative order provided such decision,
14 finding, injunction, suspension, prohibition, revocation,
15 denial, judgment, or administrative order has been timely
16 reported to the office pursuant to the commission's rules; ~~or-~~
17 (n) Made payment to the office for a registration or
18 notice filing with a check or electronic transmission of funds
19 that is dishonored by the applicant's, registrant's, or notice
20 filer's financial institution.

21 Section 40. Section 520.02, Florida Statutes, is
22 amended to read:

23 520.02 Definitions.--In this act, unless the context
24 or subject matter otherwise requires:

25 (1) "Branch" means any location, other than a
26 licensee's principal place of business, at which a licensee
27 operates or conducts business under this act or which a
28 licensee owns or controls for the purpose of conducting
29 business under this act.

30 (2) "Cash price" means the price at which a seller, in
31 the ordinary course of business, offers to sell for cash the

1 | property or service that is the subject of the transaction. At
2 | the seller's option, the term "cash price" may include the
3 | price of accessories, services related to the sale, service
4 | contracts, and taxes and fees for license, title, and
5 | registration of the motor vehicle. The term "cash price" does
6 | not include any finance charge.

7 | (3) "Commission" means the Financial Services
8 | Commission.

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

16 | (a) Is a director, general partner, or officer
17 | exercising executive responsibility or having similar status
18 | or functions;

19 | (b) Directly or indirectly may vote 10 percent or more
20 | of a class of a voting security or sell or direct the sale of
21 | 10 percent or more of a class of voting securities; or

22 | (c) In the case of a partnership, may receive upon
23 | dissolution or has contributed 10 percent or more of the
24 | capital.

25 | (5) "Down payment" means the amount, including the
26 | value of any property used as a trade-in, paid to a seller to
27 | reduce the cash price of goods or services purchased in a
28 | credit sale transaction. A deferred portion of a down payment
29 | may be treated as part of the down payment if it is payable
30 | not later than the due date of the second otherwise regularly
31 | scheduled payment and is not subject to a finance charge.

1 (6) "Finance charge" means the cost of consumer credit
2 as a dollar amount. The term "finance charge" includes any
3 charge payable directly or indirectly by the buyer and imposed
4 directly or indirectly by the seller as an incident to or a
5 condition of the extension of credit. The term "finance
6 charge" does not include any charge of a type payable in a
7 comparable cash transaction.

8 (7) "Holder" of a retail installment contract means
9 the retail seller of a motor vehicle retail installment
10 contract or an assignee of such contract.

11 (8) "Mobile home" means a structure, transportable in
12 one or more sections, which is 8 body feet or more in width
13 and is 32 body feet or more in length, designed to be used as
14 a dwelling with or without a permanent foundation when
15 connected to the required utilities, and includes the
16 plumbing, heating, air-conditioning, and electrical systems
17 contained therein.

18 (9) "Motor vehicle" means any device or vehicle,
19 including automobiles, motorcycles, motor trucks, trailers,
20 mobile homes, and all other vehicles operated over the public
21 highways and streets of this state and propelled by power
22 other than muscular power, but excluding traction engines,
23 road rollers, implements of husbandry and other agricultural
24 equipment, and vehicles which run only upon a track.

25 ~~(10)~~~~(15)~~ "Motor vehicle retail installment seller" or
26 "seller" means a person engaged in the business of selling
27 motor vehicles to retail buyers in retail installment
28 transactions.

29 ~~(11)~~~~(4)~~ "Office" means the Office of Financial
30 Regulation of the commission.
31

1 ~~(12)~~~~(10)~~ "Official fees" means fees and charges
2 prescribed by law which actually are or will be paid to public
3 officials for determining the existence of, or for perfecting,
4 releasing, or satisfying, any security related to the credit
5 transaction, or the premium payable for any insurance in lieu
6 of perfecting any security interest otherwise required by the
7 creditor in connection with the transaction, if the premium
8 does not exceed the fees and charges which would otherwise be
9 payable to public officials.

10 ~~(13)~~~~(11)~~ "Person" means an individual, partnership,
11 corporation, association, and any other group however
12 organized.

13 ~~(14)~~~~(12)~~ "Principal place of business" means the
14 physical location designated on the licensee's application for
15 licensure, unless otherwise designated as required by this
16 chapter.

17 ~~(15)~~~~(13)~~ "Retail buyer" or "buyer" means a person who
18 buys a motor vehicle from a seller not principally for the
19 purpose of resale, and who executes a retail installment
20 contract in connection therewith or a person who succeeds to
21 the rights and obligations of such person.

22 ~~(16)~~~~(14)~~ "Retail installment contract" or "contract"
23 means an agreement, entered into in this state, pursuant to
24 which the title to, or a lien upon the motor vehicle, which is
25 the subject matter of a retail installment transaction, is
26 retained or taken by a seller from a retail buyer as security,
27 in whole or in part, for the buyer's obligation. The term
28 includes a conditional sales contract and a contract for the
29 bailment or leasing of a motor vehicle by which the bailee or
30 lessee contracts to pay as compensation for its use a sum
31 substantially equivalent to or in excess of its value and by

1 | which it is agreed that the bailee or lessee is bound to
2 | become, or for no further or a merely nominal consideration,
3 | has the option of becoming, the owner of the motor vehicle
4 | upon full compliance with the provisions of the contract.

5 | ~~(17)(16)~~ "Retail installment transaction" means any
6 | transaction evidenced by a retail installment contract entered
7 | into between a retail buyer and a seller wherein the retail
8 | buyer buys a motor vehicle from the seller at a deferred
9 | payment price payable in one or more deferred installments.

10 | ~~(18)(17)~~ "Sales finance company" means a person
11 | engaged in the business of purchasing retail installment
12 | contracts from one or more sellers. The term includes, but is
13 | not limited to, a bank or trust company, if so engaged. The
14 | term does not include the pledge of an aggregate number of
15 | such contracts to secure a bona fide loan thereon.

16 | ~~(19)(18)~~ Words in the singular include the plural and
17 | vice versa.

18 | Section 41. Subsections (2) through (5) of section
19 | 520.03, Florida Statutes, are amended to read:

20 | 520.03 Licenses.--

21 | (2) An application for a license under this part must
22 | be submitted to the office in such form as the commission may
23 | prescribe by rule. The commission may require each applicant
24 | to provide any information reasonably necessary to determine
25 | the applicant's eligibility for licensure. The applicant shall
26 | also provide information that the office requires concerning
27 | any officer, director, control person, member, partner, or
28 | joint venturer of the applicant or any person having the same
29 | or substantially similar status or performing substantially
30 | similar functions or any individual who is the ultimate
31 | equitable owner of a 10-percent or greater interest in the

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

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

29 (4) ~~Each license shall specify the location for which~~
30 ~~it is issued and must be conspicuously displayed at that~~
31 ~~location. Prior to relocating a principal place of business or~~

1 ~~any branch location, the licensee must provide to the office~~
2 ~~notice of the relocation in a form prescribed by commission~~
3 ~~rule.~~ A licensee may not transact business as a motor vehicle
4 retail installment seller except under the name by which it is
5 licensed. Licenses issued under this part are not transferable
6 or assignable.

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

14 Section 42. Subsections (10) through (18) of section
15 520.31, Florida Statutes, are renumbered as subsections (11)
16 through (19), respectively, subsection (4) of that section is
17 renumbered as subsection (10), and a new subsection (4) is
18 added to that section, to read:

19 520.31 Definitions.--Unless otherwise clearly
20 indicated by the context, the following words when used in
21 this act, for the purposes of this act, shall have the
22 meanings respectively ascribed to them in this section:

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

30
31

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 10
5 percent or more of a class of a voting security or has the
6 power to sell or direct the sale of 10 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 10 percent or more
10 of the capital.

11 Section 43. Subsections (2) through (5) of section
12 520.32, Florida Statutes, are amended to read:

13 520.32 Licenses.--

14 (2) An application for a license under this part must
15 be submitted to the office in such form as the commission may
16 prescribe by rule. The commission may require each applicant
17 to provide any information reasonably necessary to determine
18 the applicant's eligibility for licensure. The applicant shall
19 also provide information that the office requires concerning
20 any officer, director, control person, member, partner, or
21 joint venturer of the applicant or any person having the same
22 or substantially similar status or performing substantially
23 similar functions or any individual who is the ultimate
24 equitable owner of a 10-percent or greater interest in the
25 applicant. The office may require information concerning any
26 such applicant or person, including his or her full name and
27 any other names by which he or she may have been known, age,
28 social security number, residential history, qualifications,
29 educational and business history, and disciplinary and
30 criminal history. If the office determines that an application
31 should be granted, it shall issue the license for a period not

1 | to exceed 2 years. A nonrefundable application fee of \$175
2 | shall accompany an initial application for the principal place
3 | of business and each application for a branch location of a
4 | retail installment seller. An application is considered
5 | received for purposes of s. 120.60 upon receipt of a completed
6 | application form as prescribed by commission rule, a
7 | nonrefundable application fee of \$175, and any other fee
8 | prescribed by law.

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

21 | (4) ~~Each license must specify the location for which~~
22 | ~~it is issued and must be conspicuously displayed at that~~
23 | ~~location. If a licensee's principal place of business or~~
24 | ~~branch location changes, the licensee shall notify the office~~
25 | ~~and the office shall endorse the change of location without~~
26 | ~~charge.~~ A licensee may not transact business as a retail
27 | installment seller except under the name by which it is
28 | licensed. A license issued under this part is not transferable
29 | or assignable.

30 | (5) The office may deny an initial application for a
31 | license under this part if the applicant or any officer,

1 ~~director, control person, member, partner, or joint venturer~~
2 ~~person with power to direct the management or policies~~ of the
3 applicant is the subject of a pending criminal prosecution or
4 governmental enforcement action, in any jurisdiction, until
5 conclusion of such criminal prosecution or enforcement action.

6 Section 44. Subsections (2) through (5) of section
7 520.52, Florida Statutes, are amended to read:

8 520.52 Licensees.--

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

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

3 (3) The nonrefundable renewal fee for a sales finance
4 company license shall be \$175. Biennial licensure periods and
5 procedures for renewal of licenses may also be established by
6 the commission by rule. A license that is not renewed at the
7 end of the biennium established by the commission shall revert
8 from active to inactive status. An inactive license may be
9 reactivated within 6 months after becoming inactive upon
10 filing a completed reactivation form, payment of the
11 nonrefundable renewal fee, and payment of a reactivation fee
12 equal to the nonrefundable renewal fee. A license that is not
13 reactivated within 6 months after becoming inactive
14 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 licensee's principal place of business or~~
18 ~~branch location changes, the licensee shall notify the office~~
19 ~~and the office shall endorse the change of location without~~
20 ~~charge.~~ A licensee may not transact business as a sales
21 finance company except under the name by which it is licensed.
22 A license issued under this part is not transferable or
23 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 45. Subsections (5), (6), (7), (15), (16), and
2 (22) of section 520.61, Florida Statutes, are renumbered as
3 subsections (7), (5), (16), (22), (15), and (23),
4 respectively, and a new subsection (6) is added to that
5 section to read:

6 520.61 Definitions.--As used in this act:

7 (6) "Control person" means an individual, partnership,
8 corporation, trust, or other organization that possesses the
9 power, directly or indirectly, to direct the management or
10 policies of a company, whether through ownership of
11 securities, by contract, or otherwise. A person is presumed to
12 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 may vote 10 percent or more
18 of a class of a voting security or sell or direct the sale of
19 10 percent or more of a class of voting securities; or

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

23 Section 46. Subsections (2) through (5) of section
24 520.63, Florida Statutes, are amended to read:

25 520.63 Licensees.--

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

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

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

1 license that is not reactivated within 6 months after becoming
2 inactive 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 home improvement finance seller's principal~~
6 ~~place of business or any branch location changes, the licensee~~
7 ~~shall notify the office and the office shall endorse the~~
8 ~~change of location without charge.~~ A licensee may not transact
9 business as a home improvement finance seller except under the
10 name by which it is licensed. A license issued under this part
11 is not 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 47. Subsection (5) of section 520.994, Florida
20 Statutes, is amended to read:

21 520.994 Powers of office.--

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

31

1 Section 48. Subsections (1) and (4) of section
2 520.995, Florida Statutes, are amended to read:

3 520.995 Grounds for disciplinary action.--

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

7 (a) Failure to comply with any provision of this
8 chapter, any rule or order adopted pursuant to this chapter,
9 or any written agreement entered into with the office.+

10 (b) Fraud, misrepresentation, deceit, or gross
11 negligence in any home improvement finance transaction or
12 retail installment transaction, regardless of reliance by or
13 damage to the buyer or owner.+

14 (c) Fraudulent misrepresentation, circumvention, or
15 concealment of any matter required to be stated or furnished
16 to a retail buyer or owner pursuant to this chapter,
17 regardless of reliance by or damage to the buyer or owner.+

18 (d) Willful imposition of illegal or excessive charges
19 in any retail installment transaction or home improvement
20 finance transaction.+

21 (e) False, deceptive, or misleading advertising by a
22 seller or home improvement finance seller.+

23 (f) Failure to maintain, preserve, and keep available
24 for examination, all books, accounts, or other documents
25 required by this chapter, by any rule or order adopted
26 pursuant to this chapter, or by any agreement entered into
27 with the office.+

28 (g) Refusal to permit inspection of books and records
29 in an investigation or examination by the office or refusal to
30 comply with a subpoena issued by the office.+

31

1 (h) Criminal conduct in the course of a person's
2 business as a seller, as a home improvement finance seller, or
3 as a sales finance company, ~~or~~

4 (i) Failure to timely pay any fee, charge, or fine
5 imposed or assessed pursuant to this chapter or any rule
6 adopted under this chapter.

7 (j) Using the name or logo of a financial institution,
8 as defined in s. 655.005(1), or its affiliates or subsidiaries
9 when marketing or soliciting existing or prospective customers
10 if such marketing materials are used without the written
11 consent of the financial institution and in a manner that
12 would lead a reasonable person to believe that the material or
13 solicitation originated from, was endorsed by, or is related
14 to or the responsibility of the financial institution or its
15 affiliates or subsidiaries.

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

19 (4) It is sufficient cause for the office to take any
20 of the actions specified in subsection (2) as to any
21 partnership, corporation, or association, if the office finds
22 grounds for such action as to any member of the partnership,
23 as to any officer or director of the corporation or
24 association, or as to any control person, partner, or joint
25 venturer ~~person with power to direct the management or~~
26 ~~policies~~ of the partnership, corporation, or association.

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

29 520.997 Books, accounts, and records.--

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

1 records of licensees so that such records will enable the
2 office to determine compliance with ~~the provisions of this~~
3 chapter. In addition, the commission may prescribe by rule
4 requirements for the destruction of books, accounts, records,
5 and documents retained by the licensee after completion of the
6 time period specified in subsection (3).

7 Section 50. Section 520.999, Florida Statutes, is
8 created to read:

9 520.999 Requirements of licensees.--

10 (1) Each licensee under this chapter shall report, on
11 a form prescribed by rule of the commission, any change in the
12 information contained in any initial application form or any
13 amendment to such application not later than 30 days after the
14 change is effective.

15 (2) Each licensee under this chapter shall report any
16 changes in the partners, officers, members, joint venturers,
17 directors, or control persons of any licensee or changes in
18 the form of business organization by written amendment in such
19 form and at such time as the commission specifies by rule.

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

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

1 percent or more of the voting securities of a company or is
2 entitled to 25 percent or more of its profits is presumed to
3 possess a controlling interest.

4 (c) Any addition of a partner, officer, member, joint
5 venturer, director, or control person of the applicant who
6 does not have a controlling interest and who has not
7 previously complied with the provisions of ss. 520.03(2),
8 520.32(2), 520.52(2), and 520.63(2) shall be subject to such
9 provisions unless required to file an initial application in
10 accordance with paragraph (a). If the office determines that
11 the licensee does not continue to meet licensure requirements,
12 the office may bring administrative action in accordance with
13 s. 520.995 to enforce the provisions of this chapter.

14 (d) The commission shall adopt rules pursuant to ss.
15 120.536(1) and 120.54 providing for the waiver of the
16 application required by this subsection if the person or group
17 of persons proposing to purchase or acquire a controlling
18 interest in a licensee has previously complied with the
19 provisions of ss. 520.03(2), 520.32(2), 520.52(2), and
20 520.63(2) with the same legal entity or is currently licensed
21 with the office under this chapter.

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

24 537.009 Recordkeeping; reporting; safekeeping of
25 property.--

26 (5) The commission may prescribe by rule the books,
27 accounts, documents, and records, and the minimum information
28 to be shown in the books, accounts, documents, and records, of
29 licensees so that such records will enable the office to
30 determine compliance with the provisions of this act. In
31 addition, the commission may prescribe by rule requirements

1 for the destruction of books, accounts, records, and documents
2 retained by the licensee after completion of the time period
3 specified in subsection (3).

4 Section 52. Paragraph (e) of subsection (2) of section
5 559.9232, Florida Statutes, is amended to read:

6 559.9232 Definitions; exclusion of rental-purchase
7 agreements from certain regulations.--

8 (2) A rental-purchase agreement that complies with
9 this act shall not be construed to be, nor be governed by, any
10 of the following:

11 (e) A lease or agreement which constitutes a "retail
12 installment contract" or "retail installment transaction" as
13 those terms are defined in s. 520.31~~(13)~~ and ~~(14)~~; or

14 Section 53. Subsection (3) is added to section
15 560.105, Florida Statutes, to read:

16 560.105 Supervisory powers; rulemaking.--

17 (3) The commission may adopt rules pursuant to ss.
18 120.536(1) and 120.54 requiring electronic submission of any
19 forms, documents, or fees required by this code if such rules
20 reasonably accommodate technological or financial hardship.
21 The commission may prescribe by rule requirements and
22 procedures for obtaining an exemption due to a technological
23 or financial hardship.

24 Section 54. Paragraph (y) is added to subsection (1)
25 of section 560.114, Florida Statutes, to read:

26 560.114 Disciplinary actions.--

27 (1) The following actions by a money transmitter or
28 money transmitter-affiliated party are violations of the code
29 and constitute grounds for the issuance of a cease and desist
30 order, the issuance of a removal order, the denial of a
31 registration application or the suspension or revocation of

1 any registration previously issued pursuant to the code, or
2 the taking of any other action within the authority of the
3 office pursuant to the code:

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

7 Section 55. Subsection (2) of section 560.121, Florida
8 Statutes, is amended to read:

9 560.121 Records; limited restrictions upon public
10 access.--

11 (2) The commission may prescribe by rule the minimum
12 information that must be shown in the books, accounts,
13 records, and documents of licensees for purposes of enabling
14 the office to determine the licensee's compliance with this
15 chapter. In addition, the commission may prescribe by rule
16 requirements for the destruction of books, accounts, records,
17 and documents retained by the licensee after completion of the
18 time period specified in this subsection. Examination reports,
19 investigatory records, applications, and related information
20 compiled by the office, or photographic copies thereof, shall
21 be retained by the office for a period of at least 3 years
22 following the date that the examination or investigation
23 ceases to be active. Application records, and related
24 information compiled by the office, or photographic copies
25 thereof, shall be retained by the office for a period of at
26 least 2 years following the date that the registration ceases
27 to be active.

28 Section 56. Section 560.126, Florida Statutes, is
29 amended to read:

30 560.126 Significant events; notice required.--
31

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

6 ~~(a)(1)~~ The filing of a petition under the United
7 States Bankruptcy Code for bankruptcy or reorganization by the
8 money transmitter.

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

16 ~~(c)(3)~~ A felony indictment relating to the money
17 transmission business involving the money transmitter or a
18 money transmitter-affiliated party of the money transmitter.

19 ~~(d)(4)~~ The felony conviction, guilty plea, or plea of
20 nolo contendere, if the court adjudicates the nolo contendere
21 pleader guilty, or the adjudication of guilt of a money
22 transmitter or money transmitter-affiliated party.

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

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

28
29 However, ~~a person does not incur liability~~ ~~no liability shall~~
30 ~~be incurred by any person~~ as a result of making a good-faith
31 ~~good faith~~ effort to fulfill this disclosure requirement.

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

6 (b) Each registrant under the code shall report any
7 changes in the partners, officers, members, joint venturers,
8 directors, controlling shareholders, or responsible persons of
9 any registrant or changes in the form of business organization
10 by written amendment in such form and at such time as the
11 commission specifies by rule.

12 1. In any case in which a person or a group of
13 persons, directly or indirectly or acting by or through one or
14 more persons, proposes to purchase or acquire a controlling
15 interest in a licensee, such person or group must submit an
16 initial application for registration as a money transmitter
17 before such purchase or acquisition at such time and in such
18 form as the commission prescribes by rule.

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

27 3. Any addition of a partner, officer, member, joint
28 venturer, director, controlling shareholder, or responsible
29 person of the applicant who does not have a controlling
30 interest and who has not previously complied with ss. 560.205
31 and 560.306 shall be subject to such provisions unless

1 required to file an initial application in accordance with
2 subparagraph 1. If the office determines that the registrant
3 does not continue to meet registration requirements, the
4 office may bring administrative action in accordance with s.
5 560.114 to enforce the provisions of this code.

6 4. The commission shall adopt rules pursuant to ss.
7 120.536(1) and 120.54 providing for the waiver of the
8 application required by this subsection if the person or group
9 of persons proposing to purchase or acquire a controlling
10 interest in a registrant has previously complied with the
11 provisions of ss. 560.205 and 560.306 with the same legal
12 entity or is currently registered with the office under this
13 code.

14 Section 57. Section 560.127, Florida Statutes, is
15 amended to read:

16 560.127 Control of a money transmitter.--

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

18 (1)(a) The individual, partnership, corporation,
19 trust, or other organization possesses the power, directly or
20 indirectly, to direct the management or policies of a company,
21 whether through ownership of securities, by contract, or
22 otherwise. A person is presumed to control a company if, with
23 respect to a particular company, 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 may vote 25 percent or more
28 of a class of a voting security or sell or direct the sale of
29 25 percent or more of a class of voting securities; or

30 (c) In the case of a partnership, may receive upon
31 dissolution or has contributed 25 percent or more of the

1 ~~capital. The person directly or indirectly or acting through~~
2 ~~one or more other persons owns, controls, or has power to vote~~
3 ~~25 percent or more of any class of voting securities of the~~
4 ~~money transmitter; or~~

5 (2)(b) The office determines, after notice and
6 opportunity for hearing, that the person directly or
7 indirectly exercises a controlling influence over the
8 activities of the money transmitter.

9 ~~(2) 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 money transmitter, and thereby to change the~~
13 ~~control of that money transmitter, each person or group of~~
14 ~~persons shall provide written notice to the office.~~

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

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

22 ~~(3) After a review of the written notification, the~~
23 ~~office may require the money transmitter to provide additional~~
24 ~~information relating to other and former addresses, and the~~
25 ~~reputation, character, responsibility, and business~~
26 ~~affiliations, of the proposed new owner or each of the~~
27 ~~proposed new owners of the money transmitter.~~

28 ~~(a) The office may deny the person or group of persons~~
29 ~~proposing to purchase, or who have acquired control of, a~~
30 ~~money transmitter if, after investigation, the office~~
31 ~~determines that the person or persons are not qualified by~~

1 ~~reputation, character, experience, or financial responsibility~~
2 ~~to control or operate the money transmitter in a legal and~~
3 ~~proper manner and that the interests of the other~~
4 ~~stockholders, if any, or the interests of the public generally~~
5 ~~may be jeopardized by the proposed change in ownership,~~
6 ~~controlling interest, or management.~~

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

11 Section 58. Section 560.205, Florida Statutes, is
12 amended to read:

13 560.205 Qualifications of applicant for registration;
14 contents.--

15 (1) To qualify for registration under this part, an
16 applicant must demonstrate to the office such character and
17 general fitness as to command the confidence of the public and
18 warrant the belief that the registered business will be
19 operated lawfully and fairly. The office may investigate each
20 applicant to ascertain whether the qualifications and
21 requirements prescribed by this part have been met. The
22 office's investigation may include a criminal background
23 investigation of all controlling shareholders, principals,
24 officers, directors, members, and responsible persons of a
25 funds transmitter and a payment instrument seller and all
26 persons designated by a funds transmitter or payment
27 instrument seller as an authorized vendor. Each controlling
28 shareholder, principal, officer, director, member, and
29 responsible person of a funds transmitter or payment
30 instrument seller, unless the applicant is a publicly traded
31 corporation as defined by the commission by rule, a subsidiary

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

21 | (2) Each application for registration must be
22 | submitted under oath to the office on such forms as the
23 | commission prescribes by rule and must be accompanied by a
24 | nonrefundable application fee. Such fee may not exceed \$500
25 | for each payment instrument seller or funds transmitter and
26 | \$50 for each authorized vendor or location operating within
27 | this state. The application must contain ~~forms shall set forth~~
28 | such information as the commission ~~reasonably~~ requires by
29 | rule, including, but not limited to:

30 |
31 |

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

4 (b) The history of the applicant's material
5 litigation, criminal convictions, pleas of nolo contendere,
6 and cases of adjudication withheld.

7 (c) A description of the activities conducted by the
8 applicant, the applicant's history of operations, and the
9 business activities in which the applicant seeks to engage in
10 this state.

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

15 ~~(d)(e)~~ A sample authorized vendor contract, if
16 applicable.

17 ~~(e)(f)~~ A sample form of payment instrument, if
18 applicable.

19 ~~(f)(g)~~ The name and address of the clearing financial
20 institution or financial institutions through which the
21 applicant's payment instruments will be drawn or through which
22 such payment instruments will be payable.

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

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

30 (a) The date of the applicant's incorporation and
31 state of incorporation.

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

3 (c) A description of the corporate structure of the
4 applicant, including the identity of any parent or subsidiary
5 of the applicant, and the disclosure of whether any parent or
6 subsidiary is publicly traded on any stock exchange.

7 (d) The name, social security number, business and
8 residence addresses, and employment history for the past 5
9 years for each executive officer, each director, each
10 controlling shareholder, and the responsible person who will
11 be in charge of all the applicant's business activities in
12 this state.

13 (e) The history of material litigation and criminal
14 convictions, pleas of nolo contendere, and cases of
15 adjudication withheld for each ~~executive~~ officer, each
16 director, each controlling shareholder, and the responsible
17 person who will be in charge of the applicant's registered
18 activities.

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

29 (g) An applicant who is not required to file audited
30 financial statements may file copies of the applicant's
31 unconsolidated, unaudited financial statements for the current

1 year and, if available, for the immediately preceding 2-year
2 period.

3 (h) If the applicant is a publicly traded company,
4 copies of all filings made by the applicant with the United
5 States Securities and Exchange Commission, or with a similar
6 regulator in a country other than the United States, within
7 the year preceding the date of filing of the application.

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

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

14 (b) The name, business and residence addresses,
15 personal financial statement and employment history for the
16 past 5 years for each individual having a controlling
17 ownership interest in the applicant, and each responsible
18 person who will be in charge of the applicant's registered
19 activities.

20 (c) The history of material litigation and criminal
21 convictions, pleas of nolo contendere, and cases of
22 adjudication withheld for each individual having a controlling
23 ownership interest in the applicant and each responsible
24 person who will be in charge of the applicant's registered
25 activities.

26 (d) Copies of the applicant's audited financial
27 statements for the current year, and, if available, for the
28 preceding 2 years. An applicant who is not required to file
29 audited financial statements may satisfy this requirement by
30 filing unaudited financial statements verified under penalty
31 of perjury, as provided by the commission by rule.

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

3 Section 59. Section 560.207, Florida Statutes, is
4 amended to read:

5 560.207 Renewal of registration; registration fee.--

6 (1) Registration may be renewed for a 24-month period
7 or the remainder of any such period without proration
8 following the date of its expiration by furnishing such
9 information as the commission requires by rule, together with
10 the payment of the fees required under subsections (2), (3),
11 and (4), upon the filing with the office of an application and
12 other statements and documents as may reasonably be required
13 of registrants by the commission. However, the registrant must
14 remain qualified for such registration under the provisions of
15 this part.

16 (2) Each renewal of All registration must renewal
17 applications shall be accompanied by a nonrefundable renewal
18 fee not to exceed \$1,000. A registration expires on April 30
19 of the year in which the existing registration expires, unless
20 the registrant has renewed his or her registration on or
21 before that date. In no event shall a registration be issued
22 for a period in excess of 24 months. The commission may adopt
23 rules pursuant to ss. 120.536(1) and 120.54 to implement this
24 section All renewal applications must be filed on or after
25 January 1 of the year in which the existing registration
26 expires, but before the expiration date of April 30. If the
27 renewal application is filed prior to the expiration date of
28 an existing registration, no late fee shall be paid in
29 connection with such renewal application. If the renewal
30 application is filed within 60 calendar days after the
31 expiration date of an existing registration, then, in addition

1 ~~to the \$1,000 renewal fee, the renewal application shall be~~
2 ~~accompanied by a nonrefundable late fee of \$500. If the~~
3 ~~registrant has not filed a renewal application within 60~~
4 ~~calendar days after the expiration date of an existing~~
5 ~~registration, a new application shall be filed with the office~~
6 ~~pursuant to s. 560.205.~~

7 (3) In addition to the renewal fee required under
8 subsection (2), each registrant must pay ~~Every registration~~
9 ~~renewal application shall also include~~ a 2-year nonrefundable
10 registration renewal fee of \$50 for each authorized vendor or
11 location operating within this state or, at the option of the
12 registrant, a total 2-year nonrefundable renewal fee of
13 \$20,000 may be paid to renew the registration of all such
14 locations currently registered at the time of renewal.

15 (4) A registration may be reinstated only if the
16 renewal fee and a nonrefundable late fee of \$500 are filed
17 within 60 calendar days after the expiration of the existing
18 registration. The office shall grant a reinstatement of
19 registration if an application is filed during the 60-day
20 period, and the reinstatement is effective upon receipt of the
21 required fees and any information that the commission requires
22 by rule. If a registrant does not file an application for
23 reinstatement of the registration within the 60 calendar days
24 after expiration of an existing registration, the registration
25 expires and a new application must be filed with the office
26 pursuant to s. 560.205.

27 Section 60. Subsection (1) of section 560.210, Florida
28 Statutes, is amended to read:

29 560.210 Permissible investments.--

30 (1) A registrant shall at all times possess
31 permissible investments with an aggregate market value

1 | calculated in accordance with United States generally accepted
2 | accounting principles of not less than the aggregate face
3 | amount of all outstanding funds transmissions transmitted and
4 | ~~outstanding~~ payment instruments issued or sold by the
5 | registrant or an authorized vendor in the United States.

6 | Section 61. Subsection (2) of section 560.211, Florida
7 | Statutes, is amended to read:

8 | 560.211 Records.--

9 | (2) The records required to be maintained by the code
10 | may be maintained by the registrant at any location if~~7~~
11 | ~~provided that~~ the registrant notifies the office in writing of
12 | the location of the records in its application or otherwise by
13 | amendment as prescribed by commission rule. The registrant
14 | shall make such records available to the office for
15 | examination and investigation in this state, as permitted by
16 | the code, within 7 days after receipt of a written request.

17 | Section 62. Section 560.305, Florida Statutes, is
18 | amended to read:

19 | 560.305 Application.--Each application for
20 | registration must ~~shall~~ be in writing and under oath to the
21 | office, in such form as the commission prescribes. The
22 | application must contain such information as the commission
23 | requires by rule, including, but not limited to ~~shall include~~
24 | ~~the following~~:

25 | (1) The legal name, social security number, and
26 | residence and business addresses of the applicant if the
27 | applicant is a natural person, or, if the applicant is a
28 | partnership, association, or corporation, the name of every
29 | partner, officer, ~~or~~ director, member, controlling
30 | shareholder, or responsible person thereof.

31 |

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

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

7 (4) Such other information as the commission or office
8 reasonably requires with respect to the applicant or any money
9 transmitter-affiliated party of the applicant; however, the
10 commission or office may not require more information than is
11 specified in part II.

12 Section 63. Subsections (1) and (4) of section
13 560.306, Florida Statutes, are amended to read:

14 560.306 Standards.--

15 (1) In order to qualify for registration under this
16 part, an applicant must demonstrate to the office that he or
17 she has such character and general fitness as will command the
18 confidence of the public and warrant the belief that the
19 registered business will be operated lawfully and fairly. The
20 office may investigate each applicant to ascertain whether the
21 qualifications and requirements prescribed by this part have
22 been met. The office's investigation may include a criminal
23 background investigation of all controlling shareholders,
24 principals, officers, directors, members, and responsible
25 persons of a check casher and a foreign currency exchanger and
26 all persons designated by a foreign currency exchanger or
27 check casher as an authorized vendor. Each controlling
28 shareholder, principal, officer, director, member, and
29 responsible person of a check casher or foreign currency
30 exchanger, unless the applicant is a publicly traded
31 corporation as defined by the commission by rule, a subsidiary

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

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

1 Section 64. Section 560.308, Florida Statutes, is
2 amended to read:

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

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

13 (2) Each application for renewal of registration must
14 be accompanied by ~~The office shall renew registration upon~~
15 ~~receipt of a completed renewal form and payment of a~~
16 nonrefundable renewal fee not to exceed \$500. A registration
17 expires on December 31 of the year in which the existing
18 registration expires, unless the registrant has renewed his or
19 her registration on or before that date ~~The completed renewal~~
20 ~~form and payment of the renewal fee shall occur on or after~~
21 ~~June 1 of the year in which the existing registration expires.~~

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

30 (4) ~~Registration that is not renewed on or before the~~
31 ~~expiration date of the registration period automatically~~

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

13 Section 65. Subsection (2) of section 560.310, Florida
14 Statutes, is amended to read:

15 560.310 Records of check cashers and foreign currency
16 exchangers.--

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,
20 of the location of the records in its application or otherwise
21 by 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 66. Subsections (2) and (4) of section
26 560.403, Florida Statutes, are amended to read:

27 560.403 Requirements of registration; declaration of
28 intent.--

29 (2) A registrant under this part shall renew his or
30 her intent to engage in the business of deferred presentment
31 transactions or to act as a deferred presentment provider upon

1 renewing his or her registration under part II or part III and
2 shall do so by indicating his or her intent ~~on the renewal~~
3 ~~form and~~ by submitting a nonrefundable deferred presentment
4 provider renewal fee of \$1,000, in addition to any fees
5 required for renewal of registration under part II or part
6 III.

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

24 Section 67. Section 655.935, Florida Statutes, is
25 amended to read:

26 655.935 Search procedure on death of lessee.--If
27 satisfactory proof of the death of the lessee is presented, a
28 lessor shall permit the person named in a court order for the
29 purpose, or if no order has been served upon the lessor, the
30 spouse, a parent, an adult descendant, or a person named as a
31 personal representative in a copy of a purported will produced

1 by such person, to open and examine the contents of a
2 safe-deposit box leased or co-leased by a decedent, or any
3 documents delivered by a decedent for safekeeping, in the
4 presence of an officer of the lessor; and the lessor, if so
5 requested by such person, shall deliver:

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

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

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

14
15 No other contents may be removed pursuant to this section and
16 access granted pursuant to this section is not considered the
17 initial opening of the safe-deposit box pursuant to s.
18 733.6065 by a personal representative appointed by a court in
19 this state.

20 Section 68. Subsections (1) and (2) of section
21 655.936, Florida Statutes, are amended to read:

22 655.936 Delivery of safe-deposit box contents or
23 property held in safekeeping to personal representative.--

24 (1) Subject to the provisions of subsection (3), the
25 lessor shall immediately deliver to a ~~resident~~ personal
26 representative appointed by a court in this state, upon
27 presentation of a certified copy of his or her letters of
28 authority, all property deposited with it by the decedent for
29 safekeeping, and shall grant the ~~resident~~ personal
30 representative access to any safe-deposit box in the
31

1 decedent's name and permit him or her to remove from such box
2 any part or all of the contents thereof.

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

24 Section 69. Section 655.937, Florida Statutes, is
25 amended to read:

26 655.937 Access to safe-deposit boxes leased in two or
27 more names.--

28 (1) Unless ~~When~~ specifically provided in the lease or
29 rental agreement to the contrary, if covering a safe-deposit
30 box is ~~heretofore or hereafter~~ rented or leased in the names
31 of two or more lessees, ~~that~~ access to the safe-deposit box

1 will be granted to either lessee, or to ~~either or the~~
2 ~~survivor, access to the safe deposit box shall be granted to:~~
3 (a) Either or any of such lessees, regardless of
4 whether or not the other lessee or lessees or any of them are
5 living or competent. ~~;~~ ~~or~~
6 (b) Subject to s. 655.933, those persons named in s.
7 655.933.
8 (c) Subject to s. 655.935, those persons named in s.
9 655.935.
10 (d) ~~(b)~~ Subject to s. 773.6065, the personal
11 representative of the estate of either or any of such lessees
12 who is deceased, or the guardian of the property of either or
13 any of such lessees who is incapacitated.
14 (2) In all cases described in subsection (1), ~~;~~ ~~and,~~ ~~in~~
15 ~~either such case, the provisions of s. 655.933 apply, and the~~
16 signature on the safe-deposit entry or access record, ~~(or the~~
17 receipt or acquittance, in the case of property or documents
18 otherwise held for safekeeping, ~~)~~ is a valid and sufficient
19 release and discharge to the lessor for granting access to
20 such safe-deposit box or for the delivery of such property or
21 documents otherwise held for safekeeping.
22 (3) ~~(2)~~ A lessor may not be held liable for damages or
23 penalty by reason of any access granted or delivery made
24 pursuant to this section.
25 (4) The right of access by a co-lessee is separate
26 from the rights and responsibilities of other persons who may
27 be granted access to a safe-deposit box after the death or
28 incapacity of another co-lessee and such right of access is
29 not subject to the provisions of s. 655.935 or s. 733.6065 or
30 other requirements imposed upon personal representatives,
31 guardians, or other fiduciaries.

1 (5) After the death of a co-lessee, the surviving
2 co-lessee or any other person who is granted access to the
3 safe-deposit box pursuant to this section may make a written
4 inventory of the box, which must be conducted by the person
5 making the request in the presence of one other person as
6 specified in this section. Each person present shall verify
7 the contents of the box by signing a copy of the inventory
8 under penalty of perjury.

9 (a) If the person making the written inventory is the
10 surviving co-lessee, the other person may be any other person
11 granted access pursuant to this section, an employee of the
12 institution where the box is located, or an attorney licensed
13 in this state.

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

18 Section 70. Section 733.6065, Florida Statutes, is
19 amended to read:

20 733.6065 Opening safe-deposit box.--

21 (1) Subject to the provisions of s. 655.936(2), the
22 initial opening of ~~a the decedent's~~ safe-deposit box that is
23 leased or co-leased by the decedent shall be conducted in the
24 presence of any two of the following persons: an employee of
25 the institution where the box is located, the personal
26 representative, or the personal representative's attorney of
27 record. Each person who is present must verify the contents of
28 the box by signing a copy of the inventory under penalties of
29 perjury. The personal representative shall file the
30 safe-deposit box inventory, together with a copy of the box
31 entry record from a date which is 6 months prior to the date

1 of death to the date of inventory, with the court within 10
2 days after the box is opened. Unless otherwise ordered by the
3 court, this inventory and the attached box entry record is
4 subject to inspection only by persons entitled to inspect an
5 inventory under s. 733.604(1). The personal representative may
6 remove the contents of the box.

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

12 Section 71. Effective upon this act becoming a law,
13 subsection (3) of section 679.705, Florida Statutes, is
14 amended to read:

15 679.705 Effectiveness of action taken before effective
16 date.--

17 (3) This act does not render ineffective an effective
18 financing statement that, before this act takes effect, is
19 filed and satisfies the applicable requirements for perfection
20 under the law of the jurisdiction governing perfection as
21 provided in s. 679.103, Florida Statutes 2000. However, except
22 as otherwise provided in subsections (4) and (5) and s.
23 679.706, the financing statement ceases to be effective at the
24 earlier of:

25 (a) The time the financing statement would have ceased
26 to be effective under the law of the jurisdiction in which it
27 is filed; or

28 (b) December 31, June 30, 2006.

29 Section 72. For the 2006-2007 fiscal year, the
30 recurring sum of \$700,515 is appropriated from the Regulatory
31 Trust Fund to the Office of Financial Regulation for the

1 purpose of implementing the provisions of s. 494.0033(2)(b),
2 Florida Statutes, for third-party administration of the
3 mortgage broker test.

4 Section 73. Except as otherwise expressly provided in
5 this act and except for this section, which shall take effect
6 upon becoming a law, this act shall take effect October 1,
7 2006.

8
9 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
10 COMMITTEE SUBSTITUTE FOR
11 Senate Bill 2744

12 The committee substitute provides the following changes:

- 13 1. Removes provisions that authorize the Financial
14 Services Commission to adopt mortgage broker uniform
15 application and renewal forms consistent with forms
approved by national trade associations;
- 16 2. Eliminates provision that would allow a claimant
17 under s. 517.131(3)(e) to file a claim if the Office
of Financial Regulation waived certain compliance
requirements under the Securities Guaranty Fund;
- 18 3. Extends the time that a financing statement filed is
19 effective for purposes of satisfying the
requirements for perfecting a security interest
20 under the provisions of the Uniform Commercial Code;
and
- 21 4. Provides technical, clarifying technical changes.