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HB 7153, Engrossed 2

2006 Legislature

1 A bill to be entitled  
2 An act relating to financial entities and transactions;  
3 amending s. 494.001, F.S.; defining the term "control  
4 person"; amending s. 494.0011, F.S.; authorizing the  
5 Financial Services Commission to require electronic  
6 submission of forms, documents, or fees; providing a  
7 limitation; authorizing the commission to adopt rules  
8 accommodating a technological or financial hardship;  
9 requiring that a grant or denial of a license be in  
10 accordance with ch. 120, F.S.; amending s. 494.0016, F.S.;  
11 authorizing the commission to prescribe requirements for  
12 destroying books, accounts, records, and documents;  
13 amending s. 494.0029, F.S.; requiring that certain  
14 entities who offer or conduct mortgage business training  
15 obtain a permit; providing requirements and procedures for  
16 obtaining a permit; specifying that permits are not  
17 transferable or assignable; providing for expiration and  
18 recertification of permits; authorizing permit fees;  
19 requiring that curriculum, training, and training  
20 materials be available for inspection; requiring  
21 electronic notification to the office of persons who have  
22 successfully completed certain education requirements;  
23 requiring the commission to adopt rules; amending s.  
24 494.00295, F.S.; revising professional education  
25 provisions to apply to continuing education; providing  
26 requirements; waiving such requirements for license  
27 renewals for certain persons under certain circumstances;

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28 | amending s. 494.003, F.S.; revising the list of entities  
29 | exempt from certain mortgage broker licensure  
30 | requirements; amending s. 494.0031, F.S.; requiring  
31 | licensure of mortgage brokerage businesses; revising  
32 | requirements and procedures for issuing licenses;  
33 | providing duties and authority of the commission and  
34 | office; providing duties of the Department of Law  
35 | Enforcement; specifying that certain licenses are not  
36 | transferable or assignable; revising the grounds on which  
37 | a license may be denied; deleting certain provisions  
38 | relating to cancellation and reinstatement of licenses;  
39 | amending s. 494.0032, F.S.; requiring renewal of branch  
40 | office licenses with renewal of mortgage brokerage  
41 | business licenses; amending s. 494.0033, F.S.; revising  
42 | mortgage broker licensure requirements and procedures;  
43 | authorizing the commission to prescribe additional testing  
44 | fees; authorizing the commission to waive certain  
45 | examination requirements under specified circumstances;  
46 | providing duties and authority of the commission and  
47 | office; providing duties of the Department of Law  
48 | Enforcement; deleting provisions relating to cancellation  
49 | and reinstatement of licenses; amending s. 494.0036, F.S.;  
50 | revising mortgage brokerage business branch office  
51 | licensure requirements and procedures; deleting a  
52 | requirement for displaying licenses; amending s. 494.0039,  
53 | F.S.; deleting mortgage brokerage business change of  
54 | address reporting and license display requirements;

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55 | amending s. 494.004, F.S.; revising mortgage broker  
56 | licensee requirements; providing requirements for  
57 | acquiring a controlling interest in a licensee; providing  
58 | a definition; providing duties and authority of the  
59 | commission; authorizing the office to bring an  
60 | administrative action under certain circumstances;  
61 | amending s. 494.0041, F.S.; specifying additional grounds  
62 | for taking disciplinary action; amending s. 494.006, F.S.;  
63 | revising the list of entities exempt from mortgage lender  
64 | licensure requirements; amending s. 494.0061, F.S.;  
65 | requiring the licensure of mortgage lenders; revising  
66 | mortgage lender license requirements and procedures;  
67 | providing duties and authority of the commission and  
68 | office; providing duties of the Department of Law  
69 | Enforcement; providing for commission rules; revising  
70 | provisions governing grounds for imposing discipline;  
71 | deleting certain provisions relating to cancellation and  
72 | reinstatement of licenses; authorizing the commission to  
73 | prescribe additional testing fees; revising provisions  
74 | governing principal representatives; amending s. 494.0062,  
75 | F.S.; requiring licensure of correspondent mortgage  
76 | lenders; revising correspondent mortgage lender license  
77 | requirements and procedures; providing duties and  
78 | authority of the commission and office; providing duties  
79 | of the Department of Law Enforcement; providing  
80 | educational requirements for principal representatives;  
81 | revising grounds for disciplinary action; deleting certain

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82 provisions relating to cancellation and reinstatement of  
83 licenses; authorizing the commission to prescribe  
84 additional testing fees; providing for commission rules;  
85 amending s. 494.0064, F.S.; revising mortgage lender  
86 branch office licensee professional continuing education  
87 requirements; amending s. 494.0065, F.S.; revising saving  
88 clause requirements and procedures; revising the duties  
89 and authority of the office and commission; providing  
90 duties of the Department of Law Enforcement; providing for  
91 commission rules; providing requirements for education and  
92 testing for certain principal representatives and for  
93 transfer applications; authorizing the commission to  
94 prescribe additional testing fees; revising provisions  
95 governing the denial of transfers; providing personal  
96 representative designation requirements; amending s.  
97 494.0066, F.S.; revising branch office licensure  
98 requirements; providing for commission rules; amending s.  
99 494.0067, F.S.; deleting a license display requirement;  
100 providing information reporting requirements; providing  
101 requirements for acquiring a controlling interest in a  
102 licensee; providing a definition; providing duties and  
103 authority of the commission; authorizing the office to  
104 bring an administrative action under certain  
105 circumstances; revising professional continuing education  
106 requirements; amending s. 494.0072, F.S.; providing  
107 additional grounds for taking disciplinary action;  
108 amending s. 494.00721, F.S.; conforming cross-references;

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109 | amending s. 501.137, F.S.; providing mortgage lender  
 110 | liability for attorney's fees and costs for certain  
 111 | violations; amending s. 516.01, F.S.; defining the term  
 112 | "control person"; amending s. 516.03, F.S.; revising  
 113 | requirements and procedures for issuing consumer finance  
 114 | loan licenses; specifying certain fees as nonrefundable;  
 115 | authorizing the commission to adopt rules; revising  
 116 | certain fee requirements; providing for technological or  
 117 | financial hardship exemptions under certain circumstances;  
 118 | amending s. 516.031, F.S.; increasing a reimbursement  
 119 | charge for certain investigation costs; amending s.  
 120 | 516.05, F.S.; revising investigation procedures; deleting  
 121 | provisions relating to certain fees for licenses that have  
 122 | been denied; providing licensee information reporting  
 123 | requirements; providing requirements for acquiring a  
 124 | controlling interest in a licensee; providing a  
 125 | definition; providing duties and authority of the  
 126 | commission and office; providing for commission rules;  
 127 | authorizing the office to bring an administrative action  
 128 | under certain circumstances; deleting provisions  
 129 | authorizing the office to grant temporary licenses;  
 130 | amending s. 516.07, F.S.; providing an additional ground  
 131 | for taking disciplinary action; repealing s. 516.08, F.S.,  
 132 | relating to requirements for posting a license; amending  
 133 | s. 516.12, F.S.; authorizing the commission to adopt rules  
 134 | specifying the minimum information to be shown in a  
 135 | licensee's books, accounts, records, and documents and the

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136 requirements for destroying a licensee's books, accounts,  
137 records, and documents; amending s. 516.19, F.S.;  
138 correcting cross-references; amending s. 517.021, F.S.;  
139 redefining the term "branch office"; authorizing the  
140 commission to adopt rules; amending s. 517.051, F.S.;  
141 revising required accounting principles; amending s.  
142 517.061, F.S.; revising a provision governing exempt  
143 transactions; amending s. 517.081, F.S.; revising required  
144 accounting principles; amending s. 517.12, F.S.; revising  
145 requirements and procedures for registration of dealers,  
146 associated persons, investment advisers, and branch  
147 offices; revising duties and authority of the commission  
148 and office; providing for commission rules; providing  
149 duties of the Department of Law Enforcement; revising  
150 requirements, procedures, and exemptions relating to  
151 activities of Canadian dealers and associated persons;  
152 providing for certain fees; providing that certain fees  
153 are nonrefundable; providing for the collection of fees;  
154 amending s. 517.131, F.S.; revising criteria under which  
155 recovery can be made from the Securities Guaranty Fund;  
156 authorizing the commission to adopt rules; amending s.  
157 517.141, F.S.; revising requirements for claimant  
158 reimbursements to the fund; authorizing the commission to  
159 adopt rules; amending s. 517.161, F.S.; revising a ground  
160 for a registration adverse action; providing an additional  
161 ground; amending ss. 520.02, 520.31, and 520.61, F.S.;  
162 defining the term "control person"; amending ss. 520.03,

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163 520.32, 520.52, and 520.63, F.S.; revising requirements  
164 and procedures for licensing motor vehicle retail  
165 installment sellers, retail installment transaction retail  
166 sellers, sales finance companies, and home improvement  
167 finance sellers; revising duties and authority of the  
168 commission and office; specifying certain fees as  
169 nonrefundable; amending s. 520.994, F.S.; revising  
170 commission authority to adopt rules to include electronic  
171 submissions; providing for accommodating a technological  
172 or financial hardship; amending s. 520.995, F.S.;  
173 providing an additional ground for taking disciplinary  
174 action; revising a provision applying disciplinary actions  
175 to certain persons; amending s. 520.997, F.S.; revising  
176 commission authority to adopt rules relating to a  
177 licensee's books, accounts, records, and documents;  
178 creating s. 520.999, F.S.; providing additional  
179 requirements of licensees in sales and finance;  
180 authorizing the office to bring an administrative action  
181 under certain circumstances; authorizing the commission to  
182 adopt rules; amending s. 537.009, F.S., relating to the  
183 Florida Title Loan Act; revising provisions relating to a  
184 licensee's books, accounts, records, and documents;  
185 amending s. 559.9232, F.S.; correcting cross-references;  
186 amending s. 560.105, F.S., relating to the Money  
187 Transmitters' Code; authorizing the commission to adopt  
188 rules for electronic submission of money transmitter  
189 licensee forms, documents, or fees; providing for

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190 exemptions due to technological or financial hardship;  
 191 amending s. 560.114, F.S.; providing an additional ground  
 192 for taking disciplinary action; amending s. 560.121, F.S.;  
 193 authorizing the commission to adopt rules relating to a  
 194 licensee's books, accounts, records, and documents;  
 195 amending s. 560.126, F.S.; revising information reporting  
 196 requirements; providing requirements for acquiring a  
 197 controlling interest; authorizing the office to bring an  
 198 administrative action under certain circumstances;  
 199 authorizing the commission to adopt rules; amending s.  
 200 560.127, F.S.; revising criteria for determining control  
 201 over a money transmitter; deleting provisions regulating  
 202 the acquisition or purchase of a money transmitter;  
 203 amending s. 560.205, F.S.; revising requirements and  
 204 procedures for registering money transmitters; revising  
 205 duties of the commission and office; providing duties of  
 206 the Department of Law Enforcement; amending s. 560.207,  
 207 F.S.; revising requirements and procedures for renewing a  
 208 registration; authorizing the commission to adopt rules;  
 209 providing that specified fees are nonrefundable; providing  
 210 conditions for reinstating a registration; providing an  
 211 additional fee; providing for expiration of registration;  
 212 amending s. 560.210, F.S.; revising required accounting  
 213 principles; amending s. 560.211, F.S.; revising certain  
 214 recordkeeping requirements; amending s. 560.305, F.S.,  
 215 relating to the Check Cashing and Foreign Currency  
 216 Exchange Act; revising requirements and procedures for



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217 registration; amending s. 560.306, F.S.; revising  
 218 fingerprinting requirements and procedures; providing  
 219 duties of the office and Department of Law Enforcement;  
 220 amending s. 560.308, F.S.; revising requirements for  
 221 renewal of registration; providing for expiration of  
 222 registration; providing that specified fees are  
 223 nonrefundable; providing conditions for reinstatement of a  
 224 registration; amending s. 560.310, F.S.; revising certain  
 225 recordkeeping requirements; amending s. 560.403, F.S.;  
 226 revising requirements for registration renewal notices of  
 227 intent; providing that specified fees are nonrefundable;  
 228 providing conditions for reinstatement of a notice of  
 229 intent; amending s. 655.935, F.S.; authorizing the search  
 230 of a safe-deposit box co-leased by a decedent; providing  
 231 construction; amending s. 655.936, F.S.; providing for the  
 232 delivery of a safe-deposit box to a court-appointed  
 233 personal representative; amending s. 655.937, F.S.;  
 234 revising provisions for access to safe-deposit boxes;  
 235 providing a penalty; amending s. 679.705, F.S.; extending  
 236 the effective date of a financing statement filed under  
 237 previous law; amending s. 733.6065, F.S.; revising  
 238 provisions relating to the initial opening of certain  
 239 safe-deposit boxes; providing an appropriation; providing  
 240 effective dates.

241  
 242 Be It Enacted by the Legislature of the State of Florida:  
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244 Section 1. Present subsections (9) through (30) of section  
 245 494.001, Florida Statutes, are redesignated as subsections (10)  
 246 through (31), respectively, and a new subsection (9) is added to  
 247 that section to read:

248 494.001 Definitions.--As used in ss. 494.001-494.0077, the  
 249 term:

250 (9) "Control person" means an individual, partnership,  
 251 corporation, trust, or other organization that possesses the  
 252 power, directly or indirectly, to direct the management or  
 253 policies of a company, whether through ownership of securities,  
 254 by contract, or otherwise. A person is presumed to control a  
 255 company if, with respect to a particular company, that person:

256 (a) Is a director, general partner, or officer exercising  
 257 executive responsibility or having similar status or functions;

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

261 (c) In the case of a partnership, may receive upon  
 262 dissolution or has contributed 10 percent or more of the  
 263 capital.

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

267 494.0011 Powers and duties of the commission and office.--

268 (2) The commission may ~~has authority to~~ adopt rules  
 269 pursuant to ss. 120.536(1) and 120.54 to implement ss. 494.001-  
 270 494.0077. The commission may adopt rules requiring ~~to allow~~

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271 | electronic submission of any forms, documents, or fees required  
 272 | by this act if such rules reasonably accommodate technological  
 273 | or financial hardship. The commission may prescribe by rule  
 274 | requirements and procedures for obtaining an exemption due to a  
 275 | technological or financial hardship. The commission may also  
 276 | adopt rules to accept certification of compliance with  
 277 | requirements of this act in lieu of requiring submission of  
 278 | documents.

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

281 | Section 3. Subsection (4) of section 494.0016, Florida  
 282 | Statutes, is amended to read:

283 | 494.0016 Books, accounts, and records; maintenance;  
 284 | examinations by the office.--

285 | (4) The commission may prescribe by rule the minimum  
 286 | information to be shown in the books, accounts, records, and  
 287 | documents of licensees so that such records will enable the  
 288 | office to determine the licensee's compliance with ss. 494.001-  
 289 | 494.0077. In addition, the commission may prescribe by rule  
 290 | requirements for the destruction of books, accounts, records,  
 291 | and documents retained by the licensee after completion of the  
 292 | time period specified in subsection (3).

293 | Section 4. Section 494.0029, Florida Statutes, is amended  
 294 | to read:

295 | 494.0029 Mortgage business schools.--

296 | (1)(a) Each person, school, or institution, except  
 297 | accredited colleges, universities, community colleges, and

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298 career centers in this state, which offers or conducts mortgage  
299 business training for the purpose of meeting professional  
300 continuing education requirements or as a condition precedent to  
301 licensure as a mortgage broker, mortgage ~~or~~ lender, or a  
302 correspondent mortgage lender must ~~shall~~ obtain a permit from  
303 the office to operate as a mortgage business school before  
304 offering or conducting mortgage business training and must abide  
305 by the regulations imposed upon such person, school, or  
306 institution by this chapter and rules adopted pursuant to this  
307 chapter. The commission may require by rule that each applicant  
308 for a mortgage business school permit provide any information  
309 reasonably necessary to determine the applicant's eligibility.  
310 Each person, school, or institution that applies for a permit  
311 under this section must do so on forms adopted by the commission  
312 by rule ~~The commission shall, by rule, recertify the permits~~  
313 ~~annually with initial and renewal permit fees that do not exceed~~  
314 ~~\$500 plus the cost of accreditation.~~

315 (b) An application is considered received for purposes of  
316 s. 120.60 upon receipt of a completed application form as  
317 prescribed by commission rule, a nonrefundable application fee  
318 of \$500, the cost of accreditation as defined by commission  
319 rule, and any other fee prescribed by law.

320 (c) A permit issued under this section is not transferable  
321 or assignable.

322 (d) Each permitted mortgage business school shall report,  
323 on a form prescribed by the commission, any change in the  
324 information contained in the initial application form or any

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325 amendment to such form not later than 30 days after the change  
326 is effective.

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

333 ~~(2) All such schools shall maintain curriculum and~~  
334 ~~training materials necessary to determine the school's~~  
335 ~~compliance with this chapter and rules adopted pursuant to this~~  
336 ~~chapter. Any school that offers or conducts mortgage business~~  
337 ~~training shall at all times maintain an operation of training,~~  
338 ~~materials, and curriculum which is open to review by the office~~  
339 ~~to determine compliance and competency as a mortgage business~~  
340 ~~school.~~

341 (2)(3)(a) It is unlawful for any such person, school, or  
342 institution to offer or conduct mortgage business courses,  
343 regardless of the number of pupils, without first procuring a  
344 permit or to guarantee that the pupils will pass any mortgage  
345 business examination given on behalf of the office or to  
346 represent that the issuance of a permit is any recommendation or  
347 endorsement of the person, school, or institution to which it is  
348 issued or of any course of instruction given thereunder. Any  
349 person who violates this paragraph commits a misdemeanor of the  
350 second degree, punishable as provided in s. 775.082 or s.  
351 775.083.

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

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

361 (d) A representative of a mortgage business school subject  
362 to the provisions of this chapter may not promise or guarantee  
363 employment or placement of any pupil or prospective pupil, using  
364 information, training, or skill purported to be provided or  
365 otherwise enhanced by a course or school as inducement to enroll  
366 in the school, unless such person offers the pupil or  
367 prospective pupil a bona fide contract of employment.

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

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

373 (3) Each person, school, or institution that is required  
374 to be permitted as a mortgage business school under this section  
375 shall maintain and make available for the office's review,  
376 inspection, and observation any training, curriculum, and  
377 training materials necessary for the office to determine  
378 compliance with this chapter and the rules adopted under this

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379 | chapter. All documents prescribed by commission rule must be  
 380 | submitted with the initial application or recertification.

381 | (4) Each person, school, or institution that is required  
 382 | to be permitted as a mortgage business school under this section  
 383 | must provide electronic notification to the office, in a manner  
 384 | prescribed by commission rule, of any pupils who have  
 385 | successfully completed the 24-hour prelicensure classroom  
 386 | instruction for mortgage brokers and principal representatives  
 387 | and any pupils who have completed the 14-hour professional  
 388 | continuing education for mortgage brokers.

389 | Section 5. Section 494.00295, Florida Statutes, is amended  
 390 | to read:

391 | 494.00295 Professional continuing education.--

392 | (1) Mortgage brokers, and the principal representatives  
 393 | and loan originators of a mortgage lender, correspondent  
 394 | mortgage lender, or mortgage lender pursuant to s. 494.0065,  
 395 | must successfully complete at least 14 hours of professional  
 396 | continuing education covering primary and subordinate mortgage  
 397 | financing transactions and the provisions of this chapter during  
 398 | the 2-year period immediately preceding the renewal deadline for  
 399 | a mortgage broker, mortgage lender, correspondent mortgage  
 400 | lender, or mortgage lender pursuant to s. 494.0065. At the time  
 401 | of license renewal, a licensee must certify to the office that  
 402 | the professional continuing education requirements of this  
 403 | section have been met. Licensees shall maintain records  
 404 | documenting compliance with this subsection for a period of 4  
 405 | years. The requirements for professional continuing education

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406 are waived for the license renewal of a mortgage broker for the  
407 biennial license period immediately following the period in  
408 which the person became licensed as a mortgage broker. The  
409 requirements for professional continuing education for a  
410 principal representative are waived for the license renewal of a  
411 mortgage lender, correspondent mortgage lender, or mortgage  
412 lender pursuant to s. 494.0065 for the biennial license period  
413 immediately following the period in which the principal  
414 representative completed the 24 hours of classroom education and  
415 passed a written test in order to qualify to be a principal  
416 representative ~~Each mortgage broker, mortgage lender, and~~  
417 ~~correspondent mortgage lender must certify to the office at the~~  
418 ~~time of renewal that during the 2 years prior to an application~~  
419 ~~for license renewal, all mortgage brokers and the principal~~  
420 ~~representative, loan originators, and associates of a mortgage~~  
421 ~~lender or correspondent mortgage lender have successfully~~  
422 ~~completed at least 14 hours of professional education programs~~  
423 ~~covering primary and subordinate mortgage financing transactions~~  
424 ~~and the provisions of this chapter. Licensees shall maintain~~  
425 ~~records documenting compliance with this subsection for a period~~  
426 ~~of 4 years.~~

427 (2) Professional continuing education programs must  
428 contribute directly to the professional competency of the  
429 participants, may only be offered by permitted mortgage business  
430 schools or entities specifically exempted from permitting as  
431 mortgage business schools, and may include electronically  
432 transmitted or distance education courses.



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433 (3) The commission shall adopt rules necessary to  
 434 administer this section, including rules governing qualifying  
 435 hours for professional continuing education programs and  
 436 standards for electronically transmitted or distance education  
 437 courses, including course completion requirements.

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

441 494.003 Exemptions.--

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

444 (b) A state or federal chartered bank, ~~bank holding~~  
 445 ~~company~~, trust company, savings and loan association, savings  
 446 bank ~~or~~, credit union, bank holding company regulated under the  
 447 laws of any state or the United States, or consumer finance  
 448 company licensed pursuant to chapter 516.

449 (c) A wholly owned bank holding company subsidiary or a  
 450 wholly owned savings and loan association holding company  
 451 subsidiary formed and regulated under the laws of any state or  
 452 the United States that is approved or certified by the  
 453 Department of Housing and Urban Development, the Veterans  
 454 Administration, the Government National Mortgage Association,  
 455 the Federal National Mortgage Association, or the Federal Home  
 456 Loan Mortgage Corporation.

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

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459 (e) A wholly owned subsidiary of a state or federal  
 460 chartered bank or savings and loan association the sole activity  
 461 of which is to distribute the lending programs of such state or  
 462 federal chartered bank or savings and loan association to  
 463 persons who arrange loans for, or make loans to, borrowers.

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

466 494.0031 Licensure as a mortgage brokerage business.--

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

470 (2)(1) Each initial application for a mortgage brokerage  
 471 business license must be in the form prescribed by rule of the  
 472 commission. The commission may require each applicant to provide  
 473 any information reasonably necessary to determine the  
 474 applicant's eligibility for licensure. The office shall issue a  
 475 mortgage brokerage business license to each person who:

476 (a) Has submitted a completed application form and a  
 477 nonrefundable application fee of \$425. An application is  
 478 considered received for purposes of s. 120.60 upon receipt of a  
 479 completed application form as prescribed by commission rule, a  
 480 nonrefundable application fee of \$425, and any other fee  
 481 prescribed by law. ~~and~~

482 (b) Has a qualified principal broker pursuant to s.  
 483 494.0035.

484 (c)(2) Has provided a complete set of fingerprints as the  
 485 commission may require by rule for ~~that~~ each officer, director,

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486 control person, member, partner, or joint venturer of the  
487 applicant and each ultimate equitable owner of a 10-percent or  
488 greater interest in the mortgage brokerage business. A  
489 fingerprint card submitted to the office must be ~~submit a~~  
490 ~~complete set of fingerprints~~ taken by an authorized law  
491 enforcement agency officer. The office shall submit the  
492 fingerprints to the Department of Law Enforcement for state  
493 processing and the Department of Law Enforcement shall forward  
494 the fingerprints to the Federal Bureau of Investigation for  
495 federal processing. The cost of the fingerprint processing may  
496 be borne by the office, the employer, or the person subject to  
497 the background check. The Department of Law Enforcement shall  
498 submit an invoice to the office for the fingerprints received  
499 each month. The office shall screen the background results to  
500 determine if the applicant meets licensure requirements.

501 (d) Has provided information that the commission requires  
502 by rule concerning any designated principal mortgage broker; any  
503 officer, director, control person, member, partner, or joint  
504 venturer of the applicant; or any individual who is the ultimate  
505 equitable owner of a 10-percent or greater interest in the  
506 mortgage brokerage business. The commission may require  
507 information about any such applicant or person, including, but  
508 not limited to, his or her full name or other names by which he  
509 or she may have been known, age, social security number,  
510 qualifications, educational and business history, and  
511 disciplinary and criminal history.

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512           (3) Notwithstanding ~~the provisions of~~ subsection (2) ~~(1)~~,  
 513 it is a ground for denial of licensure if the applicant;  
 514 designated principal mortgage broker; any officer, director,  
 515 control person, member, partner, or joint venturer of the  
 516 applicant; ~~any natural person owning a 10 percent or greater~~  
 517 ~~interest in the mortgage brokerage business~~; or any individual  
 518 ~~natural~~ person who is the ultimate equitable owner of a 10-  
 519 percent or greater interest in the mortgage brokerage business  
 520 has committed any violation specified in ss. 494.001-494.0077 or  
 521 has pending against him or her in any jurisdiction any criminal  
 522 prosecution or administrative enforcement action ~~that, in any~~  
 523 ~~jurisdiction, which~~ involves fraud, dishonest dealing, or any  
 524 other act of moral turpitude.

525           (4) A mortgage brokerage business or branch office license  
 526 may be canceled if it was issued through mistake or inadvertence  
 527 of the office. A notice of cancellation must be issued by the  
 528 office within 90 days after the issuance of the license. A  
 529 notice of cancellation is ~~shall be~~ effective upon receipt. The  
 530 notice of cancellation must ~~shall~~ provide the applicant with  
 531 notification of the right to request a hearing within 21 days  
 532 after the applicant's receipt of the notice of cancellation. A  
 533 license must ~~shall~~ be reinstated if the applicant can  
 534 demonstrate that the requirements for obtaining the license  
 535 under ~~pursuant to~~ this chapter have been satisfied.

536           ~~(5) If an initial mortgage brokerage business or branch~~  
 537 ~~office license has been issued but the check upon which the~~  
 538 ~~license is based is returned due to insufficient funds, the~~

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539 | ~~license shall be deemed canceled. A license deemed canceled~~  
 540 | ~~pursuant to this subsection shall be reinstated if the office~~  
 541 | ~~receives a certified check for the appropriate amount within 30~~  
 542 | ~~days after the date the check was returned due to insufficient~~  
 543 | ~~funds.~~

544 | Section 8. Subsection (1) of section 494.0032, Florida  
 545 | Statutes, is amended to read:

546 | 494.0032 Renewal of mortgage brokerage business license or  
 547 | branch office license.--

548 | (1) The office shall renew a mortgage brokerage business  
 549 | license upon receipt of a completed renewal form and payment of  
 550 | a nonrefundable renewal fee of \$375. Each licensee shall pay at  
 551 | the time of renewal a nonrefundable renewal fee of \$225 for the  
 552 | renewal of each branch office license. The license for a branch  
 553 | office must be renewed in conjunction with the renewal of the  
 554 | mortgage brokerage business license.

555 | Section 9. Subsections (1), (2), and (7) of section  
 556 | 494.0033, Florida Statutes, are amended to read:

557 | 494.0033 Mortgage broker's license.--

558 | (1) Each natural person who acts as a mortgage broker for  
 559 | a mortgage brokerage business or acts as an associate for a  
 560 | mortgage lender or correspondent mortgage lender must be  
 561 | licensed under ~~pursuant to~~ this section. To act as a mortgage  
 562 | broker, an individual must be an associate of a mortgage  
 563 | brokerage business, a mortgage lender, or a correspondent  
 564 | mortgage lender. A mortgage broker may not be ~~is prohibited from~~

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565 ~~being~~ an associate of more than one mortgage brokerage business,  
566 mortgage lender, or correspondent mortgage lender.

567 (2) Each initial application for a mortgage broker's  
568 license must be in the form prescribed by rule of the  
569 commission. The commission may require each applicant to provide  
570 any information reasonably necessary to make a determination of  
571 the applicant's eligibility for licensure. The office shall  
572 issue an initial license to any natural person who:

573 (a) Is at least 18 years of age.†

574 (b) Has passed a written test adopted and administered by  
575 the office, or has passed an electronic test adopted and  
576 administered by the office or a third party approved by the  
577 office, which is designed to determine competency in primary and  
578 subordinate mortgage financing transactions as well as to test  
579 knowledge of ss. 494.001-494.0077 and the rules adopted pursuant  
580 thereto. The commission may prescribe by rule an additional fee  
581 that may not exceed \$100 for the electronic version of the  
582 mortgage broker test. The commission may waive by rule the  
583 examination requirement for any person who has passed a test  
584 approved by the Conference of State Bank Supervisors, the  
585 American Association of Residential Mortgage Regulators, or the  
586 United States Department of Housing and Urban Development if the  
587 test covers primary and subordinate mortgage financing  
588 transactions.†

589 (c) Has submitted a completed application and a  
590 nonrefundable application fee of \$200. An application is  
591 considered received for purposes of s. 120.60 upon receipt of a

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592 completed application form as prescribed by commission rule, a  
593 nonrefundable application fee of \$200, and any other fee  
594 prescribed by law. ~~The commission may set by rule an additional~~  
595 fee for a retake of the examination; and

596 (d) ~~Has filed a complete set of fingerprints, taken by an~~  
597 ~~authorized law enforcement officer,~~ for submission by the office  
598 to the Department of Law Enforcement or the Federal Bureau of  
599 Investigation for processing. A fingerprint card submitted to  
600 the office must be taken by an authorized law enforcement  
601 agency. The office shall submit the fingerprints to the  
602 Department of Law Enforcement for state processing and the  
603 Department of Law Enforcement shall forward the fingerprints to  
604 the Federal Bureau of Investigation for federal processing. The  
605 cost of the fingerprint processing may be borne by the office,  
606 the employer, or the person subject to the background check. The  
607 Department of Law Enforcement shall submit an invoice to the  
608 office for the fingerprints received each month. The office  
609 shall screen the background results to determine if the  
610 applicant meets licensure requirements.

611  
612 The commission may require by rule information concerning any  
613 such applicant or person, including, but not limited to, his or  
614 her full name and any other names by which he or she may have  
615 been known, age, social security number, qualifications and  
616 educational and business history, and disciplinary and criminal  
617 history.

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618       ~~(7) If an initial mortgage broker license has been issued~~  
619 ~~but the check upon which the license is based is returned due to~~  
620 ~~insufficient funds, the license shall be deemed canceled. A~~  
621 ~~license deemed canceled pursuant to this subsection shall be~~  
622 ~~reinstated if the office receives a certified check for the~~  
623 ~~appropriate amount within 30 days after the date the check was~~  
624 ~~returned due to insufficient funds.~~

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

627       494.0036 Mortgage brokerage business branch offices.--

628       (2) The office shall issue a mortgage brokerage business  
629 branch office license to a mortgage brokerage business licensee  
630 after the office determines that the licensee has submitted upon  
631 receipt of a completed application for a branch office in a form  
632 as prescribed by commission rule and payment of an initial  
633 nonrefundable branch office license fee of \$225. ~~Branch office~~  
634 ~~licenses must be renewed in conjunction with the renewal of the~~  
635 ~~mortgage brokerage business license.~~ The branch office license  
636 shall be issued in the name of the mortgage brokerage business  
637 that maintains the branch office. An application is considered  
638 received for purposes of s. 120.60 upon receipt of a completed  
639 application form as prescribed by commission rule, a  
640 nonrefundable application fee of \$225, and any other fee  
641 prescribed by law.

642       ~~(3) Each branch office must prominently display the~~  
643 ~~license issued for such branch office. Each person licensed as a~~



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644 ~~mortgage broker must prominently display his or her license in~~  
 645 ~~the office where such person acts as a mortgage broker.~~

646 Section 11. Section 494.0039, Florida Statutes, is amended  
 647 to read:

648 494.0039 Principal place of business requirements.--

649 ~~(1) Each mortgage brokerage business licensee shall~~  
 650 ~~maintain and transact business from a principal place of~~  
 651 ~~business.~~

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

655 ~~(3) Each mortgage brokerage business must prominently~~  
 656 ~~display its license at the principal place of business. Each~~  
 657 ~~licensed mortgage broker must prominently display his or her~~  
 658 ~~license in the office where such person acts as a mortgage~~  
 659 ~~broker.~~

660 Section 12. Section 494.004, Florida Statutes, is amended  
 661 to read:

662 494.004 Requirements of licensees.--

663 (1) Each licensee under ss. 494.003-494.0043 shall report,  
 664 in writing, any conviction of, or plea of nolo contendere to,  
 665 regardless of adjudication, any crime or administrative  
 666 violation that involves fraud, dishonest dealing, or any other  
 667 act of moral turpitude, in any jurisdiction, by the licensee or  
 668 any natural person named in s. 494.0031(2)(d)(3), not later than  
 669 30 days after the date of conviction, entry of a plea of nolo  
 670 contendere, or final administrative action.

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

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

682 (4) Each licensee under ss. 494.003-494.0043 shall report  
683 on a form prescribed by rule of the commission any change to the  
684 information contained in any initial application form or any  
685 amendment to the application ~~any change in the form of business~~  
686 ~~organization or any change of a person named, pursuant to s.~~  
687 ~~494.0031(3), to the office in writing~~ not later than 30 days  
688 after the change is effective.

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

691 (6) Each licensee under ss. 494.003-494.0043 shall report  
692 any change in the principal broker, partners, officers, members,  
693 joint venturers, directors, control persons of any licensee, or  
694 any individual who is the ultimate equitable owner of a 10-  
695 percent or greater interest in the licensee, or any change in  
696 the form of business organization, by written amendment in the  
697 form and at the time the commission specifies by rule.

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698       (a) In any case in which a person or a group of persons,  
699 directly or indirectly or acting by or through one or more  
700 persons, proposes to purchase or acquire a controlling interest  
701 in a licensee, such person or group shall submit an initial  
702 application for licensure as a mortgage brokerage business  
703 before such purchase or acquisition and at the time and in the  
704 form the commission prescribes by rule.

705       (b) As used in this subsection, the term "controlling  
706 interest" means possession of the power to direct or cause the  
707 direction of the management or policies of a company whether  
708 through ownership of securities, by contract, or otherwise. Any  
709 person who directly or indirectly has the right to vote 25  
710 percent or more of the voting securities of a company or is  
711 entitled to 25 percent or more of the company's profits is  
712 presumed to possess a controlling interest.

713       (c) Any addition of a partner, officer, member, joint  
714 venturer, director, control person, or ultimate equitable owner  
715 of the applicant who does not have a controlling interest and  
716 who has not previously complied with the provisions of s.  
717 494.0031(2)(c) and (d) is subject to such provisions unless  
718 required to file an initial application in accordance with  
719 paragraph (a). If the office finds that the licensee does not  
720 continue to meet licensure requirements, the office may bring an  
721 administrative action in accordance with s. 494.0041 to enforce  
722 the provisions of this chapter.

723       (d) The commission shall adopt rules pursuant to ss.  
724 120.536(1) and 120.54 providing for the waiver of the

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725 application required by this subsection if the person or group  
726 of persons proposing to purchase or acquire a controlling  
727 interest in a licensee has previously complied with the  
728 provisions of s. 494.0031(2)(c) and (d) with respect to the same  
729 legal entity or is currently licensed by the office under this  
730 chapter.

731 (7)(6) On or before April 30, 2000, each mortgage  
732 brokerage business shall file an initial report stating the  
733 name, social security number, date of birth, mortgage broker  
734 license number, date of hire and, if applicable, date of  
735 termination for each person who was an associate of the mortgage  
736 brokerage business during the immediate preceding quarter.  
737 Thereafter, a mortgage brokerage business shall file a quarterly  
738 report only if a person became an associate or ceased to be an  
739 associate of the mortgage brokerage business during the  
740 immediate preceding quarter. Such report shall be filed within  
741 30 days after the last day of each calendar quarter and shall  
742 contain the name, social security number, date of birth,  
743 mortgage broker license number, date of hire and, if applicable,  
744 the date of termination of each person who became or ceased to  
745 be an associate of the mortgage brokerage business during the  
746 immediate preceding quarter. The commission shall prescribe, by  
747 rule, the procedures for filing reports required by this  
748 subsection.

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

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752 494.0041 Administrative penalties and fines; license  
 753 violations.--

754 (2) Each of the following acts constitutes a ground for  
 755 which the disciplinary actions specified in subsection (1) may  
 756 be taken:

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

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

763 (u)1. Having been the subject of any decision, finding,  
 764 injunction, suspension, prohibition, revocation, denial,  
 765 judgment, or administrative order by any court of competent  
 766 jurisdiction, administrative law judge, state or federal agency,  
 767 national securities exchange, national commodities exchange,  
 768 national option exchange, national securities association,  
 769 national commodities association, or national option association  
 770 involving a violation of any federal or state securities or  
 771 commodities law or rule or regulation adopted under such law or  
 772 involving a violation of any rule or regulation of any national  
 773 securities, commodities, or options exchange or association.

774 2. Having been the subject of any injunction or adverse  
 775 administrative order by a state or federal agency regulating  
 776 banking, insurance, finance or small loan companies, real  
 777 estate, mortgage brokers or lenders, money transmitters, or  
 778 other related or similar industries.

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779 (3) A mortgage brokerage business is subject to the  
 780 disciplinary actions specified in subsection (1) for a violation  
 781 of subsection (2) by any officer, member, director, control  
 782 person, joint venturer, partner, ultimate equitable owner of a  
 783 10-percent or greater interest in the mortgage brokerage  
 784 business, or associate mortgage broker of the licensee.

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

788 494.006 Exemptions.--

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

792 (a) A state or federal chartered bank, ~~bank holding~~  
 793 ~~company~~, trust company, savings and loan association, savings  
 794 bank ~~or~~, credit union, bank holding company regulated under the  
 795 laws of any state or the United States, or insurance company if  
 796 the insurance company is duly licensed in this state.

797 (c) A wholly owned bank holding company subsidiary or a  
 798 wholly owned savings and loan association holding company  
 799 subsidiary that is formed and regulated under the laws of any  
 800 state or the United States and that is approved or certified by  
 801 the Department of Housing and Urban Development, the Veterans  
 802 Administration, the Government National Mortgage Association,  
 803 the Federal National Mortgage Association, or the Federal Home  
 804 Loan Mortgage Corporation.

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805 (2) (a) A natural person employed by a mortgage lender or  
806 correspondent mortgage lender licensed under ss. 494.001-  
807 494.0077 is exempt from the licensure requirements of ss.  
808 494.001-494.0077 when acting within the scope of employment with  
809 the licensee.

810 Section 15. Section 494.0061, Florida Statutes, is amended  
811 to read:

812 494.0061 Mortgage lender's license requirements.--

813 (1) Each person who acts as a mortgage lender must be  
814 licensed under this section unless otherwise exempt from  
815 licensure.

816 (2)(1) Each initial application for a mortgage lender  
817 license must be in the form prescribed by rule of the  
818 commission. The commission or office may require each applicant  
819 for a mortgage lender license to provide any information  
820 reasonably necessary to make a determination of the applicant's  
821 eligibility for licensure. The office shall issue an initial  
822 mortgage lender license to any person that submits:

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

824 (b) A nonrefundable application fee of \$575. An  
825 application is considered received for purposes of s. 120.60  
826 upon receipt of a completed application form as prescribed by  
827 commission rule, a nonrefundable application fee of \$575, and  
828 any other fee prescribed by law.~~†~~

829 (c) Audited financial statements, which documents disclose  
830 that the applicant has a bona fide and verifiable net worth,  
831 pursuant to United States generally accepted accounting

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832 principles, of at least \$250,000, which must be continuously  
833 maintained as a condition of licensure.~~†~~

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

838 (e) Documentation that the applicant is duly incorporated,  
839 registered, or otherwise formed as a general partnership,  
840 limited partnership, limited liability company, or other lawful  
841 entity under the laws of this state or another state of the  
842 United States.~~† and~~

843 (f) ~~For applications submitted after October 1, 2001,~~  
844 Proof that the applicant's principal representative has  
845 completed 24 hours of classroom instruction in primary and  
846 subordinate financing transactions and in the provisions of this  
847 chapter and rules adopted under this chapter. This requirement  
848 is satisfied if the principal representative has continuously  
849 served in the capacity of a principal representative for a  
850 licensed entity under this chapter for at least 1 year and has  
851 not had a lapse in designation as a principal representative of  
852 more than 2 years before the date of the submission of the  
853 application or amendment in the case of a change in the  
854 principal representative. This requirement is also satisfied if  
855 the principal representative currently holds an active license  
856 as a mortgage broker in this state.

857 (g) A complete set of fingerprints as the commission  
858 requires by rule for the designated principal representative and



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859 each officer, director, control person, member, partner, or  
860 joint venturer of the applicant and ultimate equitable owner of  
861 a 10-percent or greater interest in the applicant. A fingerprint  
862 card submitted to the office must be taken by an authorized law  
863 enforcement agency. The office shall submit the fingerprints to  
864 the Department of Law Enforcement for state processing and the  
865 Department of Law Enforcement shall forward the fingerprints to  
866 the Federal Bureau of Investigation for federal processing. The  
867 cost for the fingerprint processing may be borne by the office,  
868 the employer, or the person subject to the background check. The  
869 Department of Law Enforcement shall submit an invoice to the  
870 office for the fingerprints received each month. The office  
871 shall screen the background results to determine if the  
872 applicant meets licensure requirements.

873 (h) Information the commission requires by rule concerning  
874 any designated principal representative; any officer, director,  
875 control person, member, partner, or joint venturer of the  
876 applicant or any person having the same or substantially similar  
877 status or performing substantially similar functions; or any  
878 natural person who is the ultimate equitable owner of a 10-  
879 percent or greater interest in the mortgage lender. The  
880 commission may require information concerning any such applicant  
881 or person, including, but not limited to, his or her full name  
882 and any other names by which he or she may have been known,  
883 social security number, age, qualifications and educational and  
884 business history, and disciplinary and criminal history.

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885           ~~(3)-(2)~~ Notwithstanding ~~the provisions of~~ subsection (2)  
 886 ~~(1)~~, it is a ground for denial of licensure if the applicant;  
 887 designated principal representative; any principal officer, ~~or~~  
 888 director, control person, member, partner, or joint venturer of  
 889 the applicant; ~~or~~ any natural person owning a 10-percent or  
 890 greater interest in the applicant; ~~or~~ any natural person who is  
 891 the ultimate equitable owner of a 10-percent or greater interest  
 892 in the applicant has committed any violation specified in s.  
 893 494.0072, or has pending against her or him any criminal  
 894 prosecution or administrative enforcement action, in any  
 895 jurisdiction, which involves fraud, dishonest dealing, or any  
 896 act of moral turpitude.

897           ~~(3) Each initial application for a mortgage lender's~~  
 898 ~~license must be in a form prescribed by the commission. The~~  
 899 ~~commission or office may require each applicant to provide any~~  
 900 ~~information reasonably necessary to make a determination of the~~  
 901 ~~applicant's eligibility for licensure. The commission or office~~  
 902 ~~may require that each officer, director, and ultimate equitable~~  
 903 ~~owner of a 10 percent or greater interest in the applicant~~  
 904 ~~submit a complete set of fingerprints taken by an authorized law~~  
 905 ~~enforcement officer.~~

906           (4) A person required to be licensed under ss. 494.006-  
 907 494.0077, or an agent or employee thereof, is deemed to have  
 908 consented to the venue of courts of competent jurisdiction in  
 909 this state regarding any matter within the authority of ss.  
 910 494.001-494.0077 regardless of where an act or violation was  
 911 committed.

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912 (5) A license issued in accordance with ss. 494.006-  
 913 494.0077 is not transferable or assignable.

914 (6) A mortgage lender or branch office license may be  
 915 canceled if it was issued through mistake or inadvertence of the  
 916 office. A notice of cancellation must be issued by the office  
 917 within 90 days after the issuance of the license. A notice of  
 918 cancellation shall be effective upon receipt. The notice of  
 919 cancellation shall provide the applicant with notification of  
 920 the right to request a hearing within 21 days after the  
 921 applicant's receipt of the notice of cancellation. A license  
 922 shall be reinstated if the applicant can demonstrate that the  
 923 requirements for obtaining the license under ~~pursuant to~~ this  
 924 chapter have been satisfied.

925 ~~(7) If an initial mortgage lender or branch office license~~  
 926 ~~has been issued but the check upon which the license is based is~~  
 927 ~~returned due to insufficient funds, the license shall be deemed~~  
 928 ~~canceled. A license deemed canceled pursuant to this subsection~~  
 929 ~~shall be reinstated if the office receives a certified check for~~  
 930 ~~the appropriate amount within 30 days after the date the check~~  
 931 ~~was returned due to insufficient funds.~~

932 (7)-(8) Each lender, regardless of the number of branches  
 933 it operates, shall designate a principal representative who  
 934 exercises control of the licensee's business and shall maintain  
 935 a form prescribed by the commission designating the principal  
 936 representative. If the form is not accurately maintained, the  
 937 business is considered to be operated by each officer, director,

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938 or equitable owner of a 10-percent or greater interest in the  
939 business.

940 (8)-(9) After October 1, 2001, An applicant's principal  
941 representative must pass a written test prescribed by the  
942 commission and administered by the office, or must pass an  
943 electronic test prescribed by the commission and administered by  
944 the office or a third party approved by the office, which covers  
945 primary and subordinate mortgage financing transactions and the  
946 provisions of this chapter and rules adopted under this chapter.  
947 The commission may set a fee by rule, which may not exceed \$100,  
948 for the electronic version of the mortgage broker test. The  
949 commission may waive by rule the examination requirement for any  
950 person who has passed a test approved by the Conference of State  
951 Bank Supervisors, the American Association of Residential  
952 Mortgage Regulators, or the United States Department of Housing  
953 and Urban Development if the test covers primary and subordinate  
954 mortgage financing transactions. This requirement is satisfied  
955 if the principal representative has continuously served in the  
956 capacity of a principal representative for a licensed entity  
957 under this chapter for at least 1 year and has not had a lapse  
958 in designation as a principal representative of more than 2  
959 years before the date of the submission of the application or  
960 amendment in the case of a change in the principal  
961 representative. This requirement is also satisfied if the  
962 principal representative holds an active license as a mortgage  
963 broker in this state.

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964        ~~(9)-(10)~~ A lender shall notify the office of any change in  
965 the designation of its principal representative within 30 days  
966 after the change is effective. A new principal representative  
967 shall satisfy the name and address of any new principal  
968 representative and shall document that the person has completed  
969 the educational and testing requirements of this section within  
970 90 days after being designated as upon the designation of a new  
971 principal representative. This requirement is satisfied if the  
972 principal representative has continuously served in the capacity  
973 of a principal representative for a licensed entity under this  
974 chapter for at least 1 year and has not had a lapse in  
975 designation as a principal representative of more than 2 years  
976 before the date of the submission of the application or  
977 amendment in the case of a change in the principal  
978 representative. This requirement is also satisfied if the  
979 principal representative holds an active license as a mortgage  
980 broker in this state.

981        Section 16. Section 494.0062, Florida Statutes, is amended  
982 to read:

983        494.0062 Correspondent mortgage lender's license  
984 requirements.--

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

988        ~~(2)-(1)~~ Each initial application for a correspondent  
989 mortgage lender's license must be in the form prescribed by rule  
990 of the commission. The office may require each applicant to

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991 provide any information reasonably necessary to determine the  
 992 applicant's eligibility for licensure. The office shall issue an  
 993 initial correspondent mortgage lender license to any person who  
 994 submits:

995 (a) A completed application form.‡

996 (b) A nonrefundable application fee of \$500. An  
 997 application is considered received for purposes of s. 120.60  
 998 upon receipt of a completed application form as prescribed by  
 999 commission rule, a nonrefundable application fee of \$500, and  
 1000 any other fee prescribed by law.‡

1001 (c) Audited financial statements ~~that, which~~ document that  
 1002 the applicant ~~application~~ has a bona fide and verifiable net  
 1003 worth pursuant to United States generally accepted accounting  
 1004 principles of \$25,000 or more, which must be continuously  
 1005 maintained as a condition of licensure.‡

1006 (d) A surety bond in the amount of \$10,000, payable to the  
 1007 State of Florida and conditioned upon compliance with ss.  
 1008 494.001-494.0077, which inures to the office and which must be  
 1009 continuously maintained, thereafter, in full force.‡

1010 (e) Documentation that the applicant is duly incorporated,  
 1011 registered, or otherwise formed as a general partnership,  
 1012 limited partnership, limited liability company, or other lawful  
 1013 entity under the laws of this state or another state of the  
 1014 United States.‡ ~~and~~

1015 (f) ~~For applications filed after October 1, 2001,~~ Proof  
 1016 that the applicant's principal representative has completed 24  
 1017 hours of classroom instruction in primary and subordinate

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1018 financing transactions and in the provisions of this chapter and  
1019 rules enacted under this chapter. This requirement is satisfied  
1020 if the principal representative has continuously served in the  
1021 capacity of a principal representative for a licensed entity  
1022 under this chapter for at least 1 year and has not had a lapse  
1023 in designation as a principal representative of more than 2  
1024 years before the date of the submission of the application or  
1025 amendment in the case of a change in the principal  
1026 representative. This requirement is also satisfied if the  
1027 principal representative holds an active license as a mortgage  
1028 broker in this state.

1029 (g) A complete set of fingerprints as the commission  
1030 requires by rule for the designated principal representative and  
1031 each officer, director, control person, member, partner, or  
1032 joint venturer of the applicant and ultimate equitable owner of  
1033 a 10-percent or greater interest in the applicant. A fingerprint  
1034 card submitted to the office must be taken by an authorized law  
1035 enforcement agency. The office shall submit the fingerprints to  
1036 the Department of Law Enforcement for state processing and the  
1037 Department of Law Enforcement shall forward the fingerprints to  
1038 the Federal Bureau of Investigation for federal processing. The  
1039 cost of the fingerprint processing may be borne by the office,  
1040 the employer, or the person subject to the background check. The  
1041 Department of Law Enforcement shall submit an invoice to the  
1042 office for the fingerprints received each month. The office  
1043 shall screen the background results to determine if the  
1044 applicant meets licensure requirements.

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1045        (h) Information the commission requires by rule concerning  
 1046 any designated principal representative; any officer, director,  
 1047 control person, member, partner, or joint venturer of the  
 1048 applicant or any person having the same or substantially similar  
 1049 status or performing substantially similar functions; or any  
 1050 natural person who is the ultimate equitable owner of a 10-  
 1051 percent or greater interest in the correspondent mortgage  
 1052 lender. The office may require information concerning any such  
 1053 applicant or person, including, but not limited to, his or her  
 1054 full name and any other names by which he or she may have been  
 1055 known, age, social security number, qualifications and  
 1056 educational and business history, and disciplinary and criminal  
 1057 history.

1058        ~~(3)(2)~~ Notwithstanding ~~the provisions of~~ subsection (2)  
 1059 ~~(1)~~, it is a ground for denial of licensure if the applicant;  
 1060 any designated principal representative; ~~any principal officer,~~  
 1061 ~~or~~ director, control person, member, partner, or joint venturer  
 1062 of the applicant; ~~or any natural person who is the ultimate~~  
 1063 equitable owner of a 10-percent or greater interest in the  
 1064 applicant has committed any violation specified in s. 494.0072,  
 1065 or has pending against her or him any criminal prosecution or  
 1066 administrative enforcement action, in any jurisdiction, which  
 1067 involves fraud, dishonest dealing, or any act of moral  
 1068 turpitude.

1069        ~~(3) Each initial application for a correspondent mortgage~~  
 1070 ~~lender's license must be in a form prescribed by the commission.~~  
 1071 ~~The commission or office may require each applicant to provide~~



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1072 ~~any information reasonably necessary to make a determination of~~  
 1073 ~~the applicant's eligibility for licensure. The commission or~~  
 1074 ~~office may require that each officer, director, and ultimate~~  
 1075 ~~equitable owner of a 10 percent or greater interest submit a~~  
 1076 ~~complete set of fingerprints taken by an authorized law~~  
 1077 ~~enforcement officer.~~

1078 (4) Each license is valid for the remainder of the  
 1079 biennium in which the license is issued.

1080 (5) A person licensed as a correspondent mortgage lender  
 1081 may make mortgage loans, but may not service a mortgage loan for  
 1082 more than 4 months after the date the mortgage loan was made or  
 1083 acquired by the correspondent mortgage lender.

1084 (6) A licensee under ss. 494.006-494.0077, or an agent or  
 1085 employee thereof, is deemed to have consented to the venue of  
 1086 courts of competent jurisdiction in this state regarding any  
 1087 matter within the authority of ss. 494.001-494.0077 regardless  
 1088 of where an act or violation was committed.

1089 (7) A correspondent mortgage lender is subject to the same  
 1090 requirements and restrictions as a licensed mortgage lender  
 1091 unless otherwise provided in this section.

1092 (8) A license issued under this section is not  
 1093 transferable or assignable.

1094 (9) A correspondent mortgage lender or branch office  
 1095 license may be canceled if it was issued through mistake or  
 1096 inadvertence of the office. A notice of cancellation must be  
 1097 issued by the office within 90 days after the issuance of the  
 1098 license. A notice of cancellation shall be effective upon

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1099 receipt. The notice of cancellation shall provide the applicant  
 1100 with notification of the right to request a hearing within 21  
 1101 days after the applicant's receipt of the notice of  
 1102 cancellation. A license shall be reinstated if the applicant can  
 1103 demonstrate that the requirements for obtaining the license  
 1104 pursuant to this chapter have been satisfied.

1105 ~~(10) If an initial correspondent mortgage lender or branch~~  
 1106 ~~office license has been issued but the check upon which the~~  
 1107 ~~license is based is returned due to insufficient funds, the~~  
 1108 ~~license shall be deemed canceled. A license deemed canceled~~  
 1109 ~~pursuant to this subsection shall be reinstated if the office~~  
 1110 ~~receives a certified check for the appropriate amount within 30~~  
 1111 ~~days after the date the check was returned due to insufficient~~  
 1112 ~~funds.~~

1113 (10)~~(11)~~ Each correspondent lender shall designate a  
 1114 principal representative who exercises control over the business  
 1115 and shall maintain a form prescribed by the commission  
 1116 designating the principal representative. If the form is not  
 1117 accurately maintained, the business is considered to be operated  
 1118 by each officer, director, or equitable owner of a 10-percent or  
 1119 greater interest in the business.

1120 (11)~~(12)~~ After October 1, 2001, An applicant's principal  
 1121 representative must pass a written test prescribed by the  
 1122 commission and administered by the office, or must pass an  
 1123 electronic test prescribed by the commission and administered by  
 1124 the office or a third party approved by the office, which covers  
 1125 primary and subordinate mortgage financing transactions and the

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1126 provisions of this chapter and rules adopted under this chapter.  
 1127 The commission may waive by rule the examination requirement for  
 1128 any person who has passed a test approved by the Conference of  
 1129 State Bank Supervisors, the American Association of Residential  
 1130 Mortgage Regulators, or the United States Department of Housing  
 1131 and Urban Development if the test covers primary and subordinate  
 1132 mortgage financing transactions. The commission may set by rule  
 1133 a fee not to exceed \$100 for taking the examination. This  
 1134 requirement is satisfied if the principal representative has  
 1135 continuously served in the capacity of a principal  
 1136 representative for a licensed entity under this chapter for at  
 1137 least 1 year and has not had a lapse in designation as a  
 1138 principal representative of more than 2 years before the date of  
 1139 the submission of the application or amendment in the case of a  
 1140 change in the principal representative. This requirement is also  
 1141 satisfied if the principal representative holds an active  
 1142 license as a mortgage broker in this state.

1143 (12)-(13) A correspondent lender shall notify the office of  
 1144 any change in the designation of its principal representative  
 1145 within 30 days after the change is effective. A new principal  
 1146 representative shall satisfy the name and address of any new  
 1147 principal representative and shall document that such person has  
 1148 completed the educational and testing requirements of this  
 1149 section within 90 days after being designated as upon the  
 1150 lender's designation of a new principal representative. This  
 1151 requirement is satisfied if the principal representative has  
 1152 continuously served in the capacity of a principal

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1153 representative for a licensed entity under this chapter for at  
 1154 least 1 year and has not had a lapse in designation as a  
 1155 principal representative of more than 2 years before the date of  
 1156 the submission of the application or amendment in the case of a  
 1157 change in the principal representative. This requirement is also  
 1158 satisfied if the principal representative holds an active  
 1159 license as a mortgage broker in this state.

1160 Section 17. Paragraph (b) of subsection (1) and subsection  
 1161 (2) of section 494.0064, Florida Statutes, are amended to read:

1162 494.0064 Renewal of mortgage lender's license; branch  
 1163 office license renewal.--

1164 (1)

1165 (b) A licensee shall also submit, as part of the renewal  
 1166 form, certification that during the preceding 2 years the  
 1167 licensee's principal representative and, loan originators, ~~and~~  
 1168 ~~associates~~ have completed the professional continuing education  
 1169 requirements of s. 494.00295.

1170 (2) The commission shall adopt rules establishing a  
 1171 procedure for the biennial renewal of mortgage lender's  
 1172 licenses, correspondent lender's licenses, and branch office  
 1173 licenses ~~permits~~. The commission may prescribe the form for  
 1174 renewal and may require an update of all information provided in  
 1175 the licensee's initial application.

1176 Section 18. Section 494.0065, Florida Statutes, is amended  
 1177 to read:

1178 494.0065 Saving clause.--

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1179 (1) (a) Any person in good standing who holds an active  
 1180 registration pursuant to former s. 494.039 or license pursuant  
 1181 to former s. 521.205, or any person who acted solely as a  
 1182 mortgage servicer on September 30, 1991, is eligible to apply to  
 1183 the office for a mortgage lender's license and is eligible for  
 1184 licensure if the applicant:

1185 1. For at least 12 months during the period of October 1,  
 1186 1989, through September 30, 1991, has engaged in the business of  
 1187 either acting as a seller or assignor of mortgage loans or as a  
 1188 servicer of mortgage loans, or both;

1189 2. Has documented a minimum net worth of \$25,000 in  
 1190 audited financial statements; and

1191 3. Has applied for licensure pursuant to this section by  
 1192 January 1, 1992, and paid an application fee of \$100.

1193 (b) A licensee pursuant to paragraph (a) may operate a  
 1194 wholly owned subsidiary or affiliate for the purpose of  
 1195 servicing accounts if the subsidiary or affiliate is operational  
 1196 as of September 30, 1991. Such subsidiary or affiliate is not  
 1197 required to obtain a separate license, but is subject to all the  
 1198 requirements of a licensee under ss. 494.006-494.0077.

1199 (2) A licensee issued a license pursuant to subsection (1)  
 1200 may renew its mortgage lending license if it documents a minimum  
 1201 net worth of \$25,000, according to United States generally  
 1202 accepted accounting principles, which must be continuously  
 1203 maintained as a condition to licensure. The office shall require  
 1204 an audited financial statement which documents such net worth.

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1205 (3) The commission may prescribe by rule forms and  
 1206 procedures for application for licensure, and amendment and  
 1207 withdrawal of application for licensure, or transfer, including  
 1208 any existing branch offices, in accordance with subsections (4)  
 1209 and (5), and for renewal of licensure of licensees under this  
 1210 section. The office may require each applicant to provide any  
 1211 information reasonably necessary to determine the applicant's  
 1212 eligibility for licensure. An application is considered received  
 1213 for purposes of s. 120.60 upon receipt of a completed  
 1214 application form as prescribed by commission rule, a  
 1215 nonrefundable application fee of \$500, and any other fee  
 1216 prescribed by law.

1217 (4) (a) Notwithstanding ss. 494.0061(5) and 494.0067(2) ~~(3)~~,  
 1218 the ultimate equitable owner, as of the effective date of this  
 1219 act, of a mortgage lender licensed under this section may  
 1220 transfer, one time, at least 50 percent of the ownership,  
 1221 control, or power to vote any class of equity securities of such  
 1222 mortgage lender, except as provided in paragraph (b). For  
 1223 purposes of this subsection, satisfaction of the amount of the  
 1224 ownership transferred may be met in multiple transactions or in  
 1225 a single transaction.

1226 (b) A person who is an ultimate equitable owner on the  
 1227 effective date of this act may transfer, at any time, at least  
 1228 50 percent of the ownership, control, or power to vote any class  
 1229 of equity securities of such person to the person's spouse or  
 1230 child, and any such transferee may transfer, at any time, such

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1231 ownership, control, or power to vote to a spouse or child of  
1232 such transferee, in perpetuity.

1233 (c) For any transfer application filed on or after October  
1234 1, 2006:

1235 1. An applicant must provide proof that the applicant's  
1236 principal representative has completed 24 hours of instruction  
1237 in primary and subordinate financing transactions and in the  
1238 provisions of this chapter and rules adopted under this chapter.  
1239 This requirement is satisfied if the principal representative  
1240 has continuously served in the capacity of a principal  
1241 representative for a licensed entity under this chapter for at  
1242 least 1 year and has not had a lapse in designation as a  
1243 principal representative of more than 2 years before the date of  
1244 the submission of the application or amendment in the case of a  
1245 change in the principal representative. This requirement is also  
1246 satisfied if the principal representative holds an active  
1247 license as a mortgage broker in this state.

1248 2. An applicant's principal representative must pass a  
1249 written test prescribed by the commission and administered by  
1250 the office, or must pass an electronic test prescribed by the  
1251 commission and administered by the office or a third party  
1252 approved by the office, which covers primary and subordinate  
1253 mortgage financing transactions and the provisions of this  
1254 chapter and rules adopted under this chapter. The commission may  
1255 set by rule a fee not to exceed \$100 for the electronic version  
1256 of the mortgage broker test. The commission may waive by rule  
1257 the examination requirement for any person who has passed a test

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1258 approved by the Conference of State Bank Supervisors, the  
 1259 American Association of Residential Mortgage Regulators, or the  
 1260 United States Department of Housing and Urban Development if the  
 1261 test covers primary and subordinate mortgage financing  
 1262 transactions. This requirement is satisfied if the principal  
 1263 representative has continuously served in the capacity of a  
 1264 principal representative for a licensed entity under this  
 1265 chapter for at least 1 year and has not had a lapse in  
 1266 designation as a principal representative of more than 2 years  
 1267 before the date of the submission of the application or  
 1268 amendment in the case of a change in the principal  
 1269 representative. This requirement is also satisfied if the  
 1270 principal representative holds an active license as a mortgage  
 1271 broker in this state.

1272 (5) Each initial application for a transfer must be in the  
 1273 form prescribed by rule of the commission. The commission or  
 1274 office may require each applicant for any transfer to provide  
 1275 any information reasonably necessary to make a determination of  
 1276 the applicant's eligibility for licensure. The office shall  
 1277 issue the transfer of licensure to any person who submits the  
 1278 following documentation at least 90 days prior to the  
 1279 anticipated transfer:

1280 (a) A completed application form.

1281 (b) A nonrefundable fee set by rule of the commission in  
 1282 the amount of \$500. An application is considered received for  
 1283 purposes of s. 120.60 upon receipt of a completed application



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1284 form as prescribed by commission rule, a nonrefundable  
1285 application fee of \$500, and any other fee prescribed by law.

1286 (c) Audited financial statements that substantiate that  
1287 the applicant has a bona fide and verifiable net worth,  
1288 according to United States generally accepted accounting  
1289 principles, of at least \$25,000, which must be continuously  
1290 maintained as a condition of licensure.

1291 (d) Documentation that the applicant is incorporated,  
1292 registered, or otherwise formed as a general partnership,  
1293 limited partnership, limited liability company, or other lawful  
1294 entity under the laws of this state or another state of the  
1295 United States.

1296 (e) A complete set of fingerprints as the commission  
1297 requires by rule for ~~or office may require that~~ each designated  
1298 principal representative, officer, director, control person,  
1299 member, partner, or joint venturer of the applicant and the  
1300 ultimate equitable owner of a 10-percent or greater interest in  
1301 the applicant. A fingerprint card submitted to the office must  
1302 be ~~submit a complete set of fingerprints~~ taken by an authorized  
1303 law enforcement agency officer. The office shall submit the  
1304 fingerprints to the Department of Law Enforcement for state  
1305 processing and the Department of Law Enforcement shall forward  
1306 the fingerprints to the Federal Bureau of Investigation for  
1307 federal processing. The cost of the fingerprint processing may  
1308 be borne by the office, the employer, or the person subject to  
1309 the background check. The Department of Law Enforcement shall  
1310 submit an invoice to the office for the fingerprints received

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1311 each month. The office shall screen the background results to  
 1312 determine if the applicant meets licensure requirements.

1313 (f) Information that the commission requires by rule  
 1314 concerning any designated principal representative; any officer,  
 1315 director, control person, member, partner, or joint venturer of  
 1316 the applicant or any person having the same or substantially  
 1317 similar status or performing substantially similar functions; or  
 1318 any individual who is the ultimate equitable owner of a 10-  
 1319 percent or greater interest in the mortgage lender. The  
 1320 commission may require information concerning such applicant or  
 1321 person, including, but not limited to, his or her full name and  
 1322 any other names by which he or she may have been known, age,  
 1323 social security number, qualifications and educational and  
 1324 business history, and disciplinary and criminal history.

1325 (6) Notwithstanding subsection (5), a transfer under  
 1326 subsection (4) may be denied if the applicant; designated  
 1327 principal representative;~~;~~ any principal officer, ~~or~~ director,  
 1328 control person, member, partner, or joint venturer of the  
 1329 applicant;~~;~~ or any natural person owning a 10-percent or greater  
 1330 interest in the applicant has committed any violation specified  
 1331 in s. 494.0072, or has entered a plea of nolo contendere,  
 1332 regardless of adjudication, or has an action pending against the  
 1333 applicant in any criminal prosecution or administrative  
 1334 enforcement action, in any jurisdiction, which involves fraud,  
 1335 dishonest dealing, or any act of moral turpitude.

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1336 (7) A license issued in accordance with this section is  
 1337 not transferable or assignable except as provided in subsection  
 1338 (4).

1339 (8) Each person applying for a transfer of any branch  
 1340 office pursuant to subsection (4) must comply with the  
 1341 requirements of s. 494.0066.

1342 (9) Each mortgage lender shall designate a principal  
 1343 representative who exercises control over the business and shall  
 1344 keep the designation current on a form prescribed by commission  
 1345 rule designating the principal representative. If the  
 1346 information on the form is not kept current, the business is  
 1347 considered to be operated by each officer, director, or  
 1348 equitable owner of a 10-percent or greater interest in the  
 1349 business.

1350 (10) A lender shall notify the office of any change in the  
 1351 designation of its principal representative within 30 days after  
 1352 the change is effective. A new principal representative must  
 1353 satisfy the educational and testing requirements of this section  
 1354 within 90 days after being designated as the new principal  
 1355 representative. This requirement is satisfied if the principal  
 1356 representative has continuously served in the capacity of a  
 1357 principal representative for a licensed entity under this  
 1358 chapter for at least 1 year and has not had a lapse in  
 1359 designation as a principal representative of more than 2 years  
 1360 before the date of the submission of the application or  
 1361 amendment in the case of a change in the principal  
 1362 representative. This requirement is also satisfied if the

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1363 | principal representative currently holds an active license as a  
 1364 | mortgage broker in this state.

1365 | Section 19. Subsection (2) of section 494.0066, Florida  
 1366 | Statutes, is amended to read:

1367 | 494.0066 Branch offices.--

1368 | (2) The office shall issue a branch office license to a  
 1369 | licensee licensed under ss. 494.006-494.0077 after the office  
 1370 | determines that the licensee has submitted ~~upon receipt of a~~  
 1371 | ~~completed branch office~~ application form as prescribed by rule  
 1372 | by the commission and an initial nonrefundable branch office  
 1373 | license fee of \$325. The branch office application must include  
 1374 | the name and license number of the licensee under ss. 494.006-  
 1375 | 494.0077, the name of the licensee's employee in charge of the  
 1376 | branch office, and the address of the branch office. The branch  
 1377 | office license shall be issued in the name of the licensee under  
 1378 | ss. 494.006-494.0077 and must be renewed in conjunction with the  
 1379 | license renewal.

1380 | Section 20. Section 494.0067, Florida Statutes, is amended  
 1381 | to read:

1382 | 494.0067 Requirements of licensees under ss. 494.006-  
 1383 | 494.0077.--

1384 | ~~(1) Each license of a mortgage lender, correspondent~~  
 1385 | ~~mortgage lender, or branch office shall be prominently displayed~~  
 1386 | ~~in the office for which it is issued.~~

1387 | (1)(2) Each licensee under ss. 494.006-494.0077 which  
 1388 | makes mortgage loans on real estate in this state shall transact  
 1389 | business from a principal place of business. Each principal

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1390 place of business and each branch office shall be operated under  
 1391 the full charge, control, and supervision of the licensee under  
 1392 ss. 494.006-494.0077.

1393 ~~(2)(3)~~ A license issued under ss. 494.006-494.0077 is not  
 1394 transferable or assignable.

1395 (3) Each licensee under ss. 494.006-494.0077 shall report,  
 1396 on a form prescribed by rule of the commission, any change in  
 1397 the information contained in any initial application form, or  
 1398 any amendment thereto, not later than 30 days after the change  
 1399 is effective.

1400 (4) Each licensee under ss. 494.006-494.0077 shall report  
 1401 any changes in the partners, officers, members, joint venturers,  
 1402 directors, or control persons of any licensee or changes in the  
 1403 form of business organization by written amendment in such form  
 1404 and at such time that the commission specifies by rule.

1405 (a) In any case in which a person or a group of persons,  
 1406 directly or indirectly or acting by or through one or more  
 1407 persons, proposes to purchase or acquire a controlling interest  
 1408 in a licensee, such person or group must submit an initial  
 1409 application for licensure as a mortgage lender or correspondent  
 1410 mortgage lender before such purchase or acquisition and at the  
 1411 time and in the form prescribed by the commission by rule.

1412 (b) As used in this subsection, the term "controlling  
 1413 interest" means possession of the power to direct or cause the  
 1414 direction of the management or policies of a company whether  
 1415 through ownership of securities, by contract, or otherwise. Any  
 1416 person who directly or indirectly has the right to vote 25

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1417 percent or more of the voting securities of a company or who is  
1418 entitled to 25 percent or more of the company's profits is  
1419 presumed to possess a controlling interest.

1420 (c) Any addition of a designated principal representative,  
1421 partner, officer, member, joint venturer, director, or control  
1422 person of the applicant who does not have a controlling interest  
1423 and who has not previously complied with the provisions of s.  
1424 494.0061(2)(g) and (h), s. 494.0062(2)(g) and (h), or s.  
1425 494.0065(5)(e) and (f) shall be subject to such provisions  
1426 unless required to file an initial application in accordance  
1427 with paragraph (a). If the office determines that the licensee  
1428 does not continue to meet licensure requirements, the office may  
1429 bring administrative action in accordance with s. 494.0072 to  
1430 enforce the provisions of this section.

1431 (d) The commission shall adopt rules pursuant to ss.  
1432 120.536(1) and 120.54 providing for the waiver of the  
1433 application required by this subsection if the person or group  
1434 of persons proposing to purchase or acquire a controlling  
1435 interest in a licensee has previously complied with the  
1436 provisions of s. 494.0061(2)(g) and (h), s. 494.0062(2)(g) and  
1437 (h), or s. 494.0065(5)(e) and (f) with the same legal entity or  
1438 is currently licensed with the office under this chapter.

1439 ~~(4) The commission or office may require each licensee~~  
1440 ~~under ss. 494.006-494.0077 to report any change of address of~~  
1441 ~~the principal place of business, change of address of any branch~~  
1442 ~~office, or change of principal officer, director, or ultimate~~  
1443 ~~equitable owner of 10 percent or more of the licensed~~

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1444 ~~corporation to the office in a form prescribed by rule of the~~  
1445 ~~commission not later than 30 business days after the change is~~  
1446 ~~effective.~~

1447 (5) Each licensee under ss. 494.006-494.0077 shall report  
1448 in a form prescribed by rule by the commission any indictment,  
1449 information, charge, conviction, plea of nolo contendere, or  
1450 plea of guilty to any crime or administrative violation that  
1451 involves fraud, dishonest dealing, or any other act of moral  
1452 turpitude, in any jurisdiction, by the licensee under ss.  
1453 494.006-494.0077 or any principal officer, director, or ultimate  
1454 equitable owner of 10 percent or more of the licensed  
1455 corporation, not later than 30 business days after the  
1456 indictment, information, charge, conviction, or final  
1457 administrative action.

1458 (6) Each licensee under ss. 494.006-494.0077 shall report  
1459 any action in bankruptcy, voluntary or involuntary, to the  
1460 office, not later than 7 business days after the action is  
1461 instituted.

1462 (7) Each licensee under ss. 494.006-494.0077 shall  
1463 designate a registered agent in this state for service of  
1464 process.

1465 (8) Each licensee under ss. 494.006-494.0077 shall provide  
1466 an applicant for a mortgage loan a good faith estimate of the  
1467 costs the applicant can reasonably expect to pay in obtaining a  
1468 mortgage loan. The good faith estimate of costs shall be mailed  
1469 or delivered to the applicant within a reasonable time after the  
1470 licensee receives a written loan application from the applicant.

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1471 The estimate of costs may be provided to the applicant by a  
 1472 person other than the licensee making the loan. The commission  
 1473 may adopt rules that set forth the disclosure requirements of  
 1474 this section.

1475 (9) On or before April 30, 2000, each mortgage lender or  
 1476 correspondent mortgage lender shall file an initial report  
 1477 stating the full legal name, residential address, social  
 1478 security number, date of birth, mortgage broker license number,  
 1479 date of hire, and, if applicable, date of termination for each  
 1480 person who acted as a loan originator or an associate of the  
 1481 mortgage lender or correspondent mortgage lender during the  
 1482 immediate preceding quarter. Thereafter, a mortgage lender or  
 1483 correspondent mortgage lender shall file a report only if a  
 1484 person became or ceased to be a loan originator or an associate  
 1485 of the mortgage lender or correspondent mortgage lender during  
 1486 the immediate preceding quarter. Such report shall be filed  
 1487 within 30 days after the last day of each calendar quarter and  
 1488 shall contain the full legal name, residential address, social  
 1489 security number, date of birth, date of hire and, if applicable,  
 1490 the mortgage broker license number and date of termination of  
 1491 each person who became or ceased to be a loan originator or an  
 1492 associate of the mortgage lender or correspondent mortgage  
 1493 lender during the immediate preceding quarter. The commission  
 1494 shall prescribe, by rule, the procedures for filing reports  
 1495 required by this subsection.

1496 (10) (a) Each licensee shall require the principal  
 1497 representative and all loan originators ~~or associates~~ who



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1498 perform services for the licensee to complete 14 hours of  
 1499 professional continuing education during each biennial license  
 1500 period. The education shall cover primary and subordinate  
 1501 mortgage financing transactions and the provisions of this  
 1502 chapter and the rules adopted under this chapter.

1503 (b) The licensee shall maintain records of such training  
 1504 for a period of 4 years, including records of the content of and  
 1505 hours designated for each program and the date and location of  
 1506 the program.

1507 (c) Evidence of completion of such programs shall be  
 1508 included with the licensee's renewal application.

1509 Section 21. Paragraphs (s), (t), and (u) are added to  
 1510 subsection (2) of section 494.0072, Florida Statutes, and  
 1511 subsection (3) of that section is amended, to read:

1512 494.0072 Administrative penalties and fines; license  
 1513 violations.--

1514 (2) Each of the following acts constitutes a ground for  
 1515 which the disciplinary actions specified in subsection (1) may  
 1516 be taken:

1517 (s) Payment to the office for a license or permit with a  
 1518 check or electronic transmission of funds that is dishonored by  
 1519 the applicant's or licensee's financial institution.

1520 (t) Having a final judgment entered against the applicant  
 1521 or licensee in a civil action upon grounds of fraud,  
 1522 embezzlement, misrepresentation, or deceit.

1523 (u)1. Having been the subject of any decision, finding,  
 1524 injunction, suspension, prohibition, revocation, denial,

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1525 judgment, or administrative order by any court of competent  
 1526 jurisdiction, administrative law judge, state or federal agency,  
 1527 national securities exchange, national commodities exchange,  
 1528 national option exchange, national securities association,  
 1529 national commodities association, or national option association  
 1530 involving a violation of any federal or state securities or  
 1531 commodities law, or any rule or regulation adopted under such  
 1532 law, or involving a violation of any rule or regulation of any  
 1533 national securities, commodities, or options exchange or  
 1534 association.

1535       2. Having been the subject of any injunction or adverse  
 1536 administrative order by a state or federal agency regulating  
 1537 banking, insurance, finance or small loan companies, real  
 1538 estate, mortgage brokers or lenders, money transmitters, or  
 1539 other related or similar industries.

1540       (3) A mortgage lender or correspondent mortgage lender is  
 1541 subject to the disciplinary actions specified in subsection (1)  
 1542 if any officer, member, director, control person, joint  
 1543 venturer, or ultimate equitable owner of a 10-percent or greater  
 1544 interest in the mortgage lender or correspondent mortgage  
 1545 lender, associate, or employee of the mortgage lender or  
 1546 correspondent mortgage lender violates any provision of  
 1547 subsection (2).

1548       Section 22. Subsection (2) of section 494.00721, Florida  
 1549 Statutes, is amended to read:

1550       494.00721 Net worth.--

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1551           (2) If a mortgage lender or correspondent mortgage lender  
 1552 fails to satisfy the net worth requirements, the mortgage lender  
 1553 or correspondent mortgage lender shall immediately cease taking  
 1554 any new mortgage loan applications. Thereafter, the mortgage  
 1555 lender or correspondent mortgage lender shall have up to 60 days  
 1556 within which to satisfy the net worth requirements. If the  
 1557 licensee makes the office aware, prior to an examination, that  
 1558 the licensee no longer meets the net worth requirements, the  
 1559 mortgage lender or correspondent mortgage lender shall have 120  
 1560 days within which to satisfy the net worth requirements. A  
 1561 mortgage lender or correspondent mortgage lender shall not  
 1562 resume acting as a mortgage lender or correspondent mortgage  
 1563 lender without written authorization from the office, which  
 1564 authorization shall be granted if the mortgage lender or  
 1565 correspondent mortgage lender provides the office with  
 1566 documentation which satisfies the requirements of s.  
 1567 494.0061(2)~~(1)~~(c), s. 494.0062(2)~~(1)~~(c), or s. 494.0065(2),  
 1568 whichever is applicable.

1569           Section 23. Paragraph (c) of subsection (3) of section  
 1570 501.137, Florida Statutes, is amended to read:

1571           501.137 Mortgage lenders; tax and insurance payments from  
 1572 escrow accounts; duties.--

1573           (3)

1574           (c) If the lender violates paragraph (a) and the premium  
 1575 payment is more than 90 days overdue or if the insurer refuses  
 1576 to reinstate the insurance policy, the lender shall pay the  
 1577 difference between the cost of the previous insurance policy and

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1578 a new, comparable insurance policy for a period of 2 years. If  
 1579 the lender refuses, the lender is liable for the reasonable  
 1580 attorney's fees and costs of the property owner for a violation  
 1581 of this section.

1582 Section 24. Subsection (8) is added to section 516.01,  
 1583 Florida Statutes, to read:

1584 516.01 Definitions.--As used in this chapter, the term:

1585 (8) "Control person" means an individual, partnership,  
 1586 corporation, trust, or other organization that possesses the  
 1587 power, directly or indirectly, to direct the management or  
 1588 policies of a company, whether through ownership of securities,  
 1589 by contract, or otherwise. A person is presumed to control a  
 1590 company if, with respect to a particular company, that person:

1591 (a) Is a director, general partner, or officer exercising  
 1592 executive responsibility or having similar status or functions;

1593 (b) Directly or indirectly may vote 10 percent or more of  
 1594 a class of a voting security or sell or direct the sale of 10  
 1595 percent or more of a class of voting securities; or

1596 (c) In the case of a partnership, may receive upon  
 1597 dissolution or has contributed 10 percent or more of the  
 1598 capital.

1599 Section 25. Section 516.03, Florida Statutes, is amended  
 1600 to read:

1601 516.03 Application for license; fees; etc.--

1602 (1) APPLICATION.--Application for a license to make loans  
 1603 under this chapter shall be in the form prescribed by rule of  
 1604 the commission. The commission may require each applicant to

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1605 provide any information reasonably necessary to determine the  
 1606 applicant's eligibility for licensure. The applicant shall also  
 1607 provide information that the office requires concerning any  
 1608 officer, director, control person, member, partner, or joint  
 1609 venturer of the applicant or any person having the same or  
 1610 substantially similar status or performing substantially similar  
 1611 functions or concerning any individual who is the ultimate  
 1612 equitable owner of a 10-percent or greater interest in the  
 1613 applicant. The office may require information concerning any  
 1614 such applicant or person, including, but not limited to, his or  
 1615 her full name and any other names by which he or she may have  
 1616 been known, age, social security number, residential history,  
 1617 qualifications, educational and business history, and  
 1618 disciplinary and criminal history. The applicant must provide  
 1619 evidence of liquid assets of at least \$25,000, and shall contain  
 1620 ~~the name, residence and business addresses of the applicant and,~~  
 1621 ~~if the applicant is a copartnership or association, of every~~  
 1622 ~~member thereof and, if a corporation, of each officer and~~  
 1623 ~~director thereof, also the county and municipality with the~~  
 1624 ~~street and number or approximate location where the business is~~  
 1625 ~~to be conducted, and such further relevant information as the~~  
 1626 ~~commission or office may require. At the time of making such~~  
 1627 application the applicant shall pay to the office a  
 1628 nonrefundable biennial license fee of \$625. Applications, except  
 1629 for applications to renew or reactivate a license, must also be  
 1630 accompanied by a nonrefundable ~~an~~ investigation fee of \$200. An  
 1631 application is considered received for purposes of s. 120.60

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1632 upon receipt of a completed application form as prescribed by  
1633 commission rule, a nonrefundable application fee of \$625, and  
1634 any other fee prescribed by law. The commission may adopt rules  
1635 requiring ~~to allow~~ electronic submission of any form, document,  
1636 or fee required by this act if such rules reasonably accommodate  
1637 technological or financial hardship. The commission may  
1638 prescribe by rule requirements and procedures for obtaining an  
1639 exemption due to a technological or financial hardship.

1640 (2) FEES.--Fees ~~herein~~ provided for in this section shall  
1641 be collected by the office and shall be turned into the State  
1642 Treasury to the credit of the regulatory trust fund under the  
1643 office. The office shall have full power to employ such  
1644 examiners or clerks to assist the office as may from time to  
1645 time be deemed necessary and fix their compensation. The  
1646 commission may adopt rules requiring ~~to allow~~ electronic  
1647 submission of any fee required by this section if such rules  
1648 reasonably accommodate technological or financial hardship. The  
1649 commission may prescribe by rule requirements and procedures for  
1650 obtaining an exemption due to a technological or financial  
1651 hardship.

1652 Section 26. Paragraph (a) of subsection (3) of section  
1653 516.031, Florida Statutes, is amended to read:

1654 516.031 Finance charge; maximum rates.--

1655 (3) OTHER CHARGES.--

1656 (a) In addition to the interest, delinquency, and  
1657 insurance charges herein provided for, no further or other  
1658 charges or amount whatsoever for any examination, service,

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1659 | commission, or other thing or otherwise shall be directly or  
 1660 | indirectly charged, contracted for, or received as a condition  
 1661 | to the grant of a loan, except:

1662 |         1. An amount not to exceed \$25 ~~\$10~~ to reimburse a portion  
 1663 | of the costs for investigating the character and credit of the  
 1664 | person applying for the loan;

1665 |         2. An annual fee of \$25 on the anniversary date of each  
 1666 | line-of-credit account;

1667 |         3. Charges paid for brokerage fee on a loan or line of  
 1668 | credit of more than \$10,000, title insurance, and the appraisal  
 1669 | of real property offered as security when paid to a third party  
 1670 | and supported by an actual expenditure;

1671 |         4. Intangible personal property tax on the loan note or  
 1672 | obligation when secured by a lien on real property;

1673 |         5. The documentary excise tax and lawful fees, if any,  
 1674 | actually and necessarily paid out by the licensee to any public  
 1675 | officer for filing, recording, or releasing in any public office  
 1676 | any instrument securing the loan, which fees may be collected  
 1677 | when the loan is made or at any time thereafter;

1678 |         6. The premium payable for any insurance in lieu of  
 1679 | perfecting any security interest otherwise required by the  
 1680 | licensee in connection with the loan, if the premium does not  
 1681 | exceed the fees which would otherwise be payable, which premium  
 1682 | may be collected when the loan is made or at any time  
 1683 | thereafter;

1684 |         7. Actual and reasonable attorney's fees and court costs  
 1685 | as determined by the court in which suit is filed;

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1686           8. Actual and commercially reasonable expenses of  
 1687 repossession, storing, repairing and placing in condition for  
 1688 sale, and selling of any property pledged as security; or

1689           9. A delinquency charge not to exceed \$10 for each payment  
 1690 in default for a period of not less than 10 days, if the charge  
 1691 is agreed upon, in writing, between the parties before imposing  
 1692 the charge.

1693  
 1694 Any charges, including interest, in excess of the combined total  
 1695 of all charges authorized and permitted by this chapter  
 1696 constitute a violation of chapter 687 governing interest and  
 1697 usury, and the penalties of that chapter apply. In the event of  
 1698 a bona fide error, the licensee shall refund or credit the  
 1699 borrower with the amount of the overcharge immediately but  
 1700 within 20 days from the discovery of such error.

1701           Section 27. Section 516.05, Florida Statutes, is amended  
 1702 to read:

1703           516.05 License.--

1704           (1) Upon the filing of an application for a license and  
 1705 payment of all applicable fees, the office shall, unless the  
 1706 application is to renew or reactivate an existing license, make  
 1707 an investigation of the facts concerning the applicant's  
 1708 background ~~proposed activities~~. If the office determines that a  
 1709 license should be granted, it shall issue the license for a  
 1710 period not to exceed 2 years. Biennial licensure periods and  
 1711 procedures for renewal of licenses shall be established by the  
 1712 rule of the commission. If the office determines that grounds



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1713 exist under this chapter for denial of an application other than  
 1714 an application to renew a license, it shall deny such  
 1715 application, ~~return to the applicant the sum paid as a license~~  
 1716 ~~fee, and retain the investigation fee.~~

1717 (2) A license that is not renewed at the end of the  
 1718 biennium established by the commission shall automatically  
 1719 revert to inactive status. An inactive license may be  
 1720 reactivated upon submission of a completed reactivation  
 1721 application, payment of the biennial license fee, and payment of  
 1722 a reactivation fee which shall equal the biennial license fee. A  
 1723 license expires on the date at which it has been inactive for 6  
 1724 months.

1725 (3) Only one place of business for the purpose of making  
 1726 loans under this chapter may be maintained under one license,  
 1727 but the office may issue additional licenses to a licensee upon  
 1728 compliance with all the provisions of this chapter governing  
 1729 issuance of a single license.

1730 (4) Each licensee shall report, on a form prescribed by  
 1731 rule of the commission, any change to the information contained  
 1732 in any initial application form or any amendment to such  
 1733 application not later than 30 days after the change is  
 1734 effective.

1735 (5) Each licensee shall report any changes in the  
 1736 partners, officers, members, joint venturers, directors, or  
 1737 control persons of any licensee, or changes in the form of  
 1738 business organization, by written amendment in such form and at  
 1739 such time as the commission specifies by rule.

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1740       (a) In any case in which a person or a group of persons,  
1741 directly or indirectly or acting by or through one or more  
1742 persons, proposes to purchase or acquire a controlling interest  
1743 in a licensee, such person or group must submit an initial  
1744 application for licensure before such purchase or acquisition at  
1745 such time and in such form as the commission prescribes by rule.

1746       (b) As used in this subsection, the term "controlling  
1747 interest" means possession of the power to direct or cause the  
1748 direction of the management or policies of a company whether  
1749 through ownership of securities, by contract, or otherwise. Any  
1750 person who directly or indirectly has the right to vote 25  
1751 percent or more of the voting securities of a company or is  
1752 entitled to 25 percent or more of the company's profits is  
1753 presumed to possess a controlling interest.

1754       (c) Any addition of a partner, officer, member, joint  
1755 venturer, director, or control person of the applicant who does  
1756 not have a controlling interest and who has not previously  
1757 complied with the provisions of s. 516.03(1) shall be subject to  
1758 such provisions unless required to file an initial application  
1759 in accordance with paragraph (a). If the office determines that  
1760 the licensee does not continue to meet licensure requirements,  
1761 the office may bring administrative action in accordance with s.  
1762 516.07 to enforce the provisions of this chapter.

1763       (d) The commission shall adopt rules pursuant to ss.  
1764 120.536(1) and 120.54 providing for the waiver of the  
1765 application required by this subsection if the person or group  
1766 of persons proposing to purchase or acquire a controlling

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1767 interest in a licensee has previously complied with the  
 1768 provisions of s. 516.03(1) with the same legal entity or is  
 1769 currently licensed with the office under this chapter.

1770 ~~(4) Prior to relocating his or her place of business, a~~  
 1771 ~~licensee must file with the office, in the manner prescribed by~~  
 1772 ~~commission rule, notice of the relocation.~~

1773 (6)~~(5)~~ A licensee may conduct the business of making loans  
 1774 under this chapter within a place of business in which other  
 1775 business is solicited or engaged in, unless the office shall  
 1776 find that the conduct of such other business by the licensee  
 1777 results in an evasion of this chapter. Upon such finding, the  
 1778 office shall order the licensee to desist from such evasion;  
 1779 provided, however, that no license shall be granted to or  
 1780 renewed for any person or organization engaged in the pawnbroker  
 1781 business.

1782 ~~(6) If any person purchases substantially all of the~~  
 1783 ~~assets of any existing licensed place of business, the purchaser~~  
 1784 ~~shall give immediate notice thereof to the office and shall be~~  
 1785 ~~granted a 90 day temporary license for the place of business~~  
 1786 ~~within 10 days after the office's receipt of an application for~~  
 1787 ~~a permanent license. Issuance of a temporary license for a place~~  
 1788 ~~of business nullifies the existing license for the place of~~  
 1789 ~~business, and the temporary licensee is subject to any~~  
 1790 ~~disciplinary action provided for by this chapter.~~

1791 (7) Licenses are not transferable or assignable. A  
 1792 licensee may invalidate any license by delivering it to the  
 1793 office with a written notice of the delivery, but such delivery

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1794 | does not affect any civil or criminal liability or the authority  
 1795 | to enforce this chapter for acts committed in violation thereof.

1796 |       (8) The office may refuse to process an initial  
 1797 | application for a license if the applicant or any person with  
 1798 | power to direct the management or policies of the applicant's  
 1799 | business is the subject of a pending criminal prosecution in any  
 1800 | jurisdiction until conclusion of such criminal prosecution.

1801 |       (9) A licensee that is the subject of a voluntary or  
 1802 | involuntary bankruptcy filing must report such filing to the  
 1803 | office within 7 business days after the filing date.

1804 |       Section 28. Subsection (1) of section 516.07, Florida  
 1805 | Statutes, is amended to read:

1806 |       516.07 Grounds for denial of license or for disciplinary  
 1807 | action.--

1808 |       (1) The following acts are violations of this chapter and  
 1809 | constitute grounds for denial of an application for a license to  
 1810 | make consumer finance loans and grounds for any of the  
 1811 | disciplinary actions specified in subsection (2):

1812 |       (a) A material misstatement of fact in an application for  
 1813 | a license.†

1814 |       (b) Failure to maintain liquid assets of at least \$25,000  
 1815 | at all times for the operation of business at a licensed  
 1816 | location or proposed location.†

1817 |       (c) Failure to demonstrate financial responsibility,  
 1818 | experience, character, or general fitness, such as to command  
 1819 | the confidence of the public and to warrant the belief that the  
 1820 | business operated at the licensed or proposed location is

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1821 lawful, honest, fair, efficient, and within the purposes of this  
 1822 chapter.†

1823 (d) The violation, either knowingly or without the  
 1824 exercise of due care, of any provision of this chapter, any rule  
 1825 or order adopted under this chapter, or any written agreement  
 1826 entered into with the office.†

1827 (e) Any act of fraud, misrepresentation, or deceit,  
 1828 regardless of reliance by or damage to a borrower, or any  
 1829 illegal activity, where such acts are in connection with a loan  
 1830 under this chapter. Such acts include, but are not limited to:

- 1831 1. Willful imposition of illegal or excessive charges; or
- 1832 2. Misrepresentation, circumvention, or concealment of any  
 1833 matter required to be stated or furnished to a borrower.†

1834 (f) The use of unreasonable collection practices or of  
 1835 false, deceptive, or misleading advertising, where such acts are  
 1836 in connection with the operation of a business to make consumer  
 1837 finance loans.†

1838 (g) Any violation of part III of chapter 817 or part II of  
 1839 chapter 559 or of any rule adopted under part II of chapter  
 1840 559.†

1841 (h) Failure to maintain, preserve, and keep available for  
 1842 examination, all books, accounts, or other documents required by  
 1843 this chapter, by any rule or order adopted under this chapter,  
 1844 or by any agreement entered into with the office.†

1845 (i) Refusal to permit inspection of books and records in  
 1846 an investigation or examination by the office or refusal to  
 1847 comply with a subpoena issued by the office.†

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1848 (j) Pleading nolo contendere to, or having been convicted  
 1849 or found guilty of, a crime involving fraud, dishonest dealing,  
 1850 or any act of moral turpitude, regardless of whether  
 1851 adjudication is withheld.†

1852 (k) Paying money or anything else of value, directly or  
 1853 indirectly, to any person as compensation, inducement, or reward  
 1854 for referring loan applicants to a licensee.†

1855 (l) Allowing any person other than the licensee to use the  
 1856 licensee's business name, address, or telephone number in an  
 1857 advertisement.†

1858 (m) Accepting or advertising that the licensee accepts  
 1859 money on deposit or as consideration for the issuance or  
 1860 delivery of certificates of deposit, savings certificates, or  
 1861 similar instruments, except to the extent permitted under  
 1862 chapter 517.†~~or~~

1863 (n) Failure to pay any fee, charge, or fine imposed or  
 1864 assessed pursuant to this chapter or any rule adopted under this  
 1865 chapter.

1866 (o) Using the name or logo of a financial institution, as  
 1867 defined in s. 655.005(1), or its affiliates or subsidiaries when  
 1868 marketing or soliciting existing or prospective customers if  
 1869 such marketing materials are used without the written consent of  
 1870 the financial institution and in a manner that would lead a  
 1871 reasonable person to believe that the material or solicitation  
 1872 originated from, was endorsed by, or is related to or the  
 1873 responsibility of the financial institution or its affiliates or  
 1874 subsidiaries.

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1875           (p) Payment to the office for a license or permit with a  
 1876 check or electronic transmission of funds that is dishonored by  
 1877 the applicant's or licensee's financial institution.

1878           Section 29. Section 516.08, Florida Statutes, is repealed.

1879           Section 30. Subsection (3) is added to section 516.12,  
 1880 Florida Statutes, to read:

1881           516.12 Records to be kept by licensee.--

1882           (3) The commission may prescribe by rule the minimum  
 1883 information to be shown in the books, accounts, records, and  
 1884 documents of licensees for purposes of enabling the office to  
 1885 determine the licensee's compliance with ss. 516.001-516.36. In  
 1886 addition, the commission may prescribe by rule the requirements  
 1887 for the destruction of books, accounts, records, and documents  
 1888 retained by the licensee after completion of the time period  
 1889 specified in subsection (1).

1890           Section 31. Section 516.19, Florida Statutes, is amended  
 1891 to read:

1892           516.19 Penalties.--Any person who violates any of the  
 1893 provisions of s. 516.02, s. 516.031, s. 516.05(3), ~~s. 516.05(4)~~,  
 1894 s. 516.05(6)~~(5)~~, or s. 516.07(1)(e) is guilty of a misdemeanor  
 1895 of the first degree, punishable as provided in s. 775.082 or s.  
 1896 775.083.

1897           Section 32. Subsection (4) of section 517.021, Florida  
 1898 Statutes, is amended to read:

1899           517.021 Definitions.--When used in this chapter, unless  
 1900 the context otherwise indicates, the following terms have the  
 1901 following respective meanings:

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1902           (4) "Branch office" means any location in this state of a  
 1903 dealer or investment adviser at which one or more associated  
 1904 persons regularly conduct the business of rendering investment  
 1905 advice or effecting any transactions in, or inducing or  
 1906 attempting to induce the purchase or sale of, any security or  
 1907 any location that is held out as such. The commission may adopt  
 1908 by rule exceptions to this definition for dealers in order to  
 1909 maintain consistency with the definition of a branch office used  
 1910 by self-regulatory organizations authorized by the Securities  
 1911 and Exchange Commission, including, but not limited to, the  
 1912 National Association of Securities Dealers or the New York Stock  
 1913 Exchange. The commission may adopt by rule exceptions to this  
 1914 definition for investment advisers ~~office of a dealer or~~  
 1915 ~~investment adviser located in this state, other than the~~  
 1916 ~~principal office of the dealer or investment adviser, which~~  
 1917 ~~nonprincipal office is owned or controlled by the dealer or~~  
 1918 ~~investment adviser for the purpose of conducting a securities~~  
 1919 ~~business.~~

1920           Section 33. Subsection (9) of section 517.051, Florida  
 1921 Statutes, is amended to read:

1922           517.051 Exempt securities.--The exemptions provided herein  
 1923 from the registration requirements of s. 517.07 are self-  
 1924 executing and do not require any filing with the office prior to  
 1925 claiming such exemption. Any person who claims entitlement to  
 1926 any of these exemptions bears the burden of proving such  
 1927 entitlement in any proceeding brought under this chapter. The



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1928 registration provisions of s. 517.07 do not apply to any of the  
 1929 following securities:

1930 (9) A security issued by a corporation organized and  
 1931 operated exclusively for religious, educational, benevolent,  
 1932 fraternal, charitable, or reformatory purposes and not for  
 1933 pecuniary profit, no part of the net earnings of which  
 1934 corporation inures to the benefit of any private stockholder or  
 1935 individual, or any security of a fund that is excluded from the  
 1936 definition of an investment company under s. 3(c)(10)(B) of the  
 1937 Investment Company Act of 1940; provided that no person shall  
 1938 directly or indirectly offer or sell securities under this  
 1939 subsection except by an offering circular containing full and  
 1940 fair disclosure, as prescribed by the rules of the commission,  
 1941 of all material information, including, but not limited to, a  
 1942 description of the securities offered and terms of the offering,  
 1943 a description of the nature of the issuer's business, a  
 1944 statement of the purpose of the offering and the intended  
 1945 application by the issuer of the proceeds thereof, and financial  
 1946 statements of the issuer prepared in conformance with United  
 1947 States generally accepted accounting principles. Section 6(c) of  
 1948 the Philanthropy Protection Act of 1995, Pub. L. No. 104-62,  
 1949 shall not preempt any provision of this chapter.

1950 Section 34. Subsection (18) of section 517.061, Florida  
 1951 Statutes, is amended to read:

1952 517.061 Exempt transactions.--The exemption for each  
 1953 transaction listed below is self-executing and does not require  
 1954 any filing with the office prior to claiming such exemption. Any

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1955 | person who claims entitlement to any of the exemptions bears the  
 1956 | burden of proving such entitlement in any proceeding brought  
 1957 | under this chapter. The registration provisions of s. 517.07 do  
 1958 | not apply to any of the following transactions; however, such  
 1959 | transactions are subject to the provisions of ss. 517.301,  
 1960 | 517.311, and 517.312:

1961 |       (18) The offer or sale of any security effected by or  
 1962 | through a person in compliance with ~~registered pursuant to~~ s.  
 1963 | 517.12(17).

1964 |       Section 35. Paragraph (g) of subsection (3) of section  
 1965 | 517.081, Florida Statutes, is amended to read:

1966 |       517.081 Registration procedure.--

1967 |       (3) The office may require the applicant to submit to the  
 1968 | office the following information concerning the issuer and such  
 1969 | other relevant information as the office may in its judgment  
 1970 | deem necessary to enable it to ascertain whether such securities  
 1971 | shall be registered pursuant to the provisions of this section:

1972 |       (g)1. A specimen copy of the security and a copy of any  
 1973 | circular, prospectus, advertisement, or other description of  
 1974 | such securities.

1975 |       2. The commission shall adopt a form for a simplified  
 1976 | offering circular to be used solely by corporations to register,  
 1977 | under this section, securities of the corporation that are sold  
 1978 | in offerings in which the aggregate offering price in any  
 1979 | consecutive 12-month period does not exceed the amount provided  
 1980 | in s. 3(b) of the Securities Act of 1933. The following issuers

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1981 shall not be eligible to submit a simplified offering circular  
 1982 adopted pursuant to this subparagraph:

1983 a. An issuer seeking to register securities for resale by  
 1984 persons other than the issuer.

1985 b. An issuer who is subject to any of the  
 1986 disqualifications described in 17 C.F.R. s. 230.262, adopted  
 1987 pursuant to the Securities Act of 1933, or who has been or is  
 1988 engaged or is about to engage in an activity that would be  
 1989 grounds for denial, revocation, or suspension under s. 517.111.  
 1990 For purposes of this subparagraph, an issuer includes an  
 1991 issuer's director, officer, shareholder who owns at least 10  
 1992 percent of the shares of the issuer, promoter, or selling agent  
 1993 of the securities to be offered or any officer, director, or  
 1994 partner of such selling agent.

1995 c. An issuer who is a development-stage company that  
 1996 either has no specific business plan or purpose or has indicated  
 1997 that its business plan is to merge with an unidentified company  
 1998 or companies.

1999 d. An issuer of offerings in which the specific business  
 2000 or properties cannot be described.

2001 e. Any issuer the office determines is ineligible if the  
 2002 form would not provide full and fair disclosure of material  
 2003 information for the type of offering to be registered by the  
 2004 issuer.

2005 f. Any corporation which has failed to provide the office  
 2006 the reports required for a previous offering registered pursuant  
 2007 to this subparagraph.

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2008  
 2009 As a condition precedent to qualifying for use of the simplified  
 2010 offering circular, a corporation shall agree to provide the  
 2011 office with an annual financial report containing a balance  
 2012 sheet as of the end of the issuer's fiscal year and a statement  
 2013 of income for such year, prepared in accordance with United  
 2014 States generally accepted accounting principles and accompanied  
 2015 by an independent accountant's report. If the issuer has more  
 2016 than 100 security holders at the end of a fiscal year, the  
 2017 financial statements must be audited. Annual financial reports  
 2018 must be filed with the office within 90 days after the close of  
 2019 the issuer's fiscal year for each of the first 5 years following  
 2020 the effective date of the registration.

2021 Section 36. Subsections (6), (7), (10), (11), (15), and  
 2022 (17) of section 517.12, Florida Statutes, are amended to read:

2023 517.12 Registration of dealers, associated persons,  
 2024 investment advisers, and branch offices.--

2025 (6) A dealer, associated person, investment adviser, or  
 2026 branch office, in order to obtain registration, must file with  
 2027 the office a written application, on a form which the commission  
 2028 may by rule prescribe, ~~verified under oath~~. The commission may  
 2029 establish, by rule, procedures for depositing fees and filing  
 2030 documents by electronic means provided such procedures provide  
 2031 the office with the information and data required by this  
 2032 section. Each dealer or investment adviser must also file an  
 2033 irrevocable written consent to service of civil process similar  
 2034 to that provided for in s. 517.101. The application shall

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2035 contain such information as the commission or office may require  
 2036 concerning such matters as:

2037 (a) The name of the applicant and the address of its  
 2038 principal office and each office in this state.

2039 (b) The applicant's form and place of organization; and,  
 2040 if the applicant is a corporation, a copy of its articles of  
 2041 incorporation and amendments to the articles of incorporation  
 2042 or, if a partnership, a copy of the partnership agreement.

2043 (c) The applicant's proposed method of doing business and  
 2044 financial condition and history, including a certified financial  
 2045 statement showing all assets and all liabilities, including  
 2046 contingent liabilities of the applicant as of a date not more  
 2047 than 90 days prior to the filing of the application.

2048 (d) The names and addresses of all associated persons of  
 2049 the applicant to be employed in this state and the offices to  
 2050 which they will be assigned.

2051 (7) The application shall also contain such information as  
 2052 the commission or office may require about the applicant; any  
 2053 partner, officer, or director of the applicant or any person  
 2054 having a similar status or performing similar functions; any  
 2055 person directly or indirectly controlling the applicant; or any  
 2056 employee of a dealer or of an investment adviser rendering  
 2057 investment advisory services. Each applicant shall file a  
 2058 complete set of fingerprints. A fingerprint card submitted to  
 2059 the office must be taken by an authorized law enforcement agency  
 2060 officer. The office shall submit the ~~Such~~ fingerprints shall be  
 2061 ~~submitted~~ to the Department of Law Enforcement for state

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2062 | processing and the Department of Law Enforcement shall forward  
 2063 | the fingerprints to ~~or~~ the Federal Bureau of Investigation for  
 2064 | ~~state and~~ federal processing. The cost of the fingerprint  
 2065 | processing may be borne by the office, the employer, or the  
 2066 | person subject to the background check. The Department of Law  
 2067 | Enforcement shall submit an invoice to the office for the  
 2068 | fingerprints received each month. The office shall screen the  
 2069 | background results to determine if the applicant meets licensure  
 2070 | requirements. The commission may waive, by rule, the requirement  
 2071 | that applicants must file a set of fingerprints or the  
 2072 | requirement that such fingerprints must be processed by the  
 2073 | Department of Law Enforcement or the Federal Bureau of  
 2074 | Investigation. The commission or office may require information  
 2075 | about any such applicant or person concerning such matters as:  
 2076 |       (a) His or her full name, and any other names by which he  
 2077 | or she may have been known, and his or her age, social security  
 2078 | number, photograph, qualifications, and educational and business  
 2079 | history.  
 2080 |       (b) Any injunction or administrative order by a state or  
 2081 | federal agency, national securities exchange, or national  
 2082 | securities association involving a security or any aspect of the  
 2083 | securities business and any injunction or administrative order  
 2084 | by a state or federal agency regulating banking, insurance,  
 2085 | finance, or small loan companies, real estate, mortgage brokers,  
 2086 | or other related or similar industries, which injunctions or  
 2087 | administrative orders relate to such person.

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2088 (c) His or her conviction of, or plea of nolo contendere  
 2089 to, a criminal offense or his or her commission of any acts  
 2090 which would be grounds for refusal of an application under s.  
 2091 517.161.

2092 (d) The names and addresses of other persons of whom the  
 2093 office may inquire as to his or her character, reputation, and  
 2094 financial responsibility.

2095 (10) An applicant for registration shall pay an assessment  
 2096 fee of \$200, in the case of a dealer or investment adviser, or  
 2097 \$40, in the case of an associated person. The assessment fee of  
 2098 an associated person shall be reduced to \$30, but only after the  
 2099 office determines, by final order, that sufficient funds have  
 2100 been allocated to the Securities Guaranty Fund pursuant to s.  
 2101 517.1203 to satisfy all valid claims filed in accordance with s.  
 2102 517.1203(2) and after all amounts payable under any service  
 2103 contract entered into by the office pursuant to s. 517.1204, and  
 2104 all notes, bonds, certificates of indebtedness, other  
 2105 obligations, or evidences of indebtedness secured by such notes,  
 2106 bonds, certificates of indebtedness, or other obligations, have  
 2107 been paid or provision has been made for the payment of such  
 2108 amounts, notes, bonds, certificates of indebtedness, other  
 2109 obligations, or evidences of indebtedness. An associated person  
 2110 ~~may not having current fingerprint cards filed with the National~~  
 2111 ~~Association of Securities Dealers or a national securities~~  
 2112 ~~exchange registered with the Securities and Exchange Commission~~  
 2113 ~~shall~~ be assessed an additional fee to cover the cost for the  
 2114 ~~said~~ fingerprint cards to be processed by the office. Such fee

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2115 shall be determined by rule of the commission. Each dealer and  
 2116 each investment adviser shall pay an assessment fee of \$100 for  
 2117 each office in this state, ~~except its designated principal~~  
 2118 ~~office~~. Such fees become the revenue of the state, except for  
 2119 those assessments provided for under s. 517.131(1) until such  
 2120 time as the Securities Guaranty Fund satisfies the statutory  
 2121 limits, and are not returnable in the event that registration is  
 2122 withdrawn or not granted.

2123 (11) If the office finds that the applicant is of good  
 2124 repute and character and has complied with the provisions of  
 2125 this chapter and the rules made pursuant hereto, it shall  
 2126 register the applicant. The registration of each dealer,  
 2127 investment adviser, branch office, and associated person expires  
 2128 ~~will expire~~ on December 31 of the year the registration became  
 2129 effective unless the registrant has renewed his or her  
 2130 registration on or before that date. The commission may  
 2131 establish by rule procedures for renewing the registration of a  
 2132 branch office through the Central Registration Depository,~~and~~  
 2133 ~~the registration of each branch office will expire on March 31,~~  
 2134 ~~of the year in which it became effective unless the registrant~~  
 2135 ~~has renewed its registration on or before that date.~~

2136 Registration may be renewed by furnishing such information as  
 2137 the commission may require, together with payment of the fee  
 2138 required in subsection (10) for dealers, investment advisers,  
 2139 associated persons, or branch offices and the payment of any  
 2140 amount lawfully due and owing to the office pursuant to any  
 2141 order of the office or pursuant to any agreement with the



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2142 office. Any dealer, investment adviser, or associated person  
2143 registrant who has not renewed a registration by the time the  
2144 current registration expires may request reinstatement of such  
2145 registration by filing with the office, on or before January 31  
2146 of the year following the year of expiration, such information  
2147 as may be required by the commission, together with payment of  
2148 the fee required in subsection (10) for dealers, investment  
2149 advisers, or associated persons and a late fee equal to the  
2150 amount of such fee. Any reinstatement of registration granted by  
2151 the office during the month of January shall be deemed effective  
2152 retroactive to January 1 of that year.

2153 (15) (a) In order to facilitate uniformity and streamline  
2154 procedures for persons who are subject to registration in  
2155 multiple jurisdictions, the commission may adopt by rule uniform  
2156 forms that have been approved by the Securities and Exchange  
2157 Commission, and any subsequent amendments to such forms, if the  
2158 forms are substantially consistent with the provisions of this  
2159 chapter. Uniform forms that the commission may adopt to  
2160 administer this section include, but are not limited to:

2161 1. Form BR, Uniform Branch Office Registration Form,  
2162 adopted October 2005.

2163 2. Form U4, Uniform Application for Securities Industry  
2164 Registration or Transfer, adopted October 2005.

2165 3. Form U5, Uniform Termination Notice for Securities  
2166 Industry Registration, adopted October 2005.

2167 4. Form ADV, Uniform Application for Investment Adviser  
2168 Registration, adopted October 2003.

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2169           5. Form ADV-W, Notice of Withdrawal from Registration as  
 2170 an Investment Adviser, adopted October 2003.

2171           6. Form BD, Uniform Application for Broker-Dealer  
 2172 Registration, adopted July 1999.

2173           7. Form BDW, Uniform Request for Broker-Dealer Withdrawal,  
 2174 adopted August 1999.

2175           (b) In lieu of filing with the office the applications  
 2176 specified in subsection (6), the fees required by subsection  
 2177 (10), the renewals required by subsection (11), and the  
 2178 termination notices required by subsection (12), the commission  
 2179 may by rule establish procedures for the deposit of such fees  
 2180 and documents with the Central Registration Depository or the  
 2181 Investment Adviser Registration Depository of the National  
 2182 Association of Securities Dealers, Inc., as developed under  
 2183 contract with the North American Securities Administrators  
 2184 Association, Inc., provided, however, that such procedures shall  
 2185 provide the office with the information and data as required by  
 2186 this section.

2187           (17) (a) A dealer that is located in Canada, does not have  
 2188 an and has no office or other physical presence in this state,  
 2189 and has made a notice filing in accordance with this subsection  
 2190 is exempt from the registration requirements of this section and  
 2191 may, provided the dealer is registered in accordance with this  
 2192 section, effect transactions in securities with or for, or  
 2193 induce or attempt to induce the purchase or sale of any security  
 2194 by:

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2195 1. A person from Canada who is present ~~temporarily resides~~  
2196 in this state and with whom the Canadian dealer had a bona fide  
2197 dealer-client relationship before the person entered the United  
2198 States; or

2199 2. A person from Canada who is present in a ~~resident of~~  
2200 this state, and whose transactions are in a self-directed, tax-  
2201 advantaged ~~tax advantage~~ retirement plan in Canada of which the  
2202 person is the holder or contributor.

2203 (b) A notice filing under this subsection must consist of  
2204 documents the commission by rule requires to be filed, together  
2205 with a consent to service of process and a nonrefundable filing  
2206 fee of \$200. The commission may establish by rule procedures for  
2207 the deposit of fees and the filing of documents to be made by  
2208 electronic means, if such procedures provide the office with the  
2209 information and data required by this section ~~An associated~~  
2210 ~~person who represents a Canadian dealer registered under this~~  
2211 ~~section may, provided the agent is registered in accordance with~~  
2212 ~~this section, effect transactions in securities in this state as~~  
2213 ~~permitted for a dealer, under subsection (a).~~

2214 (c) A Canadian dealer may make a notice filing register  
2215 under this subsection if the ~~section provided that such dealer~~  
2216 provides to the office:

2217 1. A notice filing ~~Files an application~~ in the form the  
2218 commission requires by rule ~~required by the jurisdiction in~~  
2219 ~~which the dealer has a head office.~~

2220 2. ~~Files~~ A consent to service of process.

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2221           3. Evidence that the Canadian dealer is registered as a  
 2222 dealer in good standing in the jurisdiction in which the  
 2223 dealer's main office is located ~~from which it is effecting~~  
 2224 ~~transactions into this state and files evidence of such~~  
 2225 ~~registration with the office.~~

2226           4. Evidence that the Canadian dealer is a member of a  
 2227 self-regulatory organization or stock exchange in Canada.

2228           (d) The office may issue a permit to evidence the  
 2229 effectiveness of a notice filing for a Canadian dealer.

2230           (e) A notice filing is effective upon receipt by the  
 2231 office. A notice filing expires on December 31 of the year in  
 2232 which the filing becomes effective unless the Canadian dealer  
 2233 has renewed the filing on or before that date. A Canadian dealer  
 2234 may annually renew a notice filing by furnishing to the office  
 2235 such information as the office requires together with a renewal  
 2236 fee of \$200 and the payment of any amount due and owing the  
 2237 office pursuant to any agreement with the office. Any Canadian  
 2238 dealer who has not renewed a notice filing by the time a current  
 2239 notice filing expires may request reinstatement of such notice  
 2240 filing by filing with the office, on or before January 31 of the  
 2241 year following the year the notice filing expires, such  
 2242 information as the commission requires by rule, together with  
 2243 the payment of \$200 and a late fee of \$200. A reinstatement of a  
 2244 notice filing granted by the office during the month of January  
 2245 is effective retroactively to January 1 of that year.

2246           (f) ~~(d)~~ An associated person who represents a Canadian  
 2247 dealer who has made a notice filing ~~registered~~ under this

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2248 subsection is exempt from the registration requirements of this  
 2249 section and may effect ~~section in effecting~~ transactions in  
 2250 securities in this state as permitted for a dealer under  
 2251 paragraph (a) if such person may register under this section  
 2252 ~~provided that such person:~~

2253 ~~1. Files an application in the form required by the~~  
 2254 ~~jurisdiction in which the dealer has its head office.~~

2255 ~~2. is registered in good standing~~ in the jurisdiction from  
 2256 which he or she is effecting transactions into this state ~~and~~  
 2257 ~~files evidence of such registration with the office.~~

2258 ~~(e) If the office finds that the applicant is of good~~  
 2259 ~~repute and character and has complied with the provisions of~~  
 2260 ~~this chapter, the office shall register the applicant.~~

2261 ~~(g) (f)~~ A Canadian dealer who has made a notice filing  
 2262 ~~registered under this subsection~~ section shall:

2263 1. Maintain its provincial or territorial registration and  
 2264 its membership in a self-regulatory organization or stock  
 2265 exchange in good standing.

2266 2. Provide the office upon request with its books and  
 2267 records relating to its business in this state as a dealer.

2268 3. Provide the office upon request notice of each civil,  
 2269 criminal, or administrative action initiated against the dealer.

2270 4. Disclose to its clients in this state that the dealer  
 2271 and its associated persons ~~agents~~ are not subject to the full  
 2272 regulatory requirements under this chapter.

2273 5. Correct any inaccurate information within 30 days  
 2274 after, ~~if~~ the information contained in the notice filing

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2275 ~~application form becomes inaccurate for any reason before or~~  
 2276 ~~after the dealer becomes registered.~~

2277 (h) (g) An associated person representing ~~of~~ a Canadian  
 2278 dealer who has made a notice filing ~~registered~~ under this  
 2279 subsection ~~section~~ shall:

2280 1. Maintain provincial or territorial registration in good  
 2281 standing.

2282 2. Provide the office upon request with notice of each  
 2283 civil, criminal, or administrative action initiated against such  
 2284 person.

2285 ~~3. Through the dealer, correct any inaccurate information~~  
 2286 ~~within 30 days, if the information contained in the application~~  
 2287 ~~form becomes inaccurate for any reason before or after the~~  
 2288 ~~associated person becomes registered.~~

2289 (i) A notice filing may be terminated by filing notice of  
 2290 such termination with the office. Unless another date is  
 2291 specified by the Canadian dealer, such notice is effective upon  
 2292 receipt of the notice by the office.

2293 (j) All fees collected under this subsection become the  
 2294 revenue of the state, except those assessments provided for  
 2295 under s. 517.131(1), until the Securities Guaranty Fund has  
 2296 satisfied the statutory limits. Such fees are not returnable if  
 2297 a notice filing is withdrawn.

2298 ~~(h) Renewal applications for Canadian dealers and~~  
 2299 ~~associated persons under this section must be filed before~~  
 2300 ~~December 31 each year. Every applicant for registration or~~

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2301 ~~renewal registration under this section shall pay the fee for~~  
 2302 ~~dealers and associated persons under this chapter.~~

2303 Section 37. Paragraphs (b) and (e) of subsection (3) of  
 2304 section 517.131, Florida Statutes, are amended, and subsection  
 2305 (5) is added to that section, to read:

2306 517.131 Securities Guaranty Fund.--

2307 (3) Any person is eligible to seek recovery from the  
 2308 Securities Guaranty Fund if:

2309 (b) Such person has made all reasonable searches and  
 2310 inquiries to ascertain whether the judgment debtor possesses  
 2311 real or personal property or other assets subject to being sold  
 2312 or applied in satisfaction of the judgment, and by her or his  
 2313 search the person has discovered no property or assets; or she  
 2314 or he has discovered property and assets and has taken all  
 2315 necessary action and proceedings for the application thereof to  
 2316 the judgment, but the amount thereby realized was insufficient  
 2317 to satisfy the judgment. To verify compliance with such  
 2318 condition, the office may require such person to have a writ of  
 2319 execution be issued upon such judgment, and may further require  
 2320 a showing that no personal or real property of the judgment  
 2321 debtor liable to be levied upon in complete satisfaction of the  
 2322 judgment can be found, or may require an affidavit from the  
 2323 claimant setting forth the reasonable searches and inquiries  
 2324 undertaken and the result of those searches and inquiries.

2325 (e) The office waives compliance with the requirements of  
 2326 paragraph (a) or paragraph (b). The office may waive such  
 2327 compliance if the dealer, investment adviser, or associated

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2328 | person which is the subject of the claim filed with the office  
 2329 | is the subject of any proceeding in which a receiver has been  
 2330 | appointed by a court of competent jurisdiction. If the office  
 2331 | waives such compliance, the office may, upon petition by the  
 2332 | debtor or the court-appointed trustee, examiner, or receiver,  
 2333 | distribute funds from the Securities Guaranty Fund up to the  
 2334 | amount allowed under s. 517.141. Any waiver granted pursuant to  
 2335 | this section shall be considered a judgment for purposes of  
 2336 | complying with the requirements of this section and of s.  
 2337 | 517.141.

2338 |       (5) The commission may adopt rules pursuant to ss.  
 2339 | 120.536(1) and 120.54 specifying the procedures for complying  
 2340 | with subsections (2), (3), and (4), including rules for the form  
 2341 | of submission and guidelines for the sufficiency and content of  
 2342 | submissions of notices and claims.

2343 |       Section 38. Subsections (2) and (5) of section 517.141,  
 2344 | Florida Statutes, are amended, and subsection (11) is added to  
 2345 | that section, to read:

2346 |       517.141 Payment from the fund.--

2347 |       (2) Regardless of the number of claims or claimants  
 2348 | involved, payments for claims shall be limited in the aggregate  
 2349 | to \$100,000 against any one dealer, investment adviser, or  
 2350 | associated person. If the total claims exceed the aggregate  
 2351 | limit of \$100,000, the office shall prorate the payment based  
 2352 | upon the ratio that the person's claim bears to the total claims  
 2353 | filed.



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2354 (5) If the final judgment that ~~which~~ gave rise to the  
 2355 claim is overturned in any appeal or in any collateral  
 2356 proceeding, the claimant shall reimburse the fund all amounts  
 2357 paid from the fund to the claimant on the claim. If the claimant  
 2358 satisfies the judgment specified in s. 517.131(3)(a), the  
 2359 claimant shall reimburse the fund all amounts paid from the fund  
 2360 to the claimant on the claim. Such reimbursement shall be paid  
 2361 to the office within 60 days after the final resolution of the  
 2362 appellate or collateral proceedings or the satisfaction of  
 2363 judgment, with the 60-day period commencing on the date the  
 2364 final order or decision is entered in such proceedings.

2365 (11) The commission may adopt rules pursuant to ss.  
 2366 120.536(1) and 120.54 specifying procedures for complying with  
 2367 this section, including rules for the form of submission and  
 2368 guidelines for the sufficiency and content of submissions of  
 2369 notices and claims.

2370 Section 39. Subsection (1) of section 517.161, Florida  
 2371 Statutes, is amended to read:

2372 517.161 Revocation, denial, or suspension of registration  
 2373 of dealer, investment adviser, associated person, or branch  
 2374 office.--

2375 (1) Registration under s. 517.12 may be denied or any  
 2376 registration granted may be revoked, restricted, or suspended by  
 2377 the office if the office determines that such applicant or  
 2378 registrant:

2379 (a) Has violated any provision of this chapter or any rule  
 2380 or order made under this chapter;

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2381 (b) Has made a material false statement in the application  
 2382 for registration;

2383 (c) Has been guilty of a fraudulent act in connection with  
 2384 rendering investment advice or in connection with any sale of  
 2385 securities, has been or is engaged or is about to engage in  
 2386 making fictitious or pretended sales or purchases of any such  
 2387 securities or in any practice involving the rendering of  
 2388 investment advice or the sale of securities which is fraudulent  
 2389 or in violation of the law;

2390 (d) Has made a misrepresentation or false statement to, or  
 2391 concealed any essential or material fact from, any person in the  
 2392 rendering of investment advice or the sale of a security to such  
 2393 person;

2394 (e) Has failed to account to persons interested for all  
 2395 money and property received;

2396 (f) Has not delivered, after a reasonable time, to persons  
 2397 entitled thereto securities held or agreed to be delivered by  
 2398 the dealer, broker, or investment adviser, as and when paid for,  
 2399 and due to be delivered;

2400 (g) Is rendering investment advice or selling or offering  
 2401 for sale securities through any associated person not registered  
 2402 in compliance with the provisions of this chapter;

2403 (h) Has demonstrated unworthiness to transact the business  
 2404 of dealer, investment adviser, or associated person;

2405 (i) Has exercised management or policy control over or  
 2406 owned 10 percent or more of the securities of any dealer or  
 2407 investment adviser that has been declared bankrupt, or had a

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2408 trustee appointed under the Securities Investor Protection Act;  
 2409 or is, in the case of a dealer or investment adviser, insolvent;  
 2410 (j) Has been convicted of, or has entered a plea of guilty  
 2411 or nolo contendere to, a crime against the laws of this state or  
 2412 any other state or of the United States or of any other country  
 2413 or government which relates to registration as a dealer,  
 2414 investment adviser, issuer of securities, associated person, or  
 2415 branch office; which relates to the application for such  
 2416 registration; or which involves moral turpitude or fraudulent or  
 2417 dishonest dealing;  
 2418 (k) Has had a final judgment entered against her or him in  
 2419 a civil action upon grounds of fraud, embezzlement,  
 2420 misrepresentation, or deceit;  
 2421 (l) Is of bad business repute; ~~or~~  
 2422 (m) Has been the subject of any decision, finding,  
 2423 injunction, suspension, prohibition, revocation, denial,  
 2424 judgment, or administrative order by any court of competent  
 2425 jurisdiction, administrative law judge, or by any state or  
 2426 federal agency, national securities, commodities, or option  
 2427 exchange, or national securities, commodities, or option  
 2428 association, involving a violation of any federal or state  
 2429 securities or commodities law or any rule or regulation  
 2430 promulgated thereunder, or any rule or regulation of any  
 2431 national securities, commodities, or options exchange or  
 2432 national securities, commodities, or options association, or has  
 2433 been the subject of any injunction or adverse administrative  
 2434 order by a state or federal agency regulating banking,

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2435 insurance, finance or small loan companies, real estate,  
 2436 mortgage brokers or lenders, money transmitters, or other  
 2437 related or similar industries. For purposes of this subsection,  
 2438 the office may not deny registration to any applicant who has  
 2439 been continuously registered with the office for 5 years from  
 2440 the entry of such decision, finding, injunction, suspension,  
 2441 prohibition, revocation, denial, judgment, or administrative  
 2442 order provided such decision, finding, injunction, suspension,  
 2443 prohibition, revocation, denial, judgment, or administrative  
 2444 order has been timely reported to the office pursuant to the  
 2445 commission's rules; or-

2446 (n) Made payment to the office for a registration or  
 2447 notice filing with a check or electronic transmission of funds  
 2448 that is dishonored by the applicant's, registrant's, or notice  
 2449 filer's financial institution.

2450 Section 40. Section 520.02, Florida Statutes, is amended  
 2451 to read:

2452 520.02 Definitions.--In this act, unless the context or  
 2453 subject matter otherwise requires:

2454 (1) "Branch" means any location, other than a licensee's  
 2455 principal place of business, at which a licensee operates or  
 2456 conducts business under this act or which a licensee owns or  
 2457 controls for the purpose of conducting business under this act.

2458 (2) "Cash price" means the price at which a seller, in the  
 2459 ordinary course of business, offers to sell for cash the  
 2460 property or service that is the subject of the transaction. At  
 2461 the seller's option, the term "cash price" may include the price

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2462 of accessories, services related to the sale, service contracts,  
 2463 and taxes and fees for license, title, and registration of the  
 2464 motor vehicle. The term "cash price" does not include any  
 2465 finance charge.

2466 (3) "Commission" means the Financial Services Commission.

2467 (4) "Control person" means an individual, partnership,  
 2468 corporation, trust, or other organization that possesses the  
 2469 power, directly or indirectly, to direct the management or  
 2470 policies of a company, whether through ownership of securities,  
 2471 by contract, or otherwise. A person is presumed to control a  
 2472 company if, with respect to a particular company, that person:

2473 (a) Is a director, general partner, or officer exercising  
 2474 executive responsibility or having similar status or functions;

2475 (b) Directly or indirectly may vote 10 percent or more of  
 2476 a class of a voting security or sell or direct the sale of 10  
 2477 percent or more of a class of voting securities; or

2478 (c) In the case of a partnership, may receive upon  
 2479 dissolution or has contributed 10 percent or more of the  
 2480 capital.

2481 (5) "Down payment" means the amount, including the value  
 2482 of any property used as a trade-in, paid to a seller to reduce  
 2483 the cash price of goods or services purchased in a credit sale  
 2484 transaction. A deferred portion of a down payment may be treated  
 2485 as part of the down payment if it is payable not later than the  
 2486 due date of the second otherwise regularly scheduled payment and  
 2487 is not subject to a finance charge.

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2488 (6) "Finance charge" means the cost of consumer credit as  
 2489 a dollar amount. The term "finance charge" includes any charge  
 2490 payable directly or indirectly by the buyer and imposed directly  
 2491 or indirectly by the seller as an incident to or a condition of  
 2492 the extension of credit. The term "finance charge" does not  
 2493 include any charge of a type payable in a comparable cash  
 2494 transaction.

2495 (7) "Holder" of a retail installment contract means the  
 2496 retail seller of a motor vehicle retail installment contract or  
 2497 an assignee of such contract.

2498 (8) "Mobile home" means a structure, transportable in one  
 2499 or more sections, which is 8 body feet or more in width and is  
 2500 32 body feet or more in length, designed to be used as a  
 2501 dwelling with or without a permanent foundation when connected  
 2502 to the required utilities, and includes the plumbing, heating,  
 2503 air-conditioning, and electrical systems contained therein.

2504 (9) "Motor vehicle" means any device or vehicle, including  
 2505 automobiles, motorcycles, motor trucks, trailers, mobile homes,  
 2506 and all other vehicles operated over the public highways and  
 2507 streets of this state and propelled by power other than muscular  
 2508 power, but excluding traction engines, road rollers, implements  
 2509 of husbandry and other agricultural equipment, and vehicles  
 2510 which run only upon a track.

2511 (10)~~(15)~~ "Motor vehicle retail installment seller" or  
 2512 "seller" means a person engaged in the business of selling motor  
 2513 vehicles to retail buyers in retail installment transactions.

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2514            (11)~~(4)~~ "Office" means the Office of Financial Regulation  
 2515 of the commission.

2516            (12)~~(10)~~ "Official fees" means fees and charges prescribed  
 2517 by law which actually are or will be paid to public officials  
 2518 for determining the existence of, or for perfecting, releasing,  
 2519 or satisfying, any security related to the credit transaction,  
 2520 or the premium payable for any insurance in lieu of perfecting  
 2521 any security interest otherwise required by the creditor in  
 2522 connection with the transaction, if the premium does not exceed  
 2523 the fees and charges which would otherwise be payable to public  
 2524 officials.

2525            (13)~~(11)~~ "Person" means an individual, partnership,  
 2526 corporation, association, and any other group however organized.

2527            (14)~~(12)~~ "Principal place of business" means the physical  
 2528 location designated on the licensee's application for licensure,  
 2529 unless otherwise designated as required by this chapter.

2530            (15)~~(13)~~ "Retail buyer" or "buyer" means a person who buys  
 2531 a motor vehicle from a seller not principally for the purpose of  
 2532 resale, and who executes a retail installment contract in  
 2533 connection therewith or a person who succeeds to the rights and  
 2534 obligations of such person.

2535            (16)~~(14)~~ "Retail installment contract" or "contract" means  
 2536 an agreement, entered into in this state, pursuant to which the  
 2537 title to, or a lien upon the motor vehicle, which is the subject  
 2538 matter of a retail installment transaction, is retained or taken  
 2539 by a seller from a retail buyer as security, in whole or in  
 2540 part, for the buyer's obligation. The term includes a

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2541 conditional sales contract and a contract for the bailment or  
 2542 leasing of a motor vehicle by which the bailee or lessee  
 2543 contracts to pay as compensation for its use a sum substantially  
 2544 equivalent to or in excess of its value and by which it is  
 2545 agreed that the bailee or lessee is bound to become, or for no  
 2546 further or a merely nominal consideration, has the option of  
 2547 becoming, the owner of the motor vehicle upon full compliance  
 2548 with the provisions of the contract.

2549 (17)~~(16)~~ "Retail installment transaction" means any  
 2550 transaction evidenced by a retail installment contract entered  
 2551 into between a retail buyer and a seller wherein the retail  
 2552 buyer buys a motor vehicle from the seller at a deferred payment  
 2553 price payable in one or more deferred installments.

2554 (18)~~(17)~~ "Sales finance company" means a person engaged in  
 2555 the business of purchasing retail installment contracts from one  
 2556 or more sellers. The term includes, but is not limited to, a  
 2557 bank or trust company, if so engaged. The term does not include  
 2558 the pledge of an aggregate number of such contracts to secure a  
 2559 bona fide loan thereon.

2560 (19)~~(18)~~ Words in the singular include the plural and vice  
 2561 versa.

2562 Section 41. Subsections (2) through (5) of section 520.03,  
 2563 Florida Statutes, are amended to read:

2564 520.03 Licenses.--

2565 (2) An application for a license under this part must be  
 2566 submitted to the office in such form as the commission may  
 2567 prescribe by rule. The commission may require each applicant to



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2568 provide any information reasonably necessary to determine the  
2569 applicant's eligibility for licensure. The applicant shall also  
2570 provide information that the office requires concerning any  
2571 officer, director, control person, member, partner, or joint  
2572 venturer of the applicant or any person having the same or  
2573 substantially similar status or performing substantially similar  
2574 functions or any individual who is the ultimate equitable owner  
2575 of a 10-percent or greater interest in the applicant. The office  
2576 may require information concerning any such applicant or person,  
2577 including, but not limited to, his or her full name and any  
2578 other names by which he or she may have been known, age, social  
2579 security number, residential history, qualifications,  
2580 educational and business history, and disciplinary and criminal  
2581 history. If the office determines that an application should be  
2582 granted, it shall issue the license for a period not to exceed 2  
2583 years. A nonrefundable application fee of \$175 shall accompany  
2584 an initial application for the principal place of business and  
2585 each application for a branch location of a retail installment  
2586 seller who is required to be licensed under this chapter. An  
2587 application is considered received for purposes of s. 120.60  
2588 upon receipt of a completed application form as prescribed by  
2589 commission rule, a nonrefundable application fee of \$175, and  
2590 any other fee prescribed by law.

2591 (3) The nonrefundable renewal fee for a motor vehicle  
2592 retail installment seller license shall be \$175. The commission  
2593 shall establish by rule biennial licensure periods and  
2594 procedures for renewal of licenses. A license that is not

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2595 renewed by the end of the biennium established by the commission  
2596 shall revert from active to inactive status. An inactive license  
2597 may be reactivated within 6 months after becoming inactive upon  
2598 filing a completed reactivation form, payment of the  
2599 nonrefundable renewal fee, and payment of a reactivation fee  
2600 equal to the nonrefundable renewal fee. A license that is not  
2601 reactivated within 6 months after becoming inactive  
2602 automatically expires.

2603 (4) ~~Each license shall specify the location for which it~~  
2604 ~~is issued and must be conspicuously displayed at that location.~~  
2605 ~~Prior to relocating a principal place of business or any branch~~  
2606 ~~location, the licensee must provide to the office notice of the~~  
2607 ~~relocation in a form prescribed by commission rule.~~ A licensee  
2608 may not transact business as a motor vehicle retail installment  
2609 seller except under the name by which it is licensed. Licenses  
2610 issued under this part are not transferable or assignable.

2611 (5) The office may deny an initial application for a  
2612 license under this part if the applicant or any officer,  
2613 director, control person, member, partner, or joint venturer  
2614 ~~person with power to direct the management or policies~~ of the  
2615 applicant is the subject of a pending criminal prosecution or  
2616 governmental enforcement action, in any jurisdiction, until  
2617 conclusion of such criminal prosecution or enforcement action.

2618 Section 42. Subsections (10) through (18) of section  
2619 520.31, Florida Statutes, are renumbered as subsections (11)  
2620 through (19), respectively, subsection (4) of that section is

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2621 renumbered as subsection (10), and a new subsection (4) is added  
 2622 to that section, to read:

2623       520.31 Definitions.--Unless otherwise clearly indicated by  
 2624 the context, the following words when used in this act, for the  
 2625 purposes of this act, shall have the meanings respectively  
 2626 ascribed to them in this section:

2627       (4) "Control person" means an individual, partnership,  
 2628 corporation, trust, or other organization that possesses the  
 2629 power, directly or indirectly, to direct the management or  
 2630 policies of a company, whether through ownership of securities,  
 2631 by contract, or otherwise. A person is presumed to control a  
 2632 company if, with respect to a particular company, that person:

2633       (a) Is a director, general partner, or officer exercising  
 2634 executive responsibility or having similar status or functions;

2635       (b) Directly or indirectly has the right to vote 10  
 2636 percent or more of a class of a voting security or has the power  
 2637 to sell or direct the sale of 10 percent or more of a class of  
 2638 voting securities; or

2639       (c) In the case of a partnership, has the right to receive  
 2640 upon dissolution or has contributed 10 percent or more of the  
 2641 capital.

2642       Section 43. Subsections (2) through (5) of section 520.32,  
 2643 Florida Statutes, are amended to read:

2644       520.32 Licenses.--

2645       (2) An application for a license under this part must be  
 2646 submitted to the office in such form as the commission may  
 2647 prescribe by rule. The commission may require each applicant to

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2648 provide any information reasonably necessary to determine the  
2649 applicant's eligibility for licensure. The applicant shall also  
2650 provide information that the office requires concerning any  
2651 officer, director, control person, member, partner, or joint  
2652 venturer of the applicant or any person having the same or  
2653 substantially similar status or performing substantially similar  
2654 functions or any individual who is the ultimate equitable owner  
2655 of a 10-percent or greater interest in the applicant. The office  
2656 may require information concerning any such applicant or person,  
2657 including his or her full name and any other names by which he  
2658 or she may have been known, age, social security number,  
2659 residential history, qualifications, educational and business  
2660 history, and disciplinary and criminal history. If the office  
2661 determines that an application should be granted, it shall issue  
2662 the license for a period not to exceed 2 years. A nonrefundable  
2663 application fee of \$175 shall accompany an initial application  
2664 for the principal place of business and each application for a  
2665 branch location of a retail installment seller. An application  
2666 is considered received for purposes of s. 120.60 upon receipt of  
2667 a completed application form as prescribed by commission rule, a  
2668 nonrefundable application fee of \$175, and any other fee  
2669 prescribed by law.

2670 (3) The nonrefundable renewal fee for a retail seller  
2671 license shall be \$175. Biennial licensure periods and procedures  
2672 for renewal of licenses may also be established by the  
2673 commission by rule. A license that is not renewed at the end of  
2674 the biennium established by the commission shall revert from

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2675 active to inactive status. An inactive license may be  
 2676 reactivated within 6 months after becoming inactive upon filing  
 2677 a completed reactivation form, payment of the nonrefundable  
 2678 renewal fee, and payment of a reactivation fee equal to the  
 2679 nonrefundable renewal fee. A license that is not reactivated  
 2680 within 6 months after becoming inactive automatically expires.

2681 ~~(4) Each license must specify the location for which it is~~  
 2682 ~~issued and must be conspicuously displayed at that location. If~~  
 2683 ~~a licensee's principal place of business or branch location~~  
 2684 ~~changes, the licensee shall notify the office and the office~~  
 2685 ~~shall endorse the change of location without charge. A licensee~~  
 2686 may not transact business as a retail installment seller except  
 2687 under the name by which it is licensed. A license issued under  
 2688 this part is not transferable or assignable.

2689 (5) The office may deny an initial application for a  
 2690 license under this part if the applicant or any officer,  
 2691 director, control person, member, partner, or joint venturer  
 2692 ~~person with power to direct the management or policies~~ of the  
 2693 applicant is the subject of a pending criminal prosecution or  
 2694 governmental enforcement action, in any jurisdiction, until  
 2695 conclusion of such criminal prosecution or enforcement action.

2696 Section 44. Subsections (2) through (5) of section 520.52,  
 2697 Florida Statutes, are amended to read:

2698 520.52 Licensees.--

2699 (2) An application for a license under this part must be  
 2700 submitted to the office in such form as the commission may  
 2701 prescribe by rule. The commission may require each applicant to

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2702 provide any information reasonably necessary to determine the  
2703 applicant's eligibility for licensure. The applicant shall also  
2704 provide information that the office requires concerning any  
2705 officer, director, control person, member, partner, or joint  
2706 venturer of the applicant or any person having the same or  
2707 substantially similar status or performing substantially similar  
2708 functions or any individual who is the ultimate equitable owner  
2709 of a 10-percent or greater interest in the applicant. The office  
2710 may require information concerning any such applicant or person,  
2711 including his or her full name and any other names by which he  
2712 or she may have been known, age, social security number,  
2713 residential history, qualifications, educational and business  
2714 history, and disciplinary and criminal history. If the office  
2715 determines that an application should be granted, it shall issue  
2716 the license for a period not to exceed 2 years. A nonrefundable  
2717 application fee of \$175 shall accompany an initial application  
2718 for the principal place of business and each branch location of  
2719 a sales finance company. An application is considered received  
2720 for purposes of s. 120.60 upon receipt of a completed  
2721 application form as prescribed by commission rule, a  
2722 nonrefundable application fee of \$175, and any other fee  
2723 prescribed by law.

2724 (3) The nonrefundable renewal fee for a sales finance  
2725 company license shall be \$175. Biennial licensure periods and  
2726 procedures for renewal of licenses may also be established by  
2727 the commission by rule. A license that is not renewed at the end  
2728 of the biennium established by the commission shall revert from

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2729 active to inactive status. An inactive license may be  
 2730 reactivated within 6 months after becoming inactive upon filing  
 2731 a completed reactivation form, payment of the nonrefundable  
 2732 renewal fee, and payment of a reactivation fee equal to the  
 2733 nonrefundable renewal fee. A license that is not reactivated  
 2734 within 6 months after becoming inactive automatically expires.

2735 ~~(4) Each license must specify the location for which it is~~  
 2736 ~~issued and must be conspicuously displayed at that location. If~~  
 2737 ~~a licensee's principal place of business or branch location~~  
 2738 ~~changes, the licensee shall notify the office and the office~~  
 2739 ~~shall endorse the change of location without charge. A licensee~~  
 2740 may not transact business as a sales finance company except  
 2741 under the name by which it is licensed. A license issued under  
 2742 this part is not transferable or assignable.

2743 (5) The office may deny an initial application for a  
 2744 license under this part if the applicant or any officer,  
 2745 director, control person, member, partner, or joint venturer  
 2746 ~~person with power to direct the management or policies~~ of the  
 2747 applicant is the subject of a pending criminal prosecution or  
 2748 governmental enforcement action, in any jurisdiction, until  
 2749 conclusion of such criminal prosecution or enforcement action.

2750 Section 45. Subsections (5), (6), (7), (15), (16), and  
 2751 (22) of section 520.61, Florida Statutes, are renumbered as  
 2752 subsections (7), (5), (16), (22), (15), and (23), respectively,  
 2753 and a new subsection (6) is added to that section to read:

2754 520.61 Definitions.--As used in this act:

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2755           (6) "Control person" means an individual, partnership,  
 2756 corporation, trust, or other organization that possesses the  
 2757 power, directly or indirectly, to direct the management or  
 2758 policies of a company, whether through ownership of securities,  
 2759 by contract, or otherwise. A person is presumed to control a  
 2760 company if, with respect to a particular company, that person:

2761           (a) Is a director, general partner, or officer exercising  
 2762 executive responsibility or having similar status or functions;

2763           (b) Directly or indirectly may vote 10 percent or more of  
 2764 a class of a voting security or sell or direct the sale of 10  
 2765 percent or more of a class of voting securities; or

2766           (c) In the case of a partnership, may receive upon  
 2767 dissolution or has contributed 10 percent or more of the  
 2768 capital.

2769           Section 46. Subsections (2) through (5) of section 520.63,  
 2770 Florida Statutes, are amended to read:

2771           520.63 Licensees.--

2772           (2) An application for a license under this part must be  
 2773 submitted to the office in such form as the commission may  
 2774 prescribe by rule. The commission may require each applicant to  
 2775 provide any information reasonably necessary to determine the  
 2776 applicant's eligibility for licensure. The applicant shall also  
 2777 provide information that the office requires concerning any  
 2778 officer, director, control person, member, partner, or joint  
 2779 venturer of the applicant or any person having the same or  
 2780 substantially similar status or performing substantially similar  
 2781 functions or any individual who is the ultimate equitable owner



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2782 of a 10-percent or greater interest in the applicant. The office  
2783 may require information concerning any such applicant or person,  
2784 including, but not limited to, his or her full name and any  
2785 other names by which he or she may have been known, age, social  
2786 security number, residential history, qualifications,  
2787 educational and business history, and disciplinary and criminal  
2788 history. If the office determines that an application should be  
2789 granted, it shall issue the license for a period not to exceed 2  
2790 years. A nonrefundable application fee of \$175 shall accompany  
2791 an initial application for the principal place of business and  
2792 each application for a branch location of a home improvement  
2793 finance seller. An application is considered received for  
2794 purposes of s. 120.60 upon receipt of a completed application  
2795 form as prescribed by commission rule, a nonrefundable  
2796 application fee of \$175, and any other fee prescribed by law.

2797 (3) The nonrefundable renewal fee for a home improvement  
2798 finance license shall be \$175. Biennial licensure periods and  
2799 procedures for renewal of licenses may also be established by  
2800 the commission by rule. A license that is not renewed at the end  
2801 of the biennium established by the commission shall  
2802 automatically revert from active to inactive status. An inactive  
2803 license may be reactivated within 6 months after becoming  
2804 inactive upon filing a completed reactivation form, payment of  
2805 the nonrefundable renewal fee, and payment of a reactivation fee  
2806 equal to the nonrefundable renewal fee. A license that is not  
2807 reactivated within 6 months after becoming inactive  
2808 automatically expires.

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2809           (4) ~~Each license must specify the location for which it is~~  
 2810 ~~issued and must be conspicuously displayed at that location. If~~  
 2811 ~~a home improvement finance seller's principal place of business~~  
 2812 ~~or any branch location changes, the licensee shall notify the~~  
 2813 ~~office and the office shall endorse the change of location~~  
 2814 ~~without charge.~~ A licensee may not transact business as a home  
 2815 improvement finance seller except under the name by which it is  
 2816 licensed. A license issued under this part is not transferable  
 2817 or assignable.

2818           (5) The office may deny an initial application for a  
 2819 license under this part if the applicant or any officer,  
 2820 director, control person, member, partner, or joint venturer  
 2821 ~~person with power to direct the management or policies~~ of the  
 2822 applicant is the subject of a pending criminal prosecution or  
 2823 governmental enforcement action, in any jurisdiction, until  
 2824 conclusion of such criminal prosecution or enforcement action.

2825           Section 47. Subsection (5) of section 520.994, Florida  
 2826 Statutes, is amended to read:

2827           520.994 Powers of office.--

2828           (5) The office shall administer and enforce this chapter.  
 2829 The commission has authority to adopt rules pursuant to ss.  
 2830 120.536(1) and 120.54 to implement the provisions of this  
 2831 chapter. The commission may adopt rules requiring ~~to allow~~  
 2832 electronic submission of any form, document, or fee required by  
 2833 this chapter if such rules reasonably accommodate technological  
 2834 or financial hardship. The commission may prescribe by rule

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2835 requirements and procedures for obtaining an exemption due to a  
2836 technological or financial hardship.

2837 Section 48. Subsections (1) and (4) of section 520.995,  
2838 Florida Statutes, are amended to read:

2839 520.995 Grounds for disciplinary action.--

2840 (1) The following acts are violations of this chapter and  
2841 constitute grounds for the disciplinary actions specified in  
2842 subsection (2):

2843 (a) Failure to comply with any provision of this chapter,  
2844 any rule or order adopted pursuant to this chapter, or any  
2845 written agreement entered into with the office.†

2846 (b) Fraud, misrepresentation, deceit, or gross negligence  
2847 in any home improvement finance transaction or retail  
2848 installment transaction, regardless of reliance by or damage to  
2849 the buyer or owner.†

2850 (c) Fraudulent misrepresentation, circumvention, or  
2851 concealment of any matter required to be stated or furnished to  
2852 a retail buyer or owner pursuant to this chapter, regardless of  
2853 reliance by or damage to the buyer or owner.†

2854 (d) Willful imposition of illegal or excessive charges in  
2855 any retail installment transaction or home improvement finance  
2856 transaction.†

2857 (e) False, deceptive, or misleading advertising by a  
2858 seller or home improvement finance seller.†

2859 (f) Failure to maintain, preserve, and keep available for  
2860 examination, all books, accounts, or other documents required by

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2861 | this chapter, by any rule or order adopted pursuant to this  
 2862 | chapter, or by any agreement entered into with the office.~~†~~

2863 |       (g) Refusal to permit inspection of books and records in  
 2864 | an investigation or examination by the office or refusal to  
 2865 | comply with a subpoena issued by the office.~~†~~

2866 |       (h) Criminal conduct in the course of a person's business  
 2867 | as a seller, as a home improvement finance seller, or as a sales  
 2868 | finance company.~~†~~~~or~~

2869 |       (i) Failure to timely pay any fee, charge, or fine imposed  
 2870 | or assessed pursuant to this chapter or any rule adopted under  
 2871 | this chapter.

2872 |       (j) Using the name or logo of a financial institution, as  
 2873 | defined in s. 655.005(1), or its affiliates or subsidiaries when  
 2874 | marketing or soliciting existing or prospective customers if  
 2875 | such marketing materials are used without the written consent of  
 2876 | the financial institution and in a manner that would lead a  
 2877 | reasonable person to believe that the material or solicitation  
 2878 | originated from, was endorsed by, or is related to or the  
 2879 | responsibility of the financial institution or its affiliates or  
 2880 | subsidiaries.

2881 |       (k) Payment to the office for a license or permit with a  
 2882 | check or electronic transmission of funds that is dishonored by  
 2883 | the applicant's or licensee's financial institution.

2884 |       (4) It is sufficient cause for the office to take any of  
 2885 | the actions specified in subsection (2) as to any partnership,  
 2886 | corporation, or association, if the office finds grounds for  
 2887 | such action as to any member of the partnership, as to any

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2888 officer or director of the corporation or association, or as to  
 2889 any control person, partner, or joint venturer ~~person with power~~  
 2890 ~~to direct the management or policies~~ of the partnership,  
 2891 corporation, or association.

2892 Section 49. Subsection (4) of section 520.997, Florida  
 2893 Statutes, is amended to read:

2894 520.997 Books, accounts, and records.--

2895 (4) The commission may prescribe by rule the minimum  
 2896 information to be shown in the books, accounts, documents, and  
 2897 records of licensees so that such records will enable the office  
 2898 to determine compliance with ~~the provisions of~~ this chapter. In  
 2899 addition, the commission may prescribe by rule requirements for  
 2900 the destruction of books, accounts, records, and documents  
 2901 retained by the licensee after completion of the time period  
 2902 specified in subsection (3).

2903 Section 50. Section 520.999, Florida Statutes, is created  
 2904 to read:

2905 520.999 Requirements of licensees.--

2906 (1) Each licensee under this chapter shall report, on a  
 2907 form prescribed by rule of the commission, any change in the  
 2908 information contained in any initial application form or any  
 2909 amendment to such application not later than 30 days after the  
 2910 change is effective.

2911 (2) Each licensee under this chapter shall report any  
 2912 changes in the partners, officers, members, joint venturers,  
 2913 directors, or control persons of any licensee or changes in the

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2914 form of business organization by written amendment in such form  
 2915 and at such time as the commission specifies by rule.

2916 (a) In any case in which a person or a group of persons,  
 2917 directly or indirectly or acting by or through one or more  
 2918 persons, proposes to purchase or acquire a controlling interest  
 2919 in a licensee, such person or group must submit an initial  
 2920 application for licensure before such purchase or acquisition at  
 2921 such time and in such form as the commission prescribes by rule.

2922 (b) As used in subsection, the term "controlling interest"  
 2923 means possession of the power to direct or cause the direction  
 2924 of the management or policies of a company whether through  
 2925 ownership of securities, by contract, or otherwise. Any person  
 2926 who directly or indirectly has the right to vote 25 percent or  
 2927 more of the voting securities of a company or is entitled to 25  
 2928 percent or more of its profits is presumed to possess a  
 2929 controlling interest.

2930 (c) Any addition of a partner, officer, member, joint  
 2931 venturer, director, or control person of the applicant who does  
 2932 not have a controlling interest and who has not previously  
 2933 complied with the provisions of ss. 520.03(2), 520.32(2),  
 2934 520.52(2), and 520.63(2) shall be subject to such provisions  
 2935 unless required to file an initial application in accordance  
 2936 with paragraph (a). If the office determines that the licensee  
 2937 does not continue to meet licensure requirements, the office may  
 2938 bring administrative action in accordance with s. 520.995 to  
 2939 enforce the provisions of this chapter.

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2940           (d) The commission shall adopt rules pursuant to ss.  
 2941           120.536(1) and 120.54 providing for the waiver of the  
 2942           application required by this subsection if the person or group  
 2943           of persons proposing to purchase or acquire a controlling  
 2944           interest in a licensee has previously complied with the  
 2945           provisions of ss. 520.03(2), 520.32(2), 520.52(2), and 520.63(2)  
 2946           with the same legal entity or is currently licensed with the  
 2947           office under this chapter.

2948           Section 51. Subsection (5) of section 537.009, Florida  
 2949 Statutes, is amended to read:

2950           537.009 Recordkeeping; reporting; safekeeping of  
 2951 property.--

2952           (5) The commission may prescribe by rule the books,  
 2953 accounts, documents, and records, and the minimum information to  
 2954 be shown in the books, accounts, documents, and records, of  
 2955 licensees so that such records will enable the office to  
 2956 determine compliance with the provisions of this act. In  
 2957 addition, the commission may prescribe by rule requirements for  
 2958 the destruction of books, accounts, records, and documents  
 2959 retained by the licensee after completion of the time period  
 2960 specified in subsection (3).

2961           Section 52. Paragraph (e) of subsection (2) of section  
 2962 559.9232, Florida Statutes, is amended to read:

2963           559.9232 Definitions; exclusion of rental-purchase  
 2964 agreements from certain regulations.--

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2965 (2) A rental-purchase agreement that complies with this  
 2966 act shall not be construed to be, nor be governed by, any of the  
 2967 following:

2968 (e) A lease or agreement which constitutes a "retail  
 2969 installment contract" or "retail installment transaction" as  
 2970 those terms are defined in s. 520.31~~(13)~~ and ~~(14)~~; or

2971 Section 53. Subsection (3) is added to section 560.105,  
 2972 Florida Statutes, to read:

2973 560.105 Supervisory powers; rulemaking.--

2974 (3) The commission may adopt rules pursuant to ss.  
 2975 120.536(1) and 120.54 requiring electronic submission of any  
 2976 forms, documents, or fees required by this code if such rules  
 2977 reasonably accommodate technological or financial hardship. The  
 2978 commission may prescribe by rule requirements and procedures for  
 2979 obtaining an exemption due to a technological or financial  
 2980 hardship.

2981 Section 54. Paragraph (y) is added to subsection (1) of  
 2982 section 560.114, Florida Statutes, to read:

2983 560.114 Disciplinary actions.--

2984 (1) The following actions by a money transmitter or money  
 2985 transmitter-affiliated party are violations of the code and  
 2986 constitute grounds for the issuance of a cease and desist order,  
 2987 the issuance of a removal order, the denial of a registration  
 2988 application or the suspension or revocation of any registration  
 2989 previously issued pursuant to the code, or the taking of any  
 2990 other action within the authority of the office pursuant to the  
 2991 code:



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2992           (y) Payment to the office for a license or permit with a  
 2993 check or electronic transmission of funds that is dishonored by  
 2994 the applicant's or licensee's financial institution.

2995           Section 55. Subsection (2) of section 560.121, Florida  
 2996 Statutes, is amended to read:

2997           560.121 Records; limited restrictions upon public  
 2998 access.--

2999           (2) The commission may prescribe by rule the minimum  
 3000 information that must be shown in the books, accounts, records,  
 3001 and documents of licensees for purposes of enabling the office  
 3002 to determine the licensee's compliance with this chapter. In  
 3003 addition, the commission may prescribe by rule requirements for  
 3004 the destruction of books, accounts, records, and documents  
 3005 retained by the licensee after completion of the time period  
 3006 specified in this subsection. Examination reports, investigatory  
 3007 records, applications, and related information compiled by the  
 3008 office, or photographic copies thereof, shall be retained by the  
 3009 office for a period of at least 3 years following the date that  
 3010 the examination or investigation ceases to be active.

3011 Application records, and related information compiled by the  
 3012 office, or photographic copies thereof, shall be retained by the  
 3013 office for a period of at least 2 years following the date that  
 3014 the registration ceases to be active.

3015           Section 56. Section 560.126, Florida Statutes, is amended  
 3016 to read:

3017           560.126 Significant events; notice required.--

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3018           (1) Unless exempted by the office, every money transmitter  
 3019 must provide the office with a written notice within 30 ~~15~~ days  
 3020 after the occurrence or knowledge of, whichever period of time  
 3021 is greater, any of the following events:

3022           (a)~~(1)~~ The filing of a petition under the United States  
 3023 Bankruptcy Code for bankruptcy or reorganization by the money  
 3024 transmitter.

3025           (b)~~(2)~~ The commencement of any registration suspension or  
 3026 revocation proceeding, either administrative or judicial, or the  
 3027 denial of any original registration request or a registration  
 3028 renewal, by any state, the District of Columbia, any United  
 3029 States territory, or any foreign country, in which the money  
 3030 transmitter operates or plans to operate or has registered to  
 3031 operate.

3032           (c)~~(3)~~ A felony indictment relating to the money  
 3033 transmission business involving the money transmitter or a money  
 3034 transmitter-affiliated party of the money transmitter.

3035           (d)~~(4)~~ The felony conviction, guilty plea, or plea of nolo  
 3036 contendere, if the court adjudicates the nolo contendere pleader  
 3037 guilty, or the adjudication of guilt of a money transmitter or  
 3038 money transmitter-affiliated party.

3039           (e)~~(5)~~ The interruption of any corporate surety bond  
 3040 required by the code.

3041           (f)~~(6)~~ Any suspected criminal act, as defined by the  
 3042 commission by rule, perpetrated in this state against a money  
 3043 transmitter or authorized vendor.

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3045 | However, a person does not incur liability ~~no liability shall be~~  
 3046 | ~~incurred by any person~~ as a result of making a good-faith ~~good~~  
 3047 | ~~faith~~ effort to fulfill this disclosure requirement.

3048 | (2) (a) Each registrant under this code shall report, on a  
 3049 | form prescribed by rule of the commission, any change in the  
 3050 | information contained in any initial application form or any  
 3051 | amendment thereto not later than 30 days after the change is  
 3052 | effective.

3053 | (b) Each registrant under the code shall report any  
 3054 | changes in the partners, officers, members, joint venturers,  
 3055 | directors, controlling shareholders, or responsible persons of  
 3056 | any registrant or changes in the form of business organization  
 3057 | by written amendment in such form and at such time as the  
 3058 | commission specifies by rule.

3059 | 1. In any case in which a person or a group of persons,  
 3060 | directly or indirectly or acting by or through one or more  
 3061 | persons, proposes to purchase or acquire a controlling interest  
 3062 | in a licensee, such person or group must submit an initial  
 3063 | application for registration as a money transmitter before such  
 3064 | purchase or acquisition at such time and in such form as the  
 3065 | commission prescribes by rule.

3066 | 2. As used in this subsection, the term "controlling  
 3067 | interest" means possession of the power to direct or cause the  
 3068 | direction of the management or policies of a company whether  
 3069 | through ownership of securities, by contract, or otherwise. Any  
 3070 | person who directly or indirectly has the right to vote 25  
 3071 | percent or more of the voting securities of a company or is

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3072 entitled to 25 percent or more of its profits is presumed to  
3073 possess a controlling interest.

3074 3. Any addition of a partner, officer, member, joint  
3075 venturer, director, controlling shareholder, or responsible  
3076 person of the applicant who does not have a controlling interest  
3077 and who has not previously complied with ss. 560.205 and 560.306  
3078 shall be subject to such provisions unless required to file an  
3079 initial application in accordance with subparagraph 1. If the  
3080 office determines that the registrant does not continue to meet  
3081 registration requirements, the office may bring administrative  
3082 action in accordance with s. 560.114 to enforce the provisions  
3083 of this code.

3084 4. The commission shall adopt rules pursuant to ss.  
3085 120.536(1) and 120.54 providing for the waiver of the  
3086 application required by this subsection if the person or group  
3087 of persons proposing to purchase or acquire a controlling  
3088 interest in a registrant has previously complied with the  
3089 provisions of ss. 560.205 and 560.306 with the same legal entity  
3090 or is currently registered with the office under this code.

3091 Section 57. Section 560.127, Florida Statutes, is amended  
3092 to read:

3093 560.127 Control of a money transmitter.--

3094 ~~(1)~~ A person has control over a money transmitter if:

3095 (1)(a) The individual, partnership, corporation, trust, or  
3096 other organization possesses the power, directly or indirectly,  
3097 to direct the management or policies of a company, whether  
3098 through ownership of securities, by contract, or otherwise. A

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3099 person is presumed to control a company if, with respect to a  
 3100 particular company, that person:

3101 (a) Is a director, general partner, or officer exercising  
 3102 executive responsibility or having similar status or functions;

3103 (b) Directly or indirectly may vote 25 percent or more of  
 3104 a class of a voting security or sell or direct the sale of 25  
 3105 percent or more of a class of voting securities; or

3106 (c) In the case of a partnership, may receive upon  
 3107 dissolution or has contributed 25 percent or more of the  
 3108 capital. The person directly or indirectly or acting through one  
 3109 or more other persons owns, controls, or has power to vote 25  
 3110 percent or more of any class of voting securities of the money  
 3111 transmitter; or

3112 (2) (b) The office determines, after notice and opportunity  
 3113 for hearing, that the person directly or indirectly exercises a  
 3114 controlling influence over the activities of the money  
 3115 transmitter.

3116 ~~(2) In any case in which a person or a group of persons,~~  
 3117 ~~directly or indirectly or acting by or through one or more~~  
 3118 ~~persons, proposes to purchase or acquire a controlling interest~~  
 3119 ~~in a money transmitter, and thereby to change the control of~~  
 3120 ~~that money transmitter, each person or group of persons shall~~  
 3121 ~~provide written notice to the office.~~

3122 ~~(a) A money transmitter whose stock is traded on an~~  
 3123 ~~organized stock exchange shall provide the office with written~~  
 3124 ~~notice within 15 days after knowledge of such change in control.~~

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3125 ~~(b) A money transmitter whose stock is not publicly traded~~  
 3126 ~~shall provide the office with not less than 30 days' prior~~  
 3127 ~~written notice of such proposed change in control.~~

3128 ~~(3) After a review of the written notification, the office~~  
 3129 ~~may require the money transmitter to provide additional~~  
 3130 ~~information relating to other and former addresses, and the~~  
 3131 ~~reputation, character, responsibility, and business~~  
 3132 ~~affiliations, of the proposed new owner or each of the proposed~~  
 3133 ~~new owners of the money transmitter.~~

3134 ~~(a) The office may deny the person or group of persons~~  
 3135 ~~proposing to purchase, or who have acquired control of, a money~~  
 3136 ~~transmitter if, after investigation, the office determines that~~  
 3137 ~~the person or persons are not qualified by reputation,~~  
 3138 ~~character, experience, or financial responsibility to control or~~  
 3139 ~~operate the money transmitter in a legal and proper manner and~~  
 3140 ~~that the interests of the other stockholders, if any, or the~~  
 3141 ~~interests of the public generally may be jeopardized by the~~  
 3142 ~~proposed change in ownership, controlling interest, or~~  
 3143 ~~management.~~

3144 ~~(b) The office may disapprove any person who has been~~  
 3145 ~~convicted of, or pled guilty or nolo contendere to, a violation~~  
 3146 ~~of s. 560.123, s. 655.50, chapter 896, or any similar state,~~  
 3147 ~~federal, or foreign law.~~

3148 Section 58. Section 560.205, Florida Statutes, is amended  
 3149 to read:

3150 560.205 Qualifications of applicant for registration;  
 3151 contents.--

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3152 (1) To qualify for registration under this part, an  
3153 applicant must demonstrate to the office such character and  
3154 general fitness as to command the confidence of the public and  
3155 warrant the belief that the registered business will be operated  
3156 lawfully and fairly. The office may investigate each applicant  
3157 to ascertain whether the qualifications and requirements  
3158 prescribed by this part have been met. The office's  
3159 investigation may include a criminal background investigation of  
3160 all controlling shareholders, principals, officers, directors,  
3161 members, and responsible persons of a funds transmitter and a  
3162 payment instrument seller and all persons designated by a funds  
3163 transmitter or payment instrument seller as an authorized  
3164 vendor. Each controlling shareholder, principal, officer,  
3165 director, member, and responsible person of a funds transmitter  
3166 or payment instrument seller, unless the applicant is a publicly  
3167 traded corporation as defined by the commission by rule, a  
3168 subsidiary thereof, or a subsidiary of a bank or bank holding  
3169 company organized and regulated under the laws of any state or  
3170 the United States, shall file a complete set of fingerprints. A  
3171 fingerprint card submitted to the office must be taken by an  
3172 authorized law enforcement agency officer. The office shall  
3173 submit the ~~Such~~ fingerprints ~~must be submitted~~ to the Department  
3174 of Law Enforcement for state processing and the Department of  
3175 Law Enforcement shall forward the fingerprints to ~~or~~ the Federal  
3176 Bureau of Investigation for state and federal processing. The  
3177 cost of the fingerprint processing may be borne by the office,  
3178 the employer, or the person subject to the background check. The

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3179 | Department of Law Enforcement shall submit an invoice to the  
3180 | office for the fingerprints received each month. The office  
3181 | shall screen the background results to determine if the  
3182 | applicant meets licensure requirements. The commission may waive  
3183 | by rule the requirement that applicants file a set of  
3184 | fingerprints or the requirement that such fingerprints be  
3185 | processed by the Department of Law Enforcement or the Federal  
3186 | Bureau of Investigation.

3187 |       (2) Each application for registration must be submitted  
3188 | under oath to the office on such forms as the commission  
3189 | prescribes by rule and must be accompanied by a nonrefundable  
3190 | application fee. Such fee may not exceed \$500 for each payment  
3191 | instrument seller or funds transmitter and \$50 for each  
3192 | authorized vendor or location operating within this state. The  
3193 | application must contain forms ~~shall set forth~~ such information  
3194 | as the commission ~~reasonably~~ requires by rule, including, but  
3195 | not limited to:

3196 |       (a) The name and address of the applicant, including any  
3197 | fictitious or trade names used by the applicant in the conduct  
3198 | of its business.

3199 |       (b) The history of the applicant's material litigation,  
3200 | criminal convictions, pleas of nolo contendere, and cases of  
3201 | adjudication withheld.

3202 |       (c) A description of the activities conducted by the  
3203 | applicant, the applicant's history of operations, and the  
3204 | business activities in which the applicant seeks to engage in  
3205 | this state.



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3206 ~~(d) A list identifying the applicant's proposed authorized~~  
 3207 ~~vendors in this state, including the location or locations in~~  
 3208 ~~this state at which the applicant and its authorized vendors~~  
 3209 ~~propose to conduct registered activities.~~

3210 (d)~~(e)~~ A sample authorized vendor contract, if applicable.

3211 (e)~~(f)~~ A sample form of payment instrument, if applicable.

3212 (f)~~(g)~~ The name and address of the clearing financial  
 3213 institution or financial institutions through which the  
 3214 applicant's payment instruments will be drawn or through which  
 3215 such payment instruments will be payable.

3216 (g)~~(h)~~ Documents revealing that the net worth and bonding  
 3217 requirements specified in s. 560.209 have been or will be  
 3218 fulfilled.

3219 (3) Each application for registration by an applicant that  
 3220 is a corporation shall contain ~~also set forth~~ such information  
 3221 as the commission ~~reasonably~~ requires by rule, including, but  
 3222 not limited to:

3223 (a) The date of the applicant's incorporation and state of  
 3224 incorporation.

3225 (b) A certificate of good standing from the state or  
 3226 country in which the applicant was incorporated.

3227 (c) A description of the corporate structure of the  
 3228 applicant, including the identity of any parent or subsidiary of  
 3229 the applicant, and the disclosure of whether any parent or  
 3230 subsidiary is publicly traded on any stock exchange.

3231 (d) The name, social security number, business and  
 3232 residence addresses, and employment history for the past 5 years

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3233 | for each executive officer, each director, each controlling  
3234 | shareholder, and the responsible person who will be in charge of  
3235 | all the applicant's business activities in this state.

3236 |       (e) The history of material litigation and criminal  
3237 | convictions, pleas of nolo contendere, and cases of adjudication  
3238 | withheld for each ~~executive~~ officer, each director, each  
3239 | controlling shareholder, and the responsible person who will be  
3240 | in charge of the applicant's registered activities.

3241 |       (f) Copies of the applicant's audited financial statements  
3242 | for the current year and, if available, for the immediately  
3243 | preceding 2-year period. In cases where the applicant is a  
3244 | wholly owned subsidiary of another corporation, the parent's  
3245 | consolidated audited financial statements may be submitted to  
3246 | satisfy this requirement. An applicant who is not required to  
3247 | file audited financial statements may satisfy this requirement  
3248 | by filing unaudited financial statements verified under penalty  
3249 | of perjury, as provided by the commission by rule.

3250 |       (g) An applicant who is not required to file audited  
3251 | financial statements may file copies of the applicant's  
3252 | unconsolidated, unaudited financial statements for the current  
3253 | year and, if available, for the immediately preceding 2-year  
3254 | period.

3255 |       (h) If the applicant is a publicly traded company, copies  
3256 | of all filings made by the applicant with the United States  
3257 | Securities and Exchange Commission, or with a similar regulator  
3258 | in a country other than the United States, within the year  
3259 | preceding the date of filing of the application.

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3260 (4) Each application for registration submitted to the  
 3261 office by an applicant that is not a corporation shall contain  
 3262 ~~also set forth~~ such information as the commission ~~reasonably~~  
 3263 requires by rule, including, but not limited to:

3264 (a) Evidence that the applicant is registered to do  
 3265 business in this state.

3266 (b) The name, business and residence addresses, personal  
 3267 financial statement and employment history for the past 5 years  
 3268 for each individual having a controlling ownership interest in  
 3269 the applicant, and each responsible person who will be in charge  
 3270 of the applicant's registered activities.

3271 (c) The history of material litigation and criminal  
 3272 convictions, pleas of nolo contendere, and cases of adjudication  
 3273 withheld for each individual having a controlling ownership  
 3274 interest in the applicant and each responsible person who will  
 3275 be in charge of the applicant's registered activities.

3276 (d) Copies of the applicant's audited financial statements  
 3277 for the current year, and, if available, for the preceding 2  
 3278 years. An applicant who is not required to file audited  
 3279 financial statements may satisfy this requirement by filing  
 3280 unaudited financial statements verified under penalty of  
 3281 perjury, as provided by the commission by rule.

3282 (5) Each applicant shall designate and maintain an agent  
 3283 in this state for service of process.

3284 Section 59. Section 560.207, Florida Statutes, is amended  
 3285 to read:

3286 560.207 Renewal of registration; registration fee.--

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3287 (1) Registration may be renewed for a 24-month period or  
3288 the remainder of any such period without proration following the  
3289 date of its expiration by furnishing such information as the  
3290 commission requires by rule, together with the payment of the  
3291 fees required under subsections (2), (3), and (4), ~~upon the~~  
3292 ~~filing with the office of an application and other statements~~  
3293 ~~and documents as may reasonably be required of registrants by~~  
3294 ~~the commission. However, the registrant must remain qualified~~  
3295 ~~for such registration under the provisions of this part.~~

3296 (2) Each renewal of All registration must renewal  
3297 ~~applications shall~~ be accompanied by a nonrefundable renewal fee  
3298 not to exceed \$1,000. A registration expires on April 30 of the  
3299 year in which the existing registration expires, unless the  
3300 registrant has renewed his or her registration on or before that  
3301 date. In no event shall a registration be issued for a period in  
3302 excess of 24 months. The commission may adopt rules pursuant to  
3303 ss. 120.536(1) and 120.54 to implement this section ~~All renewal~~  
3304 ~~applications must be filed on or after January 1 of the year in~~  
3305 ~~which the existing registration expires, but before the~~  
3306 ~~expiration date of April 30. If the renewal application is filed~~  
3307 ~~prior to the expiration date of an existing registration, no~~  
3308 ~~late fee shall be paid in connection with such renewal~~  
3309 ~~application. If the renewal application is filed within 60~~  
3310 ~~calendar days after the expiration date of an existing~~  
3311 ~~registration, then, in addition to the \$1,000 renewal fee, the~~  
3312 ~~renewal application shall be accompanied by a nonrefundable late~~  
3313 ~~fee of \$500. If the registrant has not filed a renewal~~

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3314 ~~application within 60 calendar days after the expiration date of~~  
3315 ~~an existing registration, a new application shall be filed with~~  
3316 ~~the office pursuant to s. 560.205.~~

3317       (3) In addition to the renewal fee required under  
3318 subsection (2), each registrant must pay ~~Every registration~~  
3319 ~~renewal application shall also include~~ a 2-year nonrefundable  
3320 registration renewal fee of \$50 for each authorized vendor or  
3321 location operating within this state or, at the option of the  
3322 registrant, a total 2-year nonrefundable renewal fee of \$20,000  
3323 may be paid to renew the registration of all such locations  
3324 currently registered at the time of renewal.

3325       (4) A registration may be reinstated only if the renewal  
3326 fee and a nonrefundable late fee of \$500 are filed within 60  
3327 calendar days after the expiration of the existing registration.  
3328 The office shall grant a reinstatement of registration if an  
3329 application is filed during the 60-day period, and the  
3330 reinstatement is effective upon receipt of the required fees and  
3331 any information that the commission requires by rule. If a  
3332 registrant does not file an application for reinstatement of the  
3333 registration within the 60 calendar days after expiration of an  
3334 existing registration, the registration expires and a new  
3335 application must be filed with the office pursuant to s.  
3336 560.205.

3337       Section 60. Subsection (1) of section 560.210, Florida  
3338 Statutes, is amended to read:

3339       560.210 Permissible investments.--

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3340 (1) A registrant shall at all times possess permissible  
 3341 investments with an aggregate market value calculated in  
 3342 accordance with United States generally accepted accounting  
 3343 principles of not less than the aggregate face amount of all  
 3344 outstanding funds transmissions ~~transmitted~~ and ~~outstanding~~  
 3345 payment instruments issued or sold by the registrant or an  
 3346 authorized vendor in the United States.

3347 Section 61. Subsection (2) of section 560.211, Florida  
 3348 Statutes, is amended to read:

3349 560.211 Records.--

3350 (2) The records required to be maintained by the code may  
 3351 be maintained by the registrant at any location if, ~~provided~~  
 3352 ~~that~~ the registrant notifies the office in writing of the  
 3353 location of the records in its application or otherwise by  
 3354 amendment as prescribed by commission rule. The registrant shall  
 3355 make such records available to the office for examination and  
 3356 investigation in this state, as permitted by the code, within 7  
 3357 days after receipt of a written request.

3358 Section 62. Section 560.305, Florida Statutes, is amended  
 3359 to read:

3360 560.305 Application.--Each application for registration  
 3361 must ~~shall~~ be in writing and under oath to the office, in such  
 3362 form as the commission prescribes. The application must contain  
 3363 such information as the commission requires by rule, including,  
 3364 but not limited to ~~shall include the following:~~

3365 (1) The legal name, social security number, and residence  
 3366 and business addresses of the applicant if the applicant is a

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3367 | natural person, or, if the applicant is a partnership,  
 3368 | association, or corporation, the name of every partner, officer,  
 3369 | ~~or~~ director, member, controlling shareholder, or responsible  
 3370 | person thereof.

3371 | (2) The location of the principal office of the applicant.

3372 | (3) The complete address of any other locations at which  
 3373 | the applicant proposes to engage in such activities since the  
 3374 | provisions of registration apply to each and every operating  
 3375 | location of a registrant.

3376 | (4) Such other information as the commission or office  
 3377 | reasonably requires with respect to the applicant or any money  
 3378 | transmitter-affiliated party of the applicant; however, the  
 3379 | commission or office may not require more information than is  
 3380 | specified in part II.

3381 | Section 63. Subsections (1) and (4) of section 560.306,  
 3382 | Florida Statutes, are amended to read:

3383 | 560.306 Standards.--

3384 | (1) In order to qualify for registration under this part,  
 3385 | an applicant must demonstrate to the office that he or she has  
 3386 | such character and general fitness as will command the  
 3387 | confidence of the public and warrant the belief that the  
 3388 | registered business will be operated lawfully and fairly. The  
 3389 | office may investigate each applicant to ascertain whether the  
 3390 | qualifications and requirements prescribed by this part have  
 3391 | been met. The office's investigation may include a criminal  
 3392 | background investigation of all controlling shareholders,  
 3393 | principals, officers, directors, members, and responsible

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3394 persons of a check casher and a foreign currency exchanger and  
3395 all persons designated by a foreign currency exchanger or check  
3396 casher as an authorized vendor. Each controlling shareholder,  
3397 principal, officer, director, member, and responsible person of  
3398 a check casher or foreign currency exchanger, unless the  
3399 applicant is a publicly traded corporation as defined by the  
3400 commission by rule, a subsidiary thereof, or a subsidiary of a  
3401 bank or bank holding company organized and regulated under the  
3402 laws of any state or the United States, shall file a complete  
3403 set of fingerprints. A fingerprint card submitted to the office  
3404 must be taken by an authorized law enforcement agency officer.  
3405 The office shall submit the ~~Such~~ fingerprints ~~must be submitted~~  
3406 to the Department of Law Enforcement for state processing and  
3407 the Department of Law Enforcement shall forward the fingerprints  
3408 to ~~or~~ the Federal Bureau of Investigation for ~~state and~~ federal  
3409 processing. The cost for the fingerprint processing may be borne  
3410 by the office, the employer, or the person subject to the  
3411 background check. The Department of Law Enforcement shall submit  
3412 an invoice to the office for the fingerprints received each  
3413 month. The office shall screen the background results to  
3414 determine if the applicant meets licensure requirements. The  
3415 commission may waive by rule the requirement that applicants  
3416 file a set of fingerprints or the requirement that such  
3417 fingerprints be processed by the Department of Law Enforcement  
3418 or the Federal Bureau of Investigation.

3419 (4) Each registration application and renewal application  
3420 must specify the location at which the applicant proposes to



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3421 establish its principal place of business and any other  
 3422 location, including authorized vendors operating in this state.  
 3423 The registrant shall notify the office of any changes to any  
 3424 such locations. ~~Any registrant may satisfy this requirement by~~  
 3425 ~~providing the office with a list of such locations, including~~  
 3426 ~~all authorized vendors operating in this state, not less than~~  
 3427 ~~annually.~~ A registrant may not transact business as a check  
 3428 cashier or a foreign currency exchanger except pursuant to the  
 3429 name under which it is registered.

3430 Section 64. Section 560.308, Florida Statutes, is amended  
 3431 to read:

3432 560.308 Registration terms; renewal; renewal fees.--

3433 (1) Registration may be renewed for a 24-month period, or  
 3434 the remainder of any such period without proration, following  
 3435 the date of its expiration by furnishing such information as the  
 3436 commission requires by rule, together with the payment of the  
 3437 fees required under subsections (2), (3), and (4). Registration  
 3438 pursuant to this part shall remain effective through the  
 3439 remainder of the second calendar year following its date of  
 3440 issuance unless during such calendar year the registration is  
 3441 surrendered, suspended, or revoked.

3442 (2) Each application for renewal of registration must be  
 3443 accompanied by ~~The office shall renew registration upon receipt~~  
 3444 ~~of a completed renewal form and payment of a nonrefundable~~  
 3445 ~~renewal fee not to exceed \$500.~~ A registration expires on  
 3446 December 31 of the year in which the existing registration  
 3447 expires, unless the registrant has renewed his or her

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3448 registration on or before that date ~~The completed renewal form~~  
 3449 ~~and payment of the renewal fee shall occur on or after June 1 of~~  
 3450 ~~the year in which the existing registration expires.~~

3451 (3) In addition to the renewal fee required by subsection  
 3452 (2), each registrant must pay a 2-year nonrefundable  
 3453 registration renewal fee of \$50 for each authorized vendor or  
 3454 location operating within this state or, at the option of the  
 3455 registrant, a total 2-year nonrefundable renewal fee of \$20,000  
 3456 may be paid to renew the registration of all such locations  
 3457 currently registered at the time of renewal.

3458 (4) ~~Registration that is not renewed on or before the~~  
 3459 ~~expiration date of the registration period automatically~~  
 3460 ~~expires.~~ A renewal ~~application and fee,~~ and a nonrefundable late  
 3461 fee of \$250~~,~~ must be filed within 60 calendar days after the  
 3462 expiration of an existing registration in order for the  
 3463 registration to be reinstated. The office shall grant a  
 3464 reinstatement of registration if application is filed during the  
 3465 60-day period, and the reinstatement is effective upon receipt  
 3466 of the required fees and any information that the commission  
 3467 requires by rule. If the registrant has not filed an a renewal  
 3468 application within 60 calendar days after the expiration date of  
 3469 an existing registration, the registration expires and a new  
 3470 application must be filed with the office pursuant to s.  
 3471 560.307.

3472 Section 65. Subsection (2) of section 560.310, Florida  
 3473 Statutes, is amended to read:

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3474 560.310 Records of check cashers and foreign currency  
 3475 exchangers.--

3476 (2) The records required to be maintained by the code may  
 3477 be maintained by the registrant at any location if, ~~provided~~  
 3478 ~~that~~ the registrant notifies the office, in writing, of the  
 3479 location of the records in its application or otherwise by  
 3480 amendment as prescribed by commission rule. The registrant shall  
 3481 make such records available to the office for examination and  
 3482 investigation in this state, as permitted by the code, within 7  
 3483 days after receipt of a written request.

3484 Section 66. Subsections (2) and (4) of section 560.403,  
 3485 Florida Statutes, are amended to read:

3486 560.403 Requirements of registration; declaration of  
 3487 intent.--

3488 (2) A registrant under this part shall renew his or her  
 3489 intent to engage in the business of deferred presentment  
 3490 transactions or to act as a deferred presentment provider upon  
 3491 renewing his or her registration under part II or part III and  
 3492 shall do so by indicating his or her intent ~~on the renewal form~~  
 3493 ~~and~~ by submitting a nonrefundable deferred presentment provider  
 3494 renewal fee of \$1,000, in addition to any fees required for  
 3495 renewal of registration under part II or part III.

3496 (4) The notice of intent of a registrant under this part  
 3497 who fails to timely renew his or her intent to engage in the  
 3498 business of deferred presentment transactions or to act as a  
 3499 deferred presentment provider on or before the expiration date  
 3500 of the registration period automatically expires. A renewal

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3501 ~~declaration of intent and fee,~~ and a nonrefundable late fee of  
 3502 \$500~~,~~ must be filed within 60 calendar days after the expiration  
 3503 of an existing registration in order for the declaration of  
 3504 intent to be reinstated. The office shall grant a reinstatement  
 3505 of registration if application is filed during the 60-day  
 3506 period, and the reinstatement is effective upon receipt of the  
 3507 required fees and any information that the commission requires  
 3508 by rule. If the registrant has not filed a reinstatement of a  
 3509 renewal declaration of intent within 60 calendar days after the  
 3510 expiration date of an existing registration, the notice of  
 3511 intent expires and a new declaration of intent must be filed  
 3512 with the office.

3513 Section 67. Section 655.935, Florida Statutes, is amended  
 3514 to read:

3515 655.935 Search procedure on death of lessee.--If  
 3516 satisfactory proof of the death of the lessee is presented, a  
 3517 lessor shall permit the person named in a court order for the  
 3518 purpose, or if no order has been served upon the lessor, the  
 3519 spouse, a parent, an adult descendant, or a person named as a  
 3520 personal representative in a copy of a purported will produced  
 3521 by such person, to open and examine the contents of a safe-  
 3522 deposit box leased or co-leased by a decedent, or any documents  
 3523 delivered by a decedent for safekeeping, in the presence of an  
 3524 officer of the lessor; and the lessor, if so requested by such  
 3525 person, shall deliver:

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3526 (1) Any writing purporting to be a will of the decedent,  
 3527 to the court having probate jurisdiction in the county in which  
 3528 the financial institution is located;

3529 (2) Any writing purporting to be a deed to a burial plot  
 3530 or to give burial instructions, to the person making the request  
 3531 for a search; and

3532 (3) Any document purporting to be an insurance policy on  
 3533 the life of the decedent, to the beneficiary named therein.

3534  
 3535 No other contents may be removed pursuant to this section and  
 3536 access granted pursuant to this section shall not be considered  
 3537 the initial opening of the safe-deposit box pursuant to s.  
 3538 733.6065 by a personal representative appointed by a court in  
 3539 this state.

3540 Section 68. Subsections (1) and (2) of section 655.936,  
 3541 Florida Statutes, are amended to read:

3542 655.936 Delivery of safe-deposit box contents or property  
 3543 held in safekeeping to personal representative.--

3544 (1) Subject to the provisions of subsection (3), the  
 3545 lessor shall immediately deliver to a ~~resident~~ personal  
 3546 representative appointed by a court in this state, upon  
 3547 presentation of a certified copy of his or her letters of  
 3548 authority, all property deposited with it by the decedent for  
 3549 safekeeping, and shall grant the ~~resident~~ personal  
 3550 representative access to any safe-deposit box in the decedent's  
 3551 name and permit him or her to remove from such box any part or  
 3552 all of the contents thereof.

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3553 (2) If a ~~foreign~~ personal representative of a deceased  
 3554 lessee has been appointed by a court of any other state, a  
 3555 lessor may, at its discretion, after 3 months from the issuance  
 3556 to such ~~foreign~~ personal representative of his or her letters of  
 3557 authority, deliver to such ~~foreign~~ personal representative all  
 3558 properties deposited with it for safekeeping and the contents of  
 3559 any safe-deposit box in the name of the decedent if at such time  
 3560 the lessor has not received written notice of the appointment of  
 3561 a personal representative in this state, and such delivery is a  
 3562 valid discharge of the lessor for all property or contents so  
 3563 delivered. A ~~Such foreign~~ personal representative appointed by a  
 3564 court of any other state shall furnish the lessor with an  
 3565 affidavit setting forth facts showing the domicile of the  
 3566 deceased lessee to be other than this state and stating that  
 3567 there are no unpaid creditors of the deceased lessee in this  
 3568 state, together with a certified copy of his or her letters of  
 3569 authority. A lessor making delivery pursuant to this subsection  
 3570 shall maintain in its files a receipt executed by such ~~foreign~~  
 3571 personal representative which itemizes in detail all property so  
 3572 delivered.

3573 Section 69. Section 655.937, Florida Statutes, is amended  
 3574 to read:

3575 655.937 Access to safe-deposit boxes leased in two or more  
 3576 names.--

3577 (1) Unless ~~When~~ specifically provided in the lease or  
 3578 rental agreement to the contrary, if ~~covering~~ a safe-deposit box  
 3579 is heretofore or hereafter rented or leased in the names of two

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3580 or more lessees, ~~that~~ access to the safe-deposit box will be  
 3581 granted to either lessee, or to ~~either or the survivor, access~~  
 3582 ~~to the safe-deposit box shall be granted to:~~

3583 (a) Either or any of such lessees, regardless of whether  
 3584 or not the other lessee or lessees or any of them are living or  
 3585 competent, ~~or~~

3586 (b) Subject to s. 655.933, those persons named in s.  
 3587 655.933.

3588 (c) Subject to s. 655.935, those persons named in s.  
 3589 655.935.

3590 (d) ~~(b)~~ Subject to s. 773.6065, the personal representative  
 3591 of the estate of either or any of such lessees who is deceased,  
 3592 or the guardian of the property of either or any of such lessees  
 3593 who is incapacitated.

3594 (2) In all cases described in subsection (1), ~~and, in~~  
 3595 ~~either such case, the provisions of s. 655.933 apply, and the~~  
 3596 signature on the safe-deposit entry or access record, ~~or the~~  
 3597 receipt or acquittance, in the case of property or documents  
 3598 otherwise held for safekeeping, ~~is~~ is a valid and sufficient  
 3599 release and discharge to the lessor for granting access to such  
 3600 safe-deposit box or for the delivery of such property or  
 3601 documents otherwise held for safekeeping.

3602 (3) ~~(2)~~ A lessor may not be held liable for damages or  
 3603 penalty by reason of any access granted or delivery made  
 3604 pursuant to this section.

3605 (4) The right of access by a co-lessee is separate from  
 3606 the rights and responsibilities of other persons who may be

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3607 granted access to a safe-deposit box after the death or  
3608 incapacity of another co-lessee and such right of access is not  
3609 subject to the provisions of s. 655.935 or s. 733.6065 or other  
3610 requirements imposed upon personal representatives, guardians,  
3611 or other fiduciaries.

3612 (5) After the death of a co-lessee, the surviving co-  
3613 lessee or any other person who is granted access to the safe-  
3614 deposit box pursuant to this section may make a written  
3615 inventory of the box, which must be conducted by the person  
3616 making the request in the presence of one other person as  
3617 specified in this section. Each person present shall verify the  
3618 contents of the box by signing a copy of the inventory under  
3619 penalty of perjury.

3620 (a) If the person making the written inventory is the  
3621 surviving co-lessee, the other person may be any other person  
3622 granted access pursuant to this section, an employee of the  
3623 institution where the box is located, or an attorney licensed in  
3624 this state.

3625 (b) If the person making the written inventory is not a  
3626 surviving co-lessee, the other person may be a surviving co-  
3627 lessee, an employee of the institution where the box is located,  
3628 or an attorney licensed in this state.

3629 Section 70. Effective upon this act becoming a law,  
3630 subsection (3) of section 679.705, Florida Statutes, is amended  
3631 to read:

3632 679.705 Effectiveness of action taken before effective  
3633 date.--



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3634 (3) This act does not render ineffective an effective  
 3635 financing statement that, before this act takes effect, is filed  
 3636 and satisfies the applicable requirements for perfection under  
 3637 the law of the jurisdiction governing perfection as provided in  
 3638 s. 679.103, Florida Statutes 2000. However, except as otherwise  
 3639 provided in subsections (4) and (5) and s. 679.706, the  
 3640 financing statement ceases to be effective at the earlier of:

3641 (a) The time the financing statement would have ceased to  
 3642 be effective under the law of the jurisdiction in which it is  
 3643 filed; or

3644 (b) December 31 ~~June 30~~, 2006.

3645 Section 71. Section 733.6065, Florida Statutes, is amended  
 3646 to read:

3647 733.6065 Opening safe-deposit box.--

3648 (1) Subject to the provisions of s. 655.936(2), the  
 3649 initial opening of a the decedent's safe-deposit box that is  
 3650 leased or co-leased by the decedent shall be conducted in the  
 3651 presence of any two of the following persons: an employee of the  
 3652 institution where the box is located, the personal  
 3653 representative, or the personal representative's attorney of  
 3654 record. Each person who is present must verify the contents of  
 3655 the box by signing a copy of the inventory under penalties of  
 3656 perjury. The personal representative shall file the safe-deposit  
 3657 box inventory, together with a copy of the box entry record from  
 3658 a date which is 6 months prior to the date of death to the date  
 3659 of inventory, with the court within 10 days after the box is  
 3660 opened. Unless otherwise ordered by the court, this inventory

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3661 and the attached box entry record is subject to inspection only  
 3662 by persons entitled to inspect an inventory under s. 733.604(1).  
 3663 The personal representative may remove the contents of the box.

3664 (2) The right to open and examine the contents of a safe-  
 3665 deposit box leased by a decedent, or any documents delivered by  
 3666 a decedent for safekeeping, and to receive items as provided for  
 3667 in s. 655.935 are separate from ~~in addition to~~ the rights  
 3668 provided for in subsection (1).

3669 Section 72. For the 2006-2007 fiscal year, the recurring  
 3670 sum of \$700,515 is appropriated from the Regulatory Trust Fund  
 3671 to the Office of Financial Regulation for the purpose of  
 3672 implementing the provisions of s. 494.0033(2)(b), Florida  
 3673 Statutes, for third-party administration of the mortgage broker  
 3674 test.

3675 Section 73. Except as otherwise expressly provided in this  
 3676 act, this act shall take effect October 1, 2006.