

ENROLLED  
CS/CS/HB 483

2009 Legislature

1                   A bill to be entitled  
2           An act relating to investor protection; amending s. 16.56,  
3           F.S.; expanding jurisdiction of the Office of Statewide  
4           Prosecution to investigate and prosecute certain  
5           additional offenses; amending s. 517.021, F.S.; revising  
6           definitions; amending s. 517.072, F.S.; exempting certain  
7           transactions in viatical settlement investments from  
8           certain registration requirements; specifying application  
9           of certain provisions; amending s. 517.12, F.S.; revising  
10          requirements for registration of dealers, associated  
11          persons, investment advisers, and branch offices; amending  
12          s. 517.121, F.S.; authorizing the Office of Financial  
13          Regulation to suspend registration for registrant failure  
14          to provide certain records; providing for rescinding  
15          suspensions; amending ss. 517.1215 and 517.1217, F.S.;  
16          changing an agency reference; amending s. 517.141, F.S.;  
17          excluding postjudgment interest from payments from the  
18          fund; amending s. 517.161, F.S.; expanding the class of  
19          persons related to or associated with an applicant or  
20          registrant for which certain violations may result in  
21          adverse actions taken against registrations; authorizing  
22          the office to suspend a registration under certain  
23          circumstances; creating s. 517.1611, F.S.; requiring the  
24          Financial Services Commission to adopt rules providing  
25          certain disciplinary guidelines; specifying criteria for  
26          such guidelines; requiring the commission to adopt rules  
27          for disqualifying registrants for certain periods of time  
28          for certain criminal actions; providing rules criteria;

Page 1 of 27

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

hb0483-03-er

ENROLLED  
CS/CS/HB 483

2009 Legislature

29 | amending s. 517.191, F.S.; authorizing the office to apply  
30 | to the court for orders directing restitution; authorizing  
31 | the office to apply to the court to impose civil penalties  
32 | for certain violations; specifying limitations; requiring  
33 | deposit of civil penalties into the Anti-Fraud Trust Fund;  
34 | authorizing the Attorney General to act as an enforcing  
35 | authority for certain provisions of law; authorizing the  
36 | Attorney General, with approval of the office, to  
37 | investigate and enforce certain provisions; authorizing  
38 | the Attorney General to bring certain actions for  
39 | injunctive relief; authorizing the Attorney General to  
40 | recover certain investigation and enforcement costs and  
41 | attorney fees; providing for deposit of certain recovered  
42 | moneys into the Legal Affairs Revolving Trust Fund;  
43 | authorizing the Legal Affairs Revolving Trust Fund to be  
44 | used for investigation and enforcement purposes;  
45 | preserving the authority of the office to bring certain  
46 | administrative actions; prohibiting subjecting persons to  
47 | a civil penalty and an administrative fine under certain  
48 | circumstances; specifying time limitations on bringing  
49 | certain enforcement actions; amending s. 517.221, F.S.;  
50 | increasing the amount of certain administrative fines;  
51 | authorizing the office to bar certain persons from  
52 | submitting applications or notifications for a license or  
53 | registration under certain circumstances; amending s.  
54 | 517.275, F.S.; revising criteria for prohibited practices  
55 | relating to commodities; creating s. 896.108, F.S.;

56 | authorizing the Department of Law Enforcement to enter

ENROLLED  
CS/CS/HB 483

2009 Legislature

57 | into agreements to pay rewards for information leading to  
 58 | the recovery of certain fines, penalties, or forfeitures;  
 59 | authorizing the executive director of the department to  
 60 | determine the amount of the reward; authorizing the  
 61 | executive director to exceed certain statutory limits of  
 62 | rewards under certain circumstances; providing  
 63 | limitations; providing for deposit of certain funds into  
 64 | certain trust funds; excluding certain persons from  
 65 | eligibility to collect rewards; providing that a payment  
 66 | of an award does not affect the admissibility of testimony  
 67 | in court; amending s. 905.34, F.S.; expanding subject  
 68 | matter jurisdiction of the statewide grand jury to include  
 69 | certain additional offenses; providing an effective date.

70 |

71 | Be It Enacted by the Legislature of the State of Florida:

72 |

73 | Section 1. Paragraphs (a) and (b) of subsection (1) of  
 74 | section 16.56, Florida Statutes, are amended to read:

75 | 16.56 Office of Statewide Prosecution.--

76 | (1) There is created in the Department of Legal Affairs an  
 77 | Office of Statewide Prosecution. The office shall be a separate  
 78 | "budget entity" as that term is defined in chapter 216. The  
 79 | office may:

80 | (a) Investigate and prosecute the offenses of:

81 | 1. Bribery, burglary, criminal usury, extortion, gambling,  
 82 | kidnapping, larceny, murder, prostitution, perjury, robbery,  
 83 | carjacking, and home-invasion robbery;

84 | 2. Any crime involving narcotic or other dangerous drugs;

ENROLLED  
CS/CS/HB 483

2009 Legislature

85           3. Any violation of the provisions of the Florida RICO  
86 (Racketeer Influenced and Corrupt Organization) Act, including  
87 any offense listed in the definition of racketeering activity in  
88 s. 895.02(1)(a), providing such listed offense is investigated  
89 in connection with a violation of s. 895.03 and is charged in a  
90 separate count of an information or indictment containing a  
91 count charging a violation of s. 895.03, the prosecution of  
92 which listed offense may continue independently if the  
93 prosecution of the violation of s. 895.03 is terminated for any  
94 reason;

95           4. Any violation of the provisions of the Florida Anti-  
96 Fencing Act;

97           5. Any violation of the provisions of the Florida  
98 Antitrust Act of 1980, as amended;

99           6. Any crime involving, or resulting in, fraud or deceit  
100 upon any person;

101           7. Any violation of s. 847.0135, relating to computer  
102 pornography and child exploitation prevention, or any offense  
103 related to a violation of s. 847.0135 or any violation of  
104 chapter 827 where the crime is facilitated by or connected to  
105 the use of the Internet or any device capable of electronic data  
106 storage or transmission;

107           8. Any violation of the provisions of chapter 815;

108           9. Any criminal violation of part I of chapter 499;

109           10. Any violation of the provisions of the Florida Motor  
110 Fuel Tax Relief Act of 2004;

111           11. Any criminal violation of s. 409.920 or s. 409.9201;

112           ☞

ENROLLED  
CS/CS/HB 483

2009 Legislature

113 12. Any crime involving voter registration, voting, or  
114 candidate or issue petition activities;

115 13. Any criminal violation of the Florida Money Laundering  
116 Act; or

117 14. Any criminal violation of the Florida Securities and  
118 Investor Protection Act;

119  
120 or any attempt, solicitation, or conspiracy to commit any of the  
121 crimes specifically enumerated above. The office shall have such  
122 power only when any such offense is occurring, or has occurred,  
123 in two or more judicial circuits as part of a related  
124 transaction, or when any such offense is connected with an  
125 organized criminal conspiracy affecting two or more judicial  
126 circuits. Informations or indictments charging such offenses  
127 shall contain general allegations stating the judicial circuits  
128 and counties in which crimes are alleged to have occurred or the  
129 judicial circuits and counties in which crimes affecting such  
130 circuits or counties are alleged to have been connected with an  
131 organized criminal conspiracy.

132 (b) Investigate and prosecute any crime enumerated in  
133 subparagraphs (a)1.-14. ~~(a)1.-12.~~ facilitated by or connected to  
134 the use of the Internet. Any such crime is a crime occurring in  
135 every judicial circuit within the state.

136 Section 2. Subsection (4), paragraph (a) of subsection  
137 (13), and subsection (23) of section 517.021, Florida Statutes,  
138 are amended to read:

ENROLLED  
CS/CS/HB 483

2009 Legislature

139 517.021 Definitions.--When used in this chapter, unless  
140 the context otherwise indicates, the following terms have the  
141 following respective meanings:

142 (4) "Branch office" means any location in this state of a  
143 dealer or investment adviser at which one or more associated  
144 persons regularly conduct the business of rendering investment  
145 advice or effecting any transactions in, or inducing or  
146 attempting to induce the purchase or sale of, any security or  
147 any location that is held out as such. The commission may adopt  
148 by rule exceptions to this definition for dealers in order to  
149 maintain consistency with the definition of a branch office used  
150 by self-regulatory organizations authorized by the Securities  
151 and Exchange Commission, including, but not limited to, the  
152 Financial Industry Regulatory Authority ~~National Association of~~  
153 ~~Securities Dealers or the New York Stock Exchange~~. The  
154 commission may adopt by rule exceptions to this definition for  
155 investment advisers.

156 (13) (a) "Investment adviser" includes any person who  
157 receives for compensation, directly or indirectly, and engages  
158 for all or part of her or his time, directly or indirectly, or  
159 through publications or writings, in the business of advising  
160 others as to the value of securities or as to the advisability  
161 of investments in, purchasing of, or selling of securities,  
162 except a dealer whose performance of these services is solely  
163 incidental to the conduct of her or his business as a dealer and  
164 who receives no special compensation for such services.

165 (23) "Viatical settlement investment" means an agreement  
166 for the purchase, sale, assignment, transfer, devise, or bequest

ENROLLED  
CS/CS/HB 483

2009 Legislature

167 of all or any portion of a legal or equitable interest in a  
168 viaticated policy as defined in chapter 626. ~~The term does not~~  
169 ~~include:~~

170 ~~(a) The transfer or assignment of an interest in a~~  
171 ~~previously viaticated policy from a natural person who transfers~~  
172 ~~or assigns no more than one such interest in 1 calendar year.~~

173 ~~(b) The provision of stop-loss coverage to a viatical~~  
174 ~~settlement provider, financing entity, or related provider~~  
175 ~~trust, as those terms are defined in s. 626.9911, by an~~  
176 ~~authorized or eligible insurer.~~

177 ~~(c) The transfer or assignment of a viaticated policy from~~  
178 ~~a licensed viatical settlement provider to another licensed~~  
179 ~~viatical settlement provider, a related provider trust, a~~  
180 ~~financing entity, or a special purpose entity, as those terms~~  
181 ~~are defined in s. 626.9911, or to a contingency insurer provided~~  
182 ~~that such transfer or assignment is not the direct or indirect~~  
183 ~~promotion of any scheme or enterprise with the intent of~~  
184 ~~violating or evading any provision of this chapter.~~

185 ~~(d) The transfer or assignment of a viaticated policy to a~~  
186 ~~bank, trust company, savings institution, insurance company,~~  
187 ~~dealer, investment company as defined in the Investment Company~~  
188 ~~Act of 1940, pension or profit-sharing trust, or qualified~~  
189 ~~institutional buyer as defined in United States Securities and~~  
190 ~~Exchange Commission Rule 144A, 17 C.F.R. s. 230.144A(a), or to~~  
191 ~~an accredited investor as defined by Rule 501 of Regulation D of~~  
192 ~~the Securities Act Rules, provided such transfer or assignment~~  
193 ~~is not for the direct or indirect promotion of any scheme or~~

ENROLLED  
CS/CS/HB 483

2009 Legislature

194 ~~enterprise with the intent of violating or evading any provision~~  
195 ~~of this chapter.~~

196 ~~(c) The transfer or assignment of a viaticated policy by a~~  
197 ~~conservator of a viatical settlement provider appointed by a~~  
198 ~~court of competent jurisdiction who transfers or assigns~~  
199 ~~ownership of viaticated policies pursuant to that court's order.~~

200 Section 3. Section 517.072, Florida Statutes, is amended  
201 to read:

202 517.072 Viatical settlement investments.--

203 (1) The exemptions provided for by ss. 517.051(6), (8),  
204 and (10) do not apply to a viatical settlement investment.

205 (2) The offering of a viatical settlement investment is  
206 not an exempt transaction under s. 517.061(2), (3), (8), (11),  
207 and (18), regardless of whether the offering otherwise complies  
208 with the conditions of that section, unless such offering is to  
209 a qualified institutional buyer.

210 (3) The registration provisions of ss. 517.07 and 517.12  
211 do not apply to any of the following transactions in viatical  
212 settlement investments; however, such transactions in viatical  
213 settlement investments are subject to the provisions of ss.  
214 517.301, 517.311, and 517.312:

215 (a) The transfer or assignment of an interest in a  
216 previously viaticated policy from a natural person who transfers  
217 or assigns no more than one such interest in a single calendar  
218 year.

219 (b) The provision of stop-loss coverage to a viatical  
220 settlement provider, financing entity, or related provider



ENROLLED  
CS/CS/HB 483

2009 Legislature

221 trust, as those terms are defined in s. 626.9911, by an  
222 authorized or eligible insurer.

223 (c) The transfer or assignment of a viaticated policy from  
224 a licensed viatical settlement provider to another licensed  
225 viatical settlement provider, a related provider trust, a  
226 financing entity, or a special purpose entity, as those terms  
227 are defined in s. 626.9911, or to a contingency insurer,  
228 provided such transfer or assignment is not the direct or  
229 indirect promotion of any scheme or enterprise with the intent  
230 of violating or evading any provision of this chapter.

231 (d) The transfer or assignment of a viaticated policy to a  
232 bank, trust company, savings institution, insurance company,  
233 dealer, investment company as defined in the Investment Company  
234 Act of 1940, pension or profit-sharing trust, or qualified  
235 institutional buyer as defined in United States Securities and  
236 Exchange Commission Rule 144A, 17 C.F.R. s. 230.144A(a), or to  
237 an accredited investor as defined by Rule 501 of Regulation D of  
238 the Securities Act Rules, provided such transfer or assignment  
239 is not for the direct or indirect promotion of any scheme or  
240 enterprise with the intent of violating or evading any provision  
241 of this chapter.

242 (e) The transfer or assignment of a viaticated policy by a  
243 conservator of a viatical settlement provider appointed by a  
244 court of competent jurisdiction who transfers or assigns  
245 ownership of viaticated policies pursuant to that court's order.

246 Section 4. Subsections (7), (8), and (11) and paragraph  
247 (b) of subsection (15) of section 517.12, Florida Statutes, are  
248 amended to read:

ENROLLED  
CS/CS/HB 483

2009 Legislature

249           517.12 Registration of dealers, associated persons,  
250 investment advisers, and branch offices.--

251           (7) The application shall also contain such information as  
252 the commission or office may require about the applicant; any  
253 member, principal partner, officer, or director of the applicant  
254 or any person having a similar status or performing similar  
255 functions; any person directly or indirectly controlling the  
256 applicant; or any employee of a dealer or of an investment  
257 adviser rendering investment advisory services. Each applicant  
258 and any direct owners, principals, or indirect owners that are  
259 required to be reported on Form BD or Form ADV pursuant to  
260 subsection (15) shall file a complete set of fingerprints. A  
261 fingerprint card submitted to the office must be taken by an  
262 authorized law enforcement agency or in a manner approved by the  
263 commission by rule. The office shall submit the fingerprints to  
264 the Department of Law Enforcement for state processing, and the  
265 Department of Law Enforcement shall forward the fingerprints to  
266 the Federal Bureau of Investigation for federal processing. The  
267 cost of the fingerprint processing may be borne by the office,  
268 the employer, or the person subject to the background check. The  
269 Department of Law Enforcement shall submit an invoice to the  
270 office for the fingerprints received each month. The office  
271 shall screen the background results to determine if the  
272 applicant meets licensure requirements. The commission may  
273 waive, by rule, the requirement that applicants, including any  
274 direct owners, principals, or indirect owners that are required  
275 to be reported on Form BD or Form ADV pursuant to subsection  
276 (15), ~~must~~ file a set of fingerprints or the requirement that

ENROLLED  
CS/CS/HB 483

2009 Legislature

277 such fingerprints ~~must~~ be processed by the Department of Law  
278 Enforcement or the Federal Bureau of Investigation. The  
279 commission or office may require information about any such  
280 applicant or person concerning such matters as:

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

285 (b) Any injunction or administrative order by a state or  
286 federal agency, national securities exchange, or national  
287 securities association involving a security or any aspect of the  
288 securities business and any injunction or administrative order  
289 by a state or federal agency regulating banking, insurance,  
290 finance, or small loan companies, real estate, mortgage brokers,  
291 or other related or similar industries, which injunctions or  
292 administrative orders relate to such person.

293 (c) His or her conviction of, or plea of nolo contendere  
294 to, a criminal offense or his or her commission of any acts  
295 which would be grounds for refusal of an application under s.  
296 517.161.

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

300 (8) The commission or office may require the applicant or  
301 one or more principals or general partners, or natural persons  
302 exercising similar functions, or any associated person applicant  
303 to successfully pass oral or written examinations. Because any  
304 principal, manager, supervisor, or person exercising similar

ENROLLED  
CS/CS/HB 483

2009 Legislature

305 functions shall be responsible for the acts of the associated  
 306 persons affiliated with a dealer ~~or investment adviser~~, the  
 307 examination standards may be higher for a dealer, office  
 308 manager, principal, or person exercising similar functions than  
 309 for a nonsupervisory associated person. The commission may waive  
 310 the examination process when it determines that such  
 311 examinations are not in the public interest. The office shall  
 312 waive the examination requirements for any person who has passed  
 313 any tests as prescribed in s. 15(b)(7) of the Securities  
 314 Exchange Act of 1934 that relates to the position to be filled  
 315 by the applicant.

316 (11) If the office finds that the applicant is of good  
 317 repute and character and has complied with the provisions of  
 318 this chapter and the rules made pursuant hereto, it shall  
 319 register the applicant. The registration of each dealer,  
 320 investment adviser, branch office, and associated person expires  
 321 on December 31 of the year the registration became effective  
 322 unless the registrant has renewed his or her registration on or  
 323 before that date. The commission may establish by rule  
 324 procedures for renewing the registration of a branch office  
 325 through the Central Registration Depository. Registration may be  
 326 renewed by furnishing such information as the commission may  
 327 require, together with payment of the fee required in subsection  
 328 (10) for dealers, investment advisers, associated persons, or  
 329 branch offices and the payment of any amount lawfully due and  
 330 owing to the office pursuant to any order of the office or  
 331 pursuant to any agreement with the office. Any dealer,  
 332 investment adviser, ~~or~~ associated person, or branch office

ENROLLED  
CS/CS/HB 483

2009 Legislature

333 | registrant who has not renewed a registration by the time the  
334 | current registration expires may request reinstatement of such  
335 | registration by filing with the office, on or before January 31  
336 | of the year following the year of expiration, such information  
337 | as may be required by the commission, together with payment of  
338 | the fee required in subsection (10) for dealers, investment  
339 | advisers, ~~or~~ associated persons, or branch office and a late fee  
340 | equal to the amount of such fee. Any reinstatement of  
341 | registration granted by the office during the month of January  
342 | shall be deemed effective retroactive to January 1 of that year.

343 | (15)

344 | (b) In lieu of filing with the office the applications  
345 | specified in subsection (6), the fees required by subsection  
346 | (10), the renewals required by subsection (11), and the  
347 | termination notices required by subsection (12), the commission  
348 | may by rule establish procedures for the deposit of such fees  
349 | and documents with the Central Registration Depository or the  
350 | Investment Adviser Registration Depository of the Financial  
351 | Industry Regulatory Authority ~~National Association of Securities~~  
352 | ~~Dealers, Inc.~~, as developed under contract with the North  
353 | American Securities Administrators Association, Inc.

354 | Section 5. Subsection (3) is added to section 517.121,  
355 | Florida Statutes, to read:

356 | 517.121 Books and records requirements; examinations.--

357 | (3) Registration under s. 517.12 may be summarily  
358 | suspended by the office pursuant to s. 120.60(6) if the  
359 | registrant fails to promptly provide to the office, after a  
360 | written request, any of the records required by this section and

ENROLLED  
CS/CS/HB 483

2009 Legislature

361 the rules adopted under this section. The suspension may be  
 362 rescinded if the registrant submits the requested records to the  
 363 office. For purposes of s. 120.60(6), failure to provide  
 364 substantially all of such records constitutes immediate and  
 365 serious danger to the public health, safety, and welfare.

366 Section 6. Subsection (2) of section 517.1215, Florida  
 367 Statutes, is amended to read:

368 517.1215 Requirements, rules of conduct, and prohibited  
 369 business practices for investment advisors and their associated  
 370 persons.--

371 (2) The commission shall by rule establish rules of  
 372 conduct and prohibited business practices for investment  
 373 advisers and their associated persons. In adopting the rules,  
 374 the commission shall consider general industry standards as  
 375 expressed in the rules and regulations of the various federal  
 376 and self-regulatory agencies and regulatory associations,  
 377 including, but not limited to, the United States Securities and  
 378 Exchange Commission, the Financial Industry Regulatory Authority  
 379 ~~National Association of Securities Dealers~~, and the North  
 380 American Securities Administrators Association.

381 Section 7. Section 517.1217, Florida Statutes, is amended  
 382 to read:

383 517.1217 Rules of conduct and prohibited business  
 384 practices for dealers and their associated persons.--The  
 385 commission by rule may establish rules of conduct and prohibited  
 386 business practices for dealers and their associated persons. In  
 387 adopting the rules, the commission shall consider general  
 388 industry standards as expressed in the rules and regulations of

ENROLLED  
CS/CS/HB 483

2009 Legislature

389 the various federal and self-regulatory agencies and regulatory  
390 associations, including, but not limited to, the United States  
391 Securities and Exchange Commission, the Financial Industry  
392 Regulatory Authority ~~National Association of Securities Dealers,~~  
393 and the North American Securities Administrators Association.

394 Section 8. Subsection (1) of section 517.141, Florida  
395 Statutes, is amended to read:

396 517.141 Payment from the fund.--

397 (1) Any person who meets all of the conditions prescribed  
398 in s. 517.131 may apply to the office for payment to be made to  
399 such person from the Securities Guaranty Fund in the amount  
400 equal to the unsatisfied portion of such person's judgment or  
401 \$10,000, whichever is less, but only to the extent and amount  
402 reflected in the judgment as being actual or compensatory  
403 damages, excluding postjudgment interest, costs, and attorney's  
404 fees.

405 Section 9. Subsections (1) and (6) of section 517.161,  
406 Florida Statutes, are amended to read:

407 517.161 Revocation, denial, or suspension of registration  
408 of dealer, investment adviser, associated person, or branch  
409 office.--

410 (1) Registration under s. 517.12 may be denied or any  
411 registration granted may be revoked, restricted, or suspended by  
412 the office if the office determines that such applicant or  
413 registrant; any member, principal, or director of the applicant  
414 or registrant or any person having a similar status or  
415 performing similar functions; or any person directly or  
416 indirectly controlling the applicant or registrant:

ENROLLED  
CS/CS/HB 483

2009 Legislature

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

419 (b) Has made a material false statement in the application  
420 for registration;

421 (c) Has been guilty of a fraudulent act in connection with  
422 rendering investment advice or in connection with any sale of  
423 securities, has been or is engaged or is about to engage in  
424 making fictitious or pretended sales or purchases of any such  
425 securities or in any practice involving the rendering of  
426 investment advice or the sale of securities which is fraudulent  
427 or in violation of the law;

428 (d) Has made a misrepresentation or false statement to, or  
429 concealed any essential or material fact from, any person in the  
430 rendering of investment advice or the sale of a security to such  
431 person;

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

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

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

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

443 (i) Has exercised management or policy control over or  
444 owned 10 percent or more of the securities of any dealer or



ENROLLED  
CS/CS/HB 483

2009 Legislature

445 investment adviser that has been declared bankrupt, or had a  
446 trustee appointed under the Securities Investor Protection Act;  
447 or is, in the case of a dealer or investment adviser, insolvent;

448 (j) Has been convicted of, or has entered a plea of guilty  
449 or nolo contendere to, regardless of whether adjudication was  
450 withheld, a crime against the laws of this state or any other  
451 state or of the United States or of any other country or  
452 government which relates to registration as a dealer, investment  
453 adviser, issuer of securities, associated person, or branch  
454 office; which relates to the application for such registration;  
455 or which involves moral turpitude or fraudulent or dishonest  
456 dealing;

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

460 (l) Is of bad business repute;

461 (m) Has been the subject of any decision, finding,  
462 injunction, suspension, prohibition, revocation, denial,  
463 judgment, or administrative order by any court of competent  
464 jurisdiction, administrative law judge, or by any state or  
465 federal agency, national securities, commodities, or option  
466 exchange, or national securities, commodities, or option  
467 association, involving a violation of any federal or state  
468 securities or commodities law or any rule or regulation  
469 promulgated thereunder, or any rule or regulation of any  
470 national securities, commodities, or options exchange or  
471 national securities, commodities, or options association, or has  
472 been the subject of any injunction or adverse administrative

ENROLLED  
CS/CS/HB 483

2009 Legislature

473 | order by a state or federal agency regulating banking,  
 474 | insurance, finance or small loan companies, real estate,  
 475 | mortgage brokers or lenders, money transmitters, or other  
 476 | related or similar industries. For purposes of this subsection,  
 477 | the office may not deny registration to any applicant who has  
 478 | been continuously registered with the office for 5 years after  
 479 | ~~from~~ the date of entry of such decision, finding, injunction,  
 480 | suspension, prohibition, revocation, denial, judgment, or  
 481 | administrative order provided such decision, finding,  
 482 | injunction, suspension, prohibition, revocation, denial,  
 483 | judgment, or administrative order has been timely reported to  
 484 | the office pursuant to the commission's rules; or

485 |       (n) Made payment to the office for a registration or  
 486 | notice filing with a check or electronic transmission of funds  
 487 | that is dishonored by the applicant's, registrant's, or notice  
 488 | filer's financial institution.

489 |       (6) Registration under s. 517.12 may be denied or any  
 490 | registration granted may be suspended or restricted if an  
 491 | applicant or registrant is charged, in a pending enforcement  
 492 | action or pending criminal prosecution, with any conduct that  
 493 | would authorize denial or revocation under subsection (1).  
 494 | Registration under s. 517.12 may be suspended or restricted if a  
 495 | registrant is arrested for any conduct that would authorize  
 496 | revocation under subsection (1).

497 |       (a) Any denial of registration ordered under this  
 498 | subsection shall be without prejudice to the applicant's ability  
 499 | to reapply for registration.

ENROLLED  
CS/CS/HB 483

2009 Legislature

500 (b) Any order of suspension or restriction under this  
501 subsection shall:

502 1. Take effect only after a hearing, unless no hearing is  
503 requested by the registrant or unless the suspension or  
504 restriction is made in accordance with s. 120.60(6).

505 2. Contain a finding that evidence of a prima facie case  
506 supports the charge made in the enforcement action or criminal  
507 prosecution.

508 3. Operate for no longer than 10 days beyond receipt of  
509 notice by the office of termination with respect to the  
510 registrant of the enforcement action or criminal prosecution.

511 (c) For purposes of this subsection:

512 1. The term "enforcement action" means any judicial  
513 proceeding or any administrative proceeding where such judicial  
514 or administrative proceeding is brought by an agency of the  
515 United States or of any state to enforce or restrain violation  
516 of any state or federal law, or any disciplinary proceeding  
517 maintained by the Financial Industry Regulatory Authority  
518 ~~National Association of Securities Dealers~~, the National Futures  
519 Association, ~~the New York Stock Exchange~~, or any other similar  
520 self-regulatory organization.

521 2. An enforcement action is pending at any time after  
522 notice to the applicant or registrant of such action and is  
523 terminated at any time after entry of final judgment or decree  
524 in the case of judicial proceedings, final agency action in the  
525 case of administrative proceedings, and final disposition by a  
526 self-regulatory organization in the case of disciplinary  
527 proceedings.

ENROLLED  
CS/CS/HB 483

2009 Legislature

528 3. A criminal prosecution is pending at any time after  
529 criminal charges are filed and is terminated at any time after  
530 conviction, acquittal, or dismissal.

531 Section 10. Section 517.1611, Florida Statutes, is created  
532 to read:

533 517.1611 Guidelines.--

534 (1) The commission shall adopt by rule disciplinary  
535 guidelines applicable to each ground for disciplinary action  
536 that may be imposed by the office.

537 (a) The disciplinary guidelines shall specify a range of  
538 penalties based upon the severity and repetition of specific  
539 offenses. The disciplinary guidelines shall distinguish minor  
540 violations from violations that endanger the public health,  
541 safety, or welfare; provide reasonable notice to the public of  
542 penalties that may be imposed for proscribed conduct; and ensure  
543 that penalties are imposed in a consistent manner by the office.

544 (b) The commission shall identify mitigating and  
545 aggravating circumstances by rule that allow the office to  
546 impose a penalty other than that specified in the guidelines.

547 (2) The commission shall adopt by rule disqualifying  
548 periods pursuant to which an applicant will be disqualified from  
549 eligibility for registration based upon criminal convictions,  
550 pleas of nolo contendere, or pleas of guilt, regardless of  
551 whether adjudication was withheld, by the applicant; any  
552 partner, member, officer, or director of the applicant or any  
553 person having a similar status or performing similar functions;  
554 or any person directly or indirectly controlling the applicant.

555 (a) The disqualifying periods shall be 15 years for a

ENROLLED  
CS/CS/HB 483

2009 Legislature

556 felony and 5 years for a misdemeanor.

557 (b) The disqualifying periods shall be related to crimes  
558 involving registration as a dealer, investment adviser, issuer  
559 of securities, associated person, or branch office or the  
560 application for such registration or involving moral turpitude  
561 or fraudulent or dishonest dealing.

562 (c) The rules may also address mitigating factors, an  
563 additional waiting period based upon dates of imprisonment or  
564 community supervision, an additional waiting period based upon  
565 commitment of multiple crimes, and other factors reasonably  
566 related to the consideration of an applicant's criminal history.

567 (d) An applicant is not eligible for registration until  
568 the expiration of the disqualifying period set by rule. Section  
569 112.011 does not apply to the registration provisions under this  
570 chapter. Nothing in this section changes or amends the grounds  
571 for denial under s. 517.161.

572 Section 11. Subsection (3) of section 517.191, Florida  
573 Statutes, is amended, and subsections (4), (5), (6), and (7) are  
574 added to that section, to read:

575 517.191 Injunction to restrain violations; civil  
576 penalties; enforcement by Attorney General.--

577 (3) In addition to, or in lieu of, any other remedies  
578 provided by this chapter, the office may apply to the court  
579 hearing this matter for an order directing the defendant of  
580 ~~restitution whereby the defendants in such action shall be~~  
581 ~~ordered~~ to make restitution of those sums shown by the office to  
582 have been obtained ~~by them~~ in violation of any of the provisions  
583 of this chapter. The office has standing to request such

ENROLLED  
CS/CS/HB 483

2009 Legislature

584 restitution on behalf of victims in cases brought by the office  
585 under this chapter, regardless of the appointment of an  
586 administrator or receiver under subsection (2) or an injunction  
587 under subsection (1). Further, such restitution shall, at the  
588 option of the court, be payable to the administrator or receiver  
589 appointed pursuant to this section or directly to the persons  
590 whose assets were obtained in violation of this chapter.

591 (4) In addition to any other remedies provided by this  
592 chapter, the office may apply to the court hearing the matter  
593 for, and the court shall have jurisdiction to impose, a civil  
594 penalty against any person found to have violated any provision  
595 of this chapter, any rule or order adopted by the commission or  
596 office, or any written agreement entered into with the office in  
597 an amount not to exceed \$10,000 for a natural person or \$25,000  
598 for any other person, or the gross amount of any pecuniary gain  
599 to such defendant for each such violation other than a violation  
600 of s. 517.301 plus \$50,000 for a natural person or \$250,000 for  
601 any other person, or the gross amount of any pecuniary gain to  
602 such defendant for each violation of s. 517.301. All civil  
603 penalties collected pursuant to this subsection shall be  
604 deposited into the Anti-Fraud Trust Fund.

605 (5) In addition to all other means provided by law for  
606 enforcing any of the provisions of this chapter, when the  
607 Attorney General, upon complaint or otherwise, has reason to  
608 believe that a person has engaged or is engaged in any act or  
609 practice constituting a violation of s. 517.275, s. 517.301, s.  
610 517.311, or s. 517.312, or any rule or order issued under such  
611 sections, the Attorney General may investigate and bring an

ENROLLED  
CS/CS/HB 483

2009 Legislature

612 action to enforce these provisions as provided in ss. 517.201,  
 613 517.2015, and 517.171 after receiving written approval from the  
 614 office. Such an action may be brought against such person and  
 615 any other person in any way participating in such act or  
 616 practice or engaging in such act or practice or doing any act in  
 617 furtherance of such act or practice, to obtain injunctive  
 618 relief, restitution, civil penalties, and any remedies provided  
 619 for in this section. The Attorney General may recover any costs  
 620 and attorney fees related to the Attorney General's  
 621 investigation or enforcement of this section. Notwithstanding  
 622 any other provision of law, moneys recovered by the Attorney  
 623 General for costs, attorney fees, and civil penalties for a  
 624 violation of s. 517.275, s. 517.301, s. 517.311, or s. 517.312,  
 625 or any rule or order issued pursuant such sections, shall be  
 626 deposited in the Legal Affairs Revolving Trust Fund. The Legal  
 627 Affairs Revolving Trust Fund may be used to investigate and  
 628 enforce this section.

629 (6) This section does not limit the authority of the  
 630 office to bring an administrative action against any person that  
 631 is the subject of a civil action brought pursuant to this  
 632 section or limit the authority of the office to engage in  
 633 investigations or enforcement actions with the Attorney General.  
 634 However, a person may not be subject to both a civil penalty  
 635 under subsection (4) and an administrative fine under s.  
 636 517.221(3) as the result of the same facts.

637 (7) Notwithstanding s. 95.11(4)(e), an enforcement action  
 638 brought under this section based on a violation of any provision  
 639 of this chapter or any rule or order issued under this chapter

ENROLLED  
CS/CS/HB 483

2009 Legislature

640 shall be brought within 6 years after the facts giving rise to  
641 the cause of action were discovered or should have been  
642 discovered with the exercise of due diligence, but not more than  
643 8 years after the date such violation occurred.

644 Section 12. Subsection (3) of section 517.221, Florida  
645 Statutes, is amended, and subsection (4) is added to that  
646 section, to read:

647 517.221 Cease and desist orders.--

648 (3) The office may impose and collect an administrative  
649 fine against any person found to have violated any provision of  
650 this chapter, any rule or order promulgated by the commission or  
651 office, or any written agreement entered into with the office in  
652 an amount not to exceed \$10,000 ~~\$5,000~~ for each such violation.  
653 All fines collected hereunder shall be deposited as received in  
654 the Anti-Fraud Trust Fund.

655 (4) The office may bar, permanently or for a specific time  
656 period, any person found to have violated any provision of this  
657 chapter, any rule or order adopted by the commission or office,  
658 or any written agreement entered into with the office from  
659 submitting an application or notification for a license or  
660 registration with the office.

661 Section 13. Section 517.275, Florida Statutes, is amended  
662 to read:

663 517.275 Commodities; prohibited practices.--It is unlawful  
664 and a violation of this chapter for any person to engage in any  
665 act or practice in or from this state, which act or practice  
666 constitutes a violation of any provision of the Commodity  
667 Exchange Act, 7 U.S.C. ss. 1 et seq., as amended, or the rules



ENROLLED  
CS/CS/HB 483

2009 Legislature

668 and regulations of the Commodity Futures Trading Commission  
669 adopted under that act as amended ~~upon the effective date of~~  
670 ~~this act.~~

671 Section 14. Section 896.108, Florida Statutes, is created  
672 to read:

673 896.108 Rewards for private entities combating  
674 international money laundering.--

675 (1) In conducting any investigation of a violation of this  
676 chapter, the Department of Law Enforcement may enter into  
677 agreements and pay a reward to any individual or entity who  
678 provides original information that leads to a recovery of a  
679 criminal fine, civil penalty, or forfeiture based in whole or in  
680 part upon a violation of federal law or the laws of this state.

681 (2) The executive director of the Department of Law  
682 Enforcement shall determine the amount of a reward under this  
683 section. The executive director, with written approval of the  
684 Office of the Attorney General, may exceed the limits of rewards  
685 provided in s. 896.107, when the criminal fine, civil penalty,  
686 or forfeiture amount received by the state warrants an upward  
687 departure from such limits. Notwithstanding any other provision  
688 of law, rewards paid under this section shall be paid only from  
689 seized assets awarded by the court. Funds seized by the  
690 Department of Law Enforcement pursuant to this chapter shall be  
691 placed in the department's Forfeiture and Investigative Support  
692 Trust Fund established by s. 943.362, or for funds secured  
693 through the federal forfeiture actions in the Federal Law  
694 Enforcement Trust Fund established by s. 943.365, excluding any  
695 rewards paid as provided in this section.

ENROLLED  
CS/CS/HB 483

2009 Legislature

696           (3) An officer or employee of the Federal Government, a  
697 state or local government, or a foreign government who in the  
698 performance of official duties provides information described in  
699 subsection (1) is not eligible for a reward under this section.

700           (4) Payment of a reward does not affect the admissibility  
701 of testimony in any court proceeding.

702           Section 15. Subsection (9) of section 905.34, Florida  
703 Statutes, is amended, and subsections (11) and (12) are added to  
704 that section, to read:

705           905.34 Powers and duties; law applicable.--The  
706 jurisdiction of a statewide grand jury impaneled under this  
707 chapter shall extend throughout the state. The subject matter  
708 jurisdiction of the statewide grand jury shall be limited to the  
709 offenses of:

710           (9) Any criminal violation of part I of chapter 499; ~~or~~

711           (11) Any criminal violation of the Florida Money  
712 Laundering Act; or

713           (12) Any criminal violation of the Florida Securities and  
714 Investor Protection Act;

715  
716 or any attempt, solicitation, or conspiracy to commit any  
717 violation of the crimes specifically enumerated above, when any  
718 such offense is occurring, or has occurred, in two or more  
719 judicial circuits as part of a related transaction or when any  
720 such offense is connected with an organized criminal conspiracy  
721 affecting two or more judicial circuits. The statewide grand  
722 jury may return indictments and presentments irrespective of the  
723 county or judicial circuit where the offense is committed or

ENROLLED  
CS/CS/HB 483

2009 Legislature

724 triable. If an indictment is returned, it shall be certified and  
725 transferred for trial to the county where the offense was  
726 committed. The powers and duties of, and law applicable to,  
727 county grand juries shall apply to a statewide grand jury except  
728 when such powers, duties, and law are inconsistent with the  
729 provisions of ss. 905.31-905.40.

730 Section 16. This act shall take effect July 1, 2009.