

By Senator Richter

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1                   A bill to be entitled  
2           An act relating to licensure by the Office of  
3           Financial Regulation; amending s. 494.00321, F.S.;  
4           authorizing, rather than requiring, the office to deny  
5           a mortgage broker license application if the applicant  
6           had a mortgage broker license revoked previously;  
7           amending s. 494.00611, F.S.; authorizing, rather than  
8           requiring, the office to deny a mortgage lender  
9           license application if the applicant had a mortgage  
10          lender license revoked previously; amending s. 517.12,  
11          F.S.; revising the procedures and requirements for  
12          submitting fingerprints as part of an application to  
13          sell, or offer to sell, securities; removing  
14          conflicting language; amending s. 560.141, F.S.;  
15          revising the procedures and requirements for  
16          submitting fingerprints to apply for a license as a  
17          money services business; requiring the Office of  
18          Financial Regulation to pay an annual fee to the  
19          Department of Law Enforcement; removing conflicting  
20          language; repealing s. 560.143(1)(f), F.S., relating  
21          to fingerprint fees when applying for a license as a  
22          money services business; providing effective dates.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26           Section 1. Effective upon this act becoming a law,  
27           subsection (5) of section 494.00321, Florida Statutes, is  
28           amended to read:

29           494.00321 Mortgage broker license.—

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30 (5) The office may ~~shall~~ deny a license if the applicant  
31 has had a mortgage broker license, or its equivalent, revoked in  
32 any jurisdiction, and shall deny a license ~~or~~ if any of the  
33 applicant's control persons has had a loan originator license,  
34 or its equivalent, revoked in any jurisdiction.

35 Section 2. Effective upon this act becoming a law,  
36 subsection (5) of section 494.00611, Florida Statutes, is  
37 amended to read:

38 494.00611 Mortgage lender license.—

39 (5) The office may deny ~~not issue~~ a license if the  
40 applicant has had a mortgage lender license or its equivalent  
41 revoked in any jurisdiction, and shall deny a license if ~~or~~ any  
42 of the applicant's control persons has ~~ever~~ had a loan  
43 originator license or its equivalent revoked in any  
44 jurisdiction.

45 Section 3. Subsection (7) of section 517.12, Florida  
46 Statutes, is amended to read:

47 517.12 Registration of dealers, associated persons,  
48 investment advisers, and branch offices.—

49 (7) The application must ~~shall~~ also contain such  
50 information as the commission or office may require about the  
51 applicant; any member, principal, or director of the applicant  
52 or any person having a similar status or performing similar  
53 functions; any person directly or indirectly controlling the  
54 applicant; or any employee of a dealer or of an investment  
55 adviser rendering investment advisory services. Each applicant  
56 and any direct owners, principals, or indirect owners that are  
57 required to be reported on Form BD or Form ADV pursuant to  
58 subsection (15) shall submit fingerprints for live-scan

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59 processing in accordance with rules adopted by the commission.  
60 The fingerprints may be submitted through a third-party vendor  
61 authorized by the Department of Law Enforcement to provide live-  
62 scan fingerprinting. The costs of fingerprint processing shall  
63 be borne by the person subject to the background check. The  
64 Department of Law Enforcement shall conduct a state criminal  
65 history background check, and a federal criminal history  
66 background check must be conducted through the Federal Bureau of  
67 Investigation. The office shall review the results of the state  
68 and federal criminal history background checks and determine  
69 whether the applicant meets licensure requirements ~~file a~~  
70 ~~complete set of fingerprints. A fingerprint card submitted to~~  
71 ~~the office must be taken by an authorized law enforcement agency~~  
72 ~~or in a manner approved by the commission by rule. The office~~  
73 ~~shall submit the fingerprints to the Department of Law~~  
74 ~~Enforcement for state processing, and the Department of Law~~  
75 ~~Enforcement shall forward the fingerprints to the Federal Bureau~~  
76 ~~of Investigation for federal processing. The cost of the~~  
77 ~~fingerprint processing may be borne by the office, the employer,~~  
78 ~~or the person subject to the background check. The Department of~~  
79 ~~Law Enforcement shall submit an invoice to the office for the~~  
80 ~~fingerprints received each month. The office shall screen the~~  
81 ~~background results to determine if the applicant meets licensure~~  
82 ~~requirements. The commission may waive, by rule, the requirement~~  
83 ~~that applicants, including any direct owners, principals, or~~  
84 ~~indirect owners that are required to be reported on Form BD or~~  
85 ~~Form ADV pursuant to subsection (15),~~ submit ~~file a set of~~  
86 ~~fingerprints or the requirement that such fingerprints be~~  
87 ~~processed by the Department of Law Enforcement or the Federal~~

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88 Bureau of Investigation. The commission or office may require  
89 information about any such applicant or person concerning such  
90 matters as:

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

95 (b) Any injunction or administrative order by a state or  
96 federal agency, national securities exchange, or national  
97 securities association involving a security or any aspect of the  
98 securities business and any injunction or administrative order  
99 by a state or federal agency regulating banking, insurance,  
100 finance, or small loan companies, real estate, mortgage brokers,  
101 or other related or similar industries, which injunctions or  
102 administrative orders relate to such person.

103 (c) His or her conviction of, or plea of nolo contendere  
104 to, a criminal offense or his or her commission of any acts  
105 which would be grounds for refusal of an application under s.  
106 517.161.

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

110 Section 4. Subsection (1) of section 560.141, Florida  
111 Statutes, is amended to read:

112 560.141 License application.—

113 (1) To apply for a license as a money services business  
114 under this chapter, the applicant must submit:

115 (a) ~~Submit~~ An application to the office on forms prescribed  
116 by rule which includes the following information:

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117 1. The legal name and address of the applicant, including  
118 any fictitious or trade names used by the applicant in the  
119 conduct of its business.

120 2. The date of the applicant's formation and the state in  
121 which the applicant was formed, if applicable.

122 3. The name, social security number, alien identification  
123 or taxpayer identification number, business and residence  
124 addresses, and employment history for the past 5 years for each  
125 officer, director, responsible person, the compliance officer,  
126 each controlling shareholder, and any other person who has a  
127 controlling interest in the money services business as provided  
128 in s. 560.127.

129 4. A description of the organizational structure of the  
130 applicant, including the identity of any parent or subsidiary of  
131 the applicant, and the disclosure of whether any parent or  
132 subsidiary is publicly traded.

133 5. The applicant's history of operations in other states if  
134 applicable and a description of the money services business or  
135 deferred presentment provider activities proposed to be  
136 conducted by the applicant in this state.

137 6. If the applicant or its parent is a publicly traded  
138 company, copies of all filings made by the applicant with the  
139 United States Securities and Exchange Commission, or with a  
140 similar regulator in a country other than the United States,  
141 within the preceding year.

142 7. The location at which the applicant proposes to  
143 establish its principal place of business and any other  
144 location, including branch offices and authorized vendors  
145 operating in this state. For each branch office and each

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146 location of an authorized vendor, the applicant shall include  
147 the nonrefundable fee required by s. 560.143.

148 8. The name and address of the clearing financial  
149 institution or financial institutions through which the  
150 applicant's payment instruments are drawn or through which the  
151 payment instruments are payable.

152 9. The history of the applicant's material litigation,  
153 criminal convictions, pleas of nolo contendere, and cases of  
154 adjudication withheld.

155 10. The history of material litigation, arrests, criminal  
156 convictions, pleas of nolo contendere, and cases of adjudication  
157 withheld for each executive officer, director, controlling  
158 shareholder, and responsible person.

159 11. The name of the registered agent in this state for  
160 service of process unless the applicant is a sole proprietor.

161 12. Any other information specified in this chapter or by  
162 rule.

163 (b) ~~In addition to the application form, submit:~~

164 ~~1-~~ A nonrefundable application fee as provided in s.  
165 560.143.

166 (c)2- Fingerprints for each person listed in subparagraph  
167 (a)3. for live-scan processing in accordance with rules adopted  
168 by the commission.

169 1. The fingerprints may be submitted through a third-party  
170 vendor authorized by the Department of Law Enforcement to  
171 provide live-scan fingerprinting.

172 2. The Department of Law Enforcement must conduct the state  
173 criminal history background check, and a federal criminal  
174 history background check must be conducted through the Federal

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175 Bureau of Investigation.

176 3. All fingerprints submitted to the Department of Law  
177 Enforcement must be submitted electronically and entered into  
178 the statewide automated fingerprint identification system  
179 established in s. 943.05(2)(b) and available for use in  
180 accordance with s. 943.05(2)(g) and (h). The office shall pay an  
181 annual fee to the Department of Law Enforcement to participate  
182 in the system and shall inform the Department of Law Enforcement  
183 of any person whose fingerprints no longer must be retained.

184 4. The costs of fingerprint processing, including the cost  
185 of retaining the fingerprints, shall be borne by the person  
186 subject to the background check.

187 5. The office shall review the results of the state and  
188 federal criminal history background checks and determine whether  
189 the applicant meets licensure requirements.

190 6. For purposes of this paragraph, fingerprints are not  
191 required to be submitted if ~~A fingerprint card for each of the~~  
192 persons listed in subparagraph (a)3. unless the applicant is a  
193 publicly traded corporation, or is exempted from this chapter  
194 under s. 560.104(1). ~~The fingerprints must be taken by an~~  
195 authorized law enforcement agency. ~~The office shall submit the~~  
196 fingerprints to the Department of Law Enforcement for state  
197 processing, and the Department of Law Enforcement shall forward  
198 the fingerprints to the Federal Bureau of Investigation for  
199 federal processing. ~~The cost of the fingerprint processing may~~  
200 be borne by the office, the employer, or the person subject to  
201 the criminal records background check. ~~The office shall screen~~  
202 the background results to determine if the applicant meets  
203 licensure requirements. As used in this section, The term

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204 "publicly traded" means a stock is currently traded on a  
205 national securities exchange registered with the federal  
206 Securities and Exchange Commission or traded on an exchange in a  
207 country other than the United States regulated by a regulator  
208 equivalent to the Securities and Exchange Commission and the  
209 disclosure and reporting requirements of such regulator are  
210 substantially similar to those of the commission.

211 ~~(d)3.~~ A copy of the applicant's written anti-money  
212 laundering program required under 31 C.F.R. s. 103.125.

213 ~~(e)4.~~ Within the time allotted by rule, any information  
214 needed to resolve any deficiencies found in the application.

215 Section 5. Paragraph (f) of subsection (1) of section  
216 560.143, Florida Statutes, is repealed.

217 Section 6. Except as otherwise expressly provided in this  
218 act and except for this section, which shall take effect upon  
219 this act becoming a law, this act shall take effect October 1,  
220 2013.