

By the Committee on Banking and Insurance; and 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; amending s. 560.143, F.S.; revising license
21 application fees to include fingerprint retention fees
22 as prescribed by rule; 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 7. Licensees initially approved before October 1, 2013,
 212 seeking renewal must submit fingerprints for each person listed
 213 in subparagraph (a)3. for live-scan processing pursuant to this
 214 paragraph. Such fingerprints must be submitted before the office
 215 may renew licenses set to expire between April 30, 2014, and
 216 December 31, 2015.

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

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

221 Section 5. Subsections (1) and (2) of section 560.143,
 222 Florida Statutes, are amended to read

223 560.143 Fees.—

224 (1) LICENSE APPLICATION FEES.—The applicable non-refundable
 225 fees must accompany an application for licensure:

226 (a) Part II.....\$375.

227 (b) Part III.....\$188.

228 (c) Per branch office.....\$38.

229 (d) For each location of an authorized
 230 vendor.....\$38.

231 (e) Declaration as a deferred presentment
 232 provider.....\$1,000.

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233 (f) Fingerprint retention fees as prescribed by rule.

234 (g) License application fees for branch offices and
235 authorized vendors are limited to \$20,000 when such fees are
236 assessed as a result of a change in controlling interest as
237 defined in s. 560.127.

238 (2) LICENSE RENEWAL FEES.—The applicable non-refundable
239 license renewal fees must accompany a renewal of licensure:

240 (a) Part II.....\$750.

241 (b) Part III.....\$375.

242 (c) Per branch office.....\$38.

243 (d) For each location of an authorized
244 vendor.....\$38.

245 (e) Declaration as a deferred presentment
246 provider.....\$1,000.

247 (f) Renewal fees for branch offices and authorized vendors
248 are limited to \$20,000 biennially.

249 (g) Fingerprint retention fees as prescribed by rule.

250 Section 6. Except as otherwise expressly provided in this
251 act and except for this section, which shall take effect upon
252 this act becoming a law, this act shall take effect October 1,
253 2013.