

ENROLLED
CS/CS/HB 665

2013 Legislature

1
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; requiring certain licensees to submit live-
21 scan fingerprints before the next renewal period;
22 amending s. 560.143, F.S.; conforming provisions to
23 changes made by the act; providing effective dates.

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

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

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29 amended to read:

30 494.00321 Mortgage broker license.—

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

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

39 494.00611 Mortgage lender license.—

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

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

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

50 (7) The application must ~~shall~~ also contain such
51 information as the commission or office may require about the
52 applicant; any member, principal, or director of the applicant
53 or any person having a similar status or performing similar
54 functions; any person directly or indirectly controlling the
55 applicant; or any employee of a dealer or of an investment
56 adviser rendering investment advisory services. Each applicant

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57 | and any direct owners, principals, or indirect owners that are
58 | required to be reported on Form BD or Form ADV pursuant to
59 | subsection (15) shall submit fingerprints for live-scan
60 | processing in accordance with rules adopted by the commission.
61 | The fingerprints may be submitted through a third-party vendor
62 | authorized by the Department of Law Enforcement to provide live-
63 | scan fingerprinting. The costs of fingerprint processing shall
64 | be borne by the person subject to the background check. The
65 | Department of Law Enforcement shall conduct a state criminal
66 | history background check, and a federal criminal history
67 | background check must be conducted through the Federal Bureau of
68 | Investigation. The office shall review the results of the state
69 | and federal criminal history background checks and determine
70 | ~~whether file a complete set of fingerprints. A fingerprint card~~
71 | ~~submitted to the office must be taken by an authorized law~~
72 | ~~enforcement agency or in a manner approved by the commission by~~
73 | ~~rule. The office shall submit the fingerprints to the Department~~
74 | ~~of Law Enforcement for state processing, and the Department of~~
75 | ~~Law Enforcement shall forward the fingerprints to the Federal~~
76 | ~~Bureau 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~~

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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
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
 116 prescribed by rule which includes the following information:
 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
 134 if applicable and a description of the money services business
 135 or 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,

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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
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.

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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
173 state criminal history background check, and a federal criminal
174 history background check must be conducted through the Federal
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~~

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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~~
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 who are seeking renewal must submit fingerprints for each person
213 listed in subparagraph (a)3. for live-scan processing pursuant
214 to this paragraph. Such fingerprints must be submitted before
215 renewing a license that is scheduled to expire between April 30,
216 2014, and 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. Section 560.143, Florida Statutes, is amended
222 to read:

223 560.143 Fees.—

224 (1) LICENSE APPLICATION FEES.—The applicable non-

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225 refundable 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.
 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 (3) LATE LICENSE RENEWAL FEES.—
 251 (a) Part II.....\$500.
 252 (b) Part III.....\$250.

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253 (c) Declaration as a deferred presentment
254 provider.....\$500.

255 Section 6. Except as otherwise expressly provided in this
256 act and except for this section, which shall take effect upon
257 this act becoming a law, this act shall take effect October 1,
258 2013.