

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Banking and Insurance

BILL: SB 644

INTRODUCER: Senator Richter

SUBJECT: Licensure by the Office of Financial Regulation

DATE: March 16, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Burgess	BI	Pre-meeting
2.			CJ	
3.			ACJ	
4.			AP	
5.				
6.				

I. Summary:

SB 644 allows the Office of Financial Regulation (OFR) to exercise discretion regarding whether to deny an application for licensure as a mortgage broker or mortgage lender if the applicant’s licensure or its equivalent was revoked in any jurisdiction. Current law requires the automatic denial of the licensure application. The bill also changes the method by which the OFR collects fingerprints from applicants for registration as securities dealers, associated persons, or securities issuers and applicants for money services business licensure.

Sections 1, 2 and 6 of the bill are effective upon becoming law; the other sections of the bill are effective October 1, 2013.

This bill substantially amends the following sections of the Florida Statutes: 494.00321, 494.00611, 517.12, 560.141, and 560.143.

II. Present Situation:

Licensure as a Mortgage Broker or Mortgage Lender

The Secure and Fair Enforcement for Mortgage Licensing Act of 2008 sets a minimum federal standard that an individual who is an applicant for a state loan originator license must have never had his or her loan originator license revoked in any other governmental jurisdiction.¹ In 2009, Florida adopted this requirement for loan originators in s. 494.00312(5), F.S.² Florida also

¹ See 12 U.S.C. Sec. 5104(b)(1).

² See Chapter 2009-241, L.O.F.

adopted parallel requirements for persons (employers, businesses, and individuals) who are applicants for licenses as mortgage brokers and mortgage lenders, exceeding the federal requirement.

According to representatives from the Office of Financial Regulation, the issue that has arisen is that states may use the term “revoked” differently. In Florida, if a licensee does not timely complete the annual renewal or pay the annual fee, their license “expires” on December 31. In other states, if the licensee does not pay that state’s annual assessment when due, the regulatory process may be to administratively revoke the permanent license. Therefore, because the license status will be “revoked” in the other state, it would cause the Florida license to be revoked, or a new license application in Florida to be denied, under current law.

Office of Financial Regulation Fingerprint Requirements

Under ch. 517, F.S., no dealer, associated person, or issuer of securities may sell or offer for sale any securities in or from offices in this state, or sell securities to persons in this state from offices outside this state, without being registered with the OFR. Under ch. 560, F.S., persons engaged in business as a money services business (payment instrument seller, foreign currency exchanger, check casher, or money transmitter) must be licensed with the Office. The application for such registration or licensure requires the applicant to submit fingerprint cards that are subsequently processed by the Florida Department of Law Enforcement (FDLE) and Federal Bureau of Investigation (FBI). The FDLE and FBI no longer accept physical fingerprint cards; they now only accept electronic or live-scan fingerprints for processing.

III. Effect of Proposed Changes:

Section 1. Amends s. 494.00321(5), F.S., to allow the OFR discretion regarding whether to deny an application for mortgage broker licensure if the applicant has had a mortgage broker license, or its equivalent, revoked in any jurisdiction. Current law requires denial of the application.

Section 2. Amends s. 494.00611(5), F.S., to allow the OFR discretion regarding whether to deny an application for mortgage lender licensure if the applicant has had a mortgage broker license, or its equivalent, revoked in any jurisdiction. Current law requires denial of the application.

Section 3. Amends s. 517.12(7), F.S., to require securities dealers, associated persons, or securities issuers to submit the fingerprints for live scan processing as part of the mandatory requirement to register with the OFR. The costs of fingerprint processing are borne by the person subject to the background check. Under current law, a fingerprint card of a complete set of fingerprints must be taken by an authorized law enforcement agency or in a manner otherwise approved by rule, and the cost of the fingerprint processing may be borne by the OFR, the employer, or the person subject to the background check.

Section 4. Amends s. 560.141, F.S., to require the applicant for money services business licensure to submit the fingerprints for live scan processing as part of the mandatory licensure requirements to register with the OFR. The bill also requires the fingerprints to be entered into the statewide automated fingerprint identification system. The OFR must pay an annual fee to the Department of Law Enforcement to participate in the system. The costs of fingerprint

processing are borne by the person subject to the background check. Under current law, a fingerprint card of a complete set of fingerprints must be taken by an authorized law enforcement agency, and the cost of the fingerprint processing may be borne by the OFR, the employer, or the person subject to the background check.

Section 5. Repeals s. 560.143(1)(f), F.S., which under current law specifies that the money services business licensure application fingerprint fee is prescribed by rule.

Section 6. Provides effective dates. Sections 1, 2 and 6 of the bill are effective upon becoming law; the other sections of the bill are effective October 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of Financial Regulation currently collects fingerprint fees from applicants that are subsequently transferred to the Florida Department of Law Enforcement. Switching from fingerprint cards to live-scan fingerprint processing is estimated to result in the following reductions for fiscal year 2013-2014:

- A reduction of \$15,675 related to fingerprinting required under ch. 494, F.S. (mortgage brokers and mortgage lenders) and ch. 560, F.S. (money services businesses). The estimated non-operating budget authority needed in Category 310175 is reduced by \$97,800.
- A reduction of \$121,500 related to elimination of the processing fee for fingerprinting. The estimated non-operating budget authority needed in category 310175 is reduced by \$150,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
