

CHAMBER ACTION

1 The State Administration Appropriations Committee recommends the
2 following:

3
4 **Council/Committee Substitute**

5 Remove the entire bill and insert:

6 A bill to be entitled

7 An act relating to financial entities and transactions;
8 amending s. 494.0011, F.S.; authorizing the Financial
9 Services Commission to require electronic submission of
10 forms, documents, or fees; providing for accommodating a
11 technological or financial hardship; authorizing the
12 commission to adopt rules relating to obtaining such an
13 accommodation; providing a requirement for granting or
14 denying a license; amending s. 494.0016, F.S.; authorizing
15 the commission to prescribe requirements for destroying
16 books, accounts, records, and documents; authorizing the
17 commission to recognize alternative statutes of limitation
18 for such destruction; providing for procedures; amending
19 s. 494.0029, F.S.; specifying criteria for receipt of
20 certain applications; specifying that certain permits are
21 not transferable or assignable; amending s. 494.00295,
22 F.S.; revising provisions to specify continuing education
23 for certain professions; amending s. 494.003, F.S.;

HB 381 CS

2005
CS

24 | clarifying application of an exemption from application of
25 | specified mortgage broker licensure requirements to
26 | certain entities; amending s. 494.0031, F.S.; requiring
27 | licensure of mortgage brokerage businesses; specifying
28 | criteria for receipt of applications; authorizing the
29 | commission or the Office of Financial Regulation to
30 | require specified information from certain applicants;
31 | revising certain fingerprinting requirements; authorizing
32 | the commission to prescribe fees and procedures for
33 | processing fingerprints; authorizing the office to
34 | contract for fingerprinting services; specifying that
35 | certain licenses are not transferable or assignable;
36 | amending s. 494.0033, F.S.; clarifying requirements for
37 | mortgage broker licensure; authorizing the commission to
38 | waive certain examination requirements under specified
39 | circumstances; authorizing the commission to prescribe
40 | additional testing fees; revising fingerprinting
41 | requirements; authorizing the commission to prescribe fees
42 | and procedures for processing fingerprints; authorizing
43 | the office to contract for certain fingerprinting
44 | services; specifying criteria for receipt of applications;
45 | deleting provisions relating to cancellation and
46 | reinstatement of licenses; amending s. 494.0034, F.S.;
47 | clarifying the commission's authorization to prescribe
48 | license renewal forms; amending s. 494.0036, F.S.;
49 | clarifying provisions relating to issuance of licenses to
50 | mortgage brokerage business branch offices; specifying
51 | criteria for receipt of certain applications; amending s.

Page 2 of 99

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

hb0381-02-c2

52 | 494.004, F.S.; conforming cross references; amending s.
 53 | 494.0041, F.S.; specifying an additional ground for
 54 | disciplinary action; amending s. 494.006, F.S.; clarifying
 55 | the application of an exemption from mortgage lender
 56 | licensure requirements to certain entities; amending s.
 57 | 494.0061, F.S.; requiring licensure of mortgage lenders;
 58 | specifying criteria for receipt of applications; revising
 59 | fingerprinting requirements; authorizing the commission to
 60 | prescribe fees and procedures for processing fingerprints;
 61 | authorizing the office to contract for certain
 62 | fingerprinting services; deleting certain provisions
 63 | relating to cancellation and reinstatement of licenses;
 64 | authorizing the commission to waive specified examination
 65 | requirements under certain circumstances; authorizing the
 66 | commission to prescribe additional testing fees; amending
 67 | s. 494.0062, F.S.; requiring licensure of correspondent
 68 | mortgage lenders; specifying criteria for receipt of
 69 | applications; authorizing the office to require applicants
 70 | to provide certain information; revising fingerprinting
 71 | requirements; authorizing the commission to prescribe fees
 72 | and procedures for processing fingerprints; authorizing
 73 | the office to contract for certain fingerprinting
 74 | services; deleting certain provisions relating to
 75 | cancellation and reinstatement of licenses; authorizing
 76 | the commission to waive specified examination requirements
 77 | under certain circumstances; authorizing the commission to
 78 | prescribe additional testing fees; requiring notice of a
 79 | change in principal representatives; providing educational

HB 381 CS

2005
CS

80 requirements for principal representatives; amending s.
81 494.0064, F.S.; clarifying a reference to professional
82 continuing education for certain licensees; amending s.
83 494.0065, F.S.; specifying criteria for receipt of
84 applications; specifying education and testing
85 requirements for certain principal representatives and for
86 certain applications or transfer applications; authorizing
87 the commission to waive specified examination requirements
88 under certain circumstances; authorizing the commission to
89 prescribe additional testing fees; increasing a license
90 transfer fee; revising fingerprinting requirements;
91 authorizing the commission to prescribe fees and
92 procedures for processing fingerprints; authorizing the
93 office to contract for certain fingerprinting services;
94 requiring mortgage lenders to designate a principal
95 representative; providing criteria and requirements;
96 requiring notice of a change in principal representatives;
97 amending s. 494.0066, F.S.; clarifying licensure
98 requirements for branch offices; amending s. 494.0067,
99 F.S.; clarifying reference to professional continuing
100 education requirements; amending s. 494.0072, F.S.;
101 providing an additional ground for disciplinary action;
102 amending s. 494.00721, F.S.; correcting cross-references;
103 amending s. 501.137, F.S.; imposing attorney's fees and
104 costs on lenders under certain circumstances; amending s.
105 516.03, F.S.; specifying criteria for receipt of certain
106 applications; providing that specified fees are
107 nonrefundable; authorizing the commission to require

Page 4 of 99

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

hb0381-02-c2

HB 381 CS

2005
CS

108 | electronic submission of forms, documents, or fees;
109 | providing for accommodating a technological or financial
110 | hardship; authorizing the commission to make rules
111 | relating to obtaining such an accommodation; amending s.
112 | 516.031, F.S.; increasing a reimbursement charge for
113 | certain investigation costs; amending s. 516.05, F.S.;
114 | deleting provisions relating to fees for licenses that
115 | have been denied; amending s. 516.07, F.S.; providing an
116 | additional ground for disciplinary action; amending s.
117 | 516.12, F.S.; authorizing the commission to prescribe
118 | minimum information that must be shown in a licensee's
119 | books, accounts, records, and documents; authorizing the
120 | commission to prescribe requirements for destroying books,
121 | accounts, records, and documents; authorizing the
122 | commission to recognize alternative statutes of limitation
123 | for such destruction; providing for procedures; amending
124 | s. 517.061, F.S.; revising provisions related to exempt
125 | transactions; amending ss. 517.051 and 517.081, F.S.;
126 | revising standards for accounting principles to be used in
127 | preparing certain financial statements; amending s.
128 | 517.12, F.S.; revising provisions for taking and
129 | submitting fingerprints of dealers, associated persons,
130 | and similarly situated persons; revising provisions
131 | relating to expiration and renewal of registration of such
132 | persons; providing an exemption from registration
133 | requirements for a Canadian dealer and an associated
134 | person who represents a Canadian dealer, under certain
135 | conditions; providing for notice filing by a Canadian

Page 5 of 99

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

hb0381-02-c2

136 dealer under certain conditions; authorizing the Office of
 137 Financial Regulation of the Financial Services Commission
 138 to issue a permit to evidence the effectiveness of a
 139 notice filing for a Canadian dealer; providing for the
 140 renewal of a notice filing by a Canadian dealer; providing
 141 for reinstatement of a notice filing; providing
 142 obligations for a Canadian dealer who has given notice of
 143 filing; providing obligations for an associated person
 144 representing a Canadian dealer who has given notice of
 145 filing; providing for the termination of a notice of
 146 filing; providing for the collection of fees; amending s.
 147 517.131, F.S.; revising conditions under which recovery
 148 can be made from the Securities Guaranty Fund; amending s.
 149 517.141, F.S.; prescribing circumstances under which a
 150 claimant must reimburse the fund; providing for
 151 rulemaking; amending s. 517.161, F.S.; providing an
 152 additional ground for revocation, restriction, or
 153 suspension of a registration; amending ss. 520.03, 520.32,
 154 520.52, and 520.63, F.S.; specifying criteria for receipt
 155 of certain applications; providing that certain fees are
 156 nonrefundable; amending s. 520.994, F.S.; authorizing the
 157 commission to require electronic submission of forms,
 158 documents, or fees; providing for accommodating a
 159 technological or financial hardship; providing for
 160 rulemaking; amending s. 520.995, F.S.; providing an
 161 additional ground for disciplinary action; amending ss.
 162 520.997 and 537.009, F.S.; authorizing the commission to
 163 prescribe certain minimum information that must be shown

164 | in a licensee's books, accounts, records, and documents;
 165 | authorizing the commission to prescribe requirements for
 166 | destroying books, accounts, records, and documents;
 167 | authorizing the commission to recognize alternative
 168 | statutes of limitation for such destruction; providing for
 169 | procedures; amending ss. 560.105 and 560.118, F.S.;
 170 | authorizing the commission to require electronic
 171 | submission of forms, documents, or fees; providing for
 172 | accommodating a technological or financial hardship;
 173 | amending s. 560.114, F.S.; providing an additional ground
 174 | for disciplinary action; amending s. 560.121, F.S.;
 175 | authorizing the commission to prescribe certain minimum
 176 | information that must be shown in a licensee's books,
 177 | accounts, records, and documents; authorizing the
 178 | commission to prescribe requirements for destroying books,
 179 | accounts, records, and documents; authorizing the
 180 | commission to recognize alternative statutes of limitation
 181 | for such destruction; providing for procedures; decreasing
 182 | the required time period for the office to retain certain
 183 | reports, records, applications, and related information;
 184 | amending s. 560.126, F.S.; requiring notice of changes in
 185 | information contained in a registration application;
 186 | amending s. 560.205, F.S.; revising fingerprinting
 187 | requirements; authorizing the commission to prescribe fees
 188 | and procedures for processing fingerprints; authorizing
 189 | the office to contract for certain fingerprinting
 190 | services; authorizing the commission to establish
 191 | procedures for depositing fees and filing documents

192 | electronically; deleting a requirement that an applicant
 193 | provide a list of certain vendors; requiring the reporting
 194 | of certain changes of registration by written amendment;
 195 | amending s. 560.207, F.S.; authorizing the commission to
 196 | establish procedures for depositing fees and filing
 197 | documents electronically; revising procedures for renewing
 198 | a registration; providing that specified fees are
 199 | nonrefundable; providing conditions to the reinstatement
 200 | of a registration; amending s. 560.210, F.S.; revising
 201 | permissible investment requirements for certain
 202 | registrants; specifying in general that accounting
 203 | principles are those generally accepted in the United
 204 | States; amending ss. 560.211 and 560.310, F.S.; requiring
 205 | notice to the office of the location of certain amended
 206 | records; amending ss. 560.305 and 560.308, F.S.; revising
 207 | procedures for renewing a registration; providing that
 208 | specified fees are nonrefundable; providing conditions to
 209 | the reinstatement of a registration; authorizing the
 210 | commission to establish procedures for depositing fees and
 211 | filing documents electronically; amending s. 560.306,
 212 | F.S.; revising certain fingerprinting requirements;
 213 | authorizing the commission to prescribe fees and
 214 | procedures for processing fingerprints; authorizing the
 215 | office to contract for certain fingerprinting services;
 216 | requiring the reporting of certain changes of registration
 217 | by written amendment; specifying commission authority by
 218 | rules; amending s. 560.403, F.S.; revising requirements
 219 | for giving notice of intent in connection with the renewal

HB 381 CS

2005
CS

220 of registration; providing that specified fees are
 221 nonrefundable; providing conditions to the reinstatement
 222 of a notice of intent; amending s. 655.935, F.S.;
 223 authorizing the search of a safe-deposit box co-leased by
 224 a decedent; providing limitations; amending s. 655.936,
 225 F.S.; providing for the delivery of a safe-deposit box to
 226 a court-appointed personal representative; amending s.
 227 655.937, F.S.; revising provisions for access to safe-
 228 deposit boxes; amending s. 733.6065, F.S.; revising
 229 provisions related to the initial opening of a safe-
 230 deposit box leased or co-leased by a decedent; amending s.
 231 817.801, F.S.; providing a definition; amending s.
 232 817.802, F.S.; revising the amount of fees that a debt
 233 manager or credit counselor may charge to certain debtors;
 234 amending s. 817.804, F.S.; revising an audit requirement;
 235 amending s. 817.805, F.S.; providing that creditor
 236 contributions are exempt from disbursement requirements;
 237 providing appropriations; providing an effective date.

238
 239 Be It Enacted by the Legislature of the State of Florida:

240
 241 Section 1. Subsection (2) of section 494.0011, Florida
 242 Statutes, is amended, and subsection (6) is added to said
 243 section, to read:

244 494.0011 Powers and duties of the commission and office.--
 245 (2) The commission may ~~has authority to~~ adopt rules
 246 pursuant to ss. 120.536(1) and 120.54 to implement ss. 494.001-
 247 494.0077. The commission may adopt rules that require ~~to allow~~

HB 381 CS

2005
CS

248 | electronic submission of any forms, documents, or fees required
 249 | by this act if such rules reasonably accommodate technological
 250 | or financial hardship. The commission may prescribe by rule
 251 | requirements and procedures for obtaining an exemption due to a
 252 | technological or financial hardship. The commission may also
 253 | adopt rules to accept certification of compliance with
 254 | requirements of this act in lieu of requiring submission of
 255 | documents.

256 | (6) The granting or denial of a license must be in
 257 | accordance with s. 120.60.

258 | Section 2. Subsection (4) of section 494.0016, Florida
 259 | Statutes, is amended to read:

260 | 494.0016 Books, accounts, and records; maintenance;
 261 | examinations by the office.--

262 | (4) The commission may prescribe by rule the minimum
 263 | information to be shown in the books, accounts, records, and
 264 | documents of licensees so that such records will enable the
 265 | office to determine the licensee's compliance with ss. 494.001-
 266 | 494.0077. In addition, the commission may prescribe by rule the
 267 | requirements for destruction of books, accounts, records, and
 268 | documents retained by the licensee after completion of the time
 269 | period indicated in subsection (3). Notwithstanding the 3-year
 270 | retention period provided in subsection (3), if the office
 271 | identifies a statute of limitations in a federal law or rule or
 272 | another law or rule of this state which statute of limitations
 273 | is reasonably related by subject matter to the administration of
 274 | this chapter, the commission may identify that statute of
 275 | limitations by rule and may prohibit the destruction of records

276 required to be maintained by this chapter for a period of time,
 277 established by rule, which is reasonably related to such statute
 278 of limitations. The commission shall prescribe by rule those
 279 documents or records that are to be preserved under the
 280 identified statute of limitations.

281 Section 3. Subsections (1) and (2) of section 494.0029,
 282 Florida Statutes, are amended to read:

283 494.0029 Mortgage business schools.--

284 (1)(a) Each person, school, or institution, except
 285 accredited colleges, universities, community colleges, and
 286 career centers in this state, which offers or conducts mortgage
 287 business training as a condition precedent to licensure as a
 288 mortgage broker, mortgage ~~or lender,~~ or a correspondent mortgage
 289 lender shall obtain a permit from the office and abide by the
 290 regulations imposed upon such person, school, or institution by
 291 this chapter and rules adopted pursuant to this chapter. The
 292 commission shall, by rule, recertify the permits annually with
 293 initial and renewal permit fees that do not exceed \$500 plus the
 294 cost of accreditation.

295 (b) An application is considered received for purposes of
 296 s. 120.60 upon receipt of a completed application form as
 297 prescribed by commission rule, a nonrefundable application fee
 298 of \$500, and any other fee prescribed by law.

299 (c) A permit issued under this section is not transferable
 300 or assignable.

301 (2) All such schools shall maintain curriculum and
 302 training materials necessary to determine the school's
 303 compliance with this chapter and rules adopted under ~~pursuant to~~

HB 381 CS

2005
CS

304 | this chapter. Any school that offers or conducts mortgage
 305 | business training shall at all times maintain an operation of
 306 | training, materials, and curriculum which is open to review by
 307 | the office to determine compliance and competency as a mortgage
 308 | business school. All documents prescribed by commission rule
 309 | must be submitted with the initial application or
 310 | recertification.

311 | Section 4. Section 494.00295, Florida Statutes, is amended
 312 | to read:

313 | 494.00295 Professional continuing education.--

314 | (1) Each mortgage broker, mortgage lender, and
 315 | correspondent mortgage lender must certify to the office at the
 316 | time of renewal that during the 2 years prior to an application
 317 | for license renewal, all mortgage brokers, ~~and~~ the principal
 318 | representative, and loan originators, ~~and associates~~ of a
 319 | mortgage lender or correspondent mortgage lender have
 320 | successfully completed at least 14 hours of professional
 321 | continuing education programs covering primary and subordinate
 322 | mortgage financing transactions and the provisions of this
 323 | chapter. Licensees shall maintain records documenting compliance
 324 | with this subsection for a period of 4 years.

325 | (2) Professional continuing education programs must
 326 | contribute directly to the professional competency of the
 327 | participants, may only be offered by permitted mortgage business
 328 | schools or entities specifically exempted from permitting as
 329 | mortgage business schools, and may include electronically
 330 | transmitted or distance education courses.

331 (3) The commission shall adopt rules necessary to
 332 administer this section, including rules governing qualifying
 333 hours for professional continuing education programs and
 334 standards for electronically transmitted or distance education
 335 courses, including course completion requirements.

336 Section 5. Paragraphs (b) and (c) of subsection (1) and
 337 paragraph (e) of subsection (2) of section 494.003, Florida
 338 Statutes, are amended to read:

339 494.003 Exemptions.--

340 (1) None of the following persons is subject to the
 341 requirements of ss. 494.003-494.0043:

342 (b) A state or federal chartered bank, ~~bank holding~~
 343 ~~company~~, trust company, savings and loan association, savings
 344 bank, or credit union, bank holding company regulated under the
 345 laws of any state or the United States, or consumer finance
 346 company licensed pursuant to chapter 516.

347 (c) A wholly owned bank holding company subsidiary formed
 348 and regulated under the laws of any state or the United States
 349 or a wholly owned savings and loan association holding company
 350 subsidiary that is approved or certified by the Department of
 351 Housing and Urban Development, the Veterans Administration, the
 352 Government National Mortgage Association, the Federal National
 353 Mortgage Association, or the Federal Home Loan Mortgage
 354 Corporation.

355 (2) None of the following persons is required to be
 356 licensed under ss. 494.003-494.0043:

357 (e) A wholly owned subsidiary of a state or federal
 358 chartered bank or savings and loan association the sole activity

HB 381 CS

2005
CS

359 | of which is to distribute the lending programs of such state or
 360 | federal chartered bank or savings and loan association to
 361 | persons who arrange loans for, or make loans to, borrowers.

362 | Section 6. Section 494.0031, Florida Statutes, is amended
 363 | to read:

364 | 494.0031 Licensure as a mortgage brokerage business.--

365 | (1) Each person who acts as a mortgage brokerage business
 366 | must be licensed under this section unless otherwise exempt from
 367 | licensure.

368 | (2)(1) The commission or office may require each applicant
 369 | for a mortgage brokerage business license to provide any
 370 | information reasonably necessary to determine the applicant's
 371 | eligibility for licensure. The office shall issue a mortgage
 372 | brokerage business license to each person who:

373 | (a) Has submitted a completed application form and a
 374 | nonrefundable application fee of \$425.~~;~~ ~~and~~

375 | (b) Has a qualified principal broker pursuant to s.
 376 | 494.0035.

377 |
 378 | An application is considered received for purposes of s. 120.60
 379 | upon receipt of a completed application form as prescribed by
 380 | commission rule, a nonrefundable application fee of \$425, and
 381 | any other fee prescribed by law.

382 | (3)(2) The commission may require by rule that each
 383 | officer, director, and ultimate equitable owner of a 10-percent
 384 | or greater interest in the mortgage brokerage business submit a
 385 | complete set of fingerprints. A fingerprint card submitted to
 386 | the office must be taken by an authorized law enforcement agency

387 if the fingerprint card is submitted to the office in paper
 388 form. In addition to the fees prescribed in s. 215.405, the
 389 commission may prescribe by rule an additional fee, not to
 390 exceed \$30, for processing the fingerprints. The commission may
 391 prescribe by rule procedures for submitting fingerprints and
 392 fees by electronic means to the office. In order to implement
 393 the submission and processing of fingerprints as specified by
 394 rule under this section, the office may contract with another
 395 state agency that provides fingerprinting services. The office
 396 shall submit the fingerprints to the Department of Law
 397 Enforcement for state processing and the Department of Law
 398 Enforcement shall forward the fingerprints to the Federal Bureau
 399 of Investigation for federal processing. The cost for the
 400 fingerprint processing may be borne by the office, the employer,
 401 or the person subject to the background check. The Department of
 402 Law Enforcement shall submit an invoice to the office for the
 403 fingerprints received each month. The office shall screen the
 404 background results to determine if the applicant meets licensure
 405 requirements officer.

406 (4)(3) Notwithstanding ~~the provisions of~~ subsection (2)
 407 ~~(1)~~, it is a ground for denial of licensure if the applicant;
 408 designated principal mortgage broker; any officer, director,
 409 partner, or joint venturer of the applicant; any natural person
 410 owning a 10-percent or greater interest in the mortgage
 411 brokerage business; or any natural person who is the ultimate
 412 equitable owner of a 10-percent or greater interest in the
 413 mortgage brokerage business has committed any violation
 414 specified in ss. 494.001-494.0077 or has pending against him or

HB 381 CS

2005
CS

415 her in any jurisdiction any criminal prosecution or
 416 administrative enforcement action that, ~~in any jurisdiction,~~
 417 ~~which~~ involves fraud, dishonest dealing, or any other act of
 418 moral turpitude.

419 (5)(4) A mortgage brokerage business or branch office
 420 license may be canceled if it was issued through mistake or
 421 inadvertence of the office. A notice of cancellation must be
 422 issued by the office within 90 days after the issuance of the
 423 license. A notice of cancellation is ~~shall be~~ effective upon
 424 receipt. The notice of cancellation must ~~shall~~ provide the
 425 applicant with notification of the right to request a hearing
 426 within 21 days after the applicant's receipt of the notice of
 427 cancellation. A license must ~~shall~~ be reinstated if the
 428 applicant can demonstrate that the requirements for obtaining
 429 the license under ~~pursuant to~~ this chapter have been satisfied.

430 (6)(5) A license issued under this part is not
 431 transferable or assignable. ~~If an initial mortgage brokerage~~
 432 ~~business or branch office license has been issued but the check~~
 433 ~~upon which the license is based is returned due to insufficient~~
 434 ~~funds, the license shall be deemed canceled. A license deemed~~
 435 ~~canceled pursuant to this subsection shall be reinstated if the~~
 436 ~~office receives a certified check for the appropriate amount~~
 437 ~~within 30 days after the date the check was returned due to~~
 438 ~~insufficient funds.~~

439 Section 7. Subsections (1), (2), and (7) of section
 440 494.0033, Florida Statutes, are amended to read:

441 494.0033 Mortgage broker's license.--

442 (1) Each natural person who acts as a mortgage broker for
 443 a mortgage brokerage business or acts as an associate for a
 444 mortgage lender or correspondent mortgage lender must be
 445 licensed under ~~pursuant to~~ this section. To act as a mortgage
 446 broker, an individual must be an associate of a mortgage
 447 brokerage business, mortgage lender, or correspondent mortgage
 448 lender. A mortgage broker is prohibited from being an associate
 449 of more than one mortgage brokerage business, mortgage lender,
 450 or correspondent mortgage lender.

451 (2) Each initial application for a mortgage broker's
 452 license must be in the form prescribed by rule of the
 453 commission. The commission may require each applicant to provide
 454 any information reasonably necessary to make a determination of
 455 the applicant's eligibility for licensure. The office shall
 456 issue an initial license to any natural person who:

457 (a) Is at least 18 years of age. ~~+~~

458 (b) Has passed a written test adopted and administered by
 459 the office, or has passed an electronic test adopted and
 460 administered by the office or a third party approved by the
 461 office, which is designed to determine competency in primary and
 462 subordinate mortgage financing transactions as well as to test
 463 knowledge of ss. 494.001-494.0077 and the rules adopted pursuant
 464 thereto. The commission may prescribe by rule an additional fee
 465 not to exceed \$100 for the electronic version of the mortgage
 466 broker test. The commission may waive by rule the examination
 467 requirement for any individual who has passed a comparable test
 468 offered by a national group of state mortgage regulators or a

HB 381 CS

2005
CS

469 federal governmental agency which test covers primary and
470 subordinate mortgage financing transactions.†

471 (c) Has submitted a completed application and a
472 nonrefundable application fee of \$200. An application is
473 considered received for purposes of s. 120.60 upon receipt of a
474 completed application form as prescribed by commission rule, a
475 nonrefundable application fee of \$200, and any other fee
476 prescribed by law. ~~The commission may set by rule an additional~~
477 fee for a retake of the examination; and

478 (d) Has filed a complete set of fingerprints, ~~taken by an~~
479 ~~authorized law enforcement officer,~~ for submission by the office
480 to the Department of Law Enforcement or the Federal Bureau of
481 Investigation for processing. A fingerprint card submitted to
482 the office must be taken by an authorized law enforcement agency
483 if the fingerprint card is submitted to the office in paper
484 form. In addition to the fees prescribed in s. 215.405, the
485 commission may prescribe by rule additional fees, not to exceed
486 \$30, for processing the fingerprints. The commission may
487 prescribe by rule procedures for submitting fingerprints and
488 fees by electronic means to the office. In order to implement
489 the submission and processing of fingerprints as specified by
490 rule under this section, the office may contract with another
491 state agency that provides fingerprinting services. The office
492 shall submit the fingerprints to the Department of Law
493 Enforcement for state processing and the Department of Law
494 Enforcement shall forward the fingerprints to the Federal Bureau
495 of Investigation for federal processing. The cost for the
496 fingerprint processing may be borne by the office, the employer,

Page 18 of 99

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

hb0381-02-c2

497 | or the person subject to the background check. The Department of
 498 | Law Enforcement shall submit an invoice to the office for the
 499 | fingerprints received each month. The office shall screen the
 500 | background results to determine if the applicant meets licensure
 501 | requirements.

502 | ~~(7) If an initial mortgage broker license has been issued~~
 503 | ~~but the check upon which the license is based is returned due to~~
 504 | ~~insufficient funds, the license shall be deemed canceled. A~~
 505 | ~~license deemed canceled pursuant to this subsection shall be~~
 506 | ~~reinstated if the office receives a certified check for the~~
 507 | ~~appropriate amount within 30 days after the date the check was~~
 508 | ~~returned due to insufficient funds.~~

509 | Section 8. Subsection (2) of section 494.0034, Florida
 510 | Statutes, is amended to read:

511 | 494.0034 Renewal of mortgage broker's license.--

512 | (2) The commission shall adopt rules establishing a
 513 | procedure for the biennial renewal of mortgage broker's
 514 | licenses. The commission may prescribe the form of the renewal
 515 | ~~application~~ and may require an update of information since the
 516 | licensee's last renewal.

517 | Section 9. Subsection (2) of section 494.0036, Florida
 518 | Statutes, is amended to read:

519 | 494.0036 Mortgage brokerage business branch offices.--

520 | (2) The office shall issue a mortgage brokerage business
 521 | branch office license to a mortgage brokerage business licensee
 522 | after the office determines that the licensee has submitted ~~upon~~
 523 | ~~receipt of~~ a completed branch office application in a form as
 524 | prescribed by commission rule and payment of an initial

HB 381 CS

2005
CS

525 nonrefundable branch office license fee of \$225. Branch office
 526 licenses must be renewed in conjunction with the renewal of the
 527 mortgage brokerage business license. The branch office license
 528 shall be issued in the name of the mortgage brokerage business
 529 that maintains the branch office. An application is considered
 530 received for purposes of s. 120.60 upon receipt of a completed
 531 application form as prescribed by commission rule, a
 532 nonrefundable application fee of \$225, and any other fee
 533 prescribed by law.

534 Section 10. Subsections (1), (2), and (4) of section
 535 494.004, Florida Statutes, are amended to read:

536 494.004 Requirements of licensees.--

537 (1) Each licensee under ss. 494.003-494.0043 shall report,
 538 in writing, any conviction of, or plea of nolo contendere to,
 539 regardless of adjudication, any crime or administrative
 540 violation that involves fraud, dishonest dealing, or any other
 541 act of moral turpitude, in any jurisdiction, by the licensee or
 542 any natural person named in s. 494.0031(4)(3), not later than 30
 543 days after the date of conviction, entry of a plea of nolo
 544 contendere, or final administrative action.

545 (2) Each licensee under ss. 494.003-494.0043 shall report,
 546 in a form prescribed by rule of the commission, any conviction
 547 of, or plea of nolo contendere to, regardless of whether
 548 adjudication is withheld, any felony committed by the licensee
 549 or any natural person named in s. 494.0031(4)(3), not later than
 550 30 days after the date of conviction or the date the plea of
 551 nolo contendere is entered.

HB 381 CS

2005
CS

552 (4) Each licensee under ss. 494.003-494.0043 shall report
553 any change in the form of business organization or any change of
554 a person named, pursuant to s. 494.0031(4)~~(3)~~, to the office in
555 writing not later than 30 days after the change is effective.

556 Section 11. Paragraph (s) is added to subsection (2) of
557 section 494.0041, Florida Statutes, to read:

558 494.0041 Administrative penalties and fines; license
559 violations.--

560 (2) Each of the following acts constitutes a ground for
561 which the disciplinary actions specified in subsection (1) may
562 be taken:

563 (s) Payment to the office for a license or permit with a
564 check or electronic transmission of funds which is dishonored by
565 the applicant's or licensee's financial institutions.

566 Section 12. Paragraphs (a) and (c) of subsection (1) and
567 paragraph (a) of subsection (2) of section 494.006, Florida
568 Statutes, are amended to read:

569 494.006 Exemptions.--

570 (1) None of the following persons are subject to the
571 requirements of ss. 494.006-494.0077 in order to act as a
572 mortgage lender or correspondent mortgage lender:

573 (a) A state or federal chartered bank, a bank holding
574 ~~company,~~ trust company, a savings and loan association, a
575 savings bank, or credit union, a bank holding company regulated
576 under the laws of any state or the United States, or an
577 insurance company if the insurance company is duly licensed in
578 this state.

HB 381 CS

2005
CS

579 (c) A wholly owned bank holding company subsidiary formed
580 and regulated under the laws of any state or the United States
581 or a wholly owned savings and loan association holding company
582 subsidiary that is approved or certified by the Department of
583 Housing and Urban Development, the Veterans Administration, the
584 Government National Mortgage Association, the Federal National
585 Mortgage Association, or the Federal Home Loan Mortgage
586 Corporation.

587 (2)(a) A natural person employed by a mortgage lender or
588 correspondent mortgage lender licensed under ss. 494.001-
589 494.0077 is exempt from the licensure requirements of ss.
590 494.001-494.0077 when acting within the scope of employment with
591 the licensee.

592 Section 13. Section 494.0061, Florida Statutes, is amended
593 to read:

594 494.0061 Mortgage lender's license requirements.--

595 (1) Each person who acts as a mortgage lender must be
596 licensed under this section unless otherwise exempt from
597 licensure.

598 ~~(2)~~(1) The commission or office may require each applicant
599 for a mortgage lender license to provide any information
600 reasonably necessary to make a determination of the applicant's
601 eligibility for licensure. The office shall issue an initial
602 mortgage lender license to any person that submits:

603 (a) A completed application form. ~~+~~

604 (b) A nonrefundable application fee of \$575. ~~+~~

605 (c) Audited financial statements, which documents disclose
606 that the applicant has a bona fide and verifiable net worth,

607 pursuant to United States generally accepted accounting
 608 principles, of at least \$250,000, which must be continuously
 609 maintained as a condition of licensure.;

610 (d) A surety bond in the amount of \$10,000, payable to the
 611 state and conditioned upon compliance with ss. 494.001-494.0077,
 612 which inures to the office and which must be continuously
 613 maintained thereafter in full force.;

614 (e) Documentation that the applicant is duly incorporated,
 615 registered, or otherwise formed as a general partnership,
 616 limited partnership, limited liability company, or other lawful
 617 entity under the laws of this state or another state of the
 618 United States.;

619 ~~For applications submitted after October 1, 2001,~~
 620 Proof that the applicant's principal representative has
 621 completed 24 hours of classroom instruction in primary and
 622 subordinate financing transactions and in the provisions of this
 623 chapter and rules adopted under this chapter. This requirement
 624 is satisfied if the principal representative has continuously
 625 served in the capacity of a principal representative for a
 626 licensed entity under this chapter for at least 1 year and has
 627 not had a lapse in designation as a principal representative of
 628 more than 2 years prior to the date of the submission of the
 629 application or amendment in the case of a change in the
 630 principal representative. This requirement is also satisfied if
 631 the principal representative currently has an active mortgage
 632 broker license in this state.

633

HB 381 CS

2005
CS

634 An application is considered received for purposes of s. 120.60
 635 upon receipt of a completed application form as prescribed by
 636 commission rule, a nonrefundable application fee of \$575, and
 637 any other fee prescribed by law.

638 (3)(2) Notwithstanding ~~the provisions~~ of subsection
 639 (2)(1), it is a ground for denial of licensure if the applicant,
 640 any principal officer, ~~or~~ director, partner, or joint venturer
 641 of the applicant, or any natural person owning a 10-percent or
 642 greater interest in the applicant, or any natural person who is
 643 the ultimate equitable owner of a 10-percent or greater interest
 644 in the applicant has committed any violation specified in s.
 645 494.0072, or has pending against her or him any criminal
 646 prosecution or administrative enforcement action, in any
 647 jurisdiction, which involves fraud, dishonest dealing, or any
 648 act of moral turpitude.

649 (4)(3) Each initial application for a mortgage lender's
 650 license must be in a form prescribed by the commission. ~~The~~
 651 ~~commission or office may require each applicant to provide any~~
 652 ~~information reasonably necessary to make a determination of the~~
 653 ~~applicant's eligibility for licensure.~~ The commission or office
 654 may require that each officer, director, and ultimate equitable
 655 owner of a 10-percent or greater interest in the applicant
 656 submit a complete set of fingerprints. A fingerprint card
 657 submitted to the office must be taken by an authorized law
 658 enforcement agency if the fingerprint card is submitted to the
 659 office in paper form. In addition to the fees prescribed in s.
 660 215.405, the commission may prescribe by rule an additional fee,
 661 not to exceed \$30, for processing the fingerprints. The

HB 381 CS

2005
CS

662 commission may prescribe by rule procedures for submitting
663 fingerprints and fees by electronic means to the office. In
664 order to implement the submission and processing of fingerprints
665 as specified by rule under this section, the office may contract
666 with another state agency that provides fingerprinting services.
667 The office shall submit the fingerprints to the Department of
668 Law Enforcement for state processing and the Department of Law
669 Enforcement shall forward the fingerprints to the Federal Bureau
670 of Investigation for federal processing. The cost for the
671 fingerprint processing may be borne by the office, the employer,
672 or the person subject to the background check. The Department of
673 Law Enforcement shall submit an invoice to the office for the
674 fingerprints received each month. The office shall screen the
675 background results to determine if the applicant meets licensure
676 requirements officer.

677 (5)(4) A person required to be licensed under ss. 494.006-
678 494.0077, or an agent or employee thereof, is deemed to have
679 consented to the venue of courts of competent jurisdiction in
680 this state regarding any matter within the authority of ss.
681 494.001-494.0077 regardless of where an act or violation was
682 committed.

683 (6)(5) A license issued in accordance with ss. 494.006-
684 494.0077 is not transferable or assignable.

685 (7)(6) A mortgage lender or branch office license may be
686 canceled if it was issued through mistake or inadvertence of the
687 office. A notice of cancellation must be issued by the office
688 within 90 days after the issuance of the license. A notice of
689 cancellation shall be effective upon receipt. The notice of

690 cancellation shall provide the applicant with notification of
 691 the right to request a hearing within 21 days after the
 692 applicant's receipt of the notice of cancellation. A license
 693 shall be reinstated if the applicant can demonstrate that the
 694 requirements for obtaining the license under ~~pursuant to~~ this
 695 chapter have been satisfied.

696 ~~(7) If an initial mortgage lender or branch office license~~
 697 ~~has been issued but the check upon which the license is based is~~
 698 ~~returned due to insufficient funds, the license shall be deemed~~
 699 ~~canceled. A license deemed canceled pursuant to this subsection~~
 700 ~~shall be reinstated if the office receives a certified check for~~
 701 ~~the appropriate amount within 30 days after the date the check~~
 702 ~~was returned due to insufficient funds.~~

703 (8) Each lender, regardless of the number of branches it
 704 operates, shall designate a principal representative who
 705 exercises control of the licensee's business and shall maintain
 706 a form prescribed by the commission designating the principal
 707 representative. If the form is not accurately maintained, the
 708 business is considered to be operated by each officer, director,
 709 or equitable owner of a 10-percent or greater interest in the
 710 business.

711 (9) ~~After October 1, 2001,~~ An applicant's principal
 712 representative must pass a written test prescribed by the
 713 commission and administered by the office, or must pass an
 714 electronic test prescribed by the commission and administered by
 715 the office or a third party approved by the office, which covers
 716 primary and subordinate mortgage financing transactions and the
 717 provisions of this chapter and rules adopted under this chapter.

HB 381 CS

2005
CS

718 The commission may set by rule a fee not to exceed \$100 for the
 719 electronic version of the mortgage broker test. The commission
 720 may waive by rule the examination requirement for any individual
 721 who has passed a comparable test offered by a national group of
 722 state mortgage regulators or a federal governmental agency which
 723 test covers primary and subordinate mortgage financing
 724 transactions. This requirement is satisfied if the principal
 725 representative has continuously served in the capacity of a
 726 principal representative for a licensed entity under this
 727 chapter for at least 1 year and has not had a lapse in
 728 designation as a principal representative of more than 2 years
 729 prior to the date of the submission of the application or
 730 amendment in the case of a change in the principal
 731 representative. This requirement is also satisfied if the
 732 principal representative currently has an active mortgage broker
 733 license in this state.

734 (10) A lender shall notify the office of any change in the
 735 designation of its principal representative within 30 days. A
 736 new principal representative shall satisfy the name and address
 737 of any new principal representative and shall document that the
 738 person has completed the educational and testing requirements of
 739 this section within 90 days after being designated as ~~upon~~ the
 740 ~~designation of a new principal representative.~~ This requirement
 741 is satisfied if the principal representative has continuously
 742 served in the capacity of a principal representative for a
 743 licensed entity under this chapter for at least 1 year and has
 744 not had a lapse in designation as a principal representative of
 745 more than 2 years prior to the date of the submission of the

HB 381 CS

2005
CS

746 application or amendment in the case of a change in the
 747 principal representative. This requirement is also satisfied if
 748 the principal representative currently has an active mortgage
 749 broker license in this state.

750 Section 14. Section 494.0062, Florida Statutes, is amended
 751 to read:

752 494.0062 Correspondent mortgage lender's license
 753 requirements.--

754 (1) Each person who acts as a correspondent mortgage
 755 lender must be licensed under this section unless otherwise
 756 exempt from licensure.

757 (2)(1) The office may require each applicant to provide
 758 any information reasonably necessary to determine the
 759 applicant's eligibility for licensure. The office shall issue an
 760 initial correspondent mortgage lender license to any person who
 761 submits:

762 (a) A completed application form.+

763 (b) A nonrefundable application fee of \$500.+

764 (c) Audited financial statements that, ~~which~~ document that
 765 the applicant application has a bona fide and verifiable net
 766 worth, pursuant to United States generally accepted accounting
 767 principles, of \$25,000 or more, and which must be continuously
 768 maintained as a condition of licensure.+

769 (d) A surety bond in the amount of \$10,000, payable to the
 770 State of Florida and conditioned upon compliance with ss.

771 494.001-494.0077, which inures to the office and which must be
 772 continuously maintained, thereafter, in full force.+

773 (e) Documentation that the applicant is duly incorporated,
 774 registered, or otherwise formed as a general partnership,
 775 limited partnership, limited liability company, or other lawful
 776 entity under the laws of this state or another state of the
 777 United States. ~~;~~ and

778 (f) ~~For applications filed after October 1, 2001,~~ Proof
 779 that the applicant's principal representative has completed 24
 780 hours of classroom instruction in primary and subordinate
 781 financing transactions and in the provisions of this chapter and
 782 rules enacted under this chapter. This requirement is satisfied
 783 if the principal representative has continuously served in the
 784 capacity of a principal representative for a licensed entity
 785 under this chapter for at least 1 year and has not had a lapse
 786 in designation as a principal representative of more than 2
 787 years prior to the date of the submission of the application or
 788 amendment in the case of a change in the principal
 789 representative. This requirement is also satisfied if the
 790 principal representative currently has an active mortgage broker
 791 license in this state.

792
 793 An application is considered received for purposes of s. 120.60
 794 upon receipt of a completed application form as prescribed by
 795 commission rule, a nonrefundable application fee of \$500, and
 796 any other fee prescribed by law.

797 ~~(3)(2)~~ Notwithstanding the provisions of subsection
 798 ~~(2)(1)~~, it is a ground for denial of licensure if the applicant,
 799 any principal officer or director of the applicant, or any
 800 natural person who is the ultimate equitable owner of a 10-

801 | percent or greater interest in the applicant has committed any
 802 | violation specified in s. 494.0072, or has pending against her
 803 | or him any criminal prosecution or administrative enforcement
 804 | action, in any jurisdiction, which involves fraud, dishonest
 805 | dealing, or any act of moral turpitude.

806 | ~~(4)(3)~~ Each initial application for a correspondent
 807 | mortgage lender's license must be in a form prescribed by the
 808 | commission. ~~The commission or office may require each applicant~~
 809 | ~~to provide any information reasonably necessary to make a~~
 810 | ~~determination of the applicant's eligibility for licensure.~~ The
 811 | commission or office may require by rule that each officer,
 812 | director, and ultimate equitable owner of a 10-percent or
 813 | greater interest submit a complete set of fingerprints. A
 814 | fingerprint card submitted to the office must be taken by an
 815 | authorized law enforcement agency if the fingerprint card is
 816 | submitted to the office in paper form. In addition to the fees
 817 | prescribed in s. 215.405, the commission may prescribe by rule
 818 | an additional fee, not to exceed \$30, for processing the
 819 | fingerprints. The commission may prescribe by rule procedures
 820 | for submitting fingerprints and fees by electronic means to the
 821 | office. In order to implement the submission and processing of
 822 | fingerprints as specified by rule under this section, the office
 823 | may contract with another state agency that provides
 824 | fingerprinting services. The office shall submit the
 825 | fingerprints to the Department of Law Enforcement for state
 826 | processing and the Department of Law Enforcement shall forward
 827 | the fingerprints to the Federal Bureau of Investigation for
 828 | federal processing. The cost for the fingerprint processing may

829 be borne by the office, the employer, or the person subject to
 830 the background check. The Department of Law Enforcement shall
 831 submit an invoice to the office for the fingerprints received
 832 each month. The office shall screen the background results to
 833 determine if the applicant meets licensure requirements officer.

834 (5)~~(4)~~ Each license is valid for the remainder of the
 835 biennium in which the license is issued.

836 (6)~~(5)~~ A person licensed as a correspondent mortgage
 837 lender may make mortgage loans, but may not service a mortgage
 838 loan for more than 4 months after the date the mortgage loan was
 839 made or acquired by the correspondent mortgage lender.

840 (7)~~(6)~~ A licensee under ss. 494.006-494.0077, or an agent
 841 or employee thereof, is deemed to have consented to the venue of
 842 courts of competent jurisdiction in this state regarding any
 843 matter within the authority of ss. 494.001-494.0077 regardless
 844 of where an act or violation was committed.

845 (8)~~(7)~~ A correspondent mortgage lender is subject to the
 846 same requirements and restrictions as a licensed mortgage lender
 847 unless otherwise provided in this section.

848 (9)~~(8)~~ A license issued under this section is not
 849 transferable or assignable.

850 (10)~~(9)~~ A correspondent mortgage lender or branch office
 851 license may be canceled if it was issued through mistake or
 852 inadvertence of the office. A notice of cancellation must be
 853 issued by the office within 90 days after the issuance of the
 854 license. A notice of cancellation shall be effective upon
 855 receipt. The notice of cancellation shall provide the applicant
 856 with notification of the right to request a hearing within 21

HB 381 CS

2005
CS

857 days after the applicant's receipt of the notice of
858 cancellation. A license shall be reinstated if the applicant can
859 demonstrate that the requirements for obtaining the license
860 pursuant to this chapter have been satisfied.

861 ~~(10) If an initial correspondent mortgage lender or branch~~
862 ~~office license has been issued but the check upon which the~~
863 ~~license is based is returned due to insufficient funds, the~~
864 ~~license shall be deemed canceled. A license deemed canceled~~
865 ~~pursuant to this subsection shall be reinstated if the office~~
866 ~~receives a certified check for the appropriate amount within 30~~
867 ~~days after the date the check was returned due to insufficient~~
868 ~~funds.~~

869 (11) Each correspondent lender shall designate a principal
870 representative who exercises control over the business and shall
871 maintain a form prescribed by the commission designating the
872 principal representative. If the form is not accurately
873 maintained, the business is considered to be operated by each
874 officer, director, or equitable owner of a 10-percent or greater
875 interest in the business.

876 (12) ~~After October 1, 2001,~~ An applicant's principal
877 representative must pass a written test prescribed by the
878 commission and administered by the office or a third party
879 approved by the office which test covers primary and subordinate
880 mortgage financing transactions and the provisions of this
881 chapter and rules adopted under this chapter. The commission may
882 waive by rule the examination requirement for any individual who
883 has passed a comparable test offered by a national group of
884 state mortgage regulators or a federal governmental agency which

885 test covers primary and subordinate mortgage financing
 886 transactions. The commission may set by rule a fee not to exceed
 887 \$100 for taking the examination. This requirement is satisfied
 888 if the principal representative has continuously served in the
 889 capacity of a principal representative for a licensed entity
 890 under this chapter for at least 1 year and has not had a lapse
 891 in designation as a principal representative of more than 2
 892 years prior to the date of the submission of the application or
 893 amendment in the case of a change in the principal
 894 representative. This requirement is also satisfied if the
 895 principal representative currently has an active mortgage broker
 896 license in this state.

897 (13) A correspondent lender shall notify the office of any
 898 change in the designation of its principal representative within
 899 30 days. A new principal representative shall satisfy the name
 900 ~~and address of any new principal representative and shall~~
 901 ~~document that such person has completed~~ the educational and
 902 testing requirements of this section within 90 days after being
 903 designated as upon the lender's designation of a new principal
 904 representative. This requirement is satisfied if the principal
 905 representative has continuously served in the capacity of a
 906 principal representative for a licensed entity under this
 907 chapter for at least 1 year and has not had a lapse in
 908 designation as a principal representative of more than 2 years
 909 prior to the date of the submission of the application or
 910 amendment in the case of a change in the principal
 911 representative. This requirement is also satisfied if the

HB 381 CS

2005
CS

912 principal representative currently has an active mortgage broker
 913 license in this state.

914 Section 15. Paragraph (b) of subsection (1) of section
 915 494.0064, Florida Statutes, is amended to read:

916 494.0064 Renewal of mortgage lender's license; branch
 917 office license renewal.--

918 (1)

919 (b) A licensee shall also submit, as part of the renewal
 920 form, certification that during the preceding 2 years the
 921 licensee's principal representative and, loan originators, ~~and~~
 922 ~~associates~~ have completed the professional continuing education
 923 requirements of s. 494.00295.

924 Section 16. Section 494.0065, Florida Statutes, is amended
 925 to read:

926 494.0065 Saving clause.--

927 (1)(a) Any person in good standing who holds an active
 928 registration pursuant to former s. 494.039 or license pursuant
 929 to former s. 521.205, or any person who acted solely as a
 930 mortgage servicer on September 30, 1991, is eligible to apply to
 931 the office for a mortgage lender's license and is eligible for
 932 licensure if the applicant:

933 1. For at least 12 months during the period of October 1,
 934 1989, through September 30, 1991, has engaged in the business of
 935 either acting as a seller or assignor of mortgage loans or as a
 936 servicer of mortgage loans, or both;

937 2. Has documented a minimum net worth of \$25,000 in
 938 audited financial statements; and

HB 381 CS

2005
CS

939 3. Has applied for licensure pursuant to this section by
940 January 1, 1992, and paid an application fee of \$100.

941 (b) A licensee pursuant to paragraph (a) may operate a
942 wholly owned subsidiary or affiliate for the purpose of
943 servicing accounts if the subsidiary or affiliate is operational
944 as of September 30, 1991. Such subsidiary or affiliate is not
945 required to obtain a separate license, but is subject to all the
946 requirements of a licensee under ss. 494.006-494.0077.

947 (2) A licensee issued a license pursuant to subsection (1)
948 may renew its mortgage lending license if it documents a minimum
949 net worth of \$25,000, according to United States generally
950 accepted accounting principles, which must be continuously
951 maintained as a condition to licensure. The office shall require
952 an audited financial statement which documents such net worth.

953 (3) The commission may prescribe by rule forms and
954 procedures for application for licensure, and amendment and
955 withdrawal of application for licensure, or transfer, including
956 any existing branch offices, in accordance with subsections (4)
957 and (5), and for renewal of licensure of licensees under this
958 section. An application is considered received for purposes of
959 s. 120.60 upon receipt of a completed application form as
960 prescribed by commission rule, a nonrefundable application fee
961 of \$575, and any other fee prescribed by law.

962 (4)(a) Notwithstanding ss. 494.0061~~(6)~~~~(5)~~ and 494.0067(3),
963 the ultimate equitable owner, as of the effective date of this
964 act, of a mortgage lender licensed under this section may
965 transfer, one time, at least 50 percent of the ownership,
966 control, or power to vote any class of equity securities of such

967 mortgage lender, except as provided in paragraph (b). For
 968 purposes of this subsection, satisfaction of the amount of the
 969 ownership transferred may be met in multiple transactions or in
 970 a single transaction.

971 (b) A person who is an ultimate equitable owner on the
 972 effective date of this act may transfer, at any time, at least
 973 50 percent of the ownership, control, or power to vote any class
 974 of equity securities of such person to the person's spouse or
 975 child, and any such transferee may transfer, at any time, such
 976 ownership, control, or power to vote to a spouse or child of
 977 such transferee, in perpetuity.

978 (c) For any transfer application filed on or after October
 979 1, 2005:

980 1. An applicant must provide proof that the applicant's
 981 principal representative has completed 24 hours of instruction
 982 in primary and subordinate financing transactions and in the
 983 provisions of this chapter and rules adopted under this chapter.
 984 This requirement is satisfied if the principal representative
 985 has continuously served in the capacity of a principal
 986 representative for a licensed entity under this chapter for at
 987 least 1 year and has not had a lapse in designation as a
 988 principal representative of more than 2 years prior to the date
 989 of the submission of the application or amendment in the case of
 990 a change in the principal representative. This requirement is
 991 also satisfied if the principal representative currently has an
 992 active mortgage broker license in this state.

993 2. An applicant's principal representative must pass a
 994 written test prescribed by the commission and administered by

995 | the office, or must pass an electronic test prescribed by the
 996 | commission and administered by the office or a third party
 997 | approved by the office which test covers primary and subordinate
 998 | mortgage financing transactions and the provisions of this
 999 | chapter and rules adopted under this chapter. The commission may
 1000 | set by rule a fee not to exceed \$100 for the electronic version
 1001 | of the mortgage broker test. The commission may waive by rule
 1002 | the examination requirement for any individual who has passed a
 1003 | comparable test offered by a national group of state mortgage
 1004 | regulators or a federal governmental agency which test covers
 1005 | primary and subordinate mortgage financing transactions. This
 1006 | requirement is satisfied if the principal representative has
 1007 | continuously served in the capacity of a principal
 1008 | representative for a licensed entity under this chapter for at
 1009 | least 1 year and has not had a lapse in designation as a
 1010 | principal representative of more than 2 years prior to the date
 1011 | of the submission of the application or amendment in the case of
 1012 | a change in the principal representative. This requirement is
 1013 | also satisfied if the principal representative currently has an
 1014 | active mortgage broker license in this state.

1015 | (5) The commission or office may require each applicant
 1016 | for any transfer to provide any information reasonably necessary
 1017 | to make a determination of the applicant's eligibility for
 1018 | licensure. The office shall issue the transfer of licensure to
 1019 | any person who submits the following documentation at least 90
 1020 | days prior to the anticipated transfer:

1021 | (a) A completed application form.

1022 (b) A nonrefundable fee set by rule of the commission in
1023 the amount of \$575 ~~\$500~~.

1024 (c) Audited financial statements that substantiate that
1025 the applicant has a bona fide and verifiable net worth,
1026 according to United States generally accepted accounting
1027 principles, of at least \$25,000, which must be continuously
1028 maintained as a condition of licensure.

1029 (d) Documentation that the applicant is incorporated,
1030 registered, or otherwise formed as a general partnership,
1031 limited partnership, limited liability company, or other lawful
1032 entity under the laws of this state or another state of the
1033 United States.

1034
1035 An application is considered received for purposes of s. 120.60
1036 upon receipt of a completed application form as prescribed by
1037 commission rule, a nonrefundable application fee of \$575, and
1038 any other fee prescribed by law. The commission or office may
1039 require by rule that each officer, director, and ultimate
1040 equitable owner of a 10-percent or greater interest in the
1041 applicant submit a complete set of fingerprints. A fingerprint
1042 card submitted to the office must be taken by an authorized law
1043 enforcement agency if the fingerprint card is submitted to the
1044 office in paper form. In addition to the fees prescribed in s.
1045 215.405, the commission may prescribe by rule an additional fee,
1046 not to exceed \$30, for processing the fingerprints. The
1047 commission may prescribe by rule procedures for submitting
1048 fingerprints and fees by electronic means to the office. In
1049 order to implement the submission and processing of fingerprints

HB 381 CS

2005
CS

1050 as specified by rule under this section, the office may contract
 1051 with another state agency that provides fingerprinting services.
 1052 The office shall submit the fingerprints to the Department of
 1053 Law Enforcement for state processing and the Department of Law
 1054 Enforcement shall forward the fingerprints to the Federal Bureau
 1055 of Investigation for federal processing. The cost for the
 1056 fingerprint processing may be borne by the office, the employer,
 1057 or the person subject to the background check. The Department of
 1058 Law Enforcement shall submit an invoice to the office for the
 1059 fingerprints received each month. The office shall screen the
 1060 background results to determine if the applicant meets licensure
 1061 requirements officer.

1062 (6) Notwithstanding subsection (5), a transfer under
 1063 subsection (4) may be denied if the applicant, any principal
 1064 officer or director of the applicant, or any natural person
 1065 owning a 10-percent or greater interest in the applicant has
 1066 committed any violation specified in s. 494.0072, or has entered
 1067 a plea of nolo contendere, regardless of adjudication, or has an
 1068 action pending against the applicant in any criminal prosecution
 1069 or administrative enforcement action, in any jurisdiction, which
 1070 involves fraud, dishonest dealing, or any act of moral
 1071 turpitude.

1072 (7) A license issued in accordance with this section is
 1073 not transferable or assignable except as provided in subsection
 1074 (4).

1075 (8) Each person applying for a transfer of any branch
 1076 office pursuant to subsection (4) must comply with the
 1077 requirements of s. 494.0066.

HB 381 CS

2005
CS

1078 (9) Each mortgage lender shall designate a principal
 1079 representative who exercises control over the business and shall
 1080 keep current the designation on a form prescribed by commission
 1081 rule designating the principal representative. If the
 1082 information on the form is not kept current, the business is
 1083 considered to be operated by each officer, director, or
 1084 equitable owner of a 10-percent or greater interest in the
 1085 business.

1086 (10) A lender shall notify the office of any change in the
 1087 designation of its principal representative within 30 days. A
 1088 new principal representative shall satisfy the educational and
 1089 testing requirements of this section within 90 days after being
 1090 designated as new principal representative. This requirement is
 1091 satisfied if the principal representative has continuously
 1092 served in the capacity of a principal representative for a
 1093 licensed entity under this chapter for at least 1 year and has
 1094 not had a lapse in designation as a principal representative of
 1095 more than 2 years prior to the date of the submission of the
 1096 application or amendment in the case of a change in the
 1097 principal representative. This requirement is also satisfied if
 1098 the principal representative currently has an active mortgage
 1099 broker license in this state.

1100 Section 17. Subsection (2) of section 494.0066, Florida
 1101 Statutes, is amended to read:

1102 494.0066 Branch offices.--

1103 (2) The office shall issue a branch office license to a
 1104 licensee licensed under s. 494.0065(1) or a transfer licensee
 1105 after the office determines that the licensee has submitted ~~upon~~

HB 381 CS

2005
CS

1106 | ~~receipt~~ of a completed branch office application form as
 1107 | prescribed by rule by the commission and an initial
 1108 | nonrefundable branch office license fee of \$325. The branch
 1109 | office application must include the name and license number of
 1110 | the licensee under ss. 494.006-494.0077, the name of the
 1111 | licensee's employee in charge of the branch office, and the
 1112 | address of the branch office. The branch office license shall be
 1113 | issued in the name of the licensee under ss. 494.006-494.0077
 1114 | and must be renewed in conjunction with the license renewal.

1115 | Section 18. Paragraph (a) of subsection (10) of section
 1116 | 494.0067, Florida Statutes, is amended to read:

1117 | 494.0067 Requirements of licensees under ss. 494.006-
 1118 | 494.0077.--

1119 | (10)(a) Each licensee shall require the principal
 1120 | representative and all loan originators ~~or associates~~ who
 1121 | perform services for the licensee to complete 14 hours of
 1122 | professional continuing education during each biennial license
 1123 | period. The education shall cover primary and subordinate
 1124 | mortgage financing transactions and the provisions of this
 1125 | chapter and the rules adopted under this chapter.

1126 | Section 19. Paragraph (s) is added to subsection (2) of
 1127 | section 494.0072, Florida Statutes, to read:

1128 | 494.0072 Administrative penalties and fines; license
 1129 | violations.--

1130 | (2) Each of the following acts constitutes a ground for
 1131 | which the disciplinary actions specified in subsection (1) may
 1132 | be taken:

HB 381 CS

2005
CS

1133 (s) Payment to the office for a license or permit with a
 1134 check or electronic transmission of funds which is dishonored by
 1135 the applicant's or licensee's financial institution.

1136 Section 20. Subsection (2) of section 494.00721, Florida
 1137 Statutes, is amended to read:

1138 494.00721 Net worth.--

1139 (2) If a mortgage lender or correspondent mortgage lender
 1140 fails to satisfy the net worth requirements, the mortgage lender
 1141 or correspondent mortgage lender shall immediately cease taking
 1142 any new mortgage loan applications. Thereafter, the mortgage
 1143 lender or correspondent mortgage lender shall have up to 60 days
 1144 within which to satisfy the net worth requirements. If the
 1145 licensee makes the office aware, prior to an examination, that
 1146 the licensee no longer meets the net worth requirements, the
 1147 mortgage lender or correspondent mortgage lender shall have 120
 1148 days within which to satisfy the net worth requirements. A
 1149 mortgage lender or correspondent mortgage lender shall not
 1150 resume acting as a mortgage lender or correspondent mortgage
 1151 lender without written authorization from the office, which
 1152 authorization shall be granted if the mortgage lender or
 1153 correspondent mortgage lender provides the office with
 1154 documentation which satisfies the requirements of s.
 1155 494.0061~~(2)(1)~~(c), s. 494.0062~~(2)(1)~~(c), or s. 494.0065(2),
 1156 whichever is applicable.

1157 Section 21. Paragraph (c) of subsection (3) of section
 1158 501.137, Florida Statutes, is amended to read:

1159 501.137 Mortgage lenders; tax and insurance payments from
 1160 escrow accounts; duties.--

HB 381 CS

2005
CS

1161 (3)
1162 (c) If the lender violates paragraph (a) and the premium
1163 payment is more than 90 days overdue or if the insurer refuses
1164 to reinstate the insurance policy, the lender shall pay the
1165 difference between the cost of the previous insurance policy and
1166 a new, comparable insurance policy for a period of 2 years. If
1167 the lender refuses, the lender shall be liable for the
1168 reasonable attorney's fees and costs of the property owner for a
1169 violation of this section.

1170 Section 22. Section 516.03, Florida Statutes, is amended
1171 to read:

1172 516.03 Application for license; fees; etc.--

1173 (1) APPLICATION.--Application for a license to make loans
1174 under this chapter shall be in the form prescribed by rule of
1175 the commission, and shall contain the name, residence and
1176 business addresses of the applicant and, if the applicant is a
1177 copartnership or association, of every member thereof and, if a
1178 corporation, of each officer and director thereof, also the
1179 county and municipality with the street and number or
1180 approximate location where the business is to be conducted, and
1181 such further relevant information as the commission or office
1182 may require. At the time of making such application the
1183 applicant shall pay to the office a nonrefundable biennial
1184 license fee of \$625. Applications, except for applications to
1185 renew or reactivate a license, must also be accompanied by a
1186 nonrefundable ~~an~~ investigation fee of \$200. An application is
1187 considered received for purposes of s. 120.60 upon receipt of a
1188 completed application form as prescribed by commission rule, a

1189 nonrefundable application fee of \$625, and any other fee
 1190 prescribed by law. The commission may adopt rules to require
 1191 ~~allow~~ electronic submission of any form, document, or fee
 1192 required by this act if such rules reasonably accommodate
 1193 technological or financial hardship. The commission may
 1194 prescribe by rule requirements and procedures for obtaining an
 1195 exemption due to a technological or financial hardship.

1196 (2) FEES.--Fees herein provided for shall be collected by
 1197 the office and shall be turned into the State Treasury to the
 1198 credit of the regulatory trust fund under the office. The office
 1199 shall have full power to employ such examiners or clerks to
 1200 assist the office as may from time to time be deemed necessary
 1201 and fix their compensation. The commission may adopt rules to
 1202 require ~~allow~~ electronic submission of any fee required by this
 1203 section if such rules reasonably accommodate technological or
 1204 financial hardship. The commission may prescribe by rule
 1205 requirements and procedures for obtaining an exemption due to a
 1206 technological or financial hardship.

1207 Section 23. Paragraph (a) of subsection (3) of section
 1208 516.031, Florida Statutes, is amended to read:

1209 516.031 Finance charge; maximum rates.--

1210 (3) OTHER CHARGES.--

1211 (a) In addition to the interest, delinquency, and
 1212 insurance charges herein provided for, no further or other
 1213 charges or amount whatsoever for any examination, service,
 1214 commission, or other thing or otherwise shall be directly or
 1215 indirectly charged, contracted for, or received as a condition
 1216 to the grant of a loan, except:

HB 381 CS

2005
CS

- 1217 1. An amount not to exceed \$25 ~~\$10~~ to reimburse a portion
 1218 of the costs for investigating the character and credit of the
 1219 person applying for the loan;
- 1220 2. An annual fee of \$25 on the anniversary date of each
 1221 line-of-credit account;
- 1222 3. Charges paid for brokerage fee on a loan or line of
 1223 credit of more than \$10,000, title insurance, and the appraisal
 1224 of real property offered as security when paid to a third party
 1225 and supported by an actual expenditure;
- 1226 4. Intangible personal property tax on the loan note or
 1227 obligation when secured by a lien on real property;
- 1228 5. The documentary excise tax and lawful fees, if any,
 1229 actually and necessarily paid out by the licensee to any public
 1230 officer for filing, recording, or releasing in any public office
 1231 any instrument securing the loan, which fees may be collected
 1232 when the loan is made or at any time thereafter;
- 1233 6. The premium payable for any insurance in lieu of
 1234 perfecting any security interest otherwise required by the
 1235 licensee in connection with the loan, if the premium does not
 1236 exceed the fees which would otherwise be payable, which premium
 1237 may be collected when the loan is made or at any time
 1238 thereafter;
- 1239 7. Actual and reasonable attorney's fees and court costs
 1240 as determined by the court in which suit is filed;
- 1241 8. Actual and commercially reasonable expenses of
 1242 repossession, storing, repairing and placing in condition for
 1243 sale, and selling of any property pledged as security; or

HB 381 CS

2005
CS

1244 9. A delinquency charge not to exceed \$10 for each payment
1245 in default for a period of not less than 10 days, if the charge
1246 is agreed upon, in writing, between the parties before imposing
1247 the charge.

1248
1249 Any charges, including interest, in excess of the combined total
1250 of all charges authorized and permitted by this chapter
1251 constitute a violation of chapter 687 governing interest and
1252 usury, and the penalties of that chapter apply. In the event of
1253 a bona fide error, the licensee shall refund or credit the
1254 borrower with the amount of the overcharge immediately but
1255 within 20 days from the discovery of such error.

1256 Section 24. Subsection (1) of section 516.05, Florida
1257 Statutes, is amended to read:

1258 516.05 License.--

1259 (1) Upon the filing of an application for a license and
1260 payment of all applicable fees, the office shall, unless the
1261 application is to renew or reactivate an existing license, make
1262 an investigation of the facts concerning the applicant's
1263 proposed activities. If the office determines that a license
1264 should be granted, it shall issue the license for a period not
1265 to exceed 2 years. Biennial licensure periods and procedures for
1266 renewal of licenses shall be established by the rule of the
1267 commission. If the office determines that grounds exist under
1268 this chapter for denial of an application other than an
1269 application to renew a license, it shall deny such application,
1270 ~~return to the applicant the sum paid as a license fee, and~~
1271 ~~retain the investigation fee.~~

HB 381 CS

2005
CS

1272 Section 25. Paragraph (p) is added to subsection (1) of
1273 section 516.07, Florida Statutes, to read:

1274 516.07 Grounds for denial of license or for disciplinary
1275 action.--

1276 (1) The following acts are violations of this chapter and
1277 constitute grounds for denial of an application for a license to
1278 make consumer finance loans and grounds for any of the
1279 disciplinary actions specified in subsection (2):

1280 (p) Payment to the office for a license or permit with a
1281 check or electronic transmission of funds which is dishonored by
1282 the applicant's or licensee's financial institution.

1283 Section 26. Subsection (3) is added to section 516.12,
1284 Florida Statutes, to read:

1285 516.12 Records to be kept by licensee.--

1286 (3) The commission may prescribe by rule the minimum
1287 information to be shown in the books, accounts, records, and
1288 documents of licensees for purposes of enabling the office to
1289 determine the licensee's compliance with ss. 516.001-516.36. In
1290 addition, the commission may prescribe by rule the requirements
1291 for destruction of books, accounts, records, and documents
1292 retained by the licensee after completion of the time period
1293 specified in subsection (1). Notwithstanding the 2-year
1294 retention period specified in subsection (1), if the office
1295 identifies a statute of limitations in another civil or criminal
1296 state or federal law or rule which statute of limitations is
1297 reasonably related by subject matter to the administration of
1298 this chapter, the commission may identify that statute of
1299 limitations by rule and may prohibit the destruction of records

HB 381 CS

2005
CS

1300 required to be maintained by this chapter for a period of time,
 1301 established by rule, which is reasonably related to such statute
 1302 of limitations. The commission shall prescribe by rule those
 1303 documents or records that are to be preserved under the
 1304 identified statute of limitations.

1305 Section 27. Subsection (9) of section 517.051, Florida
 1306 Statutes, is amended to read:

1307 517.051 Exempt securities.--The exemptions provided herein
 1308 from the registration requirements of s. 517.07 are self-
 1309 executing and do not require any filing with the office prior to
 1310 claiming such exemption. Any person who claims entitlement to
 1311 any of these exemptions bears the burden of proving such
 1312 entitlement in any proceeding brought under this chapter. The
 1313 registration provisions of s. 517.07 do not apply to any of the
 1314 following securities:

1315 (9) A security issued by a corporation organized and
 1316 operated exclusively for religious, educational, benevolent,
 1317 fraternal, charitable, or reformatory purposes and not for
 1318 pecuniary profit, no part of the net earnings of which
 1319 corporation inures to the benefit of any private stockholder or
 1320 individual, or any security of a fund that is excluded from the
 1321 definition of an investment company under s. 3(c)(10)(B) of the
 1322 Investment Company Act of 1940; provided that no person shall
 1323 directly or indirectly offer or sell securities under this
 1324 subsection except by an offering circular containing full and
 1325 fair disclosure, as prescribed by the rules of the commission,
 1326 of all material information, including, but not limited to, a
 1327 description of the securities offered and terms of the offering,

HB 381 CS

2005
CS

1328 a description of the nature of the issuer's business, a
 1329 statement of the purpose of the offering and the intended
 1330 application by the issuer of the proceeds thereof, and financial
 1331 statements of the issuer prepared in conformance with United
 1332 States generally accepted accounting principles. Section 6(c) of
 1333 the Philanthropy Protection Act of 1995, Pub. L. No. 104-62,
 1334 shall not preempt any provision of this chapter.

1335 Section 28. Subsection (18) of section 517.061, Florida
 1336 Statutes, is amended to read:

1337 517.061 Exempt transactions.--The exemption for each
 1338 transaction listed below is self-executing and does not require
 1339 any filing with the office prior to claiming such exemption.
 1340 Any person who claims entitlement to any of the exemptions bears
 1341 the burden of proving such entitlement in any proceeding brought
 1342 under this chapter. The registration provisions of s. 517.07 do
 1343 not apply to any of the following transactions; however, such
 1344 transactions are subject to the provisions of ss. 517.301,
 1345 517.311, and 517.312:

1346 (18) The offer or sale of any security effected by or
 1347 through a person in compliance with ~~registered pursuant to s.~~
 1348 517.12(17).

1349 Section 29. Paragraph (g) of subsection (3) of section
 1350 517.081, Florida Statutes, is amended to read:

1351 517.081 Registration procedure.--

1352 (3) The office may require the applicant to submit to the
 1353 office the following information concerning the issuer and such
 1354 other relevant information as the office may in its judgment

HB 381 CS

2005
CS

1355 | deem necessary to enable it to ascertain whether such securities
1356 | shall be registered pursuant to the provisions of this section:

1357 | (g)1. A specimen copy of the security and a copy of any
1358 | circular, prospectus, advertisement, or other description of
1359 | such securities.

1360 | 2. The commission shall adopt a form for a simplified
1361 | offering circular to be used solely by corporations to register,
1362 | under this section, securities of the corporation that are sold
1363 | in offerings in which the aggregate offering price in any
1364 | consecutive 12-month period does not exceed the amount provided
1365 | in s. 3(b) of the Securities Act of 1933. The following issuers
1366 | shall not be eligible to submit a simplified offering circular
1367 | adopted pursuant to this subparagraph:

1368 | a. An issuer seeking to register securities for resale by
1369 | persons other than the issuer.

1370 | b. An issuer who is subject to any of the
1371 | disqualifications described in 17 C.F.R. s. 230.262, adopted
1372 | pursuant to the Securities Act of 1933, or who has been or is
1373 | engaged or is about to engage in an activity that would be
1374 | grounds for denial, revocation, or suspension under s. 517.111.
1375 | For purposes of this subparagraph, an issuer includes an
1376 | issuer's director, officer, shareholder who owns at least 10
1377 | percent of the shares of the issuer, promoter, or selling agent
1378 | of the securities to be offered or any officer, director, or
1379 | partner of such selling agent.

1380 | c. An issuer who is a development-stage company that
1381 | either has no specific business plan or purpose or has indicated

HB 381 CS

2005
CS

1382 that its business plan is to merge with an unidentified company
1383 or companies.

1384 d. An issuer of offerings in which the specific business
1385 or properties cannot be described.

1386 e. Any issuer the office determines is ineligible if the
1387 form would not provide full and fair disclosure of material
1388 information for the type of offering to be registered by the
1389 issuer.

1390 f. Any corporation which has failed to provide the office
1391 the reports required for a previous offering registered pursuant
1392 to this subparagraph.

1393
1394 As a condition precedent to qualifying for use of the simplified
1395 offering circular, a corporation shall agree to provide the
1396 office with an annual financial report containing a balance
1397 sheet as of the end of the issuer's fiscal year and a statement
1398 of income for such year, prepared in accordance with United
1399 States generally accepted accounting principles and accompanied
1400 by an independent accountant's report. If the issuer has more
1401 than 100 security holders at the end of a fiscal year, the
1402 financial statements must be audited. Annual financial reports
1403 must be filed with the office within 90 days after the close of
1404 the issuer's fiscal year for each of the first 5 years following
1405 the effective date of the registration.

1406 Section 30. Subsections (7), (10), (11), (15), and (17) of
1407 section 517.12, Florida Statutes, are amended to read:

1408 517.12 Registration of dealers, associated persons,
1409 investment advisers, and branch offices.--

1410 (7) The application shall also contain such information as
 1411 the commission or office may require about the applicant; any
 1412 partner, officer, or director of the applicant or any person
 1413 having a similar status or performing similar functions; any
 1414 person directly or indirectly controlling the applicant; or any
 1415 employee of a dealer or of an investment adviser rendering
 1416 investment advisory services. Each applicant shall file a
 1417 complete set of fingerprints. A fingerprint card submitted to
 1418 the office must be taken by an authorized law enforcement agency
 1419 if the fingerprint card is submitted to the office in paper
 1420 form. In addition to the fees prescribed in s. 215.405, the
 1421 commission may prescribe by rule an additional fee, not to
 1422 exceed \$30, for processing the fingerprints. The commission may
 1423 prescribe by rule procedures for submitting fingerprints and
 1424 fees by electronic means to the office. In order to implement
 1425 the submission and processing of fingerprints as specified by
 1426 rule under this section, the office may contract with another
 1427 state agency that provides fingerprint services ~~officer~~. The
 1428 office shall submit the ~~Such~~ fingerprints shall be submitted to
 1429 the Department of Law Enforcement for state processing and the
 1430 Department of Law enforcement shall forward the fingerprints to
 1431 ~~or~~ the Federal Bureau of Investigation for state and federal
 1432 processing. The cost for the fingerprint processing may be borne
 1433 by the office, the employer, or the person subject to the
 1434 background check. The Department of Law Enforcement shall submit
 1435 an invoice to the office for the fingerprints received each
 1436 month. The office shall screen the background results to
 1437 determine if the applicant meets licensure requirements. The

HB 381 CS

2005
CS

1438 | commission may waive, by rule, the requirement that applicants
 1439 | must file a set of fingerprints or the requirement that such
 1440 | fingerprints must be processed by the Department of Law
 1441 | Enforcement or the Federal Bureau of Investigation. The
 1442 | commission or office may require information about any such
 1443 | applicant or person concerning such matters as:

1444 | (a) His or her full name, and any other names by which he
 1445 | or she may have been known, and his or her age, photograph,
 1446 | qualifications, and educational and business history.

1447 | (b) Any injunction or administrative order by a state or
 1448 | federal agency, national securities exchange, or national
 1449 | securities association involving a security or any aspect of the
 1450 | securities business and any injunction or administrative order
 1451 | by a state or federal agency regulating banking, insurance,
 1452 | finance, or small loan companies, real estate, mortgage brokers,
 1453 | or other related or similar industries, which injunctions or
 1454 | administrative orders relate to such person.

1455 | (c) His or her conviction of, or plea of nolo contendere
 1456 | to, a criminal offense or his or her commission of any acts
 1457 | which would be grounds for refusal of an application under s.
 1458 | 517.161.

1459 | (d) The names and addresses of other persons of whom the
 1460 | office may inquire as to his or her character, reputation, and
 1461 | financial responsibility.

1462 | (10) An applicant for registration shall pay an assessment
 1463 | fee of \$200, in the case of a dealer or investment adviser, or
 1464 | \$40, in the case of an associated person. The assessment fee of
 1465 | an associated person shall be reduced to \$30, but only after the

HB 381 CS

2005
CS

1466 office determines, by final order, that sufficient funds have
 1467 been allocated to the Securities Guaranty Fund pursuant to s.
 1468 517.1203 to satisfy all valid claims filed in accordance with s.
 1469 517.1203(2) and after all amounts payable under any service
 1470 contract entered into by the office pursuant to s. 517.1204, and
 1471 all notes, bonds, certificates of indebtedness, other
 1472 obligations, or evidences of indebtedness secured by such notes,
 1473 bonds, certificates of indebtedness, or other obligations, have
 1474 been paid or provision has been made for the payment of such
 1475 amounts, notes, bonds, certificates of indebtedness, other
 1476 obligations, or evidences of indebtedness. An associated person
 1477 ~~may not having current fingerprint cards filed with the National~~
 1478 ~~Association of Securities Dealers or a national securities~~
 1479 ~~exchange registered with the Securities and Exchange Commission~~
 1480 shall be assessed an additional fee to cover the cost for said
 1481 fingerprint cards to be processed by the office. Such fee shall
 1482 be determined by rule of the commission. Each dealer and each
 1483 investment adviser shall pay an assessment fee of \$100 for each
 1484 office in this state, except its designated principal office.
 1485 Such fees become the revenue of the state, except for those
 1486 assessments provided for under s. 517.131(1) until such time as
 1487 the Securities Guaranty Fund satisfies the statutory limits, and
 1488 are not returnable in the event that registration is withdrawn
 1489 or not granted.

1490 (11) If the office finds that the applicant is of good
 1491 repute and character and has complied with the provisions of
 1492 this chapter and the rules made pursuant hereto, it shall
 1493 register the applicant. The registration of each dealer,

HB 381 CS

2005
CS

1494 investment adviser, and associated person expires ~~will expire~~ on
 1495 December 31, of the year the registration became effective
 1496 unless the registrant has renewed his or her registration on or
 1497 before that date. ~~and~~ The registration of each branch office
 1498 expires ~~will expire~~ on March 31 or, once the National
 1499 Association of Securities Dealers develops the capacity to
 1500 process branch office registration through the Central
 1501 Registration Depository, December 31 of the year in which it
 1502 became effective unless the registrant has renewed its
 1503 registration on or before that date. The commission may
 1504 establish by rule the initial year in which branch renewals
 1505 shall be processed through the Central Registration Depository
 1506 of the National Association of Securities Dealers. The
 1507 commission may establish by rule procedures for renewing branch
 1508 registrations through the Central Registration Depository.
 1509 Registration may be renewed by furnishing such information as
 1510 the commission may require, together with payment of the fee
 1511 required in subsection (10) for dealers, investment advisers,
 1512 associated persons, or branch offices and the payment of any
 1513 amount lawfully due and owing to the office pursuant to any
 1514 order of the office or pursuant to any agreement with the
 1515 office. Any dealer, investment adviser, or associated person
 1516 registrant who has not renewed a registration by the time the
 1517 current registration expires may request reinstatement of such
 1518 registration by filing with the office, on or before January 31
 1519 of the year following the year of expiration, such information
 1520 as may be required by the commission, together with payment of
 1521 the fee required in subsection (10) for dealers, investment

HB 381 CS

2005
CS

1522 advisers, or associated persons and a late fee equal to the
 1523 amount of such fee. Any reinstatement of registration granted
 1524 by the office during the month of January shall be deemed
 1525 effective retroactive to January 1 of that year.

1526 (15) In lieu of filing with the office the applications
 1527 specified in subsection (6), the fees required by subsection
 1528 (10), and the termination notices required by subsection (12),
 1529 the commission may by rule establish procedures for the deposit
 1530 of such fees and documents with the Central Registration
 1531 Depository or the Investment Advisor Registration Depository of
 1532 the National Association of Securities Dealers, Inc., as
 1533 developed under contract with the North American Securities
 1534 Administrators Association, Inc.; provided, however, that such
 1535 procedures shall provide the office with the information and
 1536 data as required by this section.

1537 (17)(a) A dealer that is located in Canada, does not have
 1538 an and has no office or other physical presence in this state,
 1539 and has made a notice filing in accordance with this subsection
 1540 is exempt from the registration requirements of this section and
 1541 may, provided the dealer is registered in accordance with this
 1542 section, effect transactions in securities with or for, or
 1543 induce or attempt to induce the purchase or sale of any security
 1544 by:

1545 1. A person from Canada who is present ~~temporarily resides~~
 1546 in this state and with whom the Canadian dealer had a bona fide
 1547 dealer-client relationship before the person entered the United
 1548 States; or

1549 2. A person from Canada who is present in a resident of
1550 this state~~,~~ and whose transactions are in a self-directed tax-
1551 advantaged tax-advantage retirement plan in Canada of which the
1552 person is the holder or contributor.

1553 (b) A notice filing under this subsection must consist of
1554 documents that the commission by rule requires to be filed,
1555 together with a consent to service of process and a filing fee
1556 of \$200. The commission may establish by rule procedures for the
1557 deposit of fees and the filing of documents to be made by
1558 electronic means, if such procedures provide the office with the
1559 information and data required by this section.

1560 (c) A Canadian dealer may make a notice filing under this
1561 subsection if such dealer provides to the office:

1562 1. A notice filing in the form that the commission by rule
1563 requires.

1564 2. A consent to service of process.

1565 3. Evidence that the Canadian dealer is registered as a
1566 dealer in the jurisdiction in which its main office is located.

1567 4. Evidence that the Canadian dealer is a member of a
1568 self-regulatory organization or stock exchange in Canada.

1569 (d) The office may issue a permit to evidence the
1570 effectiveness of a notice filing for a Canadian dealer.

1571 (e) A notice filing is effective upon receipt. A notice
1572 filing expires on December 31 of the year in which the filing
1573 becomes effective unless the Canadian dealer has renewed the
1574 filing on or before that date. A Canadian dealer may annually
1575 renew a notice filing by furnishing to the office such
1576 information as the office requires together with a renewal fee

1577 of \$200 and the payment of any amount due and owing the office
 1578 pursuant to any agreement with the office. Any Canadian dealer
 1579 who has not renewed a notice filing by the time a current notice
 1580 filing expires may request reinstatement of such notice filing
 1581 by filing with the office, on or before January 31 of the year
 1582 following the year the notice filing expires, such information
 1583 as the commission requires, by rule, together with the payment
 1584 of \$200 and a late fee of \$200. Any reinstatement of a notice
 1585 filing granted by the office during the month of January is
 1586 effective retroactively to January 1 of that year.

1587 (f) An associated person who represents a Canadian dealer
 1588 who has made a notice filing under this subsection is exempt
 1589 from the registration requirements of this section and may
 1590 effect transactions in securities in this state as permitted for
 1591 a dealer under paragraph (a) if such person is registered in the
 1592 jurisdiction from which he or she is effecting transactions into
 1593 this state.

1594 (g) A Canadian dealer who has made a notice of filing
 1595 under this subsection shall:

1596 1. Maintain its provincial or territorial registration and
 1597 its membership in a self-regulatory organization or stock
 1598 exchange in good standing.

1599 2. Provide the office upon request with its books and
 1600 records relating to its business in this state as a dealer.

1601 3. Provide the office upon request notice of each civil,
 1602 criminal, or administrative action initiated against the dealer.

1603 4. Disclose to its clients in this state that the dealer
 1604 and its associated persons are not subject to the full
 1605 regulatory requirements under this chapter.

1606 5. Correct any inaccurate information within 30 days after
 1607 the information contained in the notice of filing becomes
 1608 inaccurate for any reason.

1609 (h) An associated person representing a Canadian dealer
 1610 who has made a notice of filing under this subsection shall:

1611 1. Maintain provincial or territorial registration in good
 1612 standing.

1613 2. Provide the office upon request with notice of each
 1614 civil, criminal, or administrative action initiated against such
 1615 person.

1616 (i) A notice filing may be terminated by filing notice of
 1617 such termination with the office. Unless another date is
 1618 specified by the Canadian dealer, such notice is effective upon
 1619 its receipt by the office.

1620 (j) All fees collected under this subsection become the
 1621 revenue of the state, except for those assessments provided for
 1622 under s. 517.131(1), until the Securities Guaranty Fund has
 1623 satisfied the statutory limits, and these fees are not
 1624 returnable if a notice filing is withdrawn.

1625 ~~(b) An associated person who represents a Canadian dealer~~
 1626 ~~registered under this section may, provided the agent is~~
 1627 ~~registered in accordance with this section, effect transactions~~
 1628 ~~in securities in this state as permitted for a dealer, under~~
 1629 ~~subsection (a).~~

HB 381 CS

2005
CS

1630 ~~(c) A Canadian dealer may register under this section~~
1631 ~~provided that such dealer:~~

- 1632 ~~1. Files an application in the form required by the~~
1633 ~~jurisdiction in which the dealer has a head office.~~
1634 ~~2. Files a consent to service of process.~~
1635 ~~3. Is registered as a dealer in good standing in the~~
1636 ~~jurisdiction from which it is effecting transactions into this~~
1637 ~~state and files evidence of such registration with the office.~~
1638 ~~4. Is a member of a self-regulatory organization or stock~~
1639 ~~exchange in Canada.~~

1640 ~~(d) An associated person who represents a Canadian dealer~~
1641 ~~registered under this section in effecting transactions in~~
1642 ~~securities in this state may register under this section~~
1643 ~~provided that such person:~~

- 1644 ~~1. Files an application in the form required by the~~
1645 ~~jurisdiction in which the dealer has its head office.~~
1646 ~~2. Is registered in good standing in the jurisdiction from~~
1647 ~~which he or she is effecting transactions into this state and~~
1648 ~~files evidence of such registration with the office.~~

1649 ~~(e) If the office finds that the applicant is of good~~
1650 ~~repute and character and has complied with the provisions of~~
1651 ~~this chapter, the office shall register the applicant.~~

1652 ~~(f) A Canadian dealer registered under this section shall:~~

- 1653 ~~1. Maintain its provincial or territorial registration and~~
1654 ~~its membership in a self-regulatory organization or stock~~
1655 ~~exchange in good standing.~~
1656 ~~2. Provide the office upon request with its books and~~
1657 ~~records relating to its business in this state as a dealer.~~

1658 ~~3. Provide the office notice of each civil, criminal, or~~
 1659 ~~administrative action initiated against the dealer.~~

1660 ~~4. Disclose to its clients in this state that the dealer~~
 1661 ~~and its agents are not subject to the full regulatory~~
 1662 ~~requirements under this chapter.~~

1663 ~~5. Correct any inaccurate information within 30 days, if~~
 1664 ~~the information contained in the application form becomes~~
 1665 ~~inaccurate for any reason before or after the dealer becomes~~
 1666 ~~registered.~~

1667 ~~(g) An associated person of a Canadian dealer registered~~
 1668 ~~under this section shall:~~

1669 ~~1. Maintain provincial or territorial registration in good~~
 1670 ~~standing.~~

1671 ~~2. Provide the office with notice of each civil, criminal,~~
 1672 ~~or administrative action initiated against such person.~~

1673 ~~3. Through the dealer, correct any inaccurate information~~
 1674 ~~within 30 days, if the information contained in the application~~
 1675 ~~form becomes inaccurate for any reason before or after the~~
 1676 ~~associated person becomes registered.~~

1677 ~~(h) Renewal applications for Canadian dealers and~~
 1678 ~~associated persons under this section must be filed before~~
 1679 ~~December 31 each year. Every applicant for registration or~~
 1680 ~~renewal registration under this section shall pay the fee for~~
 1681 ~~dealers and associated persons under this chapter.~~

1682 Section 31. Paragraphs (b) and (e) of subsection (3) of
 1683 section 517.131, Florida Statutes, are amended, and subsection
 1684 (5) is added to said section, to read:

1685 517.131 Securities Guaranty Fund.--

HB 381 CS

2005
CS

1686 (3) Any person is eligible to seek recovery from the
1687 Securities Guaranty Fund if:

1688 (b) Such person has made all reasonable searches and
1689 inquiries to ascertain whether the judgment debtor possesses
1690 real or personal property or other assets subject to being sold
1691 or applied in satisfaction of the judgment, and by her or his
1692 search the person has discovered no property or assets; or she
1693 or he has discovered property and assets and has taken all
1694 necessary action and proceedings for the application thereof to
1695 the judgment, but the amount thereby realized was insufficient
1696 to satisfy the judgment. To verify compliance with such
1697 condition, the office may require such person to have a writ of
1698 execution be issued upon such judgment, ~~and may further~~ require
1699 a showing that no personal or real property of the judgment
1700 debtor liable to be levied upon in complete satisfaction of the
1701 judgment can be found, or may require an affidavit from the
1702 claimant setting forth the reasonable searches and inquiries
1703 undertaken and the result.

1704 (e) The office waives compliance with the requirements of
1705 paragraph (a) or paragraph (b). The office may waive such
1706 compliance if the dealer, investment adviser, or associated
1707 person which is the subject of the claim filed with the office
1708 is the subject of any proceeding in which a receiver has been
1709 appointed by a court of competent jurisdiction. If the office
1710 waives such compliance, the office may, upon petition by the
1711 claimant, the debtor, or the court-appointed trustee, examiner,
1712 or receiver, distribute funds from the Securities Guaranty Fund
1713 up to the amount allowed under s. 517.141. Any waiver granted

HB 381 CS

2005
CS

1714 pursuant to this section shall be considered a judgment for
 1715 purposes of complying with the requirements of this section and
 1716 of s. 517.141.

1717 (5) The commission may by rule specify the procedures for
 1718 complying with subsections (2), (3), and (4), including rules
 1719 for the form of submission and guidelines for the sufficiency
 1720 and content of submissions of notices and claims.

1721 Section 32. Subsections (2) and (5) of section 517.141,
 1722 Florida Statutes, are amended, and subsection (11) is added to
 1723 said section, to read:

1724 517.141 Payment from the fund.--

1725 (2) Regardless of the number of claims or claimants
 1726 involved, payments for claims shall be limited in the aggregate
 1727 to \$100,000 against any one dealer, investment adviser, or
 1728 associated person. If the total claims exceed the aggregate
 1729 limit of \$100,000, the office shall prorate the payment based
 1730 upon the ratio that the person's claim bears to the total claims
 1731 filed.

1732 (5) If the final judgment that ~~which~~ gave rise to the
 1733 claim is overturned in any appeal or in any collateral
 1734 proceeding, the claimant shall reimburse the fund all amounts
 1735 paid from the fund to the claimant on the claim. If the claimant
 1736 satisfies the judgment referred to in s. 517.131(3)(a), the
 1737 claimant shall reimburse the fund all amounts paid from the fund
 1738 to the claimant on the claim. Such reimbursement shall be paid
 1739 to the office within 60 days after the final resolution of the
 1740 appellate or collateral proceedings or the satisfaction of

HB 381 CS

2005
CS

1741 judgment, with the 60-day period commencing on the date the
1742 final order or decision is entered in such proceedings.

1743 (11) The commission may by rule specify the procedures for
1744 complying with this section, including rules for the form of
1745 submission and guidelines for the sufficiency and content of
1746 submissions of notices and claims.

1747 Section 33. Subsection (1) of section 517.161, Florida
1748 Statutes, is amended to read:

1749 517.161 Revocation, denial, or suspension of registration
1750 of dealer, investment adviser, associated person, or branch
1751 office.--

1752 (1) Registration under s. 517.12 may be denied or any
1753 registration granted may be revoked, restricted, or suspended by
1754 the office if the office determines that such applicant or
1755 registrant:

1756 (a) Has violated any provision of this chapter or any rule
1757 or order made under this chapter;

1758 (b) Has made a material false statement in the application
1759 for registration;

1760 (c) Has been guilty of a fraudulent act in connection with
1761 rendering investment advice or in connection with any sale of
1762 securities, has been or is engaged or is about to engage in
1763 making fictitious or pretended sales or purchases of any such
1764 securities or in any practice involving the rendering of
1765 investment advice or the sale of securities which is fraudulent
1766 or in violation of the law;

1767 (d) Has made a misrepresentation or false statement to, or
1768 concealed any essential or material fact from, any person in the

1769 rendering of investment advice or the sale of a security to such
1770 person;

1771 (e) Has failed to account to persons interested for all
1772 money and property received;

1773 (f) Has not delivered, after a reasonable time, to persons
1774 entitled thereto securities held or agreed to be delivered by
1775 the dealer, broker, or investment adviser, as and when paid for,
1776 and due to be delivered;

1777 (g) Is rendering investment advice or selling or offering
1778 for sale securities through any associated person not registered
1779 in compliance with the provisions of this chapter;

1780 (h) Has demonstrated unworthiness to transact the business
1781 of dealer, investment adviser, or associated person;

1782 (i) Has exercised management or policy control over or
1783 owned 10 percent or more of the securities of any dealer or
1784 investment adviser that has been declared bankrupt, or had a
1785 trustee appointed under the Securities Investor Protection Act;
1786 or is, in the case of a dealer or investment adviser, insolvent;

1787 (j) Has been convicted of, or has entered a plea of guilty
1788 or nolo contendere to, a crime against the laws of this state or
1789 any other state or of the United States or of any other country
1790 or government which relates to registration as a dealer,
1791 investment adviser, issuer of securities, associated person, or
1792 branch office; which relates to the application for such
1793 registration; or which involves moral turpitude or fraudulent or
1794 dishonest dealing;

HB 381 CS

2005
CS

1795 (k) Has had a final judgment entered against her or him in
 1796 a civil action upon grounds of fraud, embezzlement,
 1797 misrepresentation, or deceit;
 1798 (l) Is of bad business repute; ~~or~~
 1799 (m) Has been the subject of any decision, finding,
 1800 injunction, suspension, prohibition, revocation, denial,
 1801 judgment, or administrative order by any court of competent
 1802 jurisdiction, administrative law judge, or by any state or
 1803 federal agency, national securities, commodities, or option
 1804 exchange, or national securities, commodities, or option
 1805 association, involving a violation of any federal or state
 1806 securities or commodities law or any rule or regulation
 1807 promulgated thereunder, or any rule or regulation of any
 1808 national securities, commodities, or options exchange or
 1809 national securities, commodities, or options association, or has
 1810 been the subject of any injunction or adverse administrative
 1811 order by a state or federal agency regulating banking,
 1812 insurance, finance or small loan companies, real estate,
 1813 mortgage brokers, or other related or similar industries. For
 1814 purposes of this subsection, the office may not deny
 1815 registration to any applicant who has been continuously
 1816 registered with the office for 5 years from the entry of such
 1817 decision, finding, injunction, suspension, prohibition,
 1818 revocation, denial, judgment, or administrative order provided
 1819 such decision, finding, injunction, suspension, prohibition,
 1820 revocation, denial, judgment, or administrative order has been
 1821 timely reported to the office pursuant to the commission's
 1822 rules; or-

1823 (n) Made payment to the office for a license or permit
 1824 with a check or electronic transmission of funds which is
 1825 dishonored by the applicant's or registrant's financial
 1826 institution.

1827 Section 34. Subsections (2) and (3) of section 520.03,
 1828 Florida Statutes, are amended to read:

1829 520.03 Licenses.--

1830 (2) An application for a license under this part must be
 1831 submitted to the office in such form as the commission may
 1832 prescribe by rule. If the office determines that an application
 1833 should be granted, it shall issue the license for a period not
 1834 to exceed 2 years. A nonrefundable application fee of \$175 shall
 1835 accompany an initial application for the principal place of
 1836 business and each application for a branch location of a retail
 1837 installment seller who is required to be licensed under this
 1838 chapter. An application is considered received for purposes of
 1839 s. 120.60 upon receipt of a completed application form as
 1840 prescribed by commission rule, a nonrefundable application fee
 1841 of \$175, and any other fee prescribed by law.

1842 (3) The nonrefundable renewal fee for a motor vehicle
 1843 retail installment seller license shall be \$175. The commission
 1844 shall establish by rule biennial licensure periods and
 1845 procedures for renewal of licenses. A license that is not
 1846 renewed by the end of the biennium established by the commission
 1847 shall revert from active to inactive status. An inactive license
 1848 may be reactivated within 6 months after becoming inactive upon
 1849 filing a completed reactivation form, payment of the
 1850 nonrefundable renewal fee, and payment of a nonrefundable

HB 381 CS

2005
CS

1851 reactivation fee equal to the renewal fee. A license that is not
1852 reactivated within 6 months after becoming inactive
1853 automatically expires.

1854 Section 35. Subsections (2) and (3) of section 520.32,
1855 Florida Statutes, are amended to read:

1856 520.32 Licenses.--

1857 (2) An application for a license under this part must be
1858 submitted to the office in such form as the commission may
1859 prescribe by rule. If the office determines that an application
1860 should be granted, it shall issue the license for a period not
1861 to exceed 2 years. A nonrefundable application fee of \$175 shall
1862 accompany an initial application for the principal place of
1863 business and each application for a branch location of a retail
1864 installment seller. An application is considered received for
1865 purposes of s. 120.60 upon receipt of a completed application
1866 form as prescribed by commission rule, a nonrefundable
1867 application fee of \$175, and any other fee prescribed by law.

1868 (3) The nonrefundable renewal fee for a retail seller
1869 license shall be \$175. Biennial licensure periods and procedures
1870 for renewal of licenses may also be established by the
1871 commission by rule. A license that is not renewed at the end of
1872 the biennium established by the commission shall revert from
1873 active to inactive status. An inactive license may be
1874 reactivated within 6 months after becoming inactive upon filing
1875 a completed reactivation form, payment of the nonrefundable
1876 renewal fee, and payment of a reactivation fee equal to the
1877 nonrefundable renewal fee. A license that is not reactivated
1878 within 6 months after becoming inactive automatically expires.

HB 381 CS

2005
CS

1879 Section 36. Subsections (2) and (3) of section 520.52,
1880 Florida Statutes, are amended to read:

1881 520.52 Licensees.--

1882 (2) An application for a license under this part must be
1883 submitted to the office in such form as the commission may
1884 prescribe by rule. If the office determines that an application
1885 should be granted, it shall issue the license for a period not
1886 to exceed 2 years. A nonrefundable application fee of \$175 shall
1887 accompany an initial application for the principal place of
1888 business and each branch location of a sales finance company. An
1889 application is considered received for purposes of s. 120.60
1890 upon receipt of a completed application form as prescribed by
1891 commission rule, a nonrefundable application fee of \$175, and
1892 any other fee prescribed by law.

1893 (3) The nonrefundable renewal fee for a sales finance
1894 company license shall be \$175. Biennial licensure periods and
1895 procedures for renewal of licenses may also be established by
1896 the commission by rule. A license that is not renewed at the end
1897 of the biennium established by the commission shall revert from
1898 active to inactive status. An inactive license may be
1899 reactivated within 6 months after becoming inactive upon filing
1900 a completed reactivation form, payment of the nonrefundable
1901 renewal fee, and payment of a reactivation fee equal to the
1902 nonrefundable renewal fee. A license that is not reactivated
1903 within 6 months after becoming inactive automatically expires.

1904 Section 37. Subsections (2) and (3) of section 520.63,
1905 Florida Statutes, are amended to read:

1906 520.63 Licensees.--

HB 381 CS

2005
CS

1907 (2) An application for a license under this part must be
 1908 submitted to the office in such form as the commission may
 1909 prescribe by rule. If the office determines that an application
 1910 should be granted, it shall issue the license for a period not
 1911 to exceed 2 years. A nonrefundable application fee of \$175 shall
 1912 accompany an initial application for the principal place of
 1913 business and each application for a branch location of a home
 1914 improvement finance seller. An application is considered
 1915 received for purposes of s. 120.60 upon receipt of a completed
 1916 application form as prescribed by commission rule, a
 1917 nonrefundable application fee of \$175, and any other fee
 1918 prescribed by law.

1919 (3) The nonrefundable renewal fee for a home improvement
 1920 finance license shall be \$175. Biennial licensure periods and
 1921 procedures for renewal of licenses may also be established by
 1922 the commission by rule. A license that is not renewed at the end
 1923 of the biennium established by the commission shall
 1924 automatically revert from active to inactive status. An inactive
 1925 license may be reactivated within 6 months after becoming
 1926 inactive upon filing a completed reactivation form, payment of
 1927 the nonrefundable renewal fee, and payment of a nonrefundable
 1928 reactivation fee equal to the renewal fee. A license that is not
 1929 reactivated within 6 months after becoming inactive
 1930 automatically expires.

1931 Section 38. Subsection (5) of section 520.994, Florida
 1932 Statutes, is amended to read:

1933 520.994 Powers of office.--

HB 381 CS

2005
CS

1934 (5) The office shall administer and enforce this chapter.
 1935 The commission has authority to adopt rules pursuant to ss.
 1936 120.536(1) and 120.54 to implement the provisions of this
 1937 chapter. The commission may adopt rules to require ~~allow~~
 1938 electronic submission of any form, document, or fee required by
 1939 this chapter if such rules reasonably accommodate technological
 1940 or financial hardship. The commission may prescribe by rule
 1941 requirements and procedures for obtaining an exemption due to a
 1942 technological or financial hardship.

1943 Section 39. Paragraph (k) is added to subsection (1) of
 1944 section 520.995, Florida Statutes, to read:

1945 520.995 Grounds for disciplinary action.--

1946 (1) The following acts are violations of this chapter and
 1947 constitute grounds for the disciplinary actions specified in
 1948 subsection (2):

1949 (k) Payment to the office for a license or permit with a
 1950 check or electronic transmission of funds which is dishonored by
 1951 the applicant's or licensee's financial institution.

1952 Section 40. Subsection (4) of section 520.997, Florida
 1953 Statutes, is amended to read:

1954 520.997 Books, accounts, and records.--

1955 (4) The commission may prescribe by rule the minimum
 1956 information to be shown in the books, accounts, documents, and
 1957 records of licensees so that such records will enable the office
 1958 to determine compliance with ~~the provisions of~~ this chapter. In
 1959 addition, the commission may prescribe by rule the requirements
 1960 for destruction of books, accounts, records, and documents
 1961 retained by the licensee after completion of the time period

HB 381 CS

2005
CS

1962 specified in subsection (3). Notwithstanding the 2-year
 1963 retention period specified in subsection (3), if the office
 1964 identifies a statute of limitations in another civil or criminal
 1965 law or federal law or rule which statute of limitations is
 1966 reasonably related by subject matter to the administration of
 1967 this chapter, the commission may identify that statute of
 1968 limitations by rule and may prohibit the destruction of records
 1969 required to be maintained by this chapter for a period of time,
 1970 established by rule, which is reasonably related to such statute
 1971 of limitations. The commission shall prescribe by rule those
 1972 documents or records that are to be preserved under the
 1973 identified statute of limitations.

1974 Section 41. Subsection (5) of section 537.009, Florida
 1975 Statutes, is amended to read:

1976 537.009 Recordkeeping; reporting; safekeeping of
 1977 property.--

1978 (5) The commission may prescribe by rule the books,
 1979 accounts, documents, and records, and the minimum information to
 1980 be shown in the books, accounts, documents, and records, of
 1981 licensees so that such records will enable the office to
 1982 determine compliance with the provisions of this act. In
 1983 addition, the commission may prescribe by rule the requirements
 1984 for destruction of books, accounts, records, and documents
 1985 retained by the licensee after completion of the time period
 1986 specified in subsection (3). Notwithstanding the 2-year
 1987 retention period specified in subsection (3), if the office
 1988 identifies a statute of limitations in another civil or criminal
 1989 law or federal law or rule which statute of limitations is

1990 reasonably related by subject matter to the administration of
 1991 this chapter, the commission may identify that statute of
 1992 limitations by rule and may prohibit the destruction of records
 1993 required to be maintained by this chapter for a period of time,
 1994 established by rule, which is reasonably related to such statute
 1995 of limitations. The commission shall prescribe by rule those
 1996 documents or records that are to be preserved under the
 1997 identified statute of limitations.

1998 Section 42. Subsection (3) is added to section 560.105,
 1999 Florida Statutes, to read:

2000 560.105 Supervisory powers; rulemaking.--

2001 (3) The commission may adopt rules that require electronic
 2002 submission of any forms, documents, or fees required by this act
 2003 if such rules reasonably accommodate technological or financial
 2004 hardship. The commission may prescribe by rule requirements and
 2005 procedures for obtaining an exemption due to a technological or
 2006 financial hardship.

2007 Section 43. Paragraph (y) is added to subsection (1) of
 2008 section 560.114, Florida Statutes, to read:

2009 560.114 Disciplinary actions.--

2010 (1) The following actions by a money transmitter or money
 2011 transmitter-affiliated party are violations of the code and
 2012 constitute grounds for the issuance of a cease and desist order,
 2013 the issuance of a removal order, the denial of a registration
 2014 application or the suspension or revocation of any registration
 2015 previously issued pursuant to the code, or the taking of any
 2016 other action within the authority of the office pursuant to the
 2017 code:

HB 381 CS

2005
CS

2018 (y) Payment to the office for a license or permit with a
 2019 check or electronic transmission of funds which is dishonored by
 2020 the applicant's or licensee's financial institution.

2021 Section 44. Paragraph (b) of subsection (2) of section
 2022 560.118, Florida Statutes, is amended to read:

2023 560.118 Examinations, reports, and internal audits;
 2024 penalty.--

2025 (2)

2026 (b) The commission may, by rule, require each money
 2027 transmitter or authorized vendor to submit quarterly reports to
 2028 the office. The commission may adopt rules that require
 2029 electronic submission of any forms, documents, or fees required
 2030 by this act if such rules reasonably accommodate technological
 2031 or financial hardship. The commission may prescribe by rule
 2032 requirements and procedures for obtaining an exemption due to a
 2033 technological or financial hardship. The commission may require
 2034 that each report contain a declaration by an officer, or any
 2035 other responsible person authorized to make such declaration,
 2036 that the report is true and correct to the best of her or his
 2037 knowledge and belief. Such report must include such information
 2038 as the commission by rule requires for that type of money
 2039 transmitter.

2040 Section 45. Subsection (2) of section 560.121, Florida
 2041 Statutes, is amended to read:

2042 560.121 Records; limited restrictions upon public
 2043 access.--

2044 (2) The commission may prescribe by rule the minimum
 2045 information that must be shown in the books, accounts, records,

HB 381 CS

2005
CS

2046 | and documents of licensees for purposes of enabling the office
 2047 | to determine the licensee's compliance with ss. 560.101-560.408.
 2048 | In addition, the commission may prescribe by rule the
 2049 | requirements for destruction of books, accounts, records, and
 2050 | documents retained by the licensee after completion of the time
 2051 | period specified in this subsection. Notwithstanding the 3-year
 2052 | retention period specified in this subsection, if the office
 2053 | identifies a statute of limitations in another civil or criminal
 2054 | law or federal law or rule which statute of limitations is
 2055 | reasonably related by subject matter to the administration of
 2056 | this chapter, the commission may identify that statute of
 2057 | limitations by rule and may prohibit the destruction of records
 2058 | required to be maintained by this chapter for a period of time,
 2059 | established by rule, which is reasonably related to such statute
 2060 | of limitations. The commission shall prescribe by rule those
 2061 | documents or records that are to be preserved under the
 2062 | identified statute of limitations. Examination reports,
 2063 | investigatory records, applications, and related information
 2064 | compiled by the office, or photographic copies thereof, shall be
 2065 | retained by the office for a period of at least 3 years
 2066 | following the date that the examination or investigation ceases
 2067 | to be active. Application records, and related information
 2068 | compiled by the office, or photographic copies thereof, shall be
 2069 | retained by the office for a period of at least 2 years
 2070 | following the date that the registration ceases to be active.

2071 | Section 46. Section 560.126, Florida Statutes, is amended
 2072 | to read:

2073 | 560.126 Significant events; notice required.--

HB 381 CS

2005
CS

2074 (1) Unless exempted by the office, every money transmitter
 2075 must provide the office with a written notice within 30 ~~15~~ days
 2076 after the occurrence or knowledge of, whichever period of time
 2077 is greater, any of the following events:

2078 (a)~~(1)~~ The filing of a petition under the United States
 2079 Bankruptcy Code for bankruptcy or reorganization by the money
 2080 transmitter.

2081 (b)~~(2)~~ The commencement of any registration suspension or
 2082 revocation proceeding, either administrative or judicial, or the
 2083 denial of any original registration request or a registration
 2084 renewal, by any state, the District of Columbia, any United
 2085 States territory, or any foreign country, in which the money
 2086 transmitter operates or plans to operate or has registered to
 2087 operate.

2088 (c)~~(3)~~ A felony indictment relating to the money
 2089 transmission business involving the money transmitter or a money
 2090 transmitter-affiliated party of the money transmitter.

2091 (d)~~(4)~~ The felony conviction, guilty plea, or plea of nolo
 2092 contendere, if the court adjudicates the nolo contendere pleader
 2093 guilty, or the adjudication of guilt of a money transmitter or
 2094 money transmitter-affiliated party.

2095 (e)~~(5)~~ The interruption of any corporate surety bond
 2096 required by the code.

2097 (f)~~(6)~~ Any suspected criminal act, as defined by the
 2098 commission by rule, perpetrated in this state against a money
 2099 transmitter or authorized vendor.

2100

HB 381 CS

2005
CS

2101 | However, a person does not incur liability ~~no liability shall be~~
 2102 | ~~incurred by any person~~ as a result of making a good-faith ~~good~~
 2103 | ~~faith~~ effort to fulfill this disclosure requirement.

2104 | (2) If the information contained in any registration
 2105 | application or any amendment thereto has changed, the registrant
 2106 | shall, within 30 days after the change occurs, file an amendment
 2107 | correcting the information on forms prescribed by the
 2108 | commission.

2109 | Section 47. Section 560.205, Florida Statutes, is amended
 2110 | to read:

2111 | 560.205 Qualifications of applicant for registration;
 2112 | contents.--

2113 | (1) To qualify for registration under this part, an
 2114 | applicant must demonstrate to the office such character and
 2115 | general fitness as to command the confidence of the public and
 2116 | warrant the belief that the registered business will be operated
 2117 | lawfully and fairly. The office may investigate each applicant
 2118 | to ascertain whether the qualifications and requirements
 2119 | prescribed by this part have been met. The office's
 2120 | investigation may include a criminal background investigation of
 2121 | all controlling shareholders, principals, officers, directors,
 2122 | members, and responsible persons of a funds transmitter and a
 2123 | payment instrument seller and all persons designated by a funds
 2124 | transmitter or payment instrument seller as an authorized
 2125 | vendor. Each controlling shareholder, principal, officer,
 2126 | director, member, and responsible person of a funds transmitter
 2127 | or payment instrument seller, unless the applicant is a publicly
 2128 | traded corporation as defined by the commission by rule, a

HB 381 CS

2005
CS

2129 subsidiary thereof, or a subsidiary of a bank or bank holding
 2130 company organized and regulated under the laws of any state or
 2131 the United States, shall file a complete set of fingerprints. A
 2132 fingerprint card submitted to the office must be taken by an
 2133 authorized law enforcement agency if the fingerprint card is
 2134 submitted to the office in paper form. In addition to the fees
 2135 prescribed in s. 215.405, the commission may prescribe by rule
 2136 an additional fee, not to exceed \$30, for processing the
 2137 fingerprints. The commission may prescribe by rule procedures
 2138 for submitting fingerprints and fees by electronic means to the
 2139 office. In order to implement the submission and processing of
 2140 fingerprints as specified by rule under this section, the office
 2141 may contract with another state agency that provides
 2142 fingerprinting services ~~officer~~. The office shall submit the
 2143 ~~Such~~ fingerprints ~~must be submitted~~ to the Department of Law
 2144 Enforcement for state processing and the Department of Law
 2145 Enforcement shall forward the fingerprints to ~~or~~ the Federal
 2146 Bureau of Investigation for ~~state and~~ federal processing. The
 2147 cost for the fingerprint processing may be borne by the office,
 2148 the employer, or the person subject to the background check. The
 2149 Department of Law Enforcement shall submit an invoice to the
 2150 office for the fingerprints received each month. The office
 2151 shall screen the background results to determine if the
 2152 applicant meets licensure requirements. The commission may waive
 2153 by rule the requirement that applicants file a set of
 2154 fingerprints or the requirement that such fingerprints be
 2155 processed by the Department of Law Enforcement or the Federal
 2156 Bureau of Investigation.

2157 (2) Each application for registration must be submitted
 2158 under oath to the office on such forms as the commission
 2159 prescribes by rule and must be accompanied by a nonrefundable
 2160 application fee. The commission may establish by rule procedures
 2161 for depositing fees and filing documents by electronic means.

2162 Such fee may not exceed \$500 for each payment instrument seller
 2163 or funds transmitter and \$50 for each authorized vendor or
 2164 location operating within this state. The application must
 2165 contain ~~forms shall set forth~~ such information as the commission
 2166 ~~reasonably~~ requires by rule, including, but not limited to:

2167 (a) The name and address of the applicant, including any
 2168 fictitious or trade names used by the applicant in the conduct
 2169 of its business.

2170 (b) The history of the applicant's material litigation,
 2171 criminal convictions, pleas of nolo contendere, and cases of
 2172 adjudication withheld.

2173 (c) A description of the activities conducted by the
 2174 applicant, the applicant's history of operations, and the
 2175 business activities in which the applicant seeks to engage in
 2176 this state.

2177 ~~(d) A list identifying the applicant's proposed authorized~~
 2178 ~~vendors in this state, including the location or locations in~~
 2179 ~~this state at which the applicant and its authorized vendors~~
 2180 ~~propose to conduct registered activities.~~

2181 (d)(e) A sample authorized vendor contract, if applicable.

2182 (e)(f) A sample form of payment instrument, if applicable.

2183 (f)(g) The name and address of the clearing financial
 2184 institution or financial institutions through which the

2185 applicant's payment instruments will be drawn or through which
2186 such payment instruments will be payable.

2187 (g)~~(h)~~ Documents revealing that the net worth and bonding
2188 requirements specified in s. 560.209 have been or will be
2189 fulfilled.

2190 (3) Each application for registration by an applicant that
2191 is a corporation shall contain ~~also set forth~~ such information
2192 as the commission ~~reasonably~~ requires by rule, including, but
2193 not limited to:

2194 (a) The date of the applicant's incorporation and state of
2195 incorporation.

2196 (b) A certificate of good standing from the state or
2197 country in which the applicant was incorporated.

2198 (c) A description of the corporate structure of the
2199 applicant, including the identity of any parent or subsidiary of
2200 the applicant, and the disclosure of whether any parent or
2201 subsidiary is publicly traded on any stock exchange.

2202 (d) The name, business and residence addresses, and
2203 employment history for the past 5 years for each executive
2204 officer, each director, each controlling shareholder, and the
2205 responsible person who will be in charge of all the applicant's
2206 business activities in this state.

2207 (e) The history of material litigation and criminal
2208 convictions, pleas of nolo contendere, and cases of adjudication
2209 withheld for each ~~executive~~ officer, each director, each
2210 controlling shareholder, and the responsible person who will be
2211 in charge of the applicant's registered activities.

HB 381 CS

2005
CS

2212 (f) Copies of the applicant's audited financial statements
 2213 for the current year and, if available, for the immediately
 2214 preceding 2-year period. In cases where the applicant is a
 2215 wholly owned subsidiary of another corporation, the parent's
 2216 consolidated audited financial statements may be submitted to
 2217 satisfy this requirement. An applicant who is not required to
 2218 file audited financial statements may satisfy this requirement
 2219 by filing unaudited financial statements verified under penalty
 2220 of perjury, as provided by the commission by rule.

2221 (g) An applicant who is not required to file audited
 2222 financial statements may file copies of the applicant's
 2223 unconsolidated, unaudited financial statements for the current
 2224 year and, if available, for the immediately preceding 2-year
 2225 period.

2226 (h) If the applicant is a publicly traded company, copies
 2227 of all filings made by the applicant with the United States
 2228 Securities and Exchange Commission, or with a similar regulator
 2229 in a country other than the United States, within the year
 2230 preceding the date of filing of the application.

2231 (4) Each application for registration submitted to the
 2232 office by an applicant that is not a corporation shall contain
 2233 ~~also set forth~~ such information as the commission ~~reasonably~~
 2234 requires by rule, including, but not limited to:

2235 (a) Evidence that the applicant is registered to do
 2236 business in this state.

2237 (b) The name, business and residence addresses, personal
 2238 financial statement, and employment history for the past 5 years
 2239 for each individual having a controlling ownership interest in

2240 the applicant, and each responsible person who will be in charge
2241 of the applicant's registered activities.

2242 (c) The history of material litigation and criminal
2243 convictions, pleas of nolo contendere, and cases of adjudication
2244 withheld for each individual having a controlling ownership
2245 interest in the applicant and each responsible person who will
2246 be in charge of the applicant's registered activities.

2247 (d) Copies of the applicant's audited financial statements
2248 for the current year, and, if available, for the preceding 2
2249 years. An applicant who is not required to file audited
2250 financial statements may satisfy this requirement by filing
2251 unaudited financial statements verified under penalty of
2252 perjury, as provided by the commission by rule.

2253 (5) Each applicant shall designate and maintain an agent
2254 in this state for service of process.

2255 (6) Changes in registration occasioned by changes in
2256 personnel of a partnership or in the principals, members,
2257 partners, officers, directors, controlling shareholders, or
2258 responsible persons of a money transmitter or by changes of any
2259 material fact or method of doing business shall be reported by
2260 written amendment in such form and at such time as the
2261 commission specifies by rule.

2262 Section 48. Section 560.207, Florida Statutes, is amended
2263 to read:

2264 560.207 Renewal of registration; registration fee.--

2265 (1) Registration may be renewed for a 24-month period or
2266 the remainder of any such period without proration following the
2267 date of its expiration by furnishing such information as the

2268 commission requires by rule, together with the payment of the
 2269 fees required under subsections (2), (3), and (4), ~~upon the~~
 2270 ~~filing with the office of an application and other statements~~
 2271 ~~and documents as may reasonably be required of registrants by~~
 2272 ~~the commission. The commission may establish by rule procedures~~
 2273 for depositing fees and filing documents by electronic means.
 2274 ~~However, the registrant must remain qualified for such~~
 2275 ~~registration under the provisions of this part.~~

2276 (2) Each application for renewal of All registration must
 2277 ~~renewal applications shall be accompanied by a nonrefundable~~
 2278 ~~renewal fee not to exceed \$1,000. A registration expires on~~
 2279 April 30 of the year in which the existing registration expires,
 2280 unless the registrant has renewed his or her registration on or
 2281 before that date. All renewal applications must be filed on or
 2282 ~~after January 1 of the year in which the existing registration~~
 2283 ~~expires, but before the expiration date of April 30. If the~~
 2284 ~~renewal application is filed prior to the expiration date of an~~
 2285 ~~existing registration, no late fee shall be paid in connection~~
 2286 ~~with such renewal application. If the renewal application is~~
 2287 ~~filed within 60 calendar days after the expiration date of an~~
 2288 ~~existing registration, then, in addition to the \$1,000 renewal~~
 2289 ~~fee, the renewal application shall be accompanied by a~~
 2290 ~~nonrefundable late fee of \$500. If the registrant has not filed~~
 2291 ~~a renewal application within 60 calendar days after the~~
 2292 ~~expiration date of an existing registration, a new application~~
 2293 ~~shall be filed with the office pursuant to s. 560.205.~~

2294 (3) In addition to the renewal fee required under
 2295 subsection (2), each registrant must pay ~~Every registration~~

HB 381 CS

2005
CS

2296 ~~renewal application shall also include~~ a 2-year nonrefundable
 2297 registration renewal fee of \$50 for each authorized vendor or
 2298 location operating within this state or, at the option of the
 2299 registrant, a total 2-year nonrefundable renewal fee of \$20,000
 2300 may be paid to renew the registration of all such locations
 2301 currently registered at the time of renewal.

2302 (4) A registration may be reinstated only if the renewal
 2303 fee and a nonrefundable late fee of \$500 are filed within 60
 2304 calendar days after the expiration of the existing registration.
 2305 The office must grant a reinstatement of registration for which
 2306 application is filed during the 60 calendar days, and the
 2307 reinstatement is effective upon receipt of the required fees and
 2308 any information that the commission requires by rule. If the
 2309 registrant has not filed application for reinstatement of the
 2310 registration within the 60 calendar days after the expiration of
 2311 an existing registration, the registration expires, and a new
 2312 application must be filed with the office pursuant to s.
 2313 560.205.

2314 Section 49. Subsection (1) of section 560.210, Florida
 2315 Statutes, is amended to read:

2316 560.210 Permissible investments.--

2317 (1) A registrant shall at all times possess permissible
 2318 investments with an aggregate market value calculated in
 2319 accordance with United States generally accepted accounting
 2320 principles of not less than the aggregate face amount of all
 2321 outstanding funds transmissions ~~transmitted~~ and ~~outstanding~~
 2322 payment instruments issued or sold by the registrant or an
 2323 authorized vendor in the United States.

HB 381 CS

2005
CS

2324 Section 50. Subsection (2) of section 560.211, Florida
2325 Statutes, is amended to read:

2326 560.211 Records.--

2327 (2) The records required to be maintained by the code may
2328 be maintained by the registrant at any location, provided that
2329 the registrant notifies the office in writing of the location of
2330 the records in its application or otherwise by amendment as
2331 prescribed by commission rule. The registrant shall make such
2332 records available to the office for examination and
2333 investigation in this state, as permitted by the code, within 7
2334 days after receipt of a written request.

2335 Section 51. Section 560.305, Florida Statutes, is amended
2336 to read:

2337 560.305 Application.--Each application for registration
2338 must ~~shall~~ be in writing and under oath to the office, in such
2339 form as the commission prescribes. The commission may establish
2340 by rule procedures for depositing fees and filing documents by
2341 electronic means. The application must contain such information
2342 as the commission requires by rule, including, but not limited
2343 to ~~shall include the following~~:

2344 (1) The legal name and residence and business addresses of
2345 the applicant if the applicant is a natural person, or, if the
2346 applicant is a partnership, association, or corporation, the
2347 name of every partner, officer, or director thereof.

2348 (2) The location of the principal office of the applicant.

2349 (3) The complete address of any other locations at which
2350 the applicant proposes to engage in such activities since the

HB 381 CS

2005
CS

2351 provisions of registration apply to each and every operating
2352 location of a registrant.

2353 (4) Such other information as the commission or office
2354 reasonably requires with respect to the applicant or any money
2355 transmitter-affiliated party of the applicant; however, the
2356 commission or office may not require more information than is
2357 specified in part II.

2358 Section 52. Subsections (1) and (4) of section 560.306,
2359 Florida Statutes, are amended, and subsection (6) is added to
2360 said section, to read:

2361 560.306 Standards.--

2362 (1) In order to qualify for registration under this part,
2363 an applicant must demonstrate to the office that he or she has
2364 such character and general fitness as will command the
2365 confidence of the public and warrant the belief that the
2366 registered business will be operated lawfully and fairly. The
2367 office may investigate each applicant to ascertain whether the
2368 qualifications and requirements prescribed by this part have
2369 been met. The office's investigation may include a criminal
2370 background investigation of all controlling shareholders,
2371 principals, officers, directors, members, and responsible
2372 persons of a check casher and a foreign currency exchanger and
2373 all persons designated by a foreign currency exchanger or check
2374 casher as an authorized vendor. Each controlling shareholder,
2375 principal, officer, director, member, and responsible person of
2376 a check casher or foreign currency exchanger, unless the
2377 applicant is a publicly traded corporation as defined by the
2378 commission by rule, a subsidiary thereof, or a subsidiary of a

HB 381 CS

2005
CS

2379 | bank or bank holding company organized and regulated under the
 2380 | laws of any state or the United States, shall file a complete
 2381 | set of fingerprints. A fingerprint card submitted to the office
 2382 | must be taken by an authorized law enforcement agency if the
 2383 | fingerprint card is submitted to the office in paper form. In
 2384 | addition to the fees prescribed in s. 215.405, the commission
 2385 | may prescribe by rule an additional fee, not to exceed \$30, for
 2386 | processing the fingerprints. The commission may prescribe by
 2387 | rule procedures for submitting fingerprints and fees by
 2388 | electronic means to the office. In order to implement the
 2389 | submission and processing of fingerprints as specified by rule
 2390 | under this section, the office may contract with another state
 2391 | agency that provides fingerprinting services officer. The office
 2392 | shall submit the ~~Such fingerprints must be submitted~~ to the
 2393 | Department of Law Enforcement for state processing and the
 2394 | Department of Law Enforcement shall forward the fingerprints to
 2395 | ~~or~~ the Federal Bureau of Investigation for state and federal
 2396 | processing. The cost for the fingerprint processing may be borne
 2397 | by the office, the employer, or the person subject to the
 2398 | background check. The Department of Law Enforcement shall submit
 2399 | an invoice to the office for the fingerprints received each
 2400 | month. The office shall screen the background results to
 2401 | determine if the applicant meets licensure requirements. The
 2402 | commission may waive by rule the requirement that applicants
 2403 | file a set of fingerprints or the requirement that such
 2404 | fingerprints be processed by the Department of Law Enforcement
 2405 | or the Federal Bureau of Investigation.

HB 381 CS

2005
CS

2406 (4) Each registration application and renewal application
 2407 must specify the location at which the applicant proposes to
 2408 establish its principal place of business and any other
 2409 location, including authorized vendors operating in this state.
 2410 The registrant shall notify the office of any changes to any
 2411 such locations. ~~Any registrant may satisfy this requirement by~~
 2412 ~~providing the office with a list of such locations, including~~
 2413 ~~all authorized vendors operating in this state, not less than~~
 2414 ~~annually.~~ A registrant may not transact business as a check
 2415 cashier or a foreign currency exchanger except pursuant to the
 2416 name under which it is registered.

2417 (6) Changes in registration occasioned by changes in
 2418 personnel of a partnership or in the principals, members,
 2419 partners, officers, directors, controlling shareholders, or
 2420 responsible persons of a money transmitter or by changes of any
 2421 material fact or method of doing business shall be reported by
 2422 written amendment in such form and at such time as the
 2423 commission specifies by rule.

2424 Section 53. Section 560.308, Florida Statutes, is amended
 2425 to read:

2426 560.308 Registration terms; renewal; renewal fees.--

2427 (1) Registration may be renewed for a 24-month period or
 2428 the remainder of any such period without proration following the
 2429 date of its expiration, by furnishing such information as the
 2430 commission requires by rule, together with the payment of the
 2431 fees required under subsections (2), (3), and (4). The
 2432 commission may establish by rule procedures for depositing fees
 2433 and filing documents by electronic means. ~~Registration pursuant~~

HB 381 CS

2005
CS

2434 ~~to this part shall remain effective through the remainder of the~~
 2435 ~~second calendar year following its date of issuance unless~~
 2436 ~~during such calendar year the registration is surrendered,~~
 2437 ~~suspended, or revoked.~~

2438 (2) Each application for renewal of registration must be
 2439 accompanied by ~~The office shall renew registration upon receipt~~
 2440 ~~of a completed renewal form and payment of a nonrefundable~~
 2441 ~~renewal fee not to exceed \$500.~~ The registration expires on
 2442 December 31 of the year in which the existing registration
 2443 expires, unless the registrant has renewed his or her
 2444 registration on or before that date. ~~The completed renewal form~~
 2445 ~~and payment of the renewal fee shall occur on or after June 1 of~~
 2446 ~~the year in which the existing registration expires.~~

2447 (3) In addition to the renewal fee required by subsection
 2448 (2), each registrant must pay a 2-year nonrefundable
 2449 registration renewal fee of \$50 for each authorized vendor or
 2450 location operating within this state or, at the option of the
 2451 registrant, a total 2-year nonrefundable renewal fee of \$20,000
 2452 may be paid to renew the registration of all such locations
 2453 currently registered at the time of renewal.

2454 (4) ~~Registration that is not renewed on or before the~~
 2455 ~~expiration date of the registration period automatically~~
 2456 ~~expires.~~ A renewal ~~application and fee,~~ and a nonrefundable late
 2457 fee of \$250, must be filed within 60 calendar days after the
 2458 expiration of an existing registration in order for the
 2459 registration to be reinstated. The office must grant a
 2460 reinstatement of registration for which application is filed
 2461 during the 60 calendar days, and the reinstatement is effective

HB 381 CS

2005
CS

2462 upon receipt of the required fees and any information that the
 2463 commission requires by rule. If the registrant has not filed an
 2464 ~~a renewal~~ application for reinstatement within 60 calendar days
 2465 after the expiration date of an existing registration, the
 2466 registration expires and a new application must be filed with
 2467 the office pursuant to s. 560.307.

2468 Section 54. Subsection (2) of section 560.310, Florida
 2469 Statutes, is amended to read:

2470 560.310 Records of check cashers and foreign currency
 2471 exchangers.--

2472 (2) The records required to be maintained by the code may
 2473 be maintained by the registrant at any location, provided that
 2474 the registrant notifies the office, in writing, of the location
 2475 of the records in its application or otherwise by amendment as
 2476 prescribed by commission rule. The registrant shall make such
 2477 records available to the office for examination and
 2478 investigation in this state, as permitted by the code, within 7
 2479 days after receipt of a written request.

2480 Section 55. Subsections (2) and (4) of section 560.403,
 2481 Florida Statutes, are amended to read:

2482 560.403 Requirements of registration; declaration of
 2483 intent.--

2484 (2) A registrant under this part shall renew his or her
 2485 intent to engage in the business of deferred presentment
 2486 transactions or to act as a deferred presentment provider upon
 2487 renewing his or her registration under part II or part III and
 2488 shall do so by indicating his or her intent ~~on the renewal form~~
 2489 ~~and~~ by submitting a nonrefundable deferred presentment provider

HB 381 CS

2005
CS

2490 renewal fee of \$1,000, in addition to any fees required for
2491 renewal of registration under part II or part III.

2492 (4) The notice of intent of a registrant under this part
2493 who fails to timely renew his or her intent to engage in the
2494 business of deferred presentment transactions or to act as a
2495 deferred presentment provider on or before the expiration date
2496 of the registration period automatically expires. A renewal
2497 ~~declaration of intent and fee,~~ and a nonrefundable late fee of
2498 \$500~~7~~ must be filed within 60 calendar days after the expiration
2499 of an existing registration in order for the declaration of
2500 intent to be reinstated. The office must grant a reinstatement
2501 of a notice of intent for which application is filed during the
2502 60 calendar days, and the reinstatement is effective upon
2503 receipt of the required fees and any information that the
2504 commission requires by rule. If the registrant has not filed a
2505 reinstatement of a renewal declaration of intent within 60
2506 calendar days after the expiration date of an existing
2507 registration, the notice of intent expires and a new declaration
2508 of intent must be filed with the office.

2509 Section 56. Section 655.935, Florida Statutes, is amended
2510 to read:

2511 655.935 Search procedure on death of lessee.--If
2512 satisfactory proof of the death of the lessee is presented, a
2513 lessor shall permit the person named in a court order for the
2514 purpose, or if no order has been served upon the lessor, the
2515 spouse, a parent, an adult descendant, or a person named as a
2516 personal representative in a copy of a purported will produced
2517 by such person, to open and examine the contents of a safe-

HB 381 CS

2005
CS

2518 deposit box leased or co-leased by a decedent, or any documents
 2519 delivered by a decedent for safekeeping, in the presence of an
 2520 officer of the lessor; and the lessor, if so requested by such
 2521 person, shall deliver:

2522 (1) Any writing purporting to be a will of the decedent,
 2523 to the court having probate jurisdiction in the county in which
 2524 the financial institution is located;

2525 (2) Any writing purporting to be a deed to a burial plot
 2526 or to give burial instructions, to the person making the request
 2527 for a search; and

2528 (3) Any document purporting to be an insurance policy on
 2529 the life of the decedent, to the beneficiary named therein.

2530
 2531 No other contents may be removed pursuant to this section and
 2532 access granted pursuant to this section shall not be considered
 2533 the initial opening of the safe-deposit box pursuant to s.
 2534 733.6065 by a personal representative appointed by a court in
 2535 this state.

2536 Section 57. Section 655.936, Florida Statutes, is amended
 2537 to read:

2538 655.936 Delivery of safe-deposit box contents or property
 2539 held in safekeeping to personal representative.--

2540 (1) Subject to the provisions of subsection (3), the
 2541 lessor shall immediately deliver to a ~~resident~~ personal
 2542 representative appointed by a court in this state, upon
 2543 presentation of a certified copy of his or her letters of
 2544 authority, all property deposited with it by the decedent for
 2545 safekeeping, and shall grant the ~~resident~~ personal

2546 | representative access to any safe-deposit box in the decedent's
 2547 | name and permit him or her to remove from such box any part or
 2548 | all of the contents thereof.

2549 | (2) If a ~~foreign~~ personal representative of a deceased
 2550 | lessee has been appointed by a court of any other state, a
 2551 | lessor may, at its discretion, after 3 months from the issuance
 2552 | to such ~~foreign~~ personal representative of his or her letters of
 2553 | authority, deliver to such ~~foreign~~ personal representative all
 2554 | properties deposited with it for safekeeping and the contents of
 2555 | any safe-deposit box in the name of the decedent if at such time
 2556 | the lessor has not received written notice of the appointment of
 2557 | a personal representative in this state, and such delivery is a
 2558 | valid discharge of the lessor for all property or contents so
 2559 | delivered. A ~~Such foreign~~ personal representative appointed by a
 2560 | court of any other state shall furnish the lessor with an
 2561 | affidavit setting forth facts showing the domicile of the
 2562 | deceased lessee to be other than this state and stating that
 2563 | there are no unpaid creditors of the deceased lessee in this
 2564 | state, together with a certified copy of his or her letters of
 2565 | authority. A lessor making delivery pursuant to this subsection
 2566 | shall maintain in its files a receipt executed by such ~~foreign~~
 2567 | personal representative which itemizes in detail all property so
 2568 | delivered.

2569 | (3) Notwithstanding the provisions of subsection (1),
 2570 | after the death of a lessee of a safe-deposit box, the lessor
 2571 | shall permit the initial opening of the safe-deposit box and the
 2572 | removal of the contents of the safe-deposit box in accordance
 2573 | with s. 733.6065.

HB 381 CS

2005
CS

2574 (4) A lessor is not liable for damages or penalty by
2575 reason of any delivery made pursuant to this section.

2576 Section 58. Section 655.937, Florida Statutes, is amended
2577 to read:

2578 655.937 Access to safe-deposit boxes leased in two or more
2579 names.--

2580 (1) Unless ~~When~~ specifically provided in the lease or
2581 rental agreement to the contrary, when covering a safe-deposit
2582 box is heretofore or hereafter rented or leased in the names of
2583 two or more lessees, ~~that~~ access to the safe-deposit box will be
2584 granted to ~~either lessee, or to either or the survivor, access~~
2585 ~~to the safe-deposit box shall be granted to:~~

2586 (a) Either or any of such lessees, regardless of whether
2587 or not the other lessee or lessees or any of them are living or
2588 competent. ~~;~~ ~~or~~

2589 (b) Subject to s. 655.933, those persons named in s.
2590 655.933.

2591 (c) Subject to s. 655.935, those persons named in s.
2592 655.935.

2593 (d) ~~(b)~~ Subject to s. 733.6065, the personal representative
2594 of the estate of either or any of such lessees who is deceased,
2595 or the guardian of the property of either or any of such lessees
2596 who is incapacitated.

2597 (2) In all cases described in subsection (1), ~~and, in~~
2598 ~~either such case, the provisions of s. 655.933 apply, and the~~
2599 signature on the safe-deposit entry or access record (or the
2600 receipt or acquittance, in the case of property or documents
2601 otherwise held for safekeeping) is a valid and sufficient

HB 381 CS

2005
CS

2602 | release and discharge to the lessor for granting access to such
 2603 | safe-deposit box or for the delivery of such property or
 2604 | documents otherwise held for safekeeping.

2605 | (3)(2) A lessor may not be held liable for damages or
 2606 | penalty by reason of any access granted or delivery made
 2607 | pursuant to this section.

2608 | (4) The right of access by a co-lessee is separate from
 2609 | the rights and responsibilities of other persons who may be
 2610 | granted access to a safe-deposit box after the death or
 2611 | incapacity of another co-lessee and such right of access is not
 2612 | subject to the provisions of s. 655.935 or s. 733.6065 or other
 2613 | requirements imposed upon personal representatives, guardians,
 2614 | or other fiduciaries.

2615 | (5) After the death of a co-lessee, the surviving co-
 2616 | lessee or any other person who is granted access to the safe-
 2617 | deposit box pursuant to this section may make a written
 2618 | inventory of the box which shall be conducted by the person
 2619 | making the request in the presence of one other person as
 2620 | specified in this subsection. Each person present shall verify
 2621 | the contents of the box by signing a copy of the inventory under
 2622 | penalty of perjury.

2623 | (a) If the person making the written inventory is the
 2624 | surviving co-lessee, the other person may be any other person
 2625 | granted access pursuant to this section, an employee of the
 2626 | institution where the box is located, or an attorney licensed in
 2627 | this state.

2628 | (b) If the person making the written inventory is not a
 2629 | surviving co-lessee, the other person may be a surviving co-

HB 381 CS

2005
CS

2630 | lessee, an employee of the institution where the box is located,
 2631 | or an attorney licensed in this state.

2632 | Section 59. Section 733.6065, Florida Statutes, is amended
 2633 | to read:

2634 | 733.6065 Opening safe-deposit box.--

2635 | (1) Subject to the provisions of s. 655.936(2), the
 2636 | initial opening of a ~~the decedent's~~ safe-deposit box leased or
 2637 | co-leased by the decedent shall be conducted in the presence of
 2638 | any two of the following persons: an employee of the institution
 2639 | where the box is located, the personal representative, or the
 2640 | personal representative's attorney of record. Each person who is
 2641 | present must verify the contents of the box by signing a copy of
 2642 | the inventory under penalties of perjury. The personal
 2643 | representative shall file the safe-deposit box inventory,
 2644 | together with a copy of the box entry record from a date which
 2645 | is 6 months prior to the date of death to the date of inventory,
 2646 | with the court within 10 days after the box is opened. Unless
 2647 | otherwise ordered by the court, this inventory and the attached
 2648 | box entry record is subject to inspection only by persons
 2649 | entitled to inspect an inventory under s. 733.604(1). The
 2650 | personal representative may remove the contents of the box.

2651 | (2) The right to open and examine the contents of a safe-
 2652 | deposit box leased by a decedent, or any documents delivered by
 2653 | a decedent for safekeeping, and to receive items as provided for
 2654 | in s. 655.935 are separate from ~~in addition to~~ the rights
 2655 | provided for in subsection (1).

2656 | Section 60. Subsection (5) is added to section 817.801,
 2657 | Florida Statutes, to read:

HB 381 CS

2005
CS

2658 817.801 Definitions.--As used in this part:

2659 (5) "Creditor contribution" means any sum that a creditor
 2660 agrees to contribute to a credit counseling agency, whether
 2661 directly or by set-off, to amounts otherwise payable to the
 2662 creditor on behalf of debtors, provided that in no event shall a
 2663 creditor contribution reduce any sums to be credited to the
 2664 account of a debtor making a payment to the credit counseling
 2665 agency for further payment to the creditor.

2666 Section 61. Subsection (1) of section 817.802, Florida
 2667 Statutes, is amended to read:

2668 817.802 Unlawful fees and costs.--

2669 (1) It is unlawful for any person, while engaging in debt
 2670 management services or credit counseling services, to charge or
 2671 accept from a debtor residing in this state, directly or
 2672 indirectly, a fee or contribution greater than \$50 for the
 2673 initial setup or initial consultation. Subsequently, the person
 2674 may not charge or accept a fee or contribution from a debtor
 2675 residing in this state greater than \$120 per year for additional
 2676 consultations or, alternatively, if debt management services as
 2677 defined in s. 817.801(2)(b) are provided, the person may charge
 2678 the greater of 15 ~~7.5~~ percent of the amount paid monthly by the
 2679 debtor to the person or \$25 ~~\$35~~ per month, not to exceed a total
 2680 of \$50 per month.

2681 Section 62. Paragraph (a) of subsection (1) of section
 2682 817.804, Florida Statutes, is amended to read:

2683 817.804 Requirements; disclosure and financial
 2684 reporting.--

HB 381 CS

2005
CS

2685 (1) Any person engaged in debt management services or
2686 credit counseling services shall:

2687 (a) Obtain from a certified public accountant licensed
2688 under s. 473.308 an annual audit of all accounts which shall
2689 include all accounts of such person in which the funds of
2690 debtors are deposited and from which payments are made to
2691 creditors on behalf of debtors.

2692 Section 63. Section 817.805, Florida Statutes, is amended
2693 to read:

2694 817.805 Disbursement of funds.--Any person engaged in debt
2695 management or credit counseling services shall disburse to the
2696 appropriate creditors all funds received from a debtor, less any
2697 fees permitted by s. 817.802 and any creditor contributions,
2698 within 30 days after receipt of such funds. Further, any person
2699 engaged in such services shall maintain a separate trust account
2700 for the receipt of any funds from debtors ~~each debtor~~ and the
2701 disbursement of such funds on behalf of such debtors ~~debtor~~.

2702 Section 64. (1) For fiscal year 2005-2006, the recurring
2703 sum of \$717,154 is appropriated from the Regulatory Trust Fund
2704 to the Office of Financial Regulation for the purpose of
2705 implementing the provisions of s. 494.0033(2)(b), Florida
2706 Statutes, for third-party administration of the mortgage broker
2707 test.

2708 (2) For fiscal year 2005-2006, the recurring sum of
2709 \$758,290 is appropriated from the Regulatory Trust Fund, and the
2710 recurring sum of \$12,015 is appropriated from the General
2711 Revenue Fund, to the Office of Financial Regulation, in the
2712 special appropriation category "fingerprinting of applicants,"

HB 381 CS

2005
CS

2713 | for the purpose of implementing the provisions of ss. 494.0031,
2714 | 494.0033(2)(d), 494.0061, 494.0062, 494.0065, 517.12, 560.205,
2715 | and 560.306, Florida Statutes, for fingerprint processing of
2716 | applicants.

2717 | Section 65. This act shall take effect October 1, 2005.