

CHAPTER 2013-201

Committee Substitute for Committee Substitute for House Bill No. 665

An act relating to licensure by the Office of Financial Regulation; amending s. 494.00321, F.S.; authorizing, rather than requiring, the office to deny a mortgage broker license application if the applicant had a mortgage broker license revoked previously; amending s. 494.00611, F.S.; authorizing, rather than requiring, the office to deny a mortgage lender license application if the applicant had a mortgage lender license revoked previously; amending s. 517.12, F.S.; revising the procedures and requirements for submitting fingerprints as part of an application to sell, or offer to sell, securities; removing conflicting language; amending s. 560.141, F.S.; revising the procedures and requirements for submitting fingerprints to apply for a license as a money services business; requiring the Office of Financial Regulation to pay an annual fee to the Department of Law Enforcement; removing conflicting language; requiring certain licensees to submit live-scan fingerprints before the next renewal period; amending s. 560.143, F.S.; conforming provisions to changes made by the act; providing effective dates.

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

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

494.00321 Mortgage broker license.—

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

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

494.00611 Mortgage lender license.—

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

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

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

(7) The application must ~~shall~~ also contain such information as the commission or office may require about the applicant; any member, principal, or director of the applicant or any person having a similar status or performing similar functions; any person directly or indirectly controlling the applicant; or any employee of a dealer or of an investment adviser rendering investment advisory services. Each applicant and any direct owners, principals, or indirect owners that are required to be reported on Form BD or Form ADV pursuant to subsection (15) shall submit fingerprints for live-scan processing in accordance with rules adopted by the commission. The fingerprints may be submitted through a third-party vendor authorized by the Department of Law Enforcement to provide live-scan fingerprinting. The costs of fingerprint processing shall be borne by the person subject to the background check. The Department of Law Enforcement shall conduct a state criminal history background check, and a federal criminal history background check must be conducted through the Federal Bureau of Investigation. The office shall review the results of the state and federal criminal history background checks and determine whether file a complete set of fingerprints. A fingerprint card submitted to the office must be taken by an authorized law enforcement agency or in a manner approved by the commission by rule. The office shall submit the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for federal processing. The cost of the fingerprint processing may be borne by the office, the employer, or the person subject to the background check. The Department of Law Enforcement shall submit an invoice to the office for the fingerprints received each month. The office shall screen the background results to determine if the applicant meets licensure requirements. The commission may waive, by rule, the requirement that applicants, including any direct owners, principals, or indirect owners that are required to be reported on Form BD or Form ADV pursuant to subsection (15), submit file a set of fingerprints or the requirement that such fingerprints be processed by the Department of Law Enforcement or the Federal Bureau of Investigation. The commission or office may require information about any such applicant or person concerning such matters as:

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

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

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

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

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

560.141 License application.—

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

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

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

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

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

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

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

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

7. The location at which the applicant proposes to establish its principal place of business and any other location, including branch offices and authorized vendors operating in this state. For each branch office and each location of an authorized vendor, the applicant shall include the nonrefundable fee required by s. 560.143.

8. The name and address of the clearing financial institution or financial institutions through which the applicant’s payment instruments are drawn or through which the payment instruments are payable.

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

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

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

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

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

1. A nonrefundable application fee as provided in s. 560.143.

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

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

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

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

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

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

6. For purposes of this paragraph, fingerprints are not required to be submitted if A fingerprint card for each of the persons listed in subparagraph (a)3. unless the applicant is a publicly traded corporation, or is exempted from this chapter under s. 560.104(1). The fingerprints must be taken by an authorized law enforcement agency. The office shall submit the fingerprints to the Department of Law Enforcement for state processing, and the Department of Law Enforcement shall forward the fingerprints to the Federal Bureau of Investigation for federal processing. The cost of the fingerprint processing may be borne by the office, the employer, or the person

subject to the criminal records background check. The office shall screen the background results to determine if the applicant meets licensure requirements. ~~As used in this section, The term “publicly traded” means a stock is currently traded on a national securities exchange registered with the federal Securities and Exchange Commission or traded on an exchange in a country other than the United States regulated by a regulator equivalent to the Securities and Exchange Commission and the disclosure and reporting requirements of such regulator are substantially similar to those of the commission.~~

7. Licensees initially approved before October 1, 2013, who are seeking renewal must submit fingerprints for each person listed in subparagraph (a) 3. for live-scan processing pursuant to this paragraph. Such fingerprints must be submitted before renewing a license that is scheduled to expire between April 30, 2014, and December 31, 2015.

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

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

Section 5. Section 560.143, Florida Statutes, is amended to read:

560.143 Fees.—

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

- (a) Part II..... \$375.
- (b) Part III.....\$188.
- (c) Per branch office..... \$38.
- (d) For each location of an authorized vendor..... \$38.
- (e) Declaration as a deferred presentment provider..... \$1,000.

(f) Fingerprint retention fees as prescribed by rule.

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

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

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

- (b) Part III.....\$375.
- (c) Per branch office..... \$38.
- (d) For each location of an authorized vendor..... \$38.
- (e) Declaration as a deferred presentment provider..... \$1,000.
- (f) Renewal fees for branch offices and authorized vendors are limited to \$20,000 biennially.
- (g) Fingerprint retention fees as prescribed by rule.

(3) LATE LICENSE RENEWAL FEES.—

- (a) Part II..... \$500.
- (b) Part III.....\$250.
- (c) Declaration as a deferred presentment provider..... \$500.

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

Approved by the Governor June 14, 2013.

Filed in Office Secretary of State June 14, 2013.