

**AGENDA  
FINANCIAL SERVICES COMMISSION  
OFFICE OF FINANCIAL REGULATION**

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**August 5, 2015**

**MEMBERS**

Governor Rick Scott Attorney  
General Pam Bondi  
Chief Financial Officer Jeff Atwater  
Commissioner Adam Putnam

**Contact: Jamie Mongiovi**  
**Director of Communications & Governmental Relations (OFR)**  
**(850) 410-9709**

9:00 A.M.  
LL-03, The Capitol  
Tallahassee, Florida

**Meredith Hinshelwood**  
**Deputy Director of Legislative and Cabinet Affairs (OFR)**  
**(850) 410-9544**

<b>ITEM</b>	<b>SUBJECT</b>	<b>RECOMMENDATION</b>
1.	The Office requests approval of volume two of the minutes of the April 14, 2015, meeting; approval of the minutes of the May 5, 2015, meeting; and approval of the minutes of the June 23, 2015, meeting.  <b>(ATTACHMENT 1)</b>	<b>FOR APPROVAL</b>
2.	<b>Consumer Finance:</b> The Office requests approval to file for final adoption four new rules and amendments to five rules in Chapter 69V-180, F.A.C., relating to regulation of collection agencies:  Rules for amendment: <ul style="list-style-type: none"><li>• Rule 69V-180.010 Commercial Collection Surety Bond and Procedures</li><li>• Rule 69V-180.020 Commercial Collection Registration Form and Procedures</li><li>• Rule 69V-180.030 Consumer Collection Registration Form and Procedures</li><li>• Rule 69V-180.040 Consumer Collection Agency Complaint Form and Procedures</li><li>• Rule 69V-180.100 Disciplinary Guidelines</li></ul> Proposed new rules: <ul style="list-style-type: none"><li>• Rule 69V-180.002 Adoption of Forms</li><li>• Rule 69V-180.031 Consumer Collection Agency Electronic Filing of Forms and Fees</li><li>• Rule 69V-180.032 Effect of Law Enforcement Records on Applications for Consumer Collection Agency Registration</li><li>• Rule 69V-180.070 Consumer Collection Agency Registration Renewal</li></ul>	<b>APPROVAL FOR FINAL ADOPTION</b>

3. **Securities:** The Office requests approval to publish Notices of Proposed Rule to create three new rules in Chapter 69W-600, F.A.C., the chapter relating to registration of securities dealers, investment advisors, and associated persons. The new rules specifically relate to crowdfunding issuers and intermediaries:

Proposed new rules:

- Rule 69W-600.0018 Notice-Filing and Requirements for Florida Intrastate Crowdfunding Issuers
- Rule 69W-600.0019 Registration of Florida Intrastate Crowdfunding Intermediaries
- Rule 69W-600.00145 Requirements for Florida Intrastate Crowdfunding Intermediaries

**(ATTACHMENT 3)**

**APPROVAL TO PUBLISH NOTICES OF PROPOSED RULE**

4. **OFR Legislative Budget Request Presentation**

**(ATTACHMENT 4)**

# ATTACHMENT 1

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STATE OF FLORIDA

IN RE: MEETING OF THE GOVERNOR AND  
CABINET

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**VOLUME 2**

CABINET MEMBERS: GOVERNOR RICK SCOTT  
ATTORNEY GENERAL PAM BONDI  
CHIEF FINANCIAL OFFICER JEFF  
ATWATER  
COMMISSIONER OF AGRICULTURE  
ADAM PUTNAM

DATE: TUESDAY, APRIL 14, 2015

LOCATION: CABINET MEETING ROOM  
LOWER LEVEL, THE CAPITOL  
TALLAHASSEE, FLORIDA

REPORTED BY: NANCY S. METZKE, RPR, FPR  
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1                   **AGENCY MEASURES AND REVIEW OF DELEGATED**  
2                   **AUTHORITY FOR THE OFFICE OF FINANCIAL REGULATION**

3  
4                   GOVERNOR SCOTT: Okay. Next we have the  
5                   Office of Financial Regulation with Commissioner  
6                   Drew Breakspear.

7                   Good afternoon.

8                   COMMISSIONER BREAKSPEAR: Good afternoon,  
9                   Governor Scott, CFO Atwater, Attorney General  
10                  Bondi, and Commissioner Putnam. Thank you for the  
11                  opportunity to provide this presentation to the  
12                  Financial Services Commission.

13                  First let me say the OFR believes in the  
14                  process of measurement and holding ourselves  
15                  accountable with meaningful metrics that help us  
16                  uphold our mission and meet our objectives.

17                  We use a number of metrics internally to focus  
18                  on improvement opportunities. It is very important  
19                  that we take the time to do this in the best and  
20                  most appropriate way as each of our agencies is  
21                  unique in how we deliver value to Florida taxpayers  
22                  and consumers.

23                  Thank you for allowing us to contribute to the  
24                  process as we move through it. I appreciate the  
25                  feedback that we've received from your offices and

1 the valuable conversations that we've had with them  
2 individually and with your staff.

3 The mission of the Office of  
4 Financial Regulation is to protect citizens of  
5 Florida, promote a safe and sound financial  
6 marketplace, and contribute to the growth of  
7 Florida's economy with smart, efficient, and  
8 effective regulation of the financial services  
9 industry. The Florida Office of Financial  
10 Regulation has four industry focus areas: The  
11 Division of Securities, the Division of Consumer  
12 Finance, the Division of Financial Institutions,  
13 and the Bureau of Financial Investigations.

14 As you can see on this slide, the Agency  
15 oversees and regulates a wide range of financial  
16 businesses and individuals. We have at this point  
17 nearly 409,000 licenses.

18 As part of the exercise, we want to give you  
19 an snapshot of licensing in the financial services  
20 industry. For consumer finance and securities,  
21 this slide reflects our actual national rankings.  
22 And as you can see, Florida ranks in the top five  
23 for mortgage licensing in securities, industry  
24 license is shown in second and third place  
25 respectively.

1           For financial institutions, we've chosen  
2           states that Florida is typically compared to on a  
3           regular basis due to the similar make-up and size,  
4           and we've shown the number of state chartered  
5           financial institutions by state here on this slide.  
6           Of the state and national partners in groups with  
7           whom I speak regularly, Florida is regarded as  
8           being a leader in most states in areas of financial  
9           services areas.

10           The OFR is viewed as a dynamic resource  
11           throughout the southeast region and the nation,  
12           setting a very high bar on policy and practice. I  
13           believe our agency has a great story to tell, and I  
14           welcome the opportunity to share my vision with the  
15           Financial Services Commission.

16           When I was appointed OFR Commissioner in 2012,  
17           the Agency had just gone through a significant  
18           reduction in staff, eliminating 81 positions or 19%  
19           of the workforce and 13% of the financial budget,  
20           as well as closing four offices to become a leaner  
21           organization.

22           I wanted to come in and chart a new course for  
23           my management team. We began utilizing a risk  
24           management approach and refocusing our energy to  
25           smart, efficient, effective regulation. We set

1 metrics for employees and changed the way we  
2 interpret information and industry trends to ensure  
3 that data-driven decisions contribute to our  
4 Agency's policies and processes.

5 In the past several years, we have created a  
6 culture of one OFR, which is a keystone of my  
7 philosophy for the Agency. This philosophy  
8 encourages sharing of expertise and information  
9 across division lines to enhance our work and  
10 improve the way we do business.

11 In 2013, our Agency rebranded which resulted  
12 in a new mission statement focused on smart,  
13 efficient, and effective regulation. I believe  
14 that our mission relates directly to the focus of  
15 the Financial Service Commission.

16 I've worked with the management team to  
17 significantly increase Agency outreach. We've been  
18 successful with renewed communication efforts and  
19 building new relationships with state and federal  
20 agencies with whom we work alongside each day. We  
21 work so closely with some agencies that we perform  
22 joint examinations or alternate examinations to  
23 reduce the burden on businesses by doing one exam  
24 rather than two.

25 We continue to focus on enhancing taxpayer

1 value. In the past several years, the average time  
2 that it takes our Agency to approve a license has  
3 dropped from 22 days to four days. Our average  
4 call wait time has improved from almost two minutes  
5 to 31 seconds. And 47% of our financial  
6 investigations largely involving unlicensed  
7 activity and fraud resulted in enforcement action.  
8 That's up from 40% in 2013 and '14.

9 Additionally, we have earned two Governor's  
10 Savings Awards for contract renegotiation efforts  
11 that have saved taxpayers money. The five million  
12 we saved is large for an agency with a \$38 million  
13 budget, and even larger when the reduction on one  
14 of the contracts was almost 50%.

15 With expanded data collection and analysis,  
16 the OFR has reached a point where the Agency  
17 finally has several years of reliable trends and  
18 information to analyze. I believe this is the  
19 perfect time to take a look at our current  
20 measures, adjust where appropriate, continue to  
21 make informed data-driven decisions, and add new  
22 measures to refine and direct our operations.

23 The OFR has made exceptional progress, and we  
24 are continuing to look for ways to improve. The  
25 teamwork embodied in my one OFR philosophy and the

1 sharpened focus on our mission has helped drive our  
2 progress.

3 We view the measurement development practice  
4 and related exercises as a living, breathing  
5 process that will continue to grow and evolve. As  
6 a part of the process, we've reviewed the Cabinet  
7 governance guidelines that were approved by the  
8 Financial Services Commission on March 10th, and  
9 we've reassessed our mission and outlined what we  
10 believe taxpayers expect from our agency.

11 The slide before you highlights our mission  
12 statement and the taxpayer expectations that align  
13 with it. The OFR believes that Florida taxpayers  
14 expect to be protected from financial crime, they  
15 expect to do business in a safeguarded financial  
16 marketplace with a variety of choices, and  
17 taxpayers and businesses expect to be free of  
18 burdensome regulation.

19 I'd like to take you through the Agency's  
20 four key measures and then review components  
21 within these measures where we've identified  
22 opportunities for improvement. In these two  
23 slides, you will see the Agency's core measures  
24 that I believe are meaningful for furthering our  
25 mission. These core measures speak to improving

1 taxpayer value, delivering value to businesses,  
2 promoting a safe and sound financial marketplace,  
3 and improving customer service.

4 The first metric shows how the OFR improved --  
5 is improving taxpayer value. Since 2011-12, our  
6 licensees have grown to nearly 409,000 as we  
7 welcome more financial services professionals and  
8 businesses into Florida's financial marketplace.  
9 You will also see that the number of OFR employees  
10 has decreased from 438 to 362. By establishing  
11 performance standards and setting individual staff  
12 expectations, we've been able to continue to  
13 perform with a smaller, leaner, and more efficient  
14 staff.

15 The second metric shows how the OFR is  
16 delivering value to businesses by reducing the  
17 license application approval time from 22 days  
18 to four days. This allows businesses and  
19 individuals who want to operate in Florida's  
20 financial service industry to get to work faster,  
21 and importantly, create jobs and provide services  
22 to Floridians.

23 The next metric shows how the OFR is promoting  
24 a safe and sound financial marketplace by measuring  
25 the percent of exams resulting in an informal

1 enforcement action against the percent of financial  
2 investigations closed with action. As an agency,  
3 we actually want to drive down the percentage of  
4 formal enforcement actions in our three divisions  
5 as this indicates a focus on compliance within the  
6 financial services industry.

7 It contributes to a business-friendly climate  
8 and results in better, safer services being  
9 provided to Florida customers. At the same time,  
10 we want to drive up the percentage of financial  
11 investigations that are closed with action because  
12 this measure addresses severe cases of fraud,  
13 financial crimes, unlicensed activity, and other  
14 cases where Floridians are victimized.

15 While it is easy to measure out costs --

16 GOVERNOR SCOTT: Excuse me --

17 COMMISSIONER BREAKSPEAR: -- in the related  
18 cost per license as a measure of taxpayer value --

19 GOVERNOR SCOTT: Hey, Drew, can I ask you a  
20 question?

21 COMMISSIONER BREAKSPEAR: Yes.

22 GOVERNOR SCOTT: So just because you do an  
23 examination, why do you think that you should  
24 measure -- I mean what if you do examinations and  
25 no one has done anything wrong but you have a goal

1           that a certain percentage of them result in  
2           enforcement?

3           COMMISSIONER BREAKSPEAR: We don't have a  
4           goal of -- in the examinations in the three  
5           divisions.

6           GOVERNOR SCOTT: Okay.

7           COMMISSIONER BREAKSPEAR: Frankly, if we went  
8           in and found nothing in every exam, that would be  
9           great --

10          GOVERNOR SCOTT: Right.

11          COMMISSIONER BREAKSPEAR: -- because it  
12          means that people are following the rules,  
13          following the regulations, and providing safe and  
14          sound services.

15          GOVERNOR SCOTT: But you don't have a goal of  
16          how many enforcement actions you're going to take  
17          based on examinations, only if somebody has  
18          violated the law?

19          COMMISSIONER BREAKSPEAR: Absolutely.

20          GOVERNOR SCOTT: Okay.

21          ATTORNEY GENERAL BONDI: And can I follow up  
22          on that, Governor? And if you go back to Screen 4,  
23          you said you set metrics -- when you were talking  
24          about your vision, you set specific metrics for  
25          your employees.

1 COMMISSIONER BREAKSPEAR: Yes.

2 ATTORNEY GENERAL BONDI: What are those  
3 metrics specifically?

4 COMMISSIONER BREAKSPEAR: Everything from how  
5 long it takes, you know, to do an examination; how  
6 frequently; how long it takes to do a phone call;  
7 how long it takes to get a delinquency --  
8 deficiency letter out; all of those types of  
9 things.

10 ATTORNEY GENERAL BONDI: And then on Page 6,  
11 Drew, how are you able to increase -- decrease  
12 employees in the climate we're in? You went  
13 from --

14 COMMISSIONER BREAKSPEAR: Well, that was  
15 done right before I arrived here and we've kept  
16 stable.

17 ATTORNEY GENERAL BONDI: Okay.

18 COMMISSIONER BREAKSPEAR: And, you know, in  
19 retrospect, looking at our performance since then,  
20 I'd say it was probably the right thing to do. I  
21 did not make the decision; I inherited it right  
22 after it had happened.

23 ATTORNEY GENERAL BONDI: Okay.

24 COMMISSIONER BREAKSPEAR: And what I have to  
25 do is get this Agency stabilized and refocused and

1 move forward. But I think if you look at the  
2 numbers, we've performed incredibly well since that  
3 time.

4 GOVERNOR SCOTT: Thank you.

5 COMMISSIONER BREAKSPEAR: Sure.

6 Well, I was going to say that it's easy to  
7 measure costs and related costs per license as a  
8 measure of taxpayer value. It is much more  
9 difficult to measure preventive value. If we  
10 prevent a fraud, halt a Ponzi scheme, and ensure an  
11 age-appropriate allocation, we deliver millions of  
12 taxpayer value.

13 For example, if we stop a major Ponzi scheme,  
14 we can save investors millions and millions. If we  
15 assure age-appropriate asset allocations, a young  
16 investor will see their retirement income grow  
17 faster while an older investor will have a more  
18 stable income stream; and these come into play and  
19 as we look at the businesses.

20 The last measure we've got here shows how  
21 we're working to improve customer service by  
22 reducing average call wait time. As you can see,  
23 since 2012, it has decreased from one minute and  
24 46 seconds to 31 seconds.

25 As I mentioned earlier, based on feedback from

1           you, we've identified several areas where we can  
2           improve our performance within these measures by  
3           drilling down into the division level and below,  
4           studying our current processes, and developing  
5           new mechanisms to make them better. For example,  
6           we have taken a deeper look at the measurement  
7           related to delivering value to businesses,  
8           providing quick responsive service to applicants  
9           is a current measure in the Agency's long-range  
10          program plan.

11           Overall, the Division of Security sends  
12          notices of deficiency to an applicant within  
13          eight calendar days from receipt of their  
14          application. The Florida Administrative Procedures  
15          Act requires that all applicants for licensure be  
16          notified of application deficiencies or outstanding  
17          concerns within 30 days of receipt of the  
18          application, and we are beating the statute  
19          timeframe easily.

20           Within the Division of Securities, for  
21          dealers that sell their own securities, issuer  
22          dealers, the average number of days to issue a  
23          deficiency letter from receipt of application  
24          is currently 14 days. And the Division of  
25          Securities is looking for ways to improve the

1 review process so that the days to issue  
2 deficiency letters for these applications will be  
3 driven down to 12 days.

4 For investment advisor firms with assets under  
5 management of a hundred million or less, the  
6 average number of days to issue a deficiency  
7 letter from receipt of application is currently  
8 11 calendar days. By the way, dealers over a  
9 hundred million are the responsibility of the SEC.

10 The Division of Securities is looking for ways  
11 to improve this process so the days to issue  
12 deficiency letters for investment advisors will be  
13 reduced to 10 days. Applications for issuer  
14 dealers and investment advisors are detailed,  
15 larger, and more complex than other types of  
16 applications, and the review process is more  
17 consuming and intensive.

18 We also noted in comparing ourselves to Texas,  
19 another jurisdiction with similar staffing and  
20 licensee numbers, we've discovered their average  
21 timeframe to issue deficiency letters at the  
22 division level is 18 days, compared to Florida's  
23 eight days.

24 In the same vein, when we focus our attention  
25 of providing quick responsive service to applicants

1 which ultimately delivers value to businesses, the  
2 Division of Consumer Finance has identified  
3 opportunities to focus on process improvement.  
4 Notwithstanding that the average days to approve  
5 licenses has steadily decreased agency-wide, the  
6 average days to improve mortgage lender licensing  
7 is showing a trend in the opposite direction. In  
8 2013-14, the Division approved mortgage lender  
9 licenses within 35 days. For the current fiscal  
10 year, that has increased to 38 days.

11 The Division is currently reevaluating the  
12 processes and procedures in order to reverse this  
13 trend and speed up the process. For that reason,  
14 the goal for 2015-16 is to get back down to  
15 35 days.

16 COMMISSIONER PUTNAM: Governor, I have a  
17 question.

18 GOVERNOR SCOTT: I'm sorry. Commissioner.

19 COMMISSIONER PUTNAM: This is on your customer  
20 service slide, which is two back. You cut your  
21 wait time substantially but your call volume was  
22 cut in half, so that would -- those two would  
23 necessarily be correlated.

24 Are fewer callers a good thing or a bad  
25 thing? Does it mean that fewer people know that

1           you're a resource and that they should call, or  
2           is it a reflection of a decline in the turmoil  
3           in the financial and real estate and banking  
4           sectors that we've witnessed over the last number  
5           of years.

6           COMMISSIONER BREAKSPEAR: Well, if you go back  
7           to the '11/'12, we were clearly in an area of great  
8           turmoil. When you really look at the numbers, if  
9           you look at '12/'13, '13/'14, and '14/'15, those  
10          are ones which you can look at and we've still  
11          managed to drive it down. We do get less calls;  
12          there has been less turmoil. And we're also  
13          reaching out, Commissioner, a little more and  
14          trying to put information out there. Maybe that's  
15          helping educate people and get those calls down as  
16          well. In the last year, we've done a lot in  
17          outreach to the consumer population.

18          GOVERNOR SCOTT: All right. The  
19          Attorney General had a question, I think.

20          ATTORNEY GENERAL BONDI: Yeah, Drew, on  
21          Page 8, is that why the deficiency letters have  
22          shown such a dramatic decrease from 2011, 2012,  
23          from 4,000 to 1,800?

24          COMMISSIONER BREAKSPEAR: Well, the 1,800 is  
25          fiscal year-to-date, it's not the full year number;

1 but the number is down anyway a little bit.

2 ATTORNEY GENERAL BONDI: It seems -- okay.

3 COMMISSIONER BREAKSPEAR: I think those  
4 numbers are as of the end of February, so it would  
5 be eight months through the year; so it will  
6 probably pop up just over 3,000.

7 ATTORNEY GENERAL BONDI: Right. Okay.

8 COMMISSIONER BREAKSPEAR: But, you know, we  
9 continue to work on it, and we continue to try and  
10 educate, and we continue to try and get out there  
11 in the marketplace so we can, you know, drive the  
12 numbers down.

13 ATTORNEY GENERAL BONDI: Thank you.

14 GOVERNOR SCOTT: Thank you. Go ahead.  
15 Commissioner, were you finished?

16 COMMISSIONER PUTNAM: I am for now.  
17 Thank you.

18 COMMISSIONER BREAKSPEAR: I'm sorry?

19 GOVERNOR SCOTT: Okay. Go ahead, Drew.

20 COMMISSIONER BREAKSPEAR: As I said moments  
21 ago, one of the ways to look at how we're  
22 promoting a safe and sound marketplace can be  
23 seen in this measure of the percent of exams and  
24 financial investigations closed with formal action.

25 As an agency, we want to drive down the

1 percentage of formal actions in our three  
2 divisions because this indicates a focus on  
3 compliance in the financial service industry. It  
4 contributes to a business-friendly climate and  
5 results in better, safer services being provided to  
6 Florida customers.

7 The Division of Consumer Finance, statutorily  
8 mandated to conduct examinations of money services  
9 businesses, which do include check cashiers, the  
10 Division has identified a decrease in check cashing  
11 recordkeeping compliance. Given the importance of  
12 recordkeeping compliance in identifying and  
13 preventing money laundering, workers' compensation  
14 fraud, tax refund fraud, and other types of fraud,  
15 the Division intends to increase its focus toward  
16 education outreach and feedback to improve  
17 compliance in this area.

18 Tax refund fraud costs U.S. taxpayers nearly  
19 six billion a year; and insurance fraud, such as  
20 workers' compensation fraud, costs up to 80 billion  
21 annually. The trickle-down cost of this is about  
22 \$950 for a family per year. Anything we can do to  
23 drive down this number adds taxpayer value.

24 The Division expects that through these  
25 efforts, compliance can be improved and the trend

1 reversed. At this time, however, due to the nature  
2 and complexity of our exam cycle and findings, we  
3 expect that the percentage of taxpayers, tax --  
4 check cashers, sorry, demonstrating compliance will  
5 remain at 57% in '15 and '16. Through aggressive  
6 outreach to the industry, we hope to increase the  
7 percentage over the next several years.

8 In the Bureau of Financial Investigations, as  
9 identified, the percent of financial investigation  
10 closed with action --

11 COMMISSIONER PUTNAM: Hold on.

12 COMMISSIONER BREAKSPEAR: Yes, sir.

13 COMMISSIONER PUTNAM: To quote the Governor  
14 on the last agency, that one -- I don't like that  
15 one.

16 COMMISSIONER BREAKSPEAR: I'm sorry?

17 COMMISSIONER PUTNAM: I mean how do we --  
18 57% compliance on an area that's so rife with  
19 money-laundering potential in support of the drug  
20 trade and other illicit activities that all of us  
21 are against, how do we dramatically accelerate the  
22 compliance rate from below 60 to where it ought to  
23 be, and how do we target that effort?

24 COMMISSIONER BREAKSPEAR: Frankly, it's an  
25 unacceptable rate, so we've got to get it up. It

1 takes time. When we get a new check -- to give  
2 you an example, when we get a new check casher  
3 licensee, we send them -- when we give them a  
4 license, we send them out a list of: Here are the  
5 things you have to comply with. We've got to do an  
6 examination to find they've ignored every single  
7 one of them.

8 So we're going to have to do industry  
9 outreach, we're going to have to go to the industry  
10 groups, we're going to have to push out more  
11 information to the check cashers. But given some  
12 of the experiences we have had, we just don't think  
13 that it's going to dramatically turn around in a  
14 12-month period. We think over a couple of years  
15 we can push it up, and we're going to look for  
16 every way that works so we can push that number  
17 back up again. It's a frustration.

18 COMMISSIONER PUTNAM: You could take  
19 everything I know about the check cashing business  
20 and write it on your pinky and have room yet to  
21 spare. But within that industry, you've obviously  
22 got major companies with multiple offices and all  
23 that who presumably have the resources to do more  
24 training and development. Are they -- are they not  
25 the problem, and you're talking about independent

1 operations that are the problem that are harder for  
2 you to get to?

3 COMMISSIONER BREAKSPEAR: It tends to be  
4 smaller ones. I mean we have check cashers who  
5 have one or two employees who are licensed with us,  
6 and then we have the larger ones, and it's just  
7 getting out to the industry. But, you know, when  
8 you say, here's your license, here are the  
9 12 things you have to comply with, and you go out  
10 and do an examination and they're not complying  
11 with any, even though we've provided the  
12 information, you've got to find other mechanisms  
13 for catching their attention and pushing it out.

14 And it may be that we have to do it much more  
15 frequently. We're going out to the industry groups  
16 to try and educate.

17 COMMISSIONER PUTNAM: But I assume that  
18 they're probably not the ones that show up to the  
19 industry group conventions.

20 COMMISSIONER BREAKSPEAR: No, but a lot of  
21 the small ones are part of some of the industry  
22 groups, so if we can just push the education, maybe  
23 we can get the compliance rate up further.

24 COMMISSIONER PUTNAM: So as a very practical  
25 matter, are these recordkeeping compliance measures

1 technical fouls, or are there a number of these who  
2 are, in fact, using this for much more nefarious  
3 purposes than simply failing to adequately retain  
4 the proper records for the amount of time in  
5 triplicate?

6 COMMISSIONER BREAKSPEAR: Well, we have a  
7 broad range. We find some who are complicit in  
8 helping others commit fraud of one form or another.  
9 For example, we find people who will cash lots and  
10 lots of tax refund checks with a pattern that looks  
11 like they should have done it. They'll cash a  
12 check for over \$10,000 and not file a currency  
13 transaction report. There are people who will not  
14 keep copies of the checks, copies of the IDs of the  
15 check cashers.

16 Those are -- some of them do it because  
17 they're negligent, just don't know; some will do it  
18 because they're collaborating in some form of  
19 fraud.

20 COMMISSIONER PUTNAM: Okay. So this gets to  
21 the heart of my --

22 COMMISSIONER BREAKSPEAR: So it's across the  
23 spectrum.

24 COMMISSIONER PUTNAM: This gets to the heart  
25 of my concern about this sort of check-the-box

1 management style or evaluation style. My rule --  
2 so I look at this and I say, well, we're at 57% and  
3 that's unacceptable; but what I really care about  
4 is not whether it's 57% or 63.4%, what I care about  
5 is how do we have risk-based auditing or risk-based  
6 inspection or risk-based regulatory action where  
7 your people are spending the most time on the areas  
8 of noncompliance that represent the greatest threat  
9 to the greatest number?

10 So the easy thing would be, would be to jack  
11 up that number by hitting everybody with a bunch  
12 of small noncompliance issues, or going to your  
13 blue ribbon operators and pounding on them to get  
14 their compliance rate from 85 to 87, or something  
15 like that, when we really haven't solved the  
16 major problem, which would be the most nefarious  
17 bad actors who are deliberately operating in the  
18 shadows for the purposes of supporting the drug  
19 trade or bringing in foreign currency and  
20 laundering it and doing any number of other things.

21 So my question to you then as the agency  
22 leader would be less how do we get above 57% and  
23 more how do we accomplish the broader outcome that  
24 we want in this public policy, which is driving the  
25 really bad actors out of Florida?

1           COMMISSIONER BREAKSPEAR: Well, we do that in  
2 two ways: Number 1, anyone -- we have unlicensed  
3 check cashers out there, so we try to get out and  
4 deal with them, and that comes through our  
5 investigations.

6           COMMISSIONER PUTNAM: And how many  
7 investigators do you have?

8           COMMISSIONER BREAKSPEAR: We have 36.

9           COMMISSIONER PUTNAM: And are they scattered  
10 around the state?

11          COMMISSIONER BREAKSPEAR: Yes, they're in  
12 five offices around the state.

13          So that's the first piece. The second is,  
14 over the last year or so, we've gotten access to --  
15 more access to FinCEN database and suspicious  
16 activity reports, and we've actually got one of our  
17 staff members who has become quite accomplished in  
18 trying to mine that data. We've also reached out  
19 to FinCEN itself and tried to, you know, see how we  
20 can work with them.

21          FinCEN is about to start a targeted operation  
22 in one part of Florida, and because of the  
23 relationship we've built with them, we're actually  
24 going to join with them on that effort, and that  
25 will get -- that's going to be targeted on check

1 cashers. So, you know, there are multiple ways  
2 we're going at this thing, and so, you know --

3 GOVERNOR SCOTT: I think the way to get to  
4 what the Commissioner is saying is it's -- another  
5 way to do the metric is, you know the volume of all  
6 of the check-cashing companies, right? You can do  
7 compliance based on volume.

8 So if you know the -- if there's -- I don't  
9 know how many check-cashing companies there are  
10 or locations. You can look at their volume and  
11 see that, you know, it's not really 57%. As far  
12 as volume, you know it's a lot bigger number than  
13 that because what you're saying is the 43% that  
14 are not, they're generally probably smaller  
15 players.

16 COMMISSIONER BREAKSPEAR: I'm sorry?

17 GOVERNOR SCOTT: They're probably smaller  
18 players, right?

19 COMMISSIONER BREAKSPEAR: You know, I'd  
20 guess that. I haven't looked at the metric, but I  
21 would guess they're the smaller ones because the  
22 bigger ones will have bigger compliance  
23 departments.

24 GOVERNOR SCOTT: I mean that would be another  
25 way to get to the bigger problems. So if you have

1 a significant player that's not complying, that's a  
2 bigger issue than a small player not complying.  
3 They're both problems, but you wouldn't want a big  
4 player not complying.

5 COMMISSIONER BREAKSPEAR: Absolutely.

6 ATTORNEY GENERAL BONDI: Thanks. But I  
7 quarrel with the fact that anyone not reporting a  
8 check over \$10,000, the cashing of a check, could  
9 be negligent. That's -- everyone should know that.  
10 I mean that's -- did I not hear you correctly on  
11 that?

12 COMMISSIONER BREAKSPEAR: Well, if you cash a  
13 check over \$10,000 you have to file --

14 ATTORNEY GENERAL BONDI: You have to report  
15 it.

16 COMMISSIONER BREAKSPEAR: -- a currency  
17 transaction report.

18 ATTORNEY GENERAL BONDI: I mean that's basic.

19 GOVERNOR SCOTT: What percentage compliance do  
20 you have of that?

21 COMMISSIONER BREAKSPEAR: I don't know the  
22 detailed compliance at the --

23 GOVERNOR SCOTT: I think that would be a  
24 good -- that would be a good compliance  
25 measurement.

1           COMMISSIONER BREAKSPEAR: Yeah, I mean we can  
2 put that in because there aren't a huge number of  
3 checks over \$10,000 that are cashed at check  
4 cashers, there really aren't, but there are some.  
5 And you don't pick it up until you go out and find  
6 a check has been cashed and there's no matching  
7 CTR.

8           ATTORNEY GENERAL BONDI: Governor, I think you  
9 were out of the room. I mentioned that because he  
10 said some -- he gave that as an example I believe  
11 of someone who could have been negligent in not  
12 reporting that, and I would say anyone who doesn't  
13 report that is up to no good. I mean everyone  
14 knows that you have to report the cashing of a  
15 check over \$10,000.

16           COMMISSIONER BREAKSPEAR: I'd hate to argue  
17 with you and say I don't think -- I mean we tell  
18 the people they've got to report it when we put out  
19 the list, but I think just sometimes it slips  
20 through the crack.

21           GOVERNOR SCOTT: And somebody that starts --  
22 just doesn't do a good job of training their people  
23 and understanding what they have to do?

24           COMMISSIONER BREAKSPEAR: Yeah, and some  
25 of these shops, as I said, have a couple of

1 people working and that's it, and they've got a lot  
2 to do.

3 GOVERNOR SCOTT: Okay.

4 COMMISSIONER BREAKSPEAR: But it's an area  
5 we are trying to focus on because we see it as  
6 an area where a lot of crime potentially can  
7 either occur or be supported, and sometimes  
8 inadvertently.

9 You know, somebody walks in with a tax refund  
10 check and they have all of the documentation and  
11 they do the right thing. The person will look at  
12 the license, take the thumb print, take copies and  
13 cash it, it doesn't mean that the check casher has  
14 done anything wrong. They may have followed  
15 absolutely everything; but later it turns out that  
16 it was a fraudulent check, which is a whole  
17 different issue. And we're working with the IRS;  
18 we've reached out to them, again, to try and build  
19 relationships.

20 GOVERNOR SCOTT: All right. Thank you.  
21 Anybody have any other questions on this one?

22 (NO RESPONSE).

23 COMMISSIONER BREAKSPEAR: Anyway, the Bureau  
24 of Financial Investigations has identified the  
25 percentage of financial investigations that are

1 closed with action as a focus area for improvement.  
2 This percentage represents unlicensed activity and  
3 financial crimes which harm consumers and take  
4 their money.

5 We want to get better results in this area and  
6 make the financial industry safer for taxpayers.  
7 Our goal is to drive this up to 50% which end up  
8 with a formal action.

9 In the past several years, the Bureau has  
10 worked diligently to strengthen existing  
11 relationships with prosecutors. The Bureau's  
12 regional office managers are heavily focused on  
13 maintaining good relationships with prosecutors  
14 in helping them get what they need to be successful  
15 in our cases. We actually have to go sell our  
16 cases which are very complex and time consuming for  
17 prosecutors.

18 GOVERNOR SCOTT: Drew, these are only your --  
19 these are talking about cases where you're  
20 convinced somebody violated the law?

21 COMMISSIONER BREAKSPEAR: Yes, and we put a  
22 case together and, you know, we do --

23 GOVERNOR SCOTT: And so you're going to the  
24 State Attorney?

25 COMMISSIONER BREAKSPEAR: We go to the

1 State Attorneys, the Statewide Prosecutor, and the  
2 U.S. Attorneys, depending on who it is.

3 ATTORNEY GENERAL BONDI: Governor, I --

4 GOVERNOR SCOTT: Do you have an impact on the  
5 Statewide Prosecutor?

6 ATTORNEY GENERAL BONDI: I believe the  
7 majority of the cases are federal though, aren't  
8 they, involving --

9 COMMISSIONER BREAKSPEAR: No, we get a lot  
10 going into State Attorneys as well.

11 ATTORNEY GENERAL BONDI: Are they taking the  
12 cases?

13 COMMISSIONER BREAKSPEAR: Yes.

14 ATTORNEY GENERAL BONDI: Okay.

15 COMMISSIONER BREAKSPEAR: Our goal is, once  
16 we take a case, to have them accept 80% of them.

17 ATTORNEY GENERAL BONDI: If I can help you  
18 there, let me know.

19 COMMISSIONER BREAKSPEAR: I'm sorry?

20 ATTORNEY GENERAL BONDI: If I can help you  
21 there, let me know.

22 GOVERNOR SCOTT: She can help -- you can help  
23 with the Statewide Prosecutor, right?

24 ATTORNEY GENERAL BONDI: Only if it's  
25 multi-jurisdiction.

1 GOVERNOR SCOTT: Oh.

2 COMMISSIONER BREAKSPEAR: Really, our  
3 prosecution rate, our goal is over 90% at the  
4 moment, which is exceptional, once we get a case  
5 and get it prosecuted.

6 Additionally, over the last two years, we've  
7 actually had seven cases go to a jury trial; and we  
8 have a hundred percent success rate in getting a  
9 conviction on those. So that's a pretty good rate  
10 to have on a jury trial.

11 Our OFR investigators work very closely with  
12 the prosecutors, to your point, prior to arrest, to  
13 ensure that, you know, the evidence is sufficient  
14 for conviction. Our investigative team fully  
15 supports the prosecutor throughout the life cycle  
16 of the case, which includes doing everything the  
17 prosecutor requests, which includes additional  
18 investigation, trial preparation, and even  
19 testimony at trial.

20 We have a core group of trained, experienced  
21 financial crime investigators. And because of the  
22 strong relationships and experienced team members,  
23 we anticipate the percentage of cases closed with  
24 formal action will increase. And we've had some  
25 real successes over the last couple of years.

1           The Division of Securities has also reviewed  
2           the call wait time trends and have had an  
3           opportunity to improve customer service. Since  
4           2013-14, we've seen call wait time within the  
5           Division increase, and we are looking at ways to  
6           reduce this by sharing customer service  
7           responsibilities across Division staff more  
8           broadly. For this reason, we've set a goal to  
9           reduce call wait time by 30 seconds in 2015 and  
10          '16. Once we tweak the process, we hope to drive  
11          down the Division's wait time to a minute and  
12          45 seconds.

13           In the same area of improving customer  
14          service, the Division of Financial Institutions has  
15          identified customer service ratings in the area for  
16          improvement. Each year the Division of Financial  
17          Institutions sends out a survey to entities it  
18          regulates asking for their feedback on the services  
19          provided by the OFR. These entities rate the  
20          Division of Financial Institutions on a scale of  
21          1-to-5 rating, with a one or two being considered  
22          high performing.

23           As you can see, the percentage of financial  
24          institutions that rated the Division's services at  
25          two or better has increased since 2012, rising

1 from 95 to 97%. The Division is working to drive  
2 up that percentage of entities that actually  
3 respond to the survey. The percentage responding  
4 has nearly doubled from 2012, rising to 41%. We  
5 want to receive more feedback about our services so  
6 we can understand how we can improve customer  
7 service.

8 GOVERNOR SCOTT: So you're going to lower  
9 your expect -- Drew, you're going to lower your  
10 expectation and you're going to sandbag this one  
11 with only 90% when you already hit 97 now?

12 COMMISSIONER BREAKSPEAR: Because --

13 GOVERNOR SCOTT: You're better than that.

14 COMMISSIONER BREAKSPEAR: The answer,  
15 Governor, is as we drive it up, we may get the  
16 people who are a little more reluctant and might  
17 give us lower ratings.

18 GOVERNOR SCOTT: I think you should have  
19 higher goals.

20 COMMISSIONER BREAKSPEAR: I don't think we can  
21 get a hundred percent on this one at a one or  
22 two rating, as much as I'd like it.

23 But our goal is to get a 50% response rate in  
24 the next year, and 60% in the year beyond that.  
25 And we want to keep the high performance level at

1 90%, and I note your comment.

2 GOVERNOR SCOTT: It sounded like no to me.  
3 You handled it very well, but it still sounded like  
4 a no to me.

5 COMMISSIONER BREAKSPEAR: No, "note," nice  
6 English word.

7 As we've continued the conversation and  
8 listened to the valuable feedback from each of your  
9 offices, we have a better understanding of the  
10 diverse issues each of you bring to the exercise.  
11 We are continuously evaluating our process to  
12 ensure that we're improving taxpayer value,  
13 delivering value to businesses, promoting a safe  
14 and sound financial marketplace, and improving  
15 customer service. We strongly believe in smart,  
16 efficient, and effective regulation.

17 This means adjusting measurements as  
18 appropriate, assessing our approach in creating new  
19 ones. The Division of Financial Institutions are  
20 reviewing recent feedback the Agency received from  
21 the Conference of State Bank Supervisors and the  
22 National Association of State Credit Union  
23 Supervisors during their reaccreditation process in  
24 2014.

25 Every five years, the Division participates

1 in the reaccreditation processes with both of  
2 these organizations which measure the Division's  
3 ability to effectively provide regulatory services  
4 to state chartered banks and credit unions. There  
5 are components in this feedback that we hope to use  
6 in evaluating the Division, and the services  
7 provided could speak directly to improving taxpayer  
8 value.

9 Additionally, there are aspects of services  
10 that we provide to Floridians which are difficult  
11 to capture through hard and fast measures, and I  
12 mentioned prevention of financial crime as one  
13 example. The impact of outreach, which we're doing  
14 more of, information resources provided to  
15 Floridians provides value; and it potentially  
16 prevents them from becoming victims of financial  
17 crimes. We want to develop creative new ways to  
18 highlight these intangible items.

19 I would like to mention a couple of exciting  
20 new things going on at the OFR. New initiatives on  
21 the horizon for the Agency include the development  
22 and launch of the Division of Consumer Finance  
23 check-cashing database which will completely  
24 revamp the licensed check-cashing reporting  
25 information to us. This new information will

1 provide new means of assessment as we have new  
2 ways to mine the data.

3 Additionally, the Agency is placing a  
4 heightened focus on anti-money-laundering cases and  
5 investigations which will elevate these issues as  
6 they often relate to severe cases of fraud where  
7 Floridians are victimized.

8 I'd like to highlight a few of the Agency's  
9 goals and next steps. We're in the process of  
10 reviewing the current long-range program plan so we  
11 can reevaluate what measures makes sense and lend  
12 themselves to increasing taxpayer value; delivering  
13 value to businesses; promoting a safe and sound  
14 financial marketplace; and improving customer  
15 service.

16 I'm looking forward to the discussions we've  
17 had with each of your offices to gather more  
18 comments and take this exercise in a direction that  
19 is responsive to your feedback. We understand and  
20 agree wholeheartedly that defining the way we  
21 measure the OFR agency is important to taxpayers  
22 of Florida, which is why over the last three years  
23 we have continuously refined our measures and  
24 operations. I want you to have the most  
25 appropriate data at your fingertips when you

1 evaluate us.

2 Once we've completed the evaluation of the  
3 long-range program plan, I intend to develop a new  
4 strategic plan for the OFR which will serve as a  
5 more concise supplemental document which will  
6 align with the revised long-range program plan.  
7 It is my intention to continue adding clarity and  
8 confidence that our Agency is doing that the  
9 Financial Service Commission and the people of  
10 Florida wish.

11 Again, we view this as a first step in an  
12 evolving process, and I'd like to request a level  
13 of flexibility to adjust and add to and to remove  
14 measures where appropriate as we continue to  
15 receive your feedback. That way when we begin the  
16 Cabinet's quarterly performance reporting, we will  
17 be able to provide the most up-to-date information  
18 and add data as needed.

19 The OFR has also reviewed the data relating  
20 to delegated authorities of the Financial Service  
21 Commission. The approval of the OFR's rules is the  
22 only area where the Financial Service Commission  
23 has delegated authority.

24 I hope this presentation has been informative  
25 to you. I believe we have delivered meaningful

1 measures which speak directly to the Agency's  
2 priorities. Again, I thank each of you for the  
3 valuable feedback that we've received thus far, and  
4 I look forward to continuing to work with you, and  
5 that concludes my presentation.

6 GOVERNOR SCOTT: Did you look at the measures  
7 and the supplemental measures that I put out,  
8 you know, a few Cabinet meetings ago? Did you  
9 review those?

10 COMMISSIONER BREAKSPEAR: We've looked at  
11 the measures, and some of these are incorporated  
12 in this presentation. We have provided feedback  
13 on the measures to your office. The supplemental  
14 measures we're still working our way through.

15 GOVERNOR SCOTT: All right. Does anybody have  
16 any comments?

17 ATTORNEY GENERAL BONDI: No.

18 CFO ATWATER: Same exercise?

19 GOVERNOR SCOTT: Okay. The goal is we're  
20 going to do the same thing. We will -- all of our  
21 offices will provide you -- mine are already  
22 provided to you, but we'll all provide you what we  
23 think is appropriate measurements. We might have  
24 some changes in ours based on your presentation,  
25 but we'll do that.

1           You -- at the next meeting you'll come back  
2           and basically we'll go yes, no, and come up -- with  
3           the goal at the end, we'll have measurements that  
4           are meaningful to you because I'm sure you'd like  
5           to succeed and do the job that all of us believe  
6           your Agency is responsible for.

7           Does that make sense?

8           COMMISSIONER BREAKSPEAR: Yes. The one  
9           comment I make, Governor, is the next meeting is  
10          about two and a half weeks away, so that's pretty  
11          short. We'll work on it, but we may not get a  
12          compre -- complete at that time.

13          ATTORNEY GENERAL BONDI: That's true.

14          GOVERNOR SCOTT: We're going to do everything  
15          we can. I mean like ours have been out. We've  
16          had -- I think everybody has had an opportunity to  
17          review those, so it shouldn't be significant.

18          I think the one big one that we haven't really  
19          talked about much is what Commissioner Putnam said  
20          about some of the qualitative stuff. That might be  
21          a little harder, but I think it probably applies to  
22          each one, the same questions.

23          COMMISSIONER PUTNAM: Yeah.

24          COMMISSIONER BREAKSPEAR: The which one, I'm  
25          sorry?

1           GOVERNOR SCOTT: Commissioner Putnam brought  
2 up some of the qualitative issues, but I think what  
3 he's going to come up with is not -- it's going to  
4 be easy to agree on them. I don't think it will be  
5 hard. It will be hard for you to answer them  
6 always, but I don't think it would be hard to come  
7 up with what we care about. I think we'll be able  
8 to do it.

9           COMMISSIONER PUTNAM: Governor, I had a couple  
10 of questions.

11          GOVERNOR SCOTT: Oh, I'm sorry, go ahead.

12          COMMISSIONER PUTNAM: How do you -- I'll ask  
13 you what I asked McCarty first. What's the big  
14 contingent liability out there? What keeps you up  
15 at night in your portfolio of responsibility?

16          COMMISSIONER BREAKSPEAR: I think, frankly,  
17 the Number 1 thing that keeps me up is the  
18 overwhelming amount of regulation that's coming out  
19 of Washington and falling down on the businesses  
20 that we oversee. And, you know, we've heard of too  
21 big to fail. My Deputy Commissioner coined a  
22 phrase which I think sums it up: Too small to  
23 comply.

24                 The amount of regulation coming out of  
25 Washington that's falling on people is just

1 enormous, and I'll just give you one example.

2           Somebody who worked for me a number of years  
3 ago ended up in a compliance function on mortgages,  
4 and she called me up and said: I just got some of  
5 the mortgage rules, it's 800 pages. I've got three  
6 people who are just reading the rules. That's not  
7 getting out and complying, just going through them  
8 and figuring out what to do.

9           The CFPB I think put out some recent rules,  
10 1,400 pages. That's what keeps me up at night,  
11 because at some point you run into how people are  
12 complying, whether they want to be in business  
13 providing services to the people of the state.

14           So that's what worries me and, you know, we  
15 as an agency have to also deal with those rules,  
16 make sure people are in compliance, and the like.

17           COMMISSIONER PUTNAM: So as Florida which was,  
18 you know, the epicenter of the financial crisis  
19 and the real estate crisis, as we approach the  
20 seven-year mark for credit repair forgiveness, how  
21 do you assess that timeframe to impact on home  
22 buying, credit worthiness, balance sheets for  
23 financial institutions as consumers reach that  
24 magic number for forgiveness?

25           COMMISSIONER BREAKSPEAR: Well, I mean we are

1 continuing to see improvement in the banks and  
2 credit unions in terms of safety and soundness.

3 The other thing I'd say is that with the  
4 number of licenses we've got, and you saw the  
5 trend going fairly steeply up, it implies that  
6 people -- that things are improving in the state.  
7 For example, at one point we had -- and I'm doing  
8 this off the top of my head, Commissioner, but I  
9 think we had 80,000 mortgage brokers around the  
10 state. During the crisis, it dropped down to 12.  
11 We're back at about 19 or 20, which I think talks  
12 to the health of the industry.

13 We look at those types of things. We look at  
14 mortgage volumes which over the last -- from  
15 three years ago, it was down. It's shot up and  
16 it's sort of flattened out, but it's up about 50%  
17 from where it was two or three years ago. So I  
18 think we're seeing the health, but I'd say it's  
19 the health of the banks as we measure it; it's the  
20 volumes of mortgages which is positive; and it's  
21 the number of people in the financial services  
22 industry that are licensed, all point to an  
23 improving health of the Florida financial services  
24 industry, and the people of Florida to be able to  
25 use those services.

1           COMMISSIONER PUTNAM: Are you seeing more  
2 M & A activity in the banking world? Are you  
3 seeing out-of-state banks taking another look at  
4 Florida, buying up community banks? I mean it --

5           COMMISSIONER BREAKSPEAR: Yes.

6           COMMISSIONER PUTNAM: -- it seems like it's  
7 going on anecdotally, but I'm curious what the data  
8 shows.

9           COMMISSIONER BREAKSPEAR: Yeah, we're seeing  
10 two things: We are seeing out-of-state banks come  
11 in and buy our community banks. We're also seeing,  
12 and if you look at the numbers, a shrinkage in the  
13 number of banks. That's part of it. The other  
14 part is community banks buying each other or  
15 merging.

16           COMMISSIONER PUTNAM: Because of the  
17 compliance issue?

18           COMMISSIONER BREAKSPEAR: Part of it's  
19 compliance. Part of it is that they're small, they  
20 see by merging they can use the corporate  
21 infrastructure more efficiently and become more  
22 profitable.

23           And, you know, this is me, but I'd say that,  
24 you know, 10 years ago, a hundred, \$200 million  
25 bank was considered, you know, a bank that could

1 run and make money. I think we're at the stage  
2 where it's in the \$500 million plus range.

3 And I think if you really walked out and went  
4 to most of the bankers and talked to them and said,  
5 really, what do you think, they could be talking a  
6 billion dollars as being sort of where you need to  
7 be to be really a solid profitable bank.

8 So I think we're going to see more mergers,  
9 and I think it's nationwide. We're seeing the  
10 number of banks, community banks across the nation  
11 declining. Now the other thing, some of the  
12 national banks who are in the state are also  
13 building new branches who are from out of state,  
14 you know, Chase Manhattan, for example, has been  
15 building branches in a number of locations over the  
16 last two years; so that implies a health in the  
17 industry.

18 COMMISSIONER PUTNAM: Thank you.

19 GOVERNOR SCOTT: All right. Any other  
20 questions?

21 (NO RESPONSE).

22 GOVERNOR SCOTT: Thank you very much.

23 COMMISSIONER BREAKSPEAR: Thank you.

24 GOVERNOR SCOTT: We'll see you in a couple of  
25 weeks.

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COMMISSIONER BREAKSPEAR: I'm sorry?

GOVERNOR SCOTT: We'll see you in a couple of weeks.

COMMISSIONER BREAKSPEAR: Okay. Thank you.

\* \* \* \*

STATE OF FLORIDA

IN RE: MEETING OF THE GOVERNOR  
AND CABINET

---

CABINET MEMBERS:

GOVERNOR RICK SCOTT  
ATTORNEY GENERAL PAM BONDI  
CHIEF FINANCIAL OFFICER  
JEFF ATWATER  
COMMISSIONER OF AGRICULTURE  
ADAM PUTNAM

DATE:

TUESDAY, MAY 5, 2015

LOCATION:

CABINET MEETING ROOM  
LOWER LEVEL, THE CAPITOL  
TALLAHASSEE, FLORIDA

REPORTED BY:

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NOTARY PUBLIC

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I N D E X

- APPROVAL OF MINUTES  
By Governor Rick Scott
- APPOINTMENT - INTERIM SECRETARY  
By Governor Rick Scott
- APPOINTMENT - INTERIM EXECUTIVE DIRECTOR  
By Governor Rick Scott
- APPOINTMENT DISCUSSION  
By Governor Rick Scott
- BOARD OF TRUSTEES IMPROVEMENT FUND  
By Secretary Jon Steverson
- STATE BOARD OF ADMINISTRATION  
By Executive Director Ash Williams
- DEPARTMENT OF VETERANS AFFAIRS  
By Executive Director Mike Prendergast
- OFFICE OF FINANCIAL REGULATION  
By Commissioner Drew Breakspear
- DEPARTMENT OF REVENUE  
By Executive Director Marshall Stranburg
- AGENCY MEASURES - OIR  
By Commissioner Kevin McCarty
- AGENCY MEASURES - DOR  
By Commissioner Drew Breakspear

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OFFICE OF FINANCIAL REGULATION

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GOVERNOR SCOTT: Next, we have Drew Breakspear with the Office of Financial Regulation.

Good morning, Drew.

COMMISSIONER DREW BREAKSPEAR: Good morning, Governor Scott, Attorney General Bondi, CFO Atwater and Commissioner Putnam.

We have one item for your consideration today. The OFR respectfully requests approval to publish notice of proposed rule to amend rules in chapter 69V40 Florida Administrative Code, relating to mortgage brokerage.

The proposed amendments will implement the disciplinary guidelines and matrix and update these rules based on the 2014 statutory changes.

GOVERNOR SCOTT: Is there a motion on the item?

ATTORNEY GENERAL BONDI: So moved.

GOVERNOR SCOTT: Is there a second?

COMMISSIONER PUTNAM: Second.

GOVERNOR SCOTT: Any comments or objections? Hearing none, the motion carries.

COMMISSIONER DREW BREAKSPEAR: Thank you.

\*\*\*\*\*

**AGENCY MEASURES - OFFICE OF FINANCIAL REGULATION**

1  
2  
3 GOVERNOR SCOTT: Okay. Now we're going to --  
4 I think we're doing Drew next, right?

5 All right. Okay, Drew, you're up.

6 ATTORNEY GENERAL BONDI: Governor, could you  
7 have possibly made this any smaller writing?

8 GOVERNOR SCOTT: All right. Hi, Drew.

9 COMMISSIONER BREAKSPEAR: Well, now I can say  
10 good afternoon.

11 GOVERNOR SCOTT: Good afternoon.

12 COMMISSIONER BREAKSPEAR: What we have  
13 provided is the updated measures package, and we  
14 have given it to each of your offices, and it  
15 includes the Governor's requested measures and the  
16 supplemental measures and the information behind  
17 those; the OFR's recommended measures and  
18 attachments; the CFO Atwater's proposed measures;  
19 and while we didn't provide answers, we have  
20 reviewed Commissioner Putnam's proposed measures  
21 and questions.

22 And I'm prepared to answer questions at this  
23 point or walk through this, whatever you would like  
24 me to do.

25 GOVERNOR SCOTT: Sure. So does anybody have a

1 recommendation on how they would like to review  
2 this?

3 ATTORNEY GENERAL BONDI: Governor, what about  
4 going through the five goals?

5 GOVERNOR SCOTT: So that's -- I'm fine if  
6 you -- do you want to take the lead on it?

7 ATTORNEY GENERAL BONDI: Sure, Governor.

8 Yeah, because Goal 1, we can wrap it all in.  
9 I think I've used more stickies than I ever have in  
10 law school in this. Hold on.

11 So I think on Goal 1, Governor, I'm fine with  
12 your proposals. I think we're all wrapped in on  
13 Goal 1.

14 Does anyone have an issue with the Governor's  
15 Goal 1?

16 COMMISSIONER PUTNAM: Which handout are y'all  
17 operating off of?

18 GOVERNOR SCOTT: I think this was what -- I  
19 think it's their Number -- I think this -- Drew,  
20 your team put this together of everybody's  
21 recommendation, right?

22 COMMISSIONER BREAKSPEAR: I'm sorry, Governor?

23 GOVERNOR SCOTT: It's your -- on this  
24 one that's -- which one are you looking at?

25 ATTORNEY GENERAL BONDI: Well, Gov --

1           GOVERNOR SCOTT: I think we're looking at  
2 the same thing. Yeah, we're looking at the same  
3 thing.

4           ATTORNEY GENERAL BONDI: Yeah, but there are a  
5 total of five goals.

6           GOVERNOR SCOTT: Right.

7           ATTORNEY GENERAL BONDI: And Goal 1 goes  
8 through page -- your Page 1, Governor, through  
9 number -- I need a microscope. It's just basically  
10 Pages 1 and 2.

11          GOVERNOR SCOTT: Right. Yeah, that's what it  
12 looks like.

13          ATTORNEY GENERAL BONDI: Page 2 starts the  
14 bottom of Goal Number 2.

15          GOVERNOR SCOTT: Right.

16          ATTORNEY GENERAL BONDI: No, I'm sorry,  
17 Page 3. Goal 1 is Pages 1, 2, and the majority of  
18 Page 3.

19                 And then if you go to OFR's performance  
20 measures, Goal 1 has been summarized for us in  
21 two pages, correct? Yes.

22          GOVERNOR SCOTT: Yep.

23          ATTORNEY GENERAL BONDI: So just in the  
24 abundance of time, Governor, we may just go through  
25 your entire Goal 1; and if anyone has any problems

1 with Governor Scott's Goal 1, it's Pages 1, 2, and  
2 the majority of 3.

3 CFO ATWATER: Governor, would you mind  
4 maybe --

5 GOVERNOR SCOTT: Sure.

6 CFO ATWATER: I'm looking at -- I know we all  
7 have different handouts now, so I want to be sure  
8 I'm looking at the same one everyone else is using.  
9 Is this the one?

10 GOVERNOR SCOTT: I think -- yeah, yours is  
11 just not blown -- yours is smaller.

12 (ATTORNEY GENERAL'S DISCUSSION OFF THE  
13 RECORD).

14 CFO ATWATER: So what was being asked with  
15 that question? Where should I be going to to read  
16 the --

17 GOVERNOR SCOTT: So I think the -- we have a  
18 bunch of choices on how we do this. But one choice  
19 was to use what I put together; we can start out  
20 that way. We can start out with what you put  
21 together. We have a variety of ways we can put it  
22 together.

23 I think what Drew did is he basically  
24 responded to all of them, to everybody's  
25 recommendations. I mean he -- I think from your

1           standpoint you're okay with the measurement  
2           because -- right? You don't have any really --  
3           with any of these measurements?

4           COMMISSIONER BREAKSPEAR: Well, you're -- the  
5           Governor's performance measures?

6           GOVERNOR SCOTT: Right.

7           COMMISSIONER BREAKSPEAR: Yeah, I mean we had  
8           some comments on a few of them.

9           GOVERNOR SCOTT: Right.

10          COMMISSIONER BREAKSPEAR: We felt there were  
11          changes that were appropriate.

12          GOVERNOR SCOTT: Right.

13          COMMISSIONER BREAKSPEAR: And a couple that we  
14          should be just striking altogether.

15          GOVERNOR SCOTT: Okay.

16          COMMISSIONER BREAKSPEAR: And then we had a  
17          couple of adjustments to the percentage performance  
18          measures.

19          ATTORNEY GENERAL BONDI: Governor, may we  
20          stick to your Goal 1 right now just because it's  
21          the most comprehensive? I know you had -- you  
22          struck Number 2, but are you okay with Number 1?

23          CFO ATWATER: What is Number 1?

24          ATTORNEY GENERAL BONDI: The Governor's  
25          objectives. They're just the most detailed, CFO.

1 That's why I started on those. It's Number 1  
2 through --

3 GOVERNOR SCOTT: Number 1 through --

4 ATTORNEY GENERAL BONDI: -- really 12; he  
5 struck 9.

6 GOVERNOR SCOTT: Yeah.

7 ATTORNEY GENERAL BONDI: He struck 10, I'm  
8 sorry.

9 And then if you look at Goal Number 8, I think  
10 you had some issues on 8, is that correct, and 7?

11 GOVERNOR SCOTT: And 7.

12 ATTORNEY GENERAL BONDI: Are your copies in  
13 red, gentlemen? That helps.

14 GOVERNOR SCOTT: Yeah.

15 ATTORNEY GENERAL BONDI: Okay. But, Governor,  
16 yours are the most comprehensive, so I'd like to  
17 stick to yours if we could.

18 GOVERNOR SCOTT: So Number 7, Drew, you said,  
19 OFR recommended language: Provide prompt  
20 resolution of registration matters by decreasing  
21 the average number of broker/dealer applications  
22 that are pending?

23 COMMISSIONER BREAKSPEAR: Yes, on that one,  
24 the original measure that came from your office  
25 really had a point in time; and because we have

1 flows of applications, we can end up on a reporting  
2 day, unfortunately, with a huge number. And we  
3 felt an average over a period of time was a better  
4 measure.

5 GOVERNOR SCOTT: Ah, that makes sense.

6 COMMISSIONER BREAKSPEAR: It's as simple as  
7 that.

8 GOVERNOR SCOTT: Yeah, that makes sense to me.

9 COMMISSIONER BREAKSPEAR: You know, because we  
10 could be running 150, and the last day of the month  
11 we get 300. We'd fail it.

12 GOVERNOR SCOTT: Yeah, that makes sense.

13 COMMISSIONER BREAKSPEAR: Whereas, on  
14 average --

15 GOVERNOR SCOTT: I think you're right.

16 COMMISSIONER BREAKSPEAR: So that's what the  
17 proposal was there.

18 GOVERNOR SCOTT: Everybody okay with that?

19 ATTORNEY GENERAL BONDI: Yes, Governor.

20 GOVERNOR SCOTT: Okay. Number 8.

21 ATTORNEY GENERAL BONDI: Wait, I'm sorry.  
22 Yeah, although -- we just did 7, right?

23 GOVERNOR SCOTT: Yeah.

24 COMMISSIONER BREAKSPEAR: Yeah.

25 ATTORNEY GENERAL BONDI: Commissioner, are you

1 following?

2 COMMISSIONER PUTNAM: Yes, I am following, but  
3 is it our desire to get this down to 10 or 11  
4 measures as we did for OIR? Because you've got 12  
5 just for the first goal.

6 GOVERNOR SCOTT: What would be -- I'm fine  
7 either way because the information that I have on  
8 mine, I'm going to ask you anyway, so --

9 COMMISSIONER BREAKSPEAR: You know, we've  
10 prepared the information. We're quite prepared to  
11 update it and provide it --

12 GOVERNOR SCOTT: Right, yeah.

13 COMMISSIONER BREAKSPEAR: -- as a supplement  
14 or an addition, whatever is needed.

15 GOVERNOR SCOTT: So from my standpoint, if we  
16 want to reduce the number like we did with  
17 Insurance and then I'll ask mine separately, that's  
18 fine with me. So this is -- so the -- so if there  
19 is a recommendation of doing it a different way,  
20 I'm fine either way.

21 ATTORNEY GENERAL BONDI: I'm fine currently  
22 with the Governor's Goals 1 through 12. He strikes  
23 Number 10, and I'm fine with the Department's  
24 changes with Number 7 and 8.

25 CFO ATWATER: Well, can I ask then a question

1 just to be sure I'm on the same form? I've got  
2 Goal Number 1: Review all existing performance  
3 measures annually to ensure they are meaningful and  
4 results oriented.

5 ATTORNEY GENERAL BONDI: That's it.

6 CFO ATWATER: Is that the goal?

7 GOVERNOR SCOTT: That's the measurement.

8 CFO ATWATER: Okay. What's the goal, improve  
9 metrics?

10 GOVERNOR SCOTT: Yeah, it's part -- it's just  
11 all part -- the way this one was -- we did this  
12 one was it's -- you can do these individually.  
13 It was all part of my first goal, and then we had  
14 a variety of things we would measure that goal by.  
15 And, again, I'm fine with doing it this way; I'm  
16 fine with a reduced number with a metric system  
17 that gives a scoring, however y'all want to do it.

18 ATTORNEY GENERAL BONDI: So, Governor, you  
19 have -- may I, Governor?

20 GOVERNOR SCOTT: Sure.

21 ATTORNEY GENERAL BONDI: You have nine goals.  
22 Let's stick to Number 1. You have 10, but we  
23 struck Number 10; Number 11 is stricken; Number 12  
24 is stricken on your copy?

25 GOVERNOR SCOTT: Right.

1           ATTORNEY GENERAL BONDI: And then on OFR's  
2 copy, you've summarized it with 1, 2, 3, 4, 5, 6,  
3 7, 8, 9, and he struck 10?

4           GOVERNOR SCOTT: Right.

5           ATTORNEY GENERAL BONDI: And, CFO, can you  
6 ex -- I may be missing yours. I'm sorry, I know I  
7 read it last night.

8           CFO ATWATER: The one I had, General, looked  
9 identical to -- well, the format looked identical  
10 to the OIR where it lists --

11          ATTORNEY GENERAL BONDI: OFR.

12          CFO ATWATER: Yeah, OFR, the one for OFR that  
13 I had provided. The format looks identical to the  
14 same spreadsheet as the OIR. It was an eight and a  
15 half by 11.

16          ATTORNEY GENERAL BONDI: I have it somewhere,  
17 Governor.

18          CFO ATWATER: Yeah, that took the Governor's  
19 objective measures and tried to do our best to  
20 insert them all but left off the ones that were not  
21 the objectives, and probably more machinations than  
22 that, but --

23          ATTORNEY GENERAL BONDI: Governor, may I?

24          GOVERNOR SCOTT: Sure.

25          ATTORNEY GENERAL BONDI: Commissioner, your

1 suggestion is to consolidate some of these goals so  
2 we don't end up with 40 goals; is that correct?

3 COMMISSIONER PUTNAM: Yes, ma'am, that is my  
4 suggestion.

5 ATTORNEY GENERAL BONDI: I would be inclined  
6 to go with that, Governor, if we can --

7 GOVERNOR SCOTT: Sure, absolutely.

8 ATTORNEY GENERAL BONDI: I think that would  
9 help the Agency as well.

10 COMMISSIONER BREAKSPEAR: That would help a  
11 lot.

12 ATTORNEY GENERAL BONDI: Gentlemen, which  
13 goals, Governor, do you think we could consolidate?  
14 You're the expert.

15 GOVERNOR SCOTT: Well, I'm fine with anybody  
16 else's recommendation. I mean this is how I would  
17 measure it, but I'm fine with if you want to limit  
18 it to your -- and use a standard like the CFO had,  
19 that makes a lot of sense to me.

20 COMMISSIONER PUTNAM: And given his -- given  
21 the CFO's daily interactions with both OIR and OFR,  
22 I propose that we use his draft as the base for  
23 conversation. He has 10 performance measures,  
24 and I recommend that we review those 10, identify  
25 whether there's anything missing that we would

1 prefer to see or if there was anything duplicative  
2 to substitute, and use that as our base document.

3 ATTORNEY GENERAL BONDI: And, Governor, from  
4 my review, they're virtually identical to yours;  
5 they're just weighted like the last one.

6 CFO ATWATER: We just tried to put it in  
7 that format.

8 ATTORNEY GENERAL BONDI: Right.

9 GOVERNOR SCOTT: So why don't we do this: Why  
10 don't we just take the CFO's page and, first off,  
11 if somebody has an exception, let's look at the  
12 exceptions instead of having to go through each  
13 one; and then do you want to do the same thing,  
14 where we'll weight these for -- these 10 will be  
15 80%, and then the Commissioner of Agriculture's  
16 will be 20%, the same way?

17 ATTORNEY GENERAL BONDI: Yeah, I love that  
18 approach.

19 COMMISSIONER PUTNAM: Yeah.

20 GOVERNOR SCOTT: And then what we'll do is  
21 we'll just weight each of these at 8 points. So  
22 that will add up to 80%, and so --

23 ATTORNEY GENERAL BONDI: Can I -- one  
24 question, Governor, may I, for the CFO?

25 CFO, you have Number 1 though weighted at 20%.

1 And, again, this is your expertise and not mine.  
2 So is there a reason? Do we want to rank these all  
3 at 8%; or, Governor and CFO, do we want to rank  
4 Number 1 higher, and Commissioner, I'm sorry?

5 CFO ATWATER: No, that's a very good question,  
6 General. On the format that we're looking at, if  
7 it's a template that I provided, I would see that a  
8 Number 1 in my mind would rate much higher than a  
9 Number 6, which is going from the number of  
10 institutions that we've examined to the average  
11 days that a mortgage lender got a license. And by  
12 the way, we've got that down pretty well.

13 So I think that, in our conversation with the  
14 Commissioner, we might offer a little heavier  
15 weight to some than others; and maybe we should do  
16 that as we go this time. General, it's a great  
17 question.

18 COMMISSIONER BREAKSPEAR: I would absolutely  
19 agree. And, you know, particularly with Number 1,  
20 I think that's the safety and soundness issue and  
21 should have a higher weighting.

22 CFO ATWATER: Yes.

23 GOVERNOR SCOTT: All right. First off, on  
24 Number 9: Percentage of cases closed with formal  
25 action, doesn't that cause us to --

1 CFO ATWATER: Yeah.

2 GOVERNOR SCOTT: -- have to act like we want  
3 to go after somebody whether we do or not?

4 CFO ATWATER: That's your same question we had  
5 from the --

6 GOVERNOR SCOTT: Yeah, I personally don't like  
7 that.

8 ATTORNEY GENERAL BONDI: Which one, Governor?

9 GOVERNOR SCOTT: Number 9.

10 COMMISSIONER PUTNAM: So we'll strike  
11 Number 9?

12 COMMISSIONER BREAKSPEAR: We had put that in  
13 our last presentation because we felt we should up  
14 the percentage a little bit. I do -- we do think  
15 the ranges in here are a little high because what  
16 we don't want to do is have -- you know, we tend  
17 to -- with cases, you put them together, we have a  
18 swing and a miss on some of them.

19 We don't want to incentivize our investigators  
20 to look at a case and say: Too much work, I'm not  
21 going to do it when it's the complex, hard-worked  
22 cases that often end up with the worst types of  
23 fraud and it takes a lot of work to get there. And  
24 if you put the percentage of those actions too  
25 high, you really will get the investigators saying,

1 I'm not going to swing at this pitch. It's not  
2 worth it.

3 GOVERNOR SCOTT: I don't like the measurement,  
4 so for --

5 CFO ATWATER: Can we just -- Governor, could  
6 we just then, like we do with OIR, follow the data  
7 for a year and see so we just get that?

8 GOVERNOR SCOTT: Yeah.

9 ATTORNEY GENERAL BONDI: And my request would  
10 be, given what I do, we do have to look out for  
11 consumer protection issues because that protects  
12 our good businesses and our good companies. So  
13 can you just factor all that in? I think that's  
14 what you just tried to say, consumer protection.

15 COMMISSIONER BREAKSPEAR: If -- the ones we're  
16 talking about here all end up as criminal cases.

17 ATTORNEY GENERAL BONDI: Exactly, I know that  
18 well.

19 COMMISSIONER BREAKSPEAR: And they are true  
20 consumer protection, save people money if we get  
21 them right.

22 ATTORNEY GENERAL BONDI: And we can still  
23 cover that by striking Governor's Number 9 -- or  
24 I'm sorry, CFO's Number 9.

25 GOVERNOR SCOTT: No, no, that's right. We're

1 just going to get the data and --

2 CFO ATWATER: Track the data for the year,  
3 yeah.

4 ATTORNEY GENERAL BONDI: Yes.

5 COMMISSIONER BREAKSPEAR: We just think it's  
6 important we track that data because we think it's  
7 important.

8 GOVERNOR SCOTT: What's the result of  
9 Number 10, average days to issue deficiency  
10 letters? Why is that a good measurement?

11 COMMISSIONER BREAKSPEAR: It's just in terms  
12 of when we get an application in. We just want to  
13 be able to get it back out to the applicant and  
14 say, these are the problems we have with this.  
15 You know, it's a customer service, a business  
16 friendly situation to try and --

17 ATTORNEY GENERAL BONDI: Governor, I think  
18 that helps the businesses too because it's how fast  
19 they're responding, so I would think you would  
20 probably want to know that.

21 GOVERNOR SCOTT: Okay. So now we've gotten  
22 rid of Number 9. We are -- it's just data. And by  
23 the way, on the data stuff we did on the other one,  
24 we didn't -- that's just something -- if anybody  
25 wants to ask for it, we can ask for it. So we have

1 nine now, and so how do you want -- does anybody  
2 else --

3 CFO ATWATER: Governor, I would also --

4 GOVERNOR SCOTT: I guess on the objective  
5 itself, does anybody have a problem with any of the  
6 objectives? Does anybody have a problem with the  
7 nine objectives we have?

8 COMMISSIONER PUTNAM: I have a question either  
9 for CFO or Mr. Breakspear: Number 1, is the --  
10 which is, by far, the most heavily weighted,  
11 percentage of financial institutions examined  
12 within a particular timeframe; and Number 8,  
13 percentage of financial institutions rated high  
14 performing.

15 The first one strikes me as being an output.  
16 Number 8 strikes me as being the outcome that we  
17 all want, the vast majority of institutions are  
18 safe and sound. But walk me through the  
19 distinction between those two.

20 CFO ATWATER: Thank you, Commissioner, I'll go  
21 first, but I do have concerns with 7 and 8. Again,  
22 this was a listing I think we ought to go back and  
23 be sure, as the Governor just talked about  
24 Number 9, that there may be others we want to  
25 supplement in here.

1           Number 1 is our critique, our analysis of the  
2           institution itself. Number 8 came from the  
3           Commissioner. And I believe what you're getting at  
4           there, Commissioner, is people that were rating you  
5           as to whether or not they felt they had fair  
6           treatment, professionalism in the course of that  
7           examination; is that correct?

8           COMMISSIONER BREAKSPEAR: That is correct.

9           CFO ATWATER: I just want you to know that  
10          having been examined, it is -- it's going to be a  
11          very difficult measure, you know, because sometimes  
12          those examinations require people to speak firmly  
13          and hold high expectations. And what may be  
14          delivered as professionally may not be responded to  
15          in a survey as received so professionally.

16          COMMISSIONER BREAKSPEAR: Yeah.

17          CFO ATWATER: So I'm concerned that -- I'm not  
18          sure it's an easy thing to measure.

19          ATTORNEY GENERAL BONDI: Are you on 7 or 8,  
20          CFO?

21          CFO ATWATER: I'm sorry, I was on 8 at that  
22          point to the Commissioner's question to the  
23          differentiation between 1 and 8. Eight is  
24          basically a survey response as to: How do you  
25          think we handled ourselves while we were examining

1           you? And I think that's a pretty difficult --

2           ATTORNEY GENERAL BONDI: Benchmark.

3           CFO ATWATER: -- benchmark. It is, because we  
4           don't want an examiner kind of tinkering around the  
5           edges when they need to go for somebody who is  
6           misbehaving and they're going to worry about how  
7           their survey is going to come back.

8           COMMISSIONER PUTNAM: Well, then I misread  
9           Number 8, but it still raises the issue for me on  
10          Number 1. Is it better to hold you accountable for  
11          the outputs of the number of audits you're  
12          performing or the outcome of actually how many  
13          banks, financial institutions in Florida are safe  
14          and sound? I mean that's the public policy  
15          objective that we're after here.

16          COMMISSIONER BREAKSPEAR: Correct. A safe and  
17          sound banking system is what we're after.  
18          Occasionally, part of that is we give somebody a  
19          really bad rating, like a five rating. It still  
20          gets to the safety and soundness because we're  
21          identifying the problem and trying to get the  
22          management and the shareholders to turn this  
23          around.

24          CFO ATWATER: Yeah, Commissioner, I think  
25          you're asking a very good question. Our timeliness

1 to being sure that each examination takes place as  
2 expected and we catch the player that may be hiding  
3 something is the critical piece to me. Holding our  
4 examiners accountable as to whether or not the  
5 behavior of the player in the market place is  
6 behaving is a pretty high -- is a pretty  
7 challenging standard.

8 COMMISSIONER PUTNAM: Okay.

9 COMMISSIONER BREAKSPEAR: They're two -- one's  
10 a -- they're two very different standards. One is  
11 getting in and making sure we do the examinations  
12 on the cycle --

13 CFO ATWATER: Correct.

14 COMMISSIONER BREAKSPEAR: -- and doing it  
15 right.

16 CFO ATWATER: Right.

17 COMMISSIONER BREAKSPEAR: The second is how  
18 they perceive us, which is more a perception of  
19 performance of our teams on the ground and the  
20 professionalism exhibited.

21 CFO ATWATER: And that's why I'm concerned  
22 with 7 and 8. I put them down here because you had  
23 presented them to us but I'm concerned.

24 COMMISSIONER BREAKSPEAR: Yes, what we're --  
25 we're trying to get the rating up a little bit, but

1 we're also trying to get more of the surveys  
2 returned to us.

3 ATTORNEY GENERAL BONDI: Governor, may I?  
4 And, Governor, you had these on your list, so I'd  
5 like to hear your concerns if we could. Are those  
6 important to you?

7 GOVERNOR SCOTT: Well, I think they're  
8 helpful, but I mean what I'd like to -- I mean I  
9 think what the CFO has recommended makes sense, as  
10 long as the -- Drew thinks that's a logical  
11 measurement that he thinks he can -- it helps him  
12 reach his goals.

13 COMMISSIONER BREAKSPEAR: Absolutely, and even  
14 if we took Number 8 off, we'd probably still track  
15 it internally just to make sure.

16 CFO ATWATER: I think they ought to -- Drew,  
17 I think they all ought to be tracked. I just,  
18 you know, again, if I'm measuring you, if you're  
19 going to stand in front of me and one of your  
20 measures is that the check cashers behaved, I want  
21 to know that you're going to find every misbehaving  
22 one, okay?

23 And if one of your measures is the percentage  
24 that actually were behaving, I don't know whether  
25 someone out there, as you push this through the

1 organization, is going to say, well, if I just  
2 check that they were all complying, I score better.  
3 That's not what I'm looking for.

4 COMMISSIONER BREAKSPEAR: Now we're on --

5 CFO ATWATER: That was Number 7 and 8. The  
6 same point, this is --

7 COMMISSIONER BREAKSPEAR: Well, there's a  
8 slight difference.

9 CFO ATWATER: This is you being held  
10 accountable.

11 COMMISSIONER BREAKSPEAR: There's a slight  
12 difference, CFO.

13 CFO ATWATER: All right.

14 COMMISSIONER BREAKSPEAR: Number 8 gets to  
15 them rating us.

16 CFO ATWATER: Correct.

17 COMMISSIONER BREAKSPEAR: Number 7 is us  
18 finding people in compliance.

19 CFO ATWATER: Correct.

20 COMMISSIONER BREAKSPEAR: And when we got into  
21 an examination, we want to see more of them in  
22 compliance than not. And I understand that you  
23 could get an examiner who ducks an issue, but I  
24 don't think that's the case. Our problem is we are  
25 finding too many findings in our examinations when

1 we're out in the field, and we're trying to figure  
2 out how we get those check cashers to comply.

3 Now one of the issues we have is 82% of all of  
4 our check cashers are a single location. They're  
5 not big businesses with compliance offices and all  
6 of the rest of it. And we have some things that  
7 they absolutely have to do which are very important  
8 to not only compliance with the statute, but our  
9 ability to go get that data and mine that data for  
10 other purposes.

11 And what we're trying to do in this measure  
12 is to say that a 57% compliance rate just flat out  
13 is not good enough. We need to have our check  
14 cashers complying at a higher rate. What we're  
15 trying to do is figure out how we get that done.

16 CFO ATWATER: Well, I think that's a good --  
17 that's a very good point; and whether or not you  
18 would say increase number of training and  
19 educational sessions for check cashing compliance  
20 organizations is going to be an issue in the coming  
21 year to improve that, I think is a good initiative.

22 Just measuring you on how well they started  
23 complying, believe me, that's like measuring  
24 somebody on something they cannot control. You can  
25 educate them and you can train them, that's an

1 objective thing. You can do 20% more education,  
2 30% more training sessions, whatever you can do.

3 COMMISSIONER BREAKSPEAR: That's what we're  
4 trying to do in this measure, is try and get a  
5 better response rate. And we do not like where  
6 we're seeing it today, and we feel it needs to be  
7 raised.

8 CFO ATWATER: I like that.

9 COMMISSIONER BREAKSPEAR: In terms of your  
10 ranges, I'd argue with your ranges because I think  
11 given the mix of the businesses and the fact that  
12 we have so many sort of real small shops getting --  
13 ever scoring a five with the ranges we've got here  
14 would be impossible, so we'd suggest lowering those  
15 ranges.

16 You know, if you're dealing with somebody who  
17 has a hundred branches, they have a compliance  
18 function, they have everything in place; you're  
19 dealing with a small grocery store that cashes  
20 checks as part of their broader business, a lot  
21 harder to get them in compliance. But it's  
22 important that we move in that direction, that's  
23 why I put it out there as a measure.

24 CFO ATWATER: I get that, I just -- I would  
25 rather what you put down is in a measure that the

1 percentage of training initiatives, whatever you  
2 can actually go do to get them to start  
3 understanding where they're deficient. Just  
4 scoring you as to them getting better is to suggest  
5 that some examiner is going to be put in an odd  
6 spot somewhere. I assume you're pushing this down  
7 in the organization.

8 COMMISSIONER BREAKSPEAR: We're pushing it  
9 down in the organization, but most of this is --  
10 more at the top level is when somebody gets a check  
11 casher license with us, we tell them all of the  
12 things they have to do to comply. And then we go  
13 out and do an examination and find they've ignored  
14 everything we've told them, and so we're sitting  
15 back and saying, we've got to figure out some  
16 different approaches but our intent is compliance,  
17 because in the long-term, if they comply, they  
18 provide better service to the consumer.

19 Also, if they comply it makes fraud  
20 investigations and other types of investigations  
21 that use their data much easier to conduct. And,  
22 CFO, you know, your Workers' Compensation Task  
23 Force in the Division of Insurance Fraud uses some  
24 of the data that comes out of these check cashers.  
25 That's why I want a higher level of compliance as

1 well.

2 CFO ATWATER: Yeah, I understand that. I get  
3 that. I just would suggest to you that I believe  
4 this should be something you can control, that you  
5 are going to work with improving compliance by  
6 training --

7 COMMISSIONER BREAKSPEAR: Okay. We --

8 CFO ATWATER: -- audits.

9 COMMISSIONER BREAKSPEAR: We can go back and  
10 revisit it and see if we can figure out something  
11 else. I hope you understand what we're trying to  
12 accomplish here.

13 CFO ATWATER: I do understand.

14 COMMISSIONER BREAKSPEAR: And, no, we would  
15 not tolerate our examiners giving somebody a pass  
16 on something because it helped get this rating up.

17 CFO ATWATER: Well, I never would have graded  
18 a bank auditor by just the raw improvement score of  
19 a division's achieving audit standards because  
20 they'd say I figured this out fast, I'm just going  
21 to start looking the other way, or not so  
22 aggressive, and they'll score better.

23 COMMISSIONER BREAKSPEAR: Yeah, I  
24 understand your --

25 CFO ATWATER: I would have said: I want these

1 better. You're going to spend more time in the  
2 field, you're going to train them on what they need  
3 to do, and they're going to do it, and you're going  
4 to hold them accountable to do it.

5 GOVERNOR SCOTT: So we're going to drop  
6 Number 7.

7 CFO ATWATER: Thank you.

8 GOVERNOR SCOTT: Okay. All right. So we've  
9 dropped Number 7, we've dropped Number 9. No,  
10 we're just going to ask for data I guess on  
11 Number 9. Why don't we just ask for data on  
12 Number 7? Do you think if we ask for data it's  
13 going to create the wrong incentive, Drew, on  
14 Number 7?

15 COMMISSIONER BREAKSPEAR: I'm sorry?

16 CFO ATWATER: I don't think so, no.

17 GOVERNOR SCOTT: If we just ask for the data  
18 on Number 7, do you think it will create the wrong  
19 incentive; there's no measurement tied to it?

20 COMMISSIONER BREAKSPEAR: We'll figure out  
21 some different measures for this, Governor, but  
22 we're going to continue to track this because  
23 that's how we know whether we're succeeding in what  
24 we're trying to accomplish.

25 GOVERNOR SCOTT: That sounds good, okay. And

1 what did we decide to do on Number 8?

2 ATTORNEY GENERAL BONDI: Keep it, I believe.  
3 I believe -- I know my office felt that was  
4 important. CFO, did you feel it was important,  
5 Governor --

6 CFO ATWATER: General, I'll answer that. I  
7 think it is important. You want the industry to be  
8 able to give you marks, and I think maybe weighting  
9 it lower is the appropriate thing because, again, I  
10 have been examined; and those things don't always  
11 end on a cheery note. And, again, I don't know  
12 that I could expect somebody to mail in, man, these  
13 examiners, they turned me inside out and I hope  
14 they come back next week. It's just not going to  
15 happen.

16 But it would be a way of understanding  
17 someone's thoughtful, professional response to:  
18 Did we come in in a professional manner? Did we  
19 measure you on the standards that you understood  
20 you'd be measured on? I think we need to see the  
21 tool, but, yeah, I think -- I'm okay.

22 GOVERNOR SCOTT: So we'll leave 8 in.

23 So let's just now just go through, Number 1,  
24 Drew, from your standpoint, you're okay with the  
25 objective. Are you okay with the range and the

1           scoring system -- well, the range? Are you okay  
2           with Number 1?

3           COMMISSIONER BREAKSPEAR: Oh, yes, I am.

4           GOVERNOR SCOTT: Number 2?

5           COMMISSIONER BREAKSPEAR: Yes.

6           GOVERNOR SCOTT: Number 3?

7           COMMISSIONER BREAKSPEAR: Yes.

8           GOVERNOR SCOTT: Number 4?

9           COMMISSIONER BREAKSPEAR: Yes.

10          GOVERNOR SCOTT: Five?

11          COMMISSIONER BREAKSPEAR: Yes.

12          GOVERNOR SCOTT: Six?

13          COMMISSIONER BREAKSPEAR: Yes.

14          GOVERNOR SCOTT: Eight?

15          COMMISSIONER BREAKSPEAR: Number 8, I'm fine  
16          with, sorry.

17          GOVERNOR SCOTT: Ten?

18          COMMISSIONER BREAKSPEAR: Yes.

19          GOVERNOR SCOTT: Okay. All right. So now  
20          we've got 80 points to give out.

21          ATTORNEY GENERAL BONDI: I have a suggestion,  
22          Governor. Can I --

23          GOVERNOR SCOTT: Well, it works because these  
24          two that we got rid of reached 10.

25          CFO ATWATER: There we go.

1           ATTORNEY GENERAL BONDI: But do you want to  
2 rank them all equally? Can I give you a  
3 suggestion?

4           GOVERNOR SCOTT: Here's what we did, one  
5 thing, Attorney General, we cut out Number 7,  
6 that's 10%.

7           ATTORNEY GENERAL BONDI: Right.

8           GOVERNOR SCOTT: Number 9 is 10%.

9           ATTORNEY GENERAL BONDI: Right.

10          GOVERNOR SCOTT: So it's 80% right now.

11          ATTORNEY GENERAL BONDI: Right, if we do them  
12 equally though. But I think -- I'm sorry, I  
13 thought, Governor, you and the CFO thought Number 1  
14 should be rated higher.

15          GOVERNOR SCOTT: If we just do it now the way  
16 that he has the numbers in here --

17          ATTORNEY GENERAL BONDI: Okay.

18          GOVERNOR SCOTT: -- I think it will add up to  
19 80%.

20          ATTORNEY GENERAL BONDI: Okay.

21          GOVERNOR SCOTT: Because we cut out two that  
22 were each at 10%.

23          ATTORNEY GENERAL BONDI: Which comes out at  
24 eight. I had just ranked them a bit differently.  
25 I gave 20% -- I totaled --

1 GOVERNOR SCOTT: Oh, did you have a  
2 recommendation that we change one of them?

3 ATTORNEY GENERAL BONDI: Yeah, can I read  
4 these two?

5 GOVERNOR SCOTT: Sure.

6 ATTORNEY GENERAL BONDI: And these are based  
7 on what you gentlemen have been saying.

8 GOVERNOR SCOTT: Okay.

9 ATTORNEY GENERAL BONDI: That I think Number 1  
10 is probably the most important to both of you.

11 GOVERNOR SCOTT: Okay.

12 ATTORNEY GENERAL BONDI: Can I just read these  
13 to you and --

14 GOVERNOR SCOTT: And I'll add them up.

15 ATTORNEY GENERAL BONDI: Please, I'm just  
16 trying to add up to 80.

17 GOVERNOR SCOTT: I'll make sure.

18 ATTORNEY GENERAL BONDI: Okay. Number 1, 20.

19 GOVERNOR SCOTT: Okay.

20 ATTORNEY GENERAL BONDI: Number 2, 10;  
21 Number 3, 10; Number 4, 10; Number 5, 10; Number 6,  
22 10, which is up 5%; Number 8, 5; and Number 10, 5.

23 GOVERNOR SCOTT: That sounds good to me.

24 CFO ATWATER: Fine.

25 COMMISSIONER PUTNAM: Second.

1           GOVERNOR SCOTT: Okay. All right. So  
2 then the --

3           ATTORNEY GENERAL BONDI: Is that okay?

4           COMMISSIONER BREAKSPEAR: Yes.

5           GOVERNOR SCOTT: The recommendation now is  
6 that we use the CFO's performance measures with the  
7 Attorney General's weighting system. We've gotten  
8 rid of Number 7 and Number 9, that's 80%. Twenty  
9 percent will be the Commissioner of Agriculture's  
10 supplemental?

11           ATTORNEY GENERAL BONDI: Right, and I had 20%,  
12 excuse me, Governor, for the Commissioner.

13           GOVERNOR SCOTT: And that will be subjective,  
14 and I think that's it.

15           All right. Does anybody want to make a  
16 motion?

17           COMMISSIONER PUTNAM: So move.

18           GOVERNOR SCOTT: Is there a second?

19           ATTORNEY GENERAL BONDI: I'll second.

20           GOVERNOR SCOTT: So any comments or  
21 objections?

22           (NO RESPONSE).

23           GOVERNOR SCOTT: All right. The motion  
24 carries.

25           Thank you.

1 COMMISSIONER BREAKSPEAR: Thank you.

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STATE OF FLORIDA

IN RE: MEETING OF THE GOVERNOR AND  
CABINET

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CABINET MEMBERS: GOVERNOR RICK SCOTT  
ATTORNEY GENERAL PAM BONDI  
CHIEF FINANCIAL OFFICER  
JEFF ATWATER  
COMMISSIONER OF AGRICULTURE  
ADAM PUTNAM

DATE: TUESDAY, JUNE 23, 2015

LOCATION: CABINET MEETING ROOM  
LOWER LEVEL, THE CAPITOL  
TALLAHASSEE, FLORIDA

REPORTED BY: NANCY S. METZKE, RPR, FPR  
COURT REPORTER

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**OFFICE OF FINANCIAL REGULATION**

1  
2  
3 GOVERNOR SCOTT: Now I'd like to recognize  
4 Drew Breakspear with the Office of Financial  
5 Regulation.

6 Good morning, Drew.

7 COMMISSIONER BREAKSPEAR: Good morning,  
8 Governor Scott, Attorney General Bondi,  
9 CFO Atwater, and Commissioner Putnam. The OFR has  
10 four items for your consideration today.

11 Item Number 1, the OFR respectfully requests  
12 the Financial Services Commission's approval of  
13 Volume 1 of the meeting minutes of April the 14th,  
14 2015.

15 GOVERNOR SCOTT: Is there a motion on the  
16 item?

17 ATTORNEY GENERAL BONDI: So moved.

18 GOVERNOR SCOTT: Is there a second?

19 CFO ATWATER: Second.

20 GOVERNOR SCOTT: Moved and seconded, show the  
21 minutes approved without objection.

22 COMMISSIONER BREAKSPEAR: Item 2, the OFR  
23 respectfully requests the Commission's approval to  
24 file for final adoption amendments to Rule  
25 69U-100.05 and 69U-100.021 FAC relating to the

1 regulation of financial institutions, updating  
2 materials incorporated by reference, and to strike  
3 a form filing requirement for credit unions.

4 GOVERNOR SCOTT: Is there a motion on the  
5 item?

6 ATTORNEY GENERAL BONDI: So moved.

7 COMMISSIONER PUTNAM: Is there a second?

8 CFO ATWATER: Second.

9 GOVERNOR SCOTT: Any comments or objections?

10 (NO RESPONSE).

11 GOVERNOR SCOTT: Hearing none, the motion  
12 carries.

13 COMMISSIONER BREAKSPEAR: Item 3, the OFR  
14 respectfully requests the Commission's approval to  
15 publish notices of proposed rule to amend rules in  
16 Chapter 69V-560, FAC, relating to money services  
17 businesses.

18 These amendments will remove the disciplinary  
19 guidelines from the body of the rule and  
20 incorporate the disciplinary matrix by reference,  
21 as well as make updates and technical changes;  
22 revise the examination fees charged to licensees,  
23 which will result in a cost savings to the industry  
24 and implement the check cashing database.

25 The OFR is planning a soft launch of the

1 database on September the 3rd, 2015, with a hard  
2 deadline of October the 1st to transition licensees  
3 from an electronic log to the database.

4 GOVERNOR SCOTT: Is there a motion on the  
5 item?

6 COMMISSIONER PUTNAM: So moved.

7 GOVERNOR SCOTT: Is there a second?

8 ATTORNEY GENERAL BONDI: Second.

9 GOVERNOR SCOTT: Any comments or objections?

10 (NO RESPONSE).

11 GOVERNOR SCOTT: Hearing none, the motion  
12 carries.

13 COMMISSIONER BREAKSPEAR: And Item Number 4,  
14 the OFR respectfully requests the Commission's  
15 approval to publish notices of development of  
16 proposed rulemaking to amend rules in  
17 Chapter 69W-600, FAC.

18 The proposed changes will repeal 13 rules,  
19 amend four rules, and propose 11 new rules, which  
20 provide registration requirements for the  
21 application; notice filing processes; maintenance  
22 of registration notice filing; and termination of  
23 registration notice filing for each type of  
24 application processed by the Division of  
25 Securities. The proposed rule amendments and new

1 rules provide clarity and ease of use for the  
2 industry by detailing the requirements for each  
3 type of registration within each rule. Currently,  
4 these requirements are found throughout various  
5 rules.

6 The proposed amendment to Rule 67W-700.001 is  
7 a correction amendment for language that was  
8 inadvertently omitted when the rule was amended on  
9 September the 22nd, 2014.

10 GOVERNOR SCOTT: Is there a motion on the  
11 item?

12 CFO ATWATER: So moved.

13 GOVERNOR SCOTT: Is there a second?

14 COMMISSIONER PUTNAM: Second.

15 GOVERNOR SCOTT: Any comments or objections?

16 (NO RESPONSE).

17 GOVERNOR SCOTT: Hearing none, the motion  
18 carries.

19 Thank you.

20 COMMISSIONER BREAKSPEAR: Thank you very much.

21 GOVERNOR SCOTT: Have a good day.

22  
23  
24 \* \* \* \*  
25

# ATTACHMENT 2

**FINANCIAL SERVICES COMMISSION  
OFFICE OF FINANCIAL REGULATION  
AGENDA ITEM #2: REQUEST APPROVAL FOR FINAL ADOPTION**

**Action Requested**

The Office requests approval to file for final adoption four new rules and amendments to five rules in Chapter 69V-180, F.A.C., relating to regulation of consumer collection agencies. The proposed rules place applicable forms in a single rule and update various form-naming conventions, outline the process for fingerprinting and background checks at registration and renewal, outline the process for filing forms on-line through the Office's regulatory licensing system, outline the effect of law enforcement records on applications for consumer collection registration in accordance with statutory changes, and update materials incorporated by reference.

Copies of the incorporated material are provided herein.

**Rule 69V-180.002, F.A.C. (Adoption of Forms)**

This proposed new rule will re-adopt certain forms (Form OFR-COM-101, Exhibit A to form OFR-COM-101, and Form OFR-CCA-101) and will adopt certain new forms (Form OFR-559-101, and Form OFR-559-102) that replace existing forms (OFR-CCA-102 and OFR-CCA-103.) This rule will place all required forms in a single rule for ease of reference. When adopted, these forms will facilitate the application process for commercial collection agency and consumer collection agency registrants, as well as facilitate the process for the filing of complaints by consumers under the Florida Consumer Collection Practices Act, Chapter 559, Part VI, Florida Statutes.

**Rule 69V-180.010, F.A.C. (Commercial Collection Surety Bond and Procedures)**

The proposed amendments to this rule will amend an obsolete rulemaking authority reference in the current rule, update a form date reference, remove an obsolete form title reference, correct the reference to the Office's zip code in the current rule, and provide the current rulemaking authority for this rule. This rule clarifies the process related to surety bond procedures.

**Rule 69V-180.020, F.A.C. (Commercial Collection Registration Form and Procedures)**

The proposed amendments to this rule will amend an obsolete rulemaking authority reference in the current rule, update a form date reference, remove an obsolete form title reference, correct the reference to the Office's zip code in the current rule, and provide the current rulemaking authority for this rule. The rule clarifies the process for registering as a commercial collection agency.

**Rule 69V-180.030, F.A.C. (Consumer Collection Registration Form and Procedures)**

The proposed amendments to this rule will amend an obsolete rulemaking authority reference in the current rule, update a form number and date reference, correct the reference to the Office's zip code, delete a requirement that the registration fee be paid in certified funds, and add a provision regarding the fingerprints of applicants to conform to statutory changes. The rule clarifies the process for registering as a consumer collection agency.

**Rule 69V-180.031, F.A.C. (Consumer Collection Agency Electronic Filing of Forms and Fees)**

This proposed new rule will specify that the required electronic filing of the registration form adopted under subparagraph 69V-180.002(1)(b)1., F.A.C., and payment of fees under Rule 69V-180.031, F.A.C., are to be submitted through the REAL System. This rule streamlines the process for filing fees and forms on-line through the Office's regulatory licensing system.

Rule 69V-180.032, F.A.C. (Effect of Law Enforcement Records on Applications for Consumer Collection Agency Registration)

This proposed new rule will implement statutory requirements under Sections 559.554 and 559.730, Florida Statutes. The rule will specify the procedures to be followed and the documents to be provided to the Office by an applicant for Consumer Collection Agency Registration in disclosing any pending criminal charges and all criminal matters in which a control person of the applicant has pled guilty or nolo contendere, or was convicted or found guilty. The rule will outline the effect of law enforcement records on applications for consumer collection registration.

Rule 69V-180.040, F.A.C. (Consumer Collection Agency Complaint Form and Procedures)

The proposed amendments to this rule will amend an obsolete rulemaking authority reference in the current rule and update a form title, form number, and date reference in the current rule.

Rule 69V-180.070, F.A.C. (Consumer Collection Agency Registration Renewal)

This proposed new rule will specify the renewal requirements for registrations that expire on December 31, 2014, specifically, the procedures to be followed by registrants in submitting fingerprints for each control person prior to the registration renewal. The proposed new rule also specifies the renewal requirements for registrations expiring on December 31, 2015, and thereafter, specifically, the non-refundable renewal fee to be submitted by a registrant, and the non-refundable fee to be submitted by a registrant to cover the costs in retaining the fingerprints of each control person.

Rule 69V-180.100, F.A.C. (Disciplinary Guidelines)

The proposed amendments to this rule will change the title of the rule; amend an obsolete rulemaking authority reference; update a statutory reference in the rule; both adopt and incorporate by reference into the rule, the “Office of Financial Regulation, Division of Consumer Finance, Disciplinary Guidelines for Consumer Collection Agencies” document; specify how a copy of the “Office of Financial Regulation, Division of Consumer Finance, Disciplinary Guidelines for Consumer Collection Agencies” document may be obtained from the Office; amend language in the current rule regarding references to guidelines, violations, and citations numbers; delete requirements from the current rule; and clarify the use of the term “citation” in the proposed rule. The proposed rule also clarifies what actions the Office may take against a registrant based upon the “Office of Financial Regulation, Division of Consumer Finance, Disciplinary Guidelines for Consumer Collection Agencies,” and specifies the mitigating and aggravating factors the Office shall consider in determining the appropriate penalty. The proposed rule further clarifies the current ranges for administrative fines to be imposed by the Office as a penalty, and specifies the ranges for suspensions to be imposed by the Office as a penalty.

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**I. Procedural history of rules**

Rule 69V-180.002, F.A.C. (Adoption of Forms)

On December 17, 2014, a Notice of Rule Development was published in the Florida Administrative Register (FAR) for Rule 69V-180.002, F.A.C., to advise the public of the development of changes to the rule chapter, and to provide that, if requested in writing, a rule development workshop would be held. No written requests for a workshop were received by the Office.

On January 13, 2015, the Financial Services Commission approved the new rule for proposed rulemaking. On April 3, 2015, the Notice of Proposed Rule was published in the FAR.

The Office received comments from the Joint Administrative Procedures Committee (JAPC) regarding changes to the effective date for FORM OFR-COM-101 and Exhibit A. The Office also received comments to clarify submission of the completed Biographical Summary Form OFR-559-101 to the Office of Financial Regulation. Additionally, the Office received comments from JAPC regarding the need to ensure that the rule and Form OFR-CCA-101 reflected the same title.

The Office filed a Notice of Meeting/Workshop Hearing for Rule 69V-180.002, F.A.C., which was published in the FAR on June 26, 2015. The hearing was held on July 6, 2015. No comments were received from the public; however, the Office discussed at the hearing JAPC’s comments and

additional amendments in order to reflect that the forms would be available on the [www.flrules.org](http://www.flrules.org) website. The Office filed a Notice of Change in the July 16, 2015 edition of the FAR.

In response to JAPC's comments regarding the incorporated forms, the Office made additional changes to the forms. The following changes were made and are reflected in the July 16, 2015 Notice of Change:

- Exhibit A:
  - At the bottom of Exhibit A, the Office added necessary language to meet the requirements of section 119.071(5)(a)2.a., F.S.
  - In the bottom margin of Exhibit A, the Office inserted language reflecting an effective date placeholder.
- Form OFR-559-101:
  - The citation in the first paragraph of Page 1 on Form OFR-559-101 was changed to section 559.553(3), F.S.
  - On page 1 of Form OFR-559-101, a change was made to reflect the correct reference to Rule Chapter 69V-180.
  - On page 2 of Form OFR-559-101, in the section explaining question 3B, the Office added language specifying which applicants must submit a Biographical Summary.
  - On page 4 of Form OFR-559-101, Section B, a reference to section 559.55(4), F.S. was added.
  - On page 4 of Form OFR-559-101, in the second paragraph of Section B, the Office added in necessary language to meet the requirements of section 119.071(5)(a)2.a., F.S.
  - On page 5 of Form OFR-559-101, the signature portion of the application requiring a submission of an oath or affirmation under penalty of perjury was removed. The Office added language found in section 836.07, F.S.
  - On page 10 of Form OFR-559-101, section 12, the Office changed the language to read, "In addition to the information requested in this DRP, provide documentation relating to the disposition of each matter. Such documentation includes certified copies of criminal convictions or administrative orders entered against you."
- FORM OFR-559-102:
  - A change to FORM OFR-559-102 was made to remove the sentence, "Under penalty of perjury pursuant to Section 837.06, F.S.," found in the last paragraph.

At the public hearing held on July 6, 2015, the Office discussed making changes to FORM OFR-COM-101. The following changes were subsequently made:

- Form OFR-COM-101:
  - Page 1 of Form OFR-COM-101 was revised to remove the word "certified" from the sentence located below the title of the form. The sentence now reads, "This form shall be accompanied by payment of a \$500.00 non-refundable registration fee."
  - Form OFR-COM-101 was revised to reference the rule incorporating the form, and a placeholder for the effective date was added to the bottom margin of the form.

#### Rule 69V-180.010, F.A.C. (Commercial Collection Surety Bond and Procedures)

On December 17, 2014, a Notice of Rule Development was published in the Florida Administrative Register (FAR) for Rule 69V-180.010, F.A.C., to advise the public of the development of changes to the rule chapter, and to provide that, if requested in writing, a rule development workshop would be held. No written requests for a workshop were received by the Office.

On January 13, 2015, the Financial Services Commission approved the rule amendments for proposed rulemaking. On April 3, 2015, the Notice of Proposed Rule was published in the FAR.

The Office received comments from JAPC regarding the rule title. As the rule title was correctly cited in the Notice of Proposed Rule, no changes needed to be made. As the Office mistakenly forgot to attach a copy of Form OFR-CCA-101, the Office subsequently provided the form to JAPC.

The Office filed a Notice of Meeting/Workshop Hearing on Rule 69V-180.010, F.A.C., which was published in the FAR on June 26, 2015. The hearing was held on July 6, 2015. No comments were received from the public; however, the Office discussed at the hearing JAPC's comments regarding the title of Form OFR-CCA-101.

Rule 69V-180.020, F.A.C. (Commercial Collection Registration Form and Procedures)

On December 17, 2014, a Notice of Rule Development was published in the Florida Administrative Register (FAR) for Rule 69V-180.020, F.A.C., to advise the public of the development of changes to the rule chapter, and to provide that, if requested in writing, a rule development workshop would be held. No written requests for a workshop were received by the Office.

On January 13, 2015, the Financial Services Commission approved the rule amendments for proposed rulemaking. On April 3, 2015, the Notice of Proposed Rule was published in the FAR.

The Office received comments from JAPC regarding correcting the date of proposed rule development, incorporation of Exhibit A into the rule via reference, and fixing a reference to subsection 120.60(2), F.S. The Office made these changes and filed a Notice of Change in the July 16, 2015 edition of the FAR.

The Office filed a Notice of Meeting/Workshop Hearing for Rule 69V-180.010, F.A.C., which was published in the FAR on June 26, 2015. The hearing was held on July 6, 2015. No comments were received from the public. However, at the hearing, the Office discussed removal of the word "certified" from Form OFR-COM-101 so that it conformed to the new rule language as found in 69V-180.020(1)(c), F.A.C. This change was made to Form OFR-COM-101, and the change was reflected in the Notice of Change filed in the July 16, 2015 edition of the FAR.

Rule 69V-180.030, F.A.C. (Consumer Collection Registration Form and Procedures)

On December 17, 2014, a Notice of Rule Development was published in the Florida Administrative Register (FAR) for Rule 69V-180.030, F.A.C., to advise the public of the development of changes to the rule chapter, and to provide that, if requested in writing, a rule development workshop would be held. No written requests for a workshop were received by the Office.

On January 13, 2015, the Financial Services Commission approved the rule amendments for proposed rulemaking. On April 3, 2015, the Notice of Proposed Rule was published in the FAR.

The Office received comments from JAPC regarding changes to the law implemented section of the rule. The necessary change was made and was reflected in the Notice of Change filed in the July 16, 2015 edition of the FAR. The Office filed a Notice of Meeting/Workshop Hearing for Rule 69V-180.030, F.A.C., which was published in the FAR on June 26, 2015. The hearing was held on July

6, 2015. No comments were received from the public. However, at the hearing, the Office discussed changes to the law implemented section of the rule.

Additionally, JAPC commented on incorporated form OFR-559-101. In response to JAPC's comments, the following changes were made to Form OFR-559-101 and were reflected in the Notice of Change filed in the July 16, 2015 edition of the FAR:

- Form OFR-559-101:
  - The citation in the first paragraph of Page 1 on Form OFR-559-101 was changed to section 559.553(3), F.S.
  - On page 1 of Form OFR-559-101, a change was made to reflect the correct reference to Rule Chapter 69V-180.
  - On page 2 of Form OFR-559-101, in the section explaining question 3B, the Office added language specifying which applicants must submit a Biographical Summary.
  - On page 4 of Form OFR-559-101, Section B, a reference to section 559.55(4), F.S. was added.
  - On page 4 of Form OFR-559-101, in the second paragraph of Section B, the Office added in necessary language to meet the requirements of section 119.071(5)(a)2.a., F.S.
  - On page 5 of Form OFR-559-101, the signature portion of the application requiring a submission of an oath or affirmation under penalty of perjury was removed. The Office added in language found in section 836.07, F.S.
  - On page 10 of Form OFR-559-101, section 12, the Office changed the language to read, "In addition to the information requested in this DRP, provide documentation relating to the disposition of each matter. Such documentation includes certified copies of criminal convictions or administrative orders entered against you."

Rule 69V-180.031, F.A.C. (Consumer Collection Agency Electronic Filing of Forms and Fees)

On December 17, 2014, a Notice of Rule Development was published in the Florida Administrative Register (FAR) for Rule 69V-180.031, F.A.C., to advise the public of the development of changes to the rule chapter, and to provide that, if requested in writing, a rule development workshop would be held. No written requests for a workshop were received by the Office.

On January 13, 2015, the Financial Services Commission approved the new rule for proposed rulemaking. On April 3, 2015, the Notice of Proposed Rule was published in the FAR.

The Office filed a Notice of Meeting/Workshop Hearing for Rule 69V-180.031, F.A.C., which was published in the FAR on June 26, 2015. The hearing was held on July 6, 2015. No comments were received from the public.

The Office received comments from JAPC regarding changes to the proposed rule development date. At the public hearing, the Office discussed JAPC's comment. The necessary change was made and was reflected in the Notice of Correction filed in the July 16, 2015 edition of the FAR.

Rule 69V-180.032, F.A.C. (Effect of Law Enforcement Records on Applications for Consumer Collection Agency Registration)

On December 17, 2014, a Notice of Rule Development was published in the Florida Administrative Register (FAR) for Rule 69V-180.032,.. F.A.C., to advise the public of the development of changes

to the rule chapter, and to provide that, if requested in writing, a rule development workshop would be held. No written requests for a workshop were received by the Office.

On January 13, 2015, the Financial Services Commission approved the new rule for proposed rulemaking. On April 3, 2015, the Notice of Proposed Rule was published in the FAR.

The Office filed a Notice of Meeting/Workshop Hearing for Rule 69V-180.032, F.A.C., which was published in the FAR on June 26, 2015. The hearing was held on July 6, 2015. No comments were received from the public; however, the Office discussed at the hearing JAPC's comments. JAPC commented that the law implemented section should be changed and that the rule should be amended to reflect the correct paragraphs in sections 69V-180.032(2)&(4), F.A.C. The Office made these necessary changes and reflected all changes in the Notice of Change filed in the July 16, 2015 edition of the FAR. The Office also discussed at the July 6, 2015 hearing the changes to clarify that any mitigation offered by a probation officer or prosecuting attorney would be offered on behalf of a control person of the applicant. This change was reflected in the Notice of Change filed in the July 16, 2015 edition of the FAR.

JAPC also commented on the perjury provision found in Form OFR-559-102. The following change was made to the form and was reflected in the Notice of Change filed in the July 16, 2015 edition of the FAR:

- FORM OFR-559-102:
  - A change to FORM OFR-559-102 was made to remove the sentence, "Under penalty of perjury pursuant to Section 837.06, F.S.," found in the last paragraph.

#### Rule 69V-180.040, F.A.C. (Consumer Collection Agency Complaint Form and Procedures)

On December 17, 2014, a Notice of Rule Development was published in the Florida Administrative Register (FAR) for Rule 69V-180.040, F.A.C., to advise the public of the development of changes to the rule chapter, and to provide that, if requested in writing, a rule development workshop would be held. No written requests for a workshop were received by the Office.

On January 13, 2015, the Financial Services Commission approved the rule amendments for proposed rulemaking. On April 3, 2015, the Notice of Proposed Rule was published in the FAR. The Office filed a Notice of Meeting/Workshop Hearing for Rule 69V-180.040, F.A.C., which was published in the FAR on June 26, 2015. The hearing was held on July 6, 2015. No comments were received from the public.

The Office received comments from the JAPC regarding correcting the rule to reflect a form title. The Office made these necessary changes and reflected all changes in the Notice of Change filed in the July 16, 2015 edition of the FAR. This comment was made after the public hearing took place. As such, JAPC's comments were not discussed at the public hearing.

JAPC also requested that a change to Form OFR 559-102 be made. The following change was made and reflected in the Notice of Change filed in the July 16, 2015 edition of the FAR:

- FORM OFR-559-102:
  - A change to FORM OFR-559-102 was made to remove the sentence, "Under penalty of perjury pursuant to Section 837.06, F.S.," found in the last paragraph.

Rule 69V-180.070, F.A.C. (Consumer Collection Agency Registration Renewal)

On December 17, 2014, a Notice of Rule Development was published in the Florida Administrative Register (FAR) for Rule 69V-180.070, F.A.C., to advise the public of the development of changes to the rule chapter, and to provide that, if requested in writing, a rule development workshop would be held. No written requests for a workshop were received by the Office.

On January 13, 2015, the Financial Services Commission approved the new rule for proposed rulemaking. On April 3, 2015, the Notice of Proposed Rule was published in the FAR. The Office did not receive comments from JAPC on this rule.

Rule 69V-180.100, F.A.C. (Disciplinary Guidelines)

On December 17, 2014, a Notice of Rule Development was published in the Florida Administrative Register (FAR) for Rule 69V-180.100, F.A.C., to advise the public of the development of changes to the rule chapter, and to provide that, if requested in writing, a rule development workshop would be held. No written requests for a workshop were received by the Office.

On January 13, 2015, the Financial Services Commission approved the rule amendments for proposed rulemaking. On April 3, 2015, the Notice of Proposed Rule was published in the FAR. The Office filed a Notice of Meeting/Workshop Hearing for Rule 69V-180.100, F.A.C., which was published in the FAR on June 26, 2015. The hearing was held on July 6, 2015. No comments were received from the public.

The Office received comments from JAPC regarding changes to section 69V-180.100(3)(a)(5) of the rule, which JAPC believed to be vague, and changes to reflect the effective date of the incorporated materials. Changes were made and reflected in the Notice of Change filed in the July 16, 2015 edition of the FAR.

At the July 6, 2015 hearing, the Office discussed JAPC's comments, discussed creating a placeholder in the rule to reflect that the incorporated material could be found at [www.flrules.org](http://www.flrules.org), and discussed revising row 28 of the Disciplinary Guidelines to reflect correct statutory language.

Additionally, JAPC commented on the Disciplinary Guidelines form. In response, the Office made changes to the form and noticed the following changes in the Notice of Change filed in the July 16, 2015 edition of the FAR:

- Office of Financial Regulation, Division of Consumer Finance, Disciplinary Guidelines for Consumer Collection Agencies:
  - The Office revised rows 27-40 of the Disciplinary Guidelines to reflect the correct statutory citations.
  - The Office revised row 28 of the Disciplinary Guidelines to reflect the correct language as found in the cited statute.
  - The Office inserted language in the header section of each page of the Disciplinary Guidelines indicating a placeholder for the effective date.

## II. Final text of rules

[Changes to the proposed rule following JAPC comments appear in red]

[Changes to the proposed rule following public hearing appear in green]

### 69V-180.002 Adoption of Forms.

(1) The forms referred to in this section are incorporated by reference and adopted by this rule. Forms adopted by this rule are available on the Office's website at [www.flofr.com](http://www.flofr.com), and by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376.

#### (a) Commercial Collection Agency Forms:

1. Registration of Commercial Collection Agency – Form OFR-COM-101, effective ~~MM/DD/YYYY~~;

2. Exhibit A, ~~effective MM/DD/YYYY~~; and available at <http://www.flrules.org>.

3. State of Florida ~~Office of Financial Regulation Commercial Collection Agency Surety~~ Bond Form – Form OFR-CCA-101, effective 05-01-04, available at <http://www.flrules.org>.

#### (b) Consumer Collection Agency Forms:

1. Application for Registration as Consumer Collection Agency – Form OFR-559-101, effective \_\_\_\_\_, and available at <http://www.flrules.org>;

2. Florida Consumer Collection Practices Act Complaint Form – Form OFR-559-102, effective \_\_\_\_\_, and available at <http://www.flrules.org>.

~~(2) Each ultimate equitable owner of 10% or greater interest, each chief executive officer, each chief financial officer, chief operations officer, chief legal officer, chief compliance officer, control person, member, partner, joint venturer, and each director of an entity applying for registration as a consumer collection agency, shall submit a completed Biographical Summary Form OFR-559-101 to the Office of Financial Regulation.~~

~~Rulemaking Authority 559.545, 559.554, 559.555 FS. Law Implemented 559.542, 599.544, 559.545, 559.553, 559.555, FS. History–New \_\_\_\_\_.~~

### 69V-180.010 Commercial Collection Surety Bond and Procedures.

(1) Any person acting as a commercial collection agency must obtain and maintain a surety bond in the amount of \$50,000 issued by a surety company admitted to do business in this state. To comply with this rule the commercial collection agency shall utilize ~~F~~form OFR-CCA-0101, State of Florida, Office of Financial Regulation bond form ~~Commercial Collection Agency Surety Bond~~, effective ~~05/01/04 11-3-93~~, which is hereby incorporated by reference and available from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida ~~32399-0376 32399-0375~~. The terms of the surety bond shall be complied with. The surety bond shall be duly executed by the principal and the surety and shall not contain any blank spaces.

(2)(a) In the event that the surety has received claims within a six (6) month period, whether or not reduced to judgment, which exceed the amount due by the surety on the bond, the surety may pay the amount due on the bond to the Office of Financial Regulation and shall not be further liable on the bond. At the time payment is made by the surety to the Office of Financial Regulation, the surety shall provide the Office of Financial Regulation with copies of all claims made on the bond. Only valid claims made against the bond within six (6) months after the date of receipt of the first claim against the bond shall be paid. Subsequent to the expiration of the six-month period, the Office of Financial Regulation shall notice its intent to approve or deny the claims on file with the Office of Financial Regulation. The entry of a valid final judgment against the commercial collection agency or the surety shall be conclusive evidence of a valid claim. In the event that the claimant has not reduced the claim to judgment, the claimant may provide evidence to the Office of Financial Regulation pursuant to Section 120.57, F.S. Should the amount of valid claims exceed the amount on deposit with the Office of Financial Regulation, payment shall be based on the ratio that the person's claim bears to the total claims filed.

(b)1. As used herein, "claim" means a written demand for payment whether by letter or legal process.

2. As used herein, "valid final judgment" means a judgment from a court of competent jurisdiction where no appeal is pending and which is not subject to collateral attack.

~~Rulemaking Authority 47-29 559.545 FS. Law Implemented 559.542, 559.544, 559.545, 559.546 FS. History–New 11-3-93, Formerly 3D-180.010, Amended \_\_\_\_\_.~~

69V-180.020 Commercial Collection Registration Form and Procedures.

(1) Each person registering as a commercial collection agency shall submit the following to the Office of Financial Regulation:

(a) A completed Registration ~~as a~~ of Commercial Collection Agency form, Form OFR-COM-101, effective ~~2-15-94~~ 05-01-04 MM-DD-YYYY, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376 ~~32399-0375~~;

(b) If a partnership, sole proprietorship or corporation, a completed Exhibit A, as incorporated in Rule 69V-180.002(1)(a)2., F.A.C.

~~(c)(b)~~ A non-refundable registration fee of \$500, ~~which shall be in certified funds, shall be the fee~~ for the annual registration period beginning January 1 of each calendar year or any part thereof.

~~(d)(e)~~ Evidence of a current surety bond in the amount of \$50,000 as required in Rule 69V-180.010(1), F.A.C.

(2) Request for Additional Information. An incomplete registration form shall not be considered as validly received. A request for additional information will be made by the Office of Financial Regulation within thirty (30) days after initial receipt of the incomplete registration form by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for rejection of the registration for failure to complete the registration and the registration shall be rejected pursuant to Section 120.60(12), F.S.

(3) Amendment of Pending Registration.

(a) A prospective registrant shall notify the Office of Financial Regulation within ten (10) days of the occurrence of any change in the information reported on the registration.

(b) A prospective registrant may amend the registration form as to those factors generally within the control or selection of the prospective registrant once, as a matter of course, at any time within thirty (30) days from its initial receipt for filing. Otherwise the registration form may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the registration or to the Office of Financial Regulation's evaluation of the registration filed at any time after initial receipt of the registration form shall be deemed by the Office of Financial Regulation to be grounds for rejection of the registration, and a new registration form, accompanied by the appropriate filing fee and evidence of a current surety bond in the amount of \$50,000 shall be required.

(4) Withdrawal of Registration. A prospective registrant may request withdrawal of a registration prior to an initial determination of the registration being made by the Office of Financial Regulation by submitting a written request that the registration be withdrawn.

(5) Refunds. If the registration is withdrawn, voided, or rejected, the registration fee is non-refundable.

(6) Upon approval, a registration will be issued for the remainder of the annual registration period.

Rulemaking Authority ~~47-29~~ 559.545 FS. Law Implemented 559.542, 559.544, 559.545 FS. History--New 2-15-94, Formerly 3D-180.020, Amended.

69V-180.030 Consumer Collection Registration Form and Procedures.

(1) Each person registering as a consumer collection agency shall submit the following to the Office of Financial Regulation:

(a) A completed Application for Registration as a Consumer Collection Agency form, Form OFR-559-101 ~~OFR-CCA-102~~, effective 2-15-94, which is hereby incorporated by reference and available by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376 ~~32399-0375~~;

(b) A non-refundable registration fee of \$200, ~~which shall be in certified funds, shall be the fee~~ for the annual registration period beginning January 1 of each calendar year or any part thereof.

(c) Each control person required to be listed on the Application for Registration as Consumer Collection Agency, Form OFR-559-101, must submit fingerprints through a live-scan vendor approved by the Florida Department of Law Enforcement. A list of approved vendors is published on the Florida Department of Law Enforcement's website (<http://www.fdle.state.fl.us/Content/getdoc/941d4e90-131a-45ef-8af3-3c9d4efefd8e/Livescan-Service-Providers-and-Device-Vendors.aspx>). Such fingerprints will be submitted to the Florida Department of Law Enforcement for a state criminal background check and the Federal Bureau of Investigation for a Federal criminal background check. The cost of the fingerprinting processing shall be borne by the applicant and paid directly to the live-scan vendor.

(2) Request for Additional Information. An incomplete registration form shall not be considered as validly received. A request for additional information will be made by the Office of Financial Regulation within thirty (30) days after initial receipt of the incomplete registration form by the Office of Financial Regulation. The additional information must be received by the Office of Financial Regulation within forty-five (45) days from the date of request. Failure to respond to the request within forty-five (45) days from the date of request shall be construed by the Office of Financial Regulation as grounds for rejection of the registration for failure to complete the registration and the registration shall be rejected pursuant to Section 120.60(2), F.S.

(3) Amendment of Pending Registration.

(a) A prospective registrant shall notify the Office of Financial Regulation within ten (10) days of the occurrence of any change in the information reported on the registration.

(b) A prospective registrant may amend the registration form as to those factors generally within the control or selection of the prospective registrant once, as a matter of course, at any time within thirty (30) days from its initial receipt for filing. Otherwise the registration form may be amended only with prior written permission from the Office of Financial Regulation. Requests to make changes which are material to the registration or to the Office of Financial Regulation's evaluation of the registration filed at any time after initial receipt of the registration form shall be deemed by the Office of Financial Regulation to be grounds for rejection of the registration, and a new registration form, accompanied by the appropriate filing fee, shall be required.

(4) Withdrawal of Registration. A prospective registrant may request withdrawal of a registration prior to an initial determination of the registration being made by the Office of Financial Regulation by submitting a written request that the registration be withdrawn.

(5) Refunds. If the registration is withdrawn, voided, or rejected, the registration fee is non-refundable.

(6) Upon approval, a registration will be issued for the remainder of the annual registration period.

Rulemaking Authority ~~17-29 559.554, 559.555, 559.5551~~ FS. Law Implemented ~~559.554, 559.5551~~, 559.553, 559.555 FS. History–New 2-15-94, Formerly 3D-180.030, Amended \_\_\_\_\_.

69V-180.031 Consumer Collection Agency Electronic Filing of Forms and Fees.

(1) For purposes of this rule, "REAL System" means the Office of Financial Regulation's Regulatory Enforcement and Licensing System, which is accessible through the Office's website at www.flofr.com.

(2) The registration form adopted under subparagraph 69V-180.002(1)(b)1, F.A.C., must be filed electronically with the Office through the REAL system.

(3) All fees required to be filed with the Office under Rule 69V-180.030, F.A.C., must be paid electronically with the Office through the REAL System.

Rulemaking Authority 559.554, 559.555, FS. Law Implemented 559.553, 559.554(2)(a), 559.555, FS. History–New \_\_\_\_\_.

69V-180.032 Effect of Law Enforcement Records on Applications for Consumer Collection Agency Registration.

(1) Definitions. For purposes of this rule:

(a) "Control person" has the same meaning as provided in Section 559.55(4), F.S.

(a) "Trigger date" means the date on which a control person was found guilty, or pled guilty, or pled nolo contendere to a crime.

(2) General Procedure Regarding Law Enforcement Records. At the time of submitting an Application for Registration as a Consumer Collection Agency, Form OFR-559-101, which is incorporated by reference in Rule 69V-180.002(1)(b)1, F.A.C., the applicant shall disclose on the application form any pending criminal charges and all criminal matters in which a control person has pled guilty or nolo contendere to, or has been convicted or found guilty, regardless of whether adjudication was withheld, of any crime. The applicant shall supply the Office with required documentation for each control person, as specified in this rule, relating to: 1) all criminal matters in which the control person has pled guilty or nolo contendere to, or has been convicted or found guilty, regardless of whether adjudication was withheld, of a class "A", "B", or "C" crime as described in paragraphs 15, 16, and 17 ~~16, 17, and 18~~, 2) any pending criminal charges for a control person relating to a class "A", "B", or "C" crime as described in this rule, or 3) evidence that such documentation cannot be obtained. Evidence that documentation cannot be obtained shall consist of a written statement on the letterhead of the agency that would be the custodian of the documents, signed by a representative of that agency, stating that they have no record of such matter, or that the record is lost or was damaged or destroyed, or otherwise stating why the document cannot be produced. The required documentation must be legible. Required documentation includes:

(a) A copy of the police arrest affidavit, arrest report or similar document.

(b) A certified copy of the charges.

(c) A certified copy of the plea, judgment, and sentence where applicable.

(d) A certified copy of an order of entry into pre-trial intervention, and the order of termination of pre-trial intervention showing dismissal of charges where applicable.

(e) A certified copy of an order of termination of probation or supervised release, if applicable.

(3) Effect of Failure to Fully Disclose Law Enforcement Record on Application.

(a) The Office shall not deny an application for failure to provide documentation listed in subsection (2) when the crime is not a class "A", "B", or "C" crime and the applicant has disclosed the crime on the application form.

(b) If the Office discovers the applicant's failure to disclose after a registration has been granted, the Office will suspend or revoke each registration currently held by the applicant as follows:

1. Suspension for 12 months if, had the registration application been accurate, the application would have been granted, based on the statutes and rules applicable to the application at the time the Office issued the registration, and the documentation in the applicant's file at the time the Office issued the registration.

2. Revocation if, had the registration application been accurate, the application would have been denied, based on the statutes and rules applicable to the application at the time the Office issued the registration.

(4) Classification of Crimes.

(a) The Office makes a general classification of crimes into three classes: A, B and C, as listed in subsections ~~(15), (16), and (17)~~ ~~(16), (17) and (18)~~ of this rule.

(b) These classifications reflect the Office's evaluation of various crimes in terms of moral turpitude and the seriousness of the crime as such factors relate to the prospective threat to public welfare typically posed by a person who would commit such a crime.

(c) The names or descriptions of crimes, as set out in the classification of crimes, are intended to serve only as generic names or descriptions of crimes and shall not be read as legal titles of crimes, or as limiting the included crimes to crimes bearing the exact name or description stated.

(d) A charge in the nature of attempt or intent to commit a crime, or conspiracy to commit a crime, is classified the same as the crime itself.

(5) Effect on Registration of Commitment of Single Crime. The Office finds it necessary to implement the following standards for applicants with control persons whose law enforcement record includes a single crime, subject to the mitigating factors set forth elsewhere in this rule before registration. All disqualifying periods referenced in this rule run from the trigger date.

(a) Class A Crime. The applicant will not be granted a registration until 15 years have passed since the trigger date.

(b) Class B Crime. The applicant will not be granted a registration until 7 years have passed since the trigger date.

(c) Class C Crime. The applicant will not be granted registration until 5 years have passed since the trigger date.

(6) Control persons With Multiple Crimes.

(a) The Office construes Section 559.554(2), F.S. to require that an applicant with control persons whose law enforcement record includes multiple class "A", "B" or C crimes, or any combination thereof, wait longer than those whose law enforcement record includes only a single crime before becoming eligible for registration in order to assure that such control person's greater inability or unwillingness to abide by the law has been overcome. Therefore, the Office finds it necessary that a longer disqualifying period be utilized in such instances, before registration can safely be granted. Accordingly, where the control person has been found guilty or pled guilty or pled nolo contendere to more than one crime, the Office shall add 5 years to the disqualifying period for each additional crime.

(b) The additional periods are added to the basic disqualifying period for the one most serious crime, and the combined total disqualifying period then runs from the trigger date of the most recent crime.

(c) Classification as "Single Crime" versus "Multiple Crimes." For purposes of this rule, two (2) or more offenses are considered a single crime if they are triable in the same court and are based on the same act or transaction or on two (2) or more connected acts or transactions.

(7) Mitigating Factors.

(a) The disqualifying period for a crime or crimes shall be shortened upon proof of one or more of the following factors. Where more than one factor is present the applicant is entitled to add together all the applicable mitigation amounts and deduct that total from the usual disqualifying period, provided that an applicant shall not be permitted an aggregate mitigation of more than three (3) years for the following factors:

1. One year is deducted if the probation officer or prosecuting attorney in the most recent crime states in a signed writing that the probation officer or prosecuting attorney believes the **control person of the** applicant would pose no significant threat to public welfare if registered as a Consumer Collection Agency.

2. One year is deducted if restitution or settlement has been made for all crimes in which restitution or settlement was ordered by the court, and proof of such restitution or settlement is shown in official court documents or as verified in a signed writing by the prosecuting attorney or probation officer.

3. One year will be deducted if the control person was under age 21 when the crime was committed and there is only one crime in the control person's law enforcement record.

4. One year is deducted if the applicant furnishes proof that the control person was at the time of the crime addicted to drugs or suffering active alcoholism. The proof must be accompanied by a written letter from a properly licensed doctor, psychologist, or therapist licensed by a duly constituted state licensing body stating that the licensed person has examined or treated the control person and that in his or her professional opinion the addiction or alcoholism is currently in remission and has been in remission for the previous 12 months. The professional opinion shall be dated within 45 days of the time of application.

5. Other Mitigating Factors. An applicant is permitted to submit any other evidence of facts that the control person believes should decrease the disqualifying period before registration is allowed and one additional year shall be deducted if the Office agrees the facts have a mitigating effect on the registration decision.

(b) In no event shall the aggregate mitigation result in less than a seven (7) year disqualifying period where the underlying crime committed was a felony.

(c) The burden is upon the applicant to establish these mitigating factors. Where the mitigating factor relates to or requires evidence of government agency or court action, it must be proved by a certified true copy of the agency or court document.

(8) Circumstances Not Constituting Mitigation. The Office finds that no mitigating weight exists, and none will be given, for the following factors:

(a) Type of Plea. The Office draws no distinction among types of pleas, i.e., found guilty; pled guilty; pled nolo contendere.

(b) Collateral Attack on Criminal Proceedings. The Office will not allow or give any weight to an attempt to re-litigate, impeach, or collaterally attack judicial criminal proceedings or their results in which the control person was found guilty or pled guilty or nolo contendere. Thus the Office will not hear or consider arguments such as: the criminal proceedings were unfair; the judge was biased; the witnesses or prosecutor lied or acted improperly; the defendant only pled guilty due to financial or mental stress; the defendant was temporarily insane at the time of the crime; or the defendant had ineffective counsel.

(c) The Office finds that subjective factors involving state of mind have no mitigating weight.

(9) Effect of Pending Appeal in Criminal Proceedings; Reversal on Appeal.

(a) The Office interprets the statutory grounds for denial of registration as arising immediately upon a finding of guilt, or a plea of guilty or nolo contendere, regardless of whether an appeal is or is not allowed to be taken. The Office will not wait for the outcome of an appeal to deny registration, unless a Florida court specifically stays the Office's adverse action.

(b) If on appeal the conviction is reversed, the Office shall immediately drop the said crime as grounds for denial of registration.

(10) Pre-Trial Intervention. The Office considers participation in a pre-trial intervention program to be a pending criminal enforcement action and will not grant registration to any applicant with a control person who, at the time of application, is participating in a pre-trial intervention program. The Office finds it necessary to the public welfare to wait until the pre-trial intervention is successfully completed before registration may be considered.

(11) Effect of Sealing or Expunging of Criminal Record.

(a) An applicant is not required to disclose or acknowledge, and is permitted in fact to affirmatively deny, any arrest or criminal proceeding for a control person, the record of which has been legally and properly expunged or sealed by order of a court of competent jurisdiction prior to the time of application, and such denial or failure to disclose is not grounds for adverse action by the Office.

(b) Matters Sealed or Expunged Subsequent to Application. Occasionally a control person will have a matter sealed or expunged after the applicant submits an application, but before a registration decision is made by the Office. In such situations the Office policy is as follows:

1. If the applicant's control person properly revealed the matter on the application, and thereafter has the record sealed or expunged, the Office will not consider the matter in the application decision.

2. However, if the applicant's control person did not reveal the matter on the application and the matter had not been sealed or expunged at the time of making the application, the Office will construe the failure to disclose the matter on the application as a material misrepresentation or material misstatement, and the application shall be denied pursuant to Section 559.730(1)(d), F.S.

(12) Effect of Varying Terminology.

(a) With regard to the following six subparagraphs, the Office treats each phrase in a particular subparagraph as having the same effect as the other phrases in that same subparagraph:

1. Adjudicated guilty; convicted.

2. Found guilty; entered a finding of guilt.

3. Pled guilty; entered a plea of guilty; admitted guilt; admitted the charges.

4. Nolo contendere; no contest; did not contest; did not deny; no denial.

5. Adjudication of guilt withheld; adjudication withheld; no adjudication entered; entry of findings withheld; no official record to be entered; judgment withheld; judgment not entered.

6. Nolle prosequi; nolle prosequi; charges withdrawn; charges dismissed; charges dropped.

(b) In all other instances the Office will look to the substantive meaning of the terminology used in the context in which it was used under the law of the jurisdiction where it was used.

(13) Imprisoned Persons and Community Supervision.

(a) Imprisonment. Notwithstanding any provision to the contrary in this rule, the Office shall not register any applicant under Chapter 559 Part VI, F.S., while any control person of the applicant is imprisoned or serving a sentence for any crime. Further, the Office shall not register any applicant with a control person who has been released from imprisonment until the later of the period otherwise set out in these rules or 5 years after the date of release. The Office finds it necessary that the person be released from imprisonment and thereafter demonstrate an ability to abide by the law by passage of at least 5 years on good behavior, before registration can be granted without undue risk to the public welfare.

(b) Community Supervision. The Office shall not grant registration to any person who at the time of application or at any time during the pendency of the application is serving term on community supervision for any felony crime involving fraud, dishonest dealing, moral turpitude, misappropriation, conversion, or unlawful withholding of moneys belonging to others; or any misdemeanor crime involving misappropriation, conversion, or unlawful withholding of moneys belonging to others. The Office shall not substantively consider an application until the control person has successfully completed his or her probationary term.

(14) Effect of Disqualifying Periods. The disqualifying periods established in this rule do not give an applicant a right to registration after any set period of time. Regardless of the expiration of any disqualifying period imposed by these rules, the burden to prove entitlement to registration remains on the applicant.

(15) Class “A” Crimes include the following felonies involving financially related or white collar crime, or crimes involving violence, and the Office finds that such crimes involve an act of fraud, dishonest dealing, moral turpitude, misappropriation, conversion, or unlawful withholding of moneys belong to others regardless of adjudication. This list is representative only and shall not be construed to constitute a complete or exclusive list of all crimes that are Class “A” crimes. Crimes similar to the crimes on this list may also be considered Class “A” crimes, and no inference should be drawn from the absence of any crime from this list.

(a) Any type of fraud, including but not limited to Fraud, Postal Fraud, Wire Fraud, Securities Fraud, Welfare Fraud, Defrauding the Government, Credit Card Fraud, Defrauding an Innkeeper, Passing worthless check(s) with intent to defraud.

(b) Perjury.

(c) Armed robbery.

(d) Robbery.

(e) Extortion.

(f) Bribery.

(g) Embezzlement.

(h) Grand theft.

(i) Larceny.

(j) Burglary.

(k) Breaking and entering.

(l) Identity Theft.

(m) Any type of forgery or uttering a forged instrument.

(n) Misuse of public office.

(o) Racketeering.

(p) Buying, receiving, concealing, possessing or otherwise dealing in stolen property.

(q) Treason against the United States, or a state, district, or territory thereof.

(r) Altering public documents.

(s) Witness tampering.

(t) Tax evasion.

(u) Impersonating or attempting to impersonate a law enforcement officer.

(v) Money laundering.

(w) Murder in all degrees.

(x) Arson.

(y) Sale, importation, or distribution of controlled substances (drugs); or possession for sale, importation or distribution.

(z) Aggravated Assault (e.g., as with a deadly weapon).

(aa) Aggravated Battery (e.g., as with a deadly weapon).

(bb) Rape.

(cc) Sexually molesting any minor.

(dd) Sexual battery.

(ee) Battery of or threatening a law enforcement officer or public official in the performance of his/her duties.

(ff) Kidnapping.

(16) Class “B” Crimes include all felonies not Class “A” crimes.

(17) Class “C” Crimes include any misdemeanor that involves fraud, dishonesty, or any other act of moral turpitude.

(18) Foreign Law Enforcement Records. If a law enforcement record includes convictions, charges, or arrests outside the United States, the Office shall consider the following factors to reduce, eliminate, or apply a disqualifying period:

(a) Whether the crime in the criminal record would be a crime under the laws of the United States or any state within the United States;

(b) The degree of penalty associated with the same or similar crimes in the United States; and

(c) The extent to which the foreign justice system provided safeguards similar to those provided criminal defendants under the Constitution of the United States; for example, the right of a defendant to a public trial, the right against self-incrimination, the right of notice of the charges, the right to confront witnesses, the right to call witnesses, and the right to counsel.

Rulemaking Authority 559.554, 559.555, ~~559.5551~~, FS. Law Implemented 559.554(2)(b), ~~559.5551~~, 559.730 FS. History – New

69V-180.040 Consumer Collection Agency Complaint Form and Procedures.

Each consumer desiring to file a complaint against a consumer collection agency shall submit to the Office of Financial Regulation a completed ~~complaint form~~, Florida Consumer **Collection** Practices Act Complaint form, Form OFR-559-102 ~~OFR-CCA-103~~, effective MM-DD-YY ~~10-25-11~~, available at <https://www.flrules.org/gateway/reference.asp?NO=Ref-00640>, which is hereby incorporated by reference. Such form shall be filed with the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376. Rulemaking Authority ~~17-29~~, 559.554, FS. Law Implemented 559.72, 559.725, FS. History–New 2-15-94, Formerly 3D-180.040, Amended 10-25-11, \_\_\_\_\_.

69V-180.070 Consumer Collection Agency Registration Renewal.

(1) Consumer Collection Agency registrations must be renewed in accordance with the provisions of Section 559.555, F.S.

(2) Renewal requirements for registrations expiring on December 31, 2014:

(a) Registrants shall submit a non-refundable renewal fee equal to the registration fee required in Section 559.555(2)(b), F.S.

(b) Registrants initially approved before October 1, 2014, shall submit fingerprints for each control person as defined in Section 559.55(4), F.S. for live-scan processing pursuant to Section 559.555(2)(c), F.S. Such fingerprints must be submitted before renewing a registration that is scheduled to expire December 31, 2014. Failure to submit such fingerprints within forty-five (45) days from the date of the request will result in the registration becoming expired. For purposes of this paragraph, each of the registrant’s control persons required to submit fingerprints shall submit such fingerprints to a live-scan vendor approved by the Florida Department of Law Enforcement and published on the Florida Department of Law Enforcement’s website (<http://www.fdle.state.fl.us/Content/getdoc/941d4e90-131a-45ef-8af3-3c9d4efefd8e/Livescan-Service-Providers-and-Device-Vendors.aspx>) for submission to the Florida Department of Law Enforcement and the Federal Bureau of Investigation for a state criminal background check and a Federal criminal background check. The cost of the fingerprinting process shall be borne by the registrant and paid directly to the live scan vendor. The Office shall screen the background results to determine if the registrant continues to meet the registration requirements of Section 559.555, F.S. Any request for additional information made by the Office must be received within forty-five (45) days from the date of the request. Failure to provide additional information requested by the Office within forty-five (45) days from the date of the request will result in the registration becoming expired.

(3) Renewal requirements for registrations expiring on December 31, 2015 and thereafter:

(a) Registrants shall submit a non-refundable renewal fee equal to the registration fee required in Section 559.555(2)(b), F.S.

(b) Registrants shall submit a nonrefundable fee of \$6.00 for each person reported to the Office as a control person as defined in Section 559.55(4), F.S. on the Application for Registration as Consumer Collection Agency, OFR-559-102, to cover the costs of fingerprint retention. Failure to remit all fees required in this paragraph by the registration expiration date will automatically result in the registration becoming expired.

Rulemaking Authority 559.554, 559.555, FS. Law Implemented, 559.555, FS. History–New \_\_\_\_\_.

69V-180.100 Disciplinary Guidelines for Imposing Administrative Penalties.

(1) Pursuant to Section 559.730~~(3)~~(7), F.S., ~~listed below are~~ guidelines applicable to each ground for disciplinary action that may be imposed by the Office against a person for a violation of Part VI, Chapter 559, F.S. ~~are hereby adopted~~. The disciplinary guidelines are contained in “Office of Financial Regulation, Division of Consumer Finance, Disciplinary Guidelines for Consumer Collection Agencies”, which is hereby incorporated by reference, **effective MM/DD/YYYY**. A copy of the disciplinary guidelines is available on the Office’s website at [www.flofr.com](http://www.flofr.com), ~~and~~ by mail from the Office of Financial Regulation, 200 East Gaines Street, Tallahassee, Florida 32399-0376 ~~and at~~ <http://www.flrules.org>. In determining an appropriate penalty within the range of penalties prescribed in ~~this rule~~ the guidelines for each ~~occurrence~~ violation as based upon the ~~violation citation number~~, the Office shall consider the ~~circumstances set forth in subsection (25) (2) and (3). The third column of the guidelines provides a summary of the statutory violations solely for the purpose of ease of reference. Persons subject to the rule should review the full text of the Florida Statute cited in the second column of the guidelines for the complete description of the violation. For the purpose of this rule and the guidelines, the term “citation” means any written notice provided to and received by the registrant that specifies a violation of Chapter 559, F.S., or any rule promulgated under that chapter.~~

	Statute	Violation Description Summary	1st Occurrence	2nd Occurrence	3rd & Subsequent Occurrences
(4)	559.565(1)	An out-of-state consumer debt collector who collects or attempts to collect consumer debts in this state without first registering in accordance with this part.	Fine: B Cease and Desist	Fine: C Cease and Desist	

(2)	559.72(1)	Simulate in any manner a law enforcement officer or a representative of any governmental agency.	Fine: A	Fine: B	Fine: C Revocation
(3)	559.72(2)	Use or threaten force or violence.	Fine: B	Fine: C Revocation	
(4)	559.72(3)	Tell a debtor who disputes a consumer debt that she or he or any person employing her or him will disclose to another, orally or in writing, directly or indirectly, information affecting the debtor's reputation for credit worthiness without also informing the debtor that the existence of the dispute will also be disclosed.	Fine: A	Fine: B	Fine: C Revocation
(5)	559.72(4)	Communicate or threaten to communicate with a debtor's employer before obtaining final judgment against the debtor.	Fine: A	Fine: B	Fine: C Revocation
(6)	559.72(5)	Disclose to a person other than the debtor or her or his family information affecting the debtor's reputation, whether or not for credit worthiness, with knowledge or reason to know that the other person does not have a legitimate business need for the information or that the information is false.	Fine: A	Fine: B	Fine: C Revocation
(7)	559.72(6)	Disclose information concerning the existence of a debt known to be reasonably disputed by the debtor without disclosing that fact or failed to notify within 30 days the details of the dispute to each person to whom disclosure was made.	Fine: A	Fine: B	Fine: C Revocation
(8)	559.72(7)	Willfully communicate with the debtor or any member of her or his family with such frequency as can reasonably be expected to harass the debtor or her or his family, or willfully engage in other conduct which can reasonably be expected to abuse or harass the debtor or any member of her or his family.	Fine: A	Fine: B	Fine: C Revocation
(9)	559.72(8)	Use profane, obscene, vulgar, or willfully abusive language in communicating with the debtor or any member of her or his family.	Fine: A	Fine: B	Fine: C Revocation
(10)	559.72(9)	Claim, attempt, or threaten to enforce a debt when such person knows that the debt is not legitimate or assert the existence of some other legal right when such person knows that the right does not exist.	Fine: B	Fine: C Revocation	
(11)	559.72(10)	Use a communication that simulates in any manner legal or judicial process or that gives the appearance of being authorized, issued or approved by a government, governmental agency, or attorney at law, when it is not.	Fine: A	Fine: B	Fine: C Revocation
(12)	559.72(11)	Communicate with a debtor under the guise of an attorney by using the stationery of an attorney or forms or instruments that only attorneys are authorized to prepare.	Fine: B	Fine: C	Fine: C Revocation
(13)	559.72(12)	Orally communicate with a debtor in a manner that gives the false impression or appearance that such person is or is associated with an attorney.	Fine: A	Fine: B	Fine: C Revocation
(14)	559.72(13)	Advertise for sale any debt as a means to enforce payment except under court order or when acting	Fine: B	Fine: C Revocation	

		as an assignee for the benefit of a creditor.			
(15)	559.72(13)	Threaten to advertise for sale any debt as a means to enforce payment except under court order or when acting as an assignee for the benefit of a creditor.	Fine: A	Fine: B	Fine: C Revocation
(16)	559.72(14)	Publish or post, or cause to be published or posted before the general public individual names or any list of names of debtors, commonly known as a deadbeat list, for the purpose of enforcing or attempting to enforce collection of consumer debts.	Fine: B	Fine: C Revocation	
(17)	559.72(14)	Threaten to publish or post before the general public individual names or any list of names of debtors, commonly known as a deadbeat list, for the purpose of enforcing or attempting to enforce collection of consumer debts.	Fine: A	Fine: B	Fine: C Revocation
(18)	559.72(15)	Refuse to provide adequate identification of herself or himself or her or his employer or other entity whom she or he represents if requested to do so by a debtor from whom she or he is collecting or attempting to collect a consumer debt.	Fine: A	Fine: B	Fine: C Revocation
(19)	559.72(16)	Mail any communication to a debtor in an envelope or postcard with words typed, written, or printed on the outside of the envelope or postcard calculated to embarrass the debtor.	Fine: B	Fine: C	Fine: C Revocation
(20)	559.72(17)	Communicate with the debtor between the hours of 9 p.m. and 8 a.m. in the debtor's time zone without the prior consent of the debtor.	Fine: A	Fine: B	Fine: C Revocation
(21)	559.72(18)	Communicate with a debtor if the person knows that the debtor is represented by an attorney with respect to such debt.	Fine: A	Fine: B	Fine: C Revocation
(22)	559.72(19)	Cause a debtor to be charged for communications by concealing the true purpose of the communication.	Fine: A	Fine: B	Fine: C Revocation
(23)	559.725(6)	Failure to provide a written response to a consumer complaint within 45 days of written request.	\$150 per day	\$200 per day	\$250 per day

(24) In accordance with this rule:

(a) ~~Depending on the severity and repetition of specific violations, the Office may impose an administrative fine, suspension of a person, or revocation of a person or any combination thereof;~~

(b) ~~The Office may impose a cease and desist order, a suspension, or both in conjunction with and in addition to any of the designated sanctions set forth in this rule when appropriate under the circumstances; and~~

(c) ~~The Office will consider the person's disciplinary history for the past 10 five years in determining an appropriate penalty, and may impose a more severe penalty when the disciplinary history includes past violations.~~

(2) Consistent with the guidelines contained in Office of Financial Regulation, Division of Consumer Finance, Disciplinary Guidelines for Consumer Collection Agencies, the Office may issue orders to revoke or suspend a registration; orders to impose an administrative fine; orders of prohibition including ceasing and desisting, and injunction; orders of appointment; orders of removal; orders denying applications; and/or Notices of Non-compliance. Also consistent with the guidelines, to determine penalties, the Office may consider the combined effect of violations.

(3)~~(25)~~ In accordance with Section 559.730, F.S., the Office shall consider the following circumstances in determining an appropriate penalty within the range of penalties prescribed in ~~this rule~~ the guidelines for each violation. The Office also shall consider these circumstances when determining whether a deviation from the range of sanctions prescribed in the ~~disciplinary~~ guidelines is warranted:

(a) The following circumstances are considered mitigating factors:

1. If the violation rate is less than 5% when compared to the overall sample size reviewed;

2. No prior administrative actions by the Office against the registrant or control person within the past 10 years;

3. If the registrant detected and voluntarily instituted corrective responses or measures to avoid the recurrence of a violation prior to detection and intervention by the Office;

4. If the violation is attributable to a single control person or employee, and if the registrant removed or otherwise disciplined the individual prior to detection or intervention by the Office;

5. If the ~~consumer collection agency is responsive to the Office's requests or inquiries or made no attempt to impede or delay registrant provided substantial assistance to~~ the Office in its examination or investigation of the underlying misconduct; or

6. Other relevant, case-specific circumstances.

(b) The following circumstances are considered aggravating factors:

1. If the violation rate is more than 95% when compared to the overall sample size reviewed (sample size must be equal to or greater than 25 transactions and cover a date range of more at least 6 months);

2. The potential for harm to the customers or the public is significant;

3. Prior administrative action by the Office against the registrant or an affiliated party of the registrant within the past 5 years;

4. If the registrant's violation was the result of willful misconduct or recklessness;

5. The registrant attempted to conceal the violation or mislead or deceive the Office; or

6. Other relevant, case-specific circumstances.

(a) The degree of harm to the public;

(b) The disciplinary history of the person;

(c) Whether the person detected and voluntarily instituted corrective responses or measures to avoid the recurrence of a violation prior to detection and intervention by the Office;

(d) Whether the person's violation was the result of willful misconduct or recklessness;

(e) Whether at the time of the violation, the person had developed and implemented reasonable supervisory, operational or technical procedures, or controls to avoid the violation;

(f) Whether the person attempted to conceal the violation or mislead or deceive the Office;

(g) The length of time over which the person engaged in the violations; and

(h) Other control, case specific circumstances.

(4)(26) The list of violations cited in this rule ~~the guidelines~~ is intended to be comprehensive, but the omission of a violation from the list does not preclude the Office from taking any action authorized by Section 559.730, F.S.

(5)(27) The ranges for administrative fines imposed by this rule ~~the guidelines~~ are \$1,000 to \$3,500 for an "A" level fine; \$3,500 to \$7,500 for a "B" level fine; and \$7,500 to \$10,000 for a "C" level fine.

(6) The ranges for suspensions imposed by the guidelines are 3 to 10 days for an "A" level suspension; 10 to 20 days for a "B" level suspension; 20 to 30 days for a "C" level suspension; and up to 90 days for a "D" level suspension. A "D" level suspension may be terminated early if registrant cures the violation to the Office's satisfaction.

(7)(28) A previous "occurrence" is the same or similar misconduct which was the subject of a Final Order entered by the Office prior to the acts or omissions which are the subject of the current action by the Office.

Rulemaking Authority ~~17.29, 559.554, 559.727, 559.730(7), 559.730(3)~~ FS. Law Implemented 559.5556, 559.565(1), 559.72, 559.725(6), 559.727, 559.730 FS. History—New 10-25-11, Amended \_\_\_\_\_.

### III. Material incorporated by reference

[Begins on next page.]

**COLLECTION AGENCIES**

Name of Entity Applying for Licensure: \_\_\_\_\_

<b>SECTION A. SOCIAL SECURITY NUMBER OF ENTITY APPLYING FOR LICENSURE</b> <b>(Only required if Federal Employer I.D. is a Social Security Number)</b>	<b>Social Security Number</b> (Section A)

**SECTION B. DIRECTORS, MANAGING MEMBERS, OWNERS AND PRINCIPAL OFFICERS OF BUSINESS** A listing of only officers or only owners is not sufficient. We must have position and/or Percentage ownership, social security number, and date of birth for each name listed. Provide the FEIN for each corporate owner listed. (Attach list, if necessary.)

Name	Position	% of Ownership	Date of Birth	EIN (other entities) **	-- OR --	SSN (Individuals) * (Section B)
<b>Florida Resident Agent (Required of corporations only)</b>						

\* SSN - One's personal Social Security Number  
 \*\* EIN - Employer Identification Number assigned to entities by Internal Revenue

Section 559.545(2)(b), F.S., authorizes the collection of social security numbers of the commercial collection agency registrant's corporate owners, individual owners, officers, and directors, and the Florida resident agent of the registrant. Social security numbers are collected for the purpose of identity verification and conducting criminal history background checks.

**EXHIBIT A**, Effective MM/DD/YYYY, Incorporated by reference in Rule 69V-180.002, F.A.C.

MAIL TO: OFFICE OF FINANCIAL REGULATION  
200 East Gaines Street  
Tallahassee, FL 32399-0376  
Check payable to Department of Financial Services – Fee: \$500.00

**REGISTRATION OF COMMERCIAL COLLECTION AGENCY**

This form shall be accompanied by payment of a \$500.00 non-refundable registration fee. All requirements for registration must be satisfied within forty-five (45) days from the date of request for additional information.

TYPE OR PRINT

1(a). Legal Name of Commercial Collection Agency: \_\_\_\_\_

1(b). If corporate name is not allowed in Florida, provide name approved by the Florida Secretary of State:

\_\_\_\_\_  
(Provide qualification document from the Florida Secretary of State. This is the name that will appear on your license and should appear on your surety bond. See instructions.)

DBA Name (If applicable): \_\_\_\_\_  
(Provide acknowledgment from the Dept. of State, Division of Corporations that your fictitious name is duly registered.)

2. Federal Employer I.D. Number: \_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ - \_\_\_\_ (If Social Security Number, response to Question 2 should be entered on Exhibit A of this application)  
(F.E.I.D. number is required of all corporations. See IRS "Instructions for Form SS-4.")

3. Principal Place of Business (Note: Post Office Box is not acceptable.)

\_\_\_\_\_  
Street Address

\_\_\_\_\_  
City

\_\_\_\_\_  
County

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

4. Mailing Address if different from above:

\_\_\_\_\_  
P.O. Box or Street Address

\_\_\_\_\_  
City

\_\_\_\_\_  
County

\_\_\_\_\_  
State

\_\_\_\_\_  
Zip

Telephone Number: (\_\_\_\_) \_\_\_\_\_ Fax/Email: \_\_\_\_\_

5. Type of Agency: (Check One) \_\_\_\_\_ Domestic Corporation \_\_\_\_\_ Foreign Corporation  
(Documentation of registration from the Florida Secretary of State Office to conduct business in the State of Florida is required of Foreign Corporations.)

6. Date of Incorporation \_\_\_\_\_ State of Incorporation \_\_\_\_\_  
(Documentation of Incorporation must be filed with this application.)

7. Provide a list of the current business location of each branch office in the State of Florida of the registering agency. If none, indicate such.

8. Provide a list of the following information on Exhibit A of this application:

a) If a partnership or sole proprietorship, provide full name, residence address, telephone number, and social security number of all owners.

b) If a corporation, provide full name, residence address, telephone number, and social security number (federal identification number if a corporate owner), of all Corporate Officers, Directors, Owners, and Florida Resident Agent.

\*\*\*\*\*FOR OFFICE USE ONLY\*\*\*\*\*

APPROVED BY: \_\_\_\_\_ DATE APPROVED: \$500:

9. Has the prospective registrant, or any principal of same, engaged in any unlawful collection practices, or been convicted or found guilty of a crime involving dishonest dealing, acts of moral turpitude, or other acts that reflect an inability to engage in the commercial collection agency business? YES \_\_\_ NO \_\_\_
10. Has the prospective registrant, or any principal of the same, or any business in which any principal of the prospective registrant was the owner of 10 percent or more of such business had any professional or occupational license which was the subject of any suspension, revocation, or other disciplinary action? YES \_\_\_ NO \_\_\_

For each "Yes" response to Questions 9 & 10, provide details clearly identifying and explaining each occasion.

11. Provide a copy of a continuous surety bond in the amount of \$50,000, issued by a bonding company or insurance company authorized to do business in the State of Florida, with documentation that the annual premium has been paid in full by the prospective registrant. Include a statement from the surety that the bond meets the requirements of Chapter 559, F.S. and a copy of their current Florida Office of Insurance authorization.
12. Provide an alphabetical list of the following:
- a) Each county in this State in which the applicant currently operates an office including the occupational license number for that county.
  - b) Each county in this State in which the applicant plans to operate an office within the next calendar year.
  - c) Each county in this State in which the applicant is operating under a fictitious name or trade name including any such fictitious or trade name and the date and place of registration of that name.
  - d) Any other corporations, entities, or trade names through which any owner or director of the applicant was known or did business as a commercial or consumer collection agency within the last five (5) calendar years. (Provide one list for each owner/director as applicable).

I hereby affirm that the foregoing information is true and correct and acknowledge that any misstatement may cause the Office to initiate proceedings against the registration.

\_\_\_\_\_  
 Name (Type or Print)  
 (Must be principal in Business)

\_\_\_\_\_  
 Signature of Principal in Business

\_\_\_\_\_  
 Title (Type or Print)

\_\_\_\_\_  
 Date

**STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION**

**Application for Registration as Consumer Collection Agency  
Chapter 559 Part VI, Florida Statutes**

**Consumer Collection Agency**

“Consumer collection agency” means any debt collector or business entity engaged in the business of soliciting consumer debts for collection or of collecting consumer debts, which debt collector or business is not expressly exempted as set forth in s. 559.553(3).

**Registration Period:  
January 1 – December 31, annually**

Initial registrations issued on or after January 1, will be effective through December 31 of that year. Example: A registration issued June 15 would remain effective only through December 31 of the year in which the registration was issued. Registration not renewed by December 31 will expire.

**Non-Refundable Registration Fee/Renewal Fee: \$200**

\*\*\*\*\*

**GENERAL INSTRUCTIONS**

Pursuant to Rule 69V-180.030, F.A.C., all forms and fees must be submitted through the Office’s Regulatory Enforcement and Licensing (REAL) System at <https://real.flofr.com>.

Form OFR-559-101 is the application form used by Consumer Collection Agencies to either apply for an initial registration or make an amendment to an existing registration. This form can also be used to surrender an existing registration or withdraw a pending application.

**Type of Filing**

Check the appropriate box for the type of filing. If filing for more than one type of service, check all the boxes that apply.

Initial Application – This designation applies to first-time filers (See Rule 69V-180.030, F.A.C.).

Amendment – This designation applies to any changes including, but not limited to, business name, fictitious name, physical address and phone numbers, mailing address, or owners/officers/managing members. Additionally, if the information on a Disclosure Reporting Page has changed, it should be reported through this form. **See Chapter 559 (Part VI), F.S., and Rule**

**Chapter 69V-180, F.A.C., for the requirements to file amendments.**

Surrender Registration /Withdraw – This designation applies to any request to surrender an active registration or withdraw any pending application. Provide the effective date of this request. **If surrendering an existing registration, update the address where records are stored in Section 1E and the contact information in Section 2.**

**1. Applicant Information**

- A. Business Name – Provide the complete legal business name of the applicant. If sole proprietor, state your first name, middle name and last name.
- B. Fictitious or D/B/A Name – Name under which the company operates if different from business name. Provide evidence of fictitious name registration. If you do not use a fictitious name, leave the question blank.
- C. IRS Employee Identification Number (FEID) – This is a nine digit number assigned by the IRS. If the registrant is a sole proprietor using a social security number in lieu of the FEID number, then enter the social security number on Page 5 in the box labeled “SSN Section”.
- D. Business Main Address – This is the main office physical address or the headquarters address.
- E. Address where records stored – This is the physical location where any and all books and records will be maintained. If this address is the same as the business main address, enter “Same as Business” on this line. Do not leave blank.
- F. Mailing Address – Provide if different from business main address.
- G. Business Telephone Numbers – Provide the telephone and fax number of the business location.

**2. Contact Information**

- A. Contact Person Name & Title – Person to be contacted regarding the application.
- B. Contact Person Mailing Address – Can be different from Business Mailing Address.
- C. Contact Person Telephone – Can be different from Business.
- D. Contact Person E-mail Address – Provide contact person’s e-mail address.

**3. Applicant Organization and History of Operations**  
Respond to Questions 3A and 3B.

Question 3A – Check type of organization.

**Question 3B** – List all persons as requested in this section. A “control person” means an individual, partnership, corporation, trust, or other organization that possesses the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. The term includes, but is not limited to:

- (a) A company’s executive officers, including the president, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, director, and other individuals having similar status or functions.
- (b) For a corporation, a shareholder who, directly or indirectly, owns 10 percent or more or that has the power to vote 10 percent or more, of a class of voting securities unless the applicant is a publicly traded company.
- (c) For a partnership, all general partners and limited or special partners who have contributed 10 percent or more or that have the right to receive, upon dissolution, 10 percent or more of the partnership’s capital.
- (d) For a trust, each trustee.
- (e) For a limited liability company, all elected managers and those members who have contributed 10 percent or more or that have the right to receive, upon dissolution, 10 percent or more of the partnership’s capital.

A listing of only officers or only owners is not sufficient. We must have position, percentage ownership, social security number, and date of birth for each name listed. Provide the FEID for each corporate owner listed. (Attach additional sheets if necessary).

A Biographical Summary section of this form is required for every person listed in this question.

**Live Scan fingerprints must be submitted for all control persons listed in Section 3 of the application.**

Each natural person listed in Section 3, must submit fingerprints to a live scan vendor approved by the Florida Department of Law Enforcement (FDLE) and published on FDLE's website (<http://www.fdle.state.fl.us/Content/Content/941d4e90-131a-45ef-8af3-3c9d4efefd8e/Livescan-Service-Providers-and-Device-Vendors.aspx>) for submission to the FDLE and the Federal Bureau of Investigation for a state and federal criminal background check.

**Question 3C** – Provide the applicant’s registered agent on whom service of process may be served. This person must be located in Florida. This person can be an individual within the entity applying.

**4. Disclosure Information**

For every "yes" answer to questions 4A, 4B, 4C, & 4D complete a separate Disclosure Reporting Page (DRP) for each unrelated event. Provide documentation pertaining to each matter disclosed. Such documentation includes but is not limited to, certified copies of criminal convictions or administrative orders entered against the applicant.

**5. Signature**

Type the name of the person legally authorized to bind the applicant and attest to the accuracy of the information contained in this form.

**FOR QUESTIONS REGARDING THE ONLINE APPLICATION PROCESS CONTACT THE OFFICE OF FINANCIAL REGULATION AT 850-410-9895.**

\*\*\*\*\*

**STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION**

**APPLICATION FOR REGISTRATION AS CONSUMER COLLECTION AGENCY  
Chapter 559 Part VI, Florida Statutes**

Check the box that indicates what you would like to do:

- File an Initial Application** (Filing fees required – See instructions)  
 **File an Amendment** (circle the question(s) amended)  
 **Surrender Registration/Withdraw Application** (Effective date of surrender/withdrawal: \_\_\_\_\_)  
(MM/DD/YYYY)

**1. Applicant Information**

A. Business Name of Applicant (if sole proprietor provide first name, middle name, & last name):

\_\_\_\_\_

B. D/B/A or Fictitious Name:

\_\_\_\_\_

C. IRS Employee Identification Number (FEID):

\_\_\_\_\_

D. Business Main Address (Street address only - do not use a P.O. Box):

\_\_\_\_\_  
(Number and Street) (City) (State) (Zip Code)

E. Address where records stored (Street address only - do not use a P.O. Box):

\_\_\_\_\_  
(Number and Street) (City) (State) (Zip Code)

F. Mailing Address, if different from Business (P.O. Box acceptable):

\_\_\_\_\_  
(Number and Street) (City) (State) (Zip Code)

G. Business Telephone Numbers:

(\_\_\_\_\_) \_\_\_\_--\_\_\_\_\_  
(Business Phone) (Business Fax)

**2. Contact Information:**

A. Contact Person Name and Title:

\_\_\_\_\_  
(Last Name) (First Name) (Middle) (Title)

B. Contact Person Mailing Address:

\_\_\_\_\_  
(Number and Street) (City) (State) (Zip Code)

C. Contact Person Telephone Number:

(\_\_\_\_\_) \_\_\_\_--\_\_\_\_\_  
(Contact Person Phone) (Contact Person Fax)

D. Contact Person E-mail address: \_\_\_\_\_

**3. Applicant Organization: Provide a list of the following information in the table below:**

- A. Applicant is a:  Corporation,  Partnership,  Association,  LLC,  Individual,  
 Other (Explain): \_\_\_\_\_

- B. List all persons as requested in this section. As defined in section 559.55(4), F.S., a “control person” means an individual, partnership, corporation, trust, or other organization that possesses the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. The term includes, but is not limited to: executive officer, including the president, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, director, and other individuals having similar status or functions. A listing of only officers or only owners is not sufficient.

We must have position, percentage ownership, social security number\*, and date of birth for each name listed. Provide the FEID for each corporate owner listed. (Attach additional sheets if necessary). For every person listed, submit fingerprints to a live scan vendor approved by the Florida Department of Law Enforcement. (For additional information regarding live scan prints, refer to the application instructions page.)

\*Social security numbers are collected for the purpose of verifying identity and also conducting state and national criminal background checks as required by section 559.555(2), F.S. While collection of social security numbers is not specifically authorized under state law, such collection is imperative for the performance of the Office of Financial Regulation’s duties and responsibilities to conduct state and national criminal history background checks.

Name	Position	% of Ownership	Date of Birth/Date of Incorporation

- C. If applicant is a corporation, provide the applicant’s registered agent in this State on whom service of process may be made.

Name:

\_\_\_\_\_

Mailing Address:

\_\_\_\_\_

(Address) (City) (State) (Zip Code)

Telephone Number:

(\_\_\_\_) \_\_\_\_--\_\_\_\_\_

**4. Disclosure Questions**

- A. Has the applicant, registrant ever had an application for registration, or a registration or its equivalent, to practice any profession or occupation denied, suspended, revoked, or otherwise acted against by a registering authority in any jurisdiction or been the subject of final agency action or its equivalent, issued by an appropriate regulatory body of engaging in unlicensed/unregistered activity as a collection agency with any jurisdiction?

Yes  No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

- B. Has the applicant or registrant, been convicted of, pleaded guilty or nolo contendere regardless of adjudication, to, any crime under the laws of any state or of the United States?

Yes  No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

- C. Are there pending charges against the applicant registrant or any control person for any felony or any crime involving fraud, dishonesty, breach of trust, money laundering, or any other act of moral turpitude?

Yes  No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

D. Has the applicant or registrant during the last five (5) years, been named as a DEFENDANT in any civil litigation where a judgment was awarded against you based on grounds of fraud, embezzlement, misrepresentation, or deceit.

Yes  No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

**5. Signature**

I, the undersigned authorized person, have full authority to sign and verify this application. I have read this application and disclosure reporting page and have knowledge of the facts stated herein. This application, and all information submitted in connection herewith, is complete and accurate and contains no misstatements, misrepresentations, or omissions of material facts, to the best of my knowledge and belief.

I further acknowledge that any misstatement may cause the office to deny the application or initiate proceedings against the registration. I also represent that to the extent any information previously submitted is not amended such information is currently accurate and complete.

Section 837.06, F.S., states: Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083

The authorized person or authorized person's agent has typed his or her name under this section to attest to the completeness and accuracy of this form. The authorized person recognizes that this typed name constitutes, in every way, use or aspect, his or her legally binding signature.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Title

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Date

<p><b>SSN Section</b> (If Applicant is a Sole Proprietor)</p> <p><b>Applicant's Social Security Number</b>    _ _ _ - _ - _ - _ - _ - _ -</p>
---

**Disclosure Reporting Pages (OFR-559-103)**

This Disclosure Reporting Form is an  **INITIAL OR**  **AMENDED** response to report details for affirmative responses to **Questions 4A, 4B, 4C, & 4D** on Form OFR-559-103;

**Check question(s) you are responding to:**

**4A**  **4B**  **4C**  **4D**

Use only one DRP to report details to the same event. Unrelated actions must be reported on separate DRPs.

1. Action initiated against:

- Applicant/Registrant
- Control Person

2. Action initiated by: (Name of Regulator, Law Enforcement or Prosecutorial Agency, Creditor/Lien Holder, Private Plaintiff, Applicant/Registrant, etc.)

3. Filing Date of Action (MM/DD/YYYY): \_\_\_\_\_  **Exact**  **Explanation**  
If not exact, provide explanation:

4. Formal Action was brought in (include name of Federal, Military, State or Foreign Court, Location of Court – City or County and State or Country, Docket/Case Number):

5. Employing Business when activity occurred: (If applicable)

6. Describe the allegations related to this action. (Attach a separate sheet if necessary.):

7. Current status of action?  **Pending**  **On Appeal**  **Final**

8. If on appeal, action appealed to (provide name of court): Date Appeal Filed (MM/DD/YYYY):

9. If Pending, date notice/process was served (MM/DD/YYYY): \_\_\_\_\_  
 **Exact**  **Explanation** If not exact, provide explanation:

**If Final or On Appeal, complete items below. For Pending Actions, complete item 12 only.**

10. Provide a detailed explanation of how the matter was resolved (Attach a separate sheet if necessary):

11. Resolution Date (MM/DD/YYYY): \_\_\_\_\_  **Exact**  **Explanation**  
If not exact, provide explanation:

12. Comments. Use this section to provide a summary of the circumstances leading to the action, as well as the status or disposition and/or finding(s).

13. In addition to the information requested in this DRP, provide documentation pertaining to each matter. Such documentation includes but is not limited to, certified copies of criminal convictions or administrative orders entered against the applicant.

**State of Florida**

**Office of Financial Regulation**

**Biographical Summary**

Check the box that indicates what you would like to do:

- Submit an initial biographical summary.**  
 **Submit an amendment to a biographical summary.**

**1. Applicant/Registrant Information**

**A. Business Name of Applicant/Registrant** (Same as Question 1A on page 1 of Application):

Business Name of Applicant/Registrant

**2. Individual Biographical Summary**

**A. Identifying Information**

Provide your Social Security Number below the signature section at the end of this summary.
---

**B. Name**

First Name	Middle Name	Last Name	Suffix	Date of Birth

**C. Surnames and/or Aliases**

First Name	Middle Name	Last Name	Suffix (Sr, Jr, II, or III)

**D. Residential Address**

Number and Street	City, Town, etc.	State	Country	Postal Code

**E. Mailing Address** ( Check box if mailing address the same as residential.)

Number and Street	City, Town, etc.	State	Country	Postal Code

**F. Phone Number**

Residence Telephone Number	Daytime Telephone Number
(   )   -	(   )   -

**G. Residential History** (Start with the current address, give all addresses for last 5 years. Report changes as they occur.)

Number and Street	City, Town, etc.	State/Province	Country	From		To	
				Mo.	Yr.	Mo.	Yr.

**H. Employment History** (Start with current employer, give all employments for the last 5 years. Report changes as they occur.)

Name of Company	City, State/Province	Nature of Business	Position Held	From		To	
				Mo.	Yr.	Mo.	Yr.

**I. Professional Licenses and Certifications**

Type of License/Certification	Name of Licensing Authority/City/State	Date Issued		Status	Status Date	
		Mo.	Yr.		Mo.	Yr.

**K.** Are you presently an officer, director, member, or shareholder of 10% or more of the outstanding stock of any firm, company, corporation, partnership or other business organization other than the applicant or registrant?

Yes  No. If yes, complete the chart below.

Name and Address	State of Incorporation	Type of Business	Position Held

**3. Disclosure Questions** (If you answer “yes” to any question, complete a separate Disclosure Reporting Page (DRP) for each event.)

**A. Criminal Disclosure**

**1)** Have you or any business or enterprise with which you have been associated as an officer, director, representative, member, principal, agent, or shareholder of 10% or more of the outstanding stock ever plead nolo contendere to, been convicted of, or found guilty of, any crime, regardless of adjudication?

Yes  No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.)

**2)** Are there pending charges against you for any felony or any crime involving fraud, dishonesty, breach of trust, money laundering, or any other act of moral turpitude?

Yes  No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.)

**B. Regulatory Action Disclosure**

1) Have you or any business or enterprise with which you have been associated as an officer, director, representative, member, principal, agent, or shareholder of 10% or more of the outstanding stock ever had an application for registration, or a registration or its equivalent, to practice any profession or occupation denied, suspended, revoked, or otherwise acted against by a registering authority in any jurisdiction or been the subject of final agency action or its equivalent, issued by an appropriate regulatory body of engaging in unlicensed/unregistered activity as a within any jurisdiction, or is any such action pending?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

2) Are you or any business or enterprise with which you have been associated as an officer, director, representative, member, principal, agent, or shareholder of 10% or more of the outstanding stock the subject of a pending criminal prosecution or governmental enforcement action, in any jurisdiction?

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

**C. Civil Litigation Disclosure**

Have you or any business or enterprise with which you are now or were at the time associated as an officer, director, member, or holder of 10% or more of the outstanding stock now or during the last five (5) years, been named as a DEFENDANT in any civil litigation where a judgment was awarded against you based on grounds of fraud, embezzlement, misrepresentation, or deceit.

Yes No. (If yes, attach a completed Disclosure Reporting Page (DRP) for each unrelated event.

**4. Signature**

In assuming the position for which this form is being submitted, I am undertaking a commitment to be fully informed as to the affairs of the company with which I will be associated and to exercise my independent judgment with respect to any matters that may come before me.

**Certificate**

I hereby certify that this form, attached addenda, and applicable disclosure reporting pages have been carefully examined by me and that the information is true, correct and complete to the best of my knowledge and belief. I agree and understand that any false or misleading statements or omissions of material fact herein may be cause for the Office to deny my participation in the application for which this summary is submitted.

The individual person or individual person's agent has typed his or her name under this section to attest to the completeness and accuracy of this form. The individual person recognizes that this typed name constitutes, in every way, use or aspect, his or her legally binding signature.

\_\_\_\_\_  
(Date)

\_\_\_\_\_  
(Signature)

**\*SSN Section**  
**Social Security Number** \_ \_ \_ - \_ - \_ - \_ \_ \_

**Disclosure Reporting Pages (Form OFR-559-103)**

This Disclosure Reporting Form is an  **INITIAL OR**  **AMENDED** response to report details for affirmative responses to **Questions 3A, 3B, & 3C** of the biographical summary section on Form OFR-559-103;

**Check question(s) you are responding to:**

**3A(1)**  **3A(2)**  **3B(1)**  **3B(2)**  **3C**

Use only one DRP to report details to the same event. Unrelated actions must be reported on separate DRPs.

1. Action initiated by: (Name of Regulator, Law Enforcement or Prosecutorial Agency, Creditor/Lien Holder, Private Plaintiff, Applicant/Registrant, etc.)

2. Filing Date of Action (MM/DD/YYYY): \_\_\_\_\_  Exact  Explanation  
If not exact, provide explanation:

3. Formal Action was brought in (include name of Federal, Military, State or Foreign Court, Location of Court – City or County and State or Country, Docket/Case Number):

4. Employing Business when activity occurred:  
\_\_\_\_\_

5. Describe the allegations related to this action. (Attach a separate sheet if necessary.):

6. Current status of action?  **Pending**  **On Appeal**  **Final**

7. If on appeal, action appealed to (provide name of court): Date Appeal Filed (MM/DD/YYYY):

8. If Pending, date notice/process was served (MM/DD/YYYY): \_\_\_\_\_  
 **Exact**  **Explanation** If not exact, provide explanation:

**If Final or On Appeal, complete items below. For Pending Actions, complete item 11 only.**

9. Provide a detailed explanation of how the matter was resolved (Attach a separate sheet if necessary):

10. Resolution Date (MM/DD/YYYY): \_\_\_\_\_  **Exact**  **Explanation**  
If not exact, provide explanation:

11. Comments. Use this section to provide a summary of the circumstances leading to the action, as well as the status or disposition and/or finding(s).

12. In addition to the information requested in this DRP, provide documentation relating to the disposition of each matter. Such documentation includes certified copies of criminal convictions or administrative orders entered against you.



## Florida Consumer Collection Practices Act

### COMPLAINT FORM

We welcome hearing from you because your complaint may be the one that alerts us to fraud or an unfair practice in the financial industry that needs to be changed. Often it is only through complaints from concerned and responsible citizens that the Office of Financial Regulation becomes aware of unlawful activity. Your complaint will be analyzed, entered into a database and may help OFR detect a pattern of wrong-doing which may indicate the need for formal investigation or action by OFR to protect the broad public interest.

Under Florida law, OFR is charged with enforcing financial regulations and does not intervene on behalf of individuals or mediate private disputes. If your purpose in filing a complaint is to recover money or property, we suggest that you consider arbitration, mediation or the courts. Private rights of action pursuant to arbitration and civil proceedings may have certain filing timeframes. You should consider consulting legal counsel prior to or concurrent with our review. Private causes of action effectively deter abuses and complement the regulatory actions of OFR as well as other regulatory bodies.

Please Read and Sign: To the best of my recollection, the events described in the following complaint are true. I am filing this complaint to notify OFR of these activities. I understand that a copy of this complaint may be provided to the company against whom I am complaining and that my records within that company may be reviewed by OFR or other agencies which may have jurisdiction in this matter. I declare the following facts are true, correct, and complete. Section 837.06, F.S., states: Whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

Please send completed form to:

Office of Financial Regulation  
Division of Consumer Finance  
Consumer Assistance Group  
200 E. Gaines Street  
Tallahassee, FL 32399-0381  
Tel: (850) 410-9800  
Fax: (850) 410-9300



**IN ADDITION TO YOUR COMPLAINT DETAILS ABOVE, PLEASE IDENTIFY ANY PROHIBITED PRACTICES YOU BELIEVE MAY HAVE BEEN VIOLATED:**

<input type="checkbox"/> The company pretended to be law enforcement or another governmental agency [559.72(1)]	<input type="checkbox"/> The company used or threatened to use force or violence [559.72(2)]	<input type="checkbox"/> The company called me at work/communicated with my employer after being told that I cannot take personal calls [559.72(4)]
<input type="checkbox"/> The company told someone else about my debt [559.72(5)]	<input type="checkbox"/> The company fails to send me written notice of the debt [559.72(6)]	<input type="checkbox"/> Abusive/harassing phone calls (includes repeated calls) [559.72(7)]
<input type="checkbox"/> Use of profane, obscene, vulgar, or willfully abusive language [559.72(8)]	<input type="checkbox"/> The company threatened to have me arrested and/or have my possessions seized and/or to take me to court [559.72(9)]	<input type="checkbox"/> The company impersonated an attorney or law office [559.72(10)]
<input type="checkbox"/> The company fails to identify themselves when they call me [559.72(15)]	<input type="checkbox"/> The company called me between 9 pm to 8 am (in my time zone) [559.72(17)]	<input type="checkbox"/> Other

**STATE OF FLORIDA  
OFFICE OF FINANCIAL REGULATION  
BOND FORM**

BOND NO. \_\_\_\_\_

We, \_\_\_\_\_, of \_\_\_\_\_  
(Name of Commercial Collection Agency)

\_\_\_\_\_ County of \_\_\_\_\_, State of \_\_\_\_\_  
(Street Address)

\_\_\_\_\_, principal and \_\_\_\_\_, a corporation  
(Name of Surety Corporation)

incorporated under the laws of the State of \_\_\_\_\_, and duly licensed to transact a surety business in the State of Florida, are bound to the Financial Services Commission of the State of Florida as Head of the Office of Financial Regulation, and the successors in the office of said Financial Services Commission, for the use and benefit of any credit grantors as obligee, in the sum of fifty thousand dollars (\$50,000), for which payment we bind ourselves and our respective heirs, legal representatives, successors, and assigns, jointly and severally.

Principal is acting as a commercial collection agency as defined in Section 559.543(2), Florida Statutes. Pursuant to Chapter 559, Part V, principal must obtain a bond in the amount of fifty thousand dollars (\$50,000), written by an acceptable surety, conditioned on conformance with Chapter 559, Part V, Florida Statutes, as a commercial collection agency.

The condition of this bond is that principal shall act as a commercial collection agency in compliance with the provisions of Chapter 559, Part V, Florida Statutes, and any promulgated rules that may be issued now or hereafter of the State of Florida, Office of Financial Regulation, or its successors and other lawful orders of the State of Florida, Office of Financial Regulation or its successors, and any amendments to them, for this obligation to be null and void; otherwise it shall remain in full force and effect.

This bond is issued subject to the following expressed conditions:

1. The principal shall file a copy of the original surety bond with the State of Florida, Office of Financial Regulation, 200 E. Gaines Street, Tallahassee, FL 32399-0376, or its successors, upon applying for registration and upon applying for renewal of such registration.

2. The bond may be cancelled by surety by giving thirty (30) days notice in writing to the principal and the State of Florida, Office of Financial Regulation, 200 E. Gaines Street, Tallahassee, FL 32399-0376, or its successors, by United States certified mail and this bond shall be deemed cancelled at the expiration of said thirty (30) days from the service of said notice, the surety remaining liable for all or any parts of obligations covered by this bond which may have accrued by default of the principal prior to the effective date of the cancellation.

3. Subject to the foregoing provisions for termination, this bond shall be deemed to be continuous in form and shall remain in full force and effect and shall run until the date the surety receives notice from principal by United States certified mail that principal is no longer acting as a commercial collection agency, after which liability shall cease except as to any liability incurred or accrued during the period of this bond. Within fourteen (14) days of receipt of notice that principal is no longer acting as a commercial collection agency, surety shall serve a copy of principal's notice to the State of Florida, Office of Financial Regulation, 200 E. Gaines Street, Tallahassee, FL 32399-0376.

4. Every credit grantor damaged as a result of unlawful or fraudulent commercial collection activities of the failure of principal, or any salesperson, agency or representative thereof, to comply with the provisions of Chapter 559, Part V, and the duly promulgated rules that may be issued now or hereafter of the State of Florida, Office of Financial Regulation, or its successors, and other lawful orders of the State of Florida, Office of Financial Regulation, or its successors, and any amendments to them, may bring an action in a proper court on this bond for the amounts of damages sustained as a result of unlawful or fraudulent commercial collection practices or for the failure of principal, or any employee, agent or representative thereof, to comply with the provisions of Chapter 559, Part V, and duly promulgated rules that may be issued now or hereafter of the State of Florida, Office of Financial Regulation, or its successors, and other lawful orders of the State of Florida, Office of Financial Regulation, or its successors, and any amendments to them.

5. The aggregate liability of surety under this bond shall not exceed in any and all cases the sum of \$50,000.

6. In the event principal and surety, or either of them is served with notice of any action brought against principal or surety under this bond, written notice of the filing of such action shall be immediately given by principal or surety, as each is served with notice to the action, to the State of Florida, Office of Financial Regulation, 200 E. Gaines Street, Tallahassee, FL 32399-0376 or its successors, by United States certified mail.

7. THE BOND IS EFFECTIVE THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, \_\_\_\_\_.

IN WITNESS WHEREOF the said principal has caused these presents to be executed by affixing hereto the signature of its duly authorized representative and its corporate seal to be affixed hereto attested by its duly authorized representative, and the said surety has caused these presents to be executed by the signature of its duly authorized representative and its corporate seal to be affixed hereto attested by its duly authorized representative this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ and shall be deemed to be continuous; subject to cancellations as hereinabove provided.

\_\_\_\_\_  
NAME OF WITNESS AS TO PRINCIPAL

(SEAL)

\_\_\_\_\_  
SIGNATURE OF WITNESS AS TO PRINCIPAL

(SEAL)

\_\_\_\_\_  
NAME OF PRINCIPAL

\_\_\_\_\_  
NAME OF DULY AUTHORIZED REPRESENTATIVE OF PRINCIPAL

\_\_\_\_\_  
SIGNATURE OF DULY AUTHORIZED REPRESENTATIVE OF PRINCIPAL

\_\_\_\_\_  
NAME OF SURETY

\_\_\_\_\_  
NAME OF DULY AUTHORIZED REPRESENTATIVE OF SURETY

\_\_\_\_\_  
SIGNATURE OF DULY AUTHORIZED REPRESENTATIVE OF SURETY

**NOTE: SIGNATURE OF PRINCIPAL MUST BE WITNESSED.**

**Office of Financial Regulation  
Division of Consumer Finance  
Disciplinary Guidelines for Consumer Collection Agencies  
Incorporated by Reference in Rule 69V-180.100, F.A.C., Effective: DD/MM/YYYY**

<b>Violation #</b>	<b>Statute</b>	<b>Violation Description Summary</b>	<b>1st Occurrence</b>	<b>2nd Occurrence</b>	<b>3rd &amp; Subsequent Occurrences</b>
(1)	559.5551(1)	Failure to report to the Office a conviction of, or plea of nolo contendere to, regardless of adjudication, a crime or administrative violation that involves fraud, dishonesty, breach of trust, money laundering, or any other act of moral turpitude, in any jurisdiction, by the registrant or any control person within 30 days after the date of conviction, entry of a plea of nolo contendere, or final administrative action.	Fine: C Revocation	N/A	N/A
(2)	559.5551(2)	Failure to report to the Office a conviction of, or plea of nolo contendere to, regardless of adjudication, a felony committed by the registrant or any control person within 30 days after the date of conviction or the date the plea of nolo contendere is entered.	Fine: C Revocation	N/A	N/A
(3)	559.5551(3)	Failure to report a change to the information contained in an initial application form or an amendment to the application within 30 days after the change is effective.	Fine: A Suspension: A	Fine: B Suspension: B	Fine: C Suspension: C
(4)	559.5551(4)	Failure to report to the Office the addition or subtraction of a control person or a change in the form of business organization within 30 days following the change on Form OFR-559-001, Application for Registration as Consumer Collection Agency..	Fine: A Suspension: A	Fine: B Suspension: B	Fine: C Suspension: C
(5)	559.72(1)	Simulate in any manner a law enforcement officer or a representative of any governmental agency.	Fine: A	Fine: B	Fine: C Revocation
(6)	559.72(2)	Use or threaten force or violence.	Fine: B	Fine: C	Fine: C

Fine A = \$1,000 - \$3500; Fine B = \$3,500 - \$7500; Fine C = \$7,500 - \$10,000  
Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days; Suspension D = up to 90 days  
Statutory authority: Section 559.730, Florida Statutes

**Office of Financial Regulation  
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				Revocation	Revocation
(7)	559.72(3)	Tell a debtor who disputes a consumer debt that she or he or any person employing her or him will disclose to another, orally or in writing, directly or indirectly, information affecting the debtor's reputation for credit worthiness without also informing the debtor that the existence of the dispute will also be disclosed.	Fine: A	Fine: B	Fine: C Revocation
(8)	559.72(4)	Communicate or threaten to communicate with a debtor's employer before obtaining final judgment against the debtor.	Fine: A	Fine: B	Fine: C Revocation
(9)	559.72(5)	Disclose to a person other than the debtor or her or his family information affecting the debtor's reputation, whether or not for credit worthiness, with knowledge or reason to know that the other person does not have a legitimate business need for the information or that the information is false.	Fine: A	Fine: B	Fine: C Revocation
(10)	559.72(6)	Disclose information concerning the existence of a debt known to be reasonably disputed by the debtor without disclosing that fact or failed to notify within 30 days the details of the dispute to each person to whom disclosure was made.	Fine: A	Fine: B	Fine: C Revocation
(11)	559.72(7)	Willfully communicate with the debtor or any member of her or his family with such frequency as can reasonably be expected to harass the debtor or her or his family, or willfully engage in other conduct which can reasonably be expected to abuse or harass the debtor or any member of her or his family.	Fine: A	Fine: B	Fine: C Revocation

Fine A = \$1,000 - \$3500; Fine B = \$3,500 - \$7500; Fine C = \$7,500 - \$10,000  
Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days; Suspension D = up to 90 days  
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Division of Consumer Finance  
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(12)	559.72(8)	Use profane, obscene, vulgar, or willfully abusive language in communicating with the debtor or any member of her or his family.	Fine: A	Fine: B	Fine: C Revocation
(13)	559.72(9)	Claim, attempt, or threaten to enforce a debt when such person knows that the debt is not legitimate or assert the existence of some other legal right when such person knows that the right does not exist.	Fine: B	Fine: C Revocation	Fine: C Revocation
(14)	559.72(10)	Use a communication that simulates in any manner legal or judicial process or that gives the appearance of being authorized, issued or approved by a government, governmental agency, or attorney at law, when it is not.	Fine: A	Fine: B	Fine: C Revocation
(15)	559.72(11)	Communicate with a debtor under the guise of an attorney by using the stationery of an attorney or forms or instruments that only attorneys are authorized to prepare.	Fine: B	Fine: C	Fine: C Revocation
(16)	559.72(12)	Orally communicate with a debtor in a manner that gives the false impression or appearance that such person is or is associated with an attorney.	Fine: A	Fine: B	Fine: C Revocation
(17)	559.72(13)	Advertise for sale any debt as a means to enforce payment except under court order or when acting as an assignee for the benefit of a creditor.	Fine: B	Fine: C Revocation	Fine: C Revocation
(18)	559.72(13)	Threaten to advertise for sale any debt as a means to enforce payment except under court order or when acting as an assignee for the benefit of a creditor.	Fine: A	Fine: B	Fine: C Revocation
(19)	559.72(14)	Publish or post, or cause to be published or posted before the general public individual names or any list of names of debtors, commonly known as a deadbeat list, for the purpose of enforcing or attempting to enforce collection	Fine: B	Fine: C Revocation	Fine: C Revocation

Fine A = \$1,000 - \$3500; Fine B = \$3,500 - \$7500; Fine C = \$7,500 - \$10,000  
Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days; Suspension D = up to 90 days  
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		of consumer debts.			
(20)	559.72(14)	Threaten to publish or post before the general public individual names or any list of names of debtors, commonly known as a deadbeat list, for the purpose of enforcing or attempting to enforce collection of consumer debts.	Fine: A	Fine: B	Fine: C Revocation
(21)	559.72(15)	Refuse to provide adequate identification of herself or himself or her or his employer or other entity whom she or he represents if requested to do so by a debtor from whom she or he is collecting or attempting to collect a consumer debt.	Fine: A	Fine: B	Fine: C Revocation
(22)	559.72(16)	Mail any communication to a debtor in an envelope or postcard with words typed, written, or printed on the outside of the envelope or postcard calculated to embarrass the debtor.	Fine: B	Fine: C	Fine: C Revocation
(23)	559.72(17)	Communicate with the debtor between the hours of 9 p.m. and 8 a.m. in the debtor's time zone without the prior consent of the debtor.	Fine: A	Fine: B	Fine: C Revocation
(24)	559.72(18)	Communicate with a debtor if the person knows that the debtor is represented by an attorney with respect to such debt.	Fine: A	Fine: B	Fine: C Revocation
(25)	559.72(19)	Cause a debtor to be charged for communications by concealing the true purpose of the communication.	Fine: A	Fine: B	Fine: C Revocation
(26)	559.725(6)	Failure to provide a written response to a consumer complaint within 45 days of written request.	\$150 per day	\$200 per day	\$250 per day
(27)	559.730(1)(a)	Failure to disburse funds in accordance with agreements.	Fine: A Suspension: A	Fine: B Suspension: B	Fine: C Suspension: C

Fine A = \$1,000 - \$3500; Fine B = \$3,500 - \$7500; Fine C = \$7,500 - \$10,000  
Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days; Suspension D = up to 90 days  
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			Revocation	Revocation	Revocation
(28)	559.730(1)(b)	Fraud, misrepresentation, deceit, negligence, or incompetence in a collection transaction.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
(29)	559.730(1)(c)	Commission of fraud, misrepresentation, concealment, or dishonest dealing by trick, scheme, or device; culpable negligence; breach of trust in a business transaction in any state, nation, or territory; or aiding, assisting, or conspiring with another person engaged in such misconduct and in furtherance thereof.	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation	Fine: C Suspension: C Revocation
(30)	559.730(1)(d)	Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, a felony or crime involving fraud, dishonesty, breach of trust, money laundering, or act of moral turpitude.	Refer to rule: 69V-180.032	Refer to rule: 69V-180.032	Refer to rule: 69V-180.032
(31)	559.730(1)(e)	Having a final judgment entered against the registrant in a civil action upon grounds of fraud, embezzlement, misrepresentation, or deceit.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(32)	559.730(1)(f)	Being the subject of a decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or administrative order by a court of competent jurisdiction or an administrative law judge, or by a state or federal agency, involving a violation of a federal or state law relating to debt collection or a rule or regulation adopted under such law.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation

Fine A = \$1,000 - \$3500; Fine B = \$3,500 - \$7500; Fine C = \$7,500 - \$10,000  
Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days; Suspension D = up to 90 days  
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(33)	559.730(1)(g)	Having a license or registration, or the equivalent, to practice a profession or occupation denied, suspended, or revoked, or otherwise acted against, including the denial of a registration or license by a registration or licensing authority of this state or another state, territory, or country.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(34)	559.730(1)(h)	Acting as a consumer collection agency without a current registration issued under this part.	\$1,000 per day	\$1,000 per day	\$1,000 per day
(35)	559.730(1)(i)	A material misstatement or omission of fact on an initial or amended registration application.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(36)	559.730(1)(j)	Payment to the office for a registration or permit with a check or electronic transmission of funds, which is dishonored by the applicant's or registrant's financial institution.	Fine: A Suspension: D Revocation	Fine: B Suspension: D Revocation	Fine: C Suspension: D Revocation
(37)	559.730(1)(k)	Failure to comply with, or a violation of, any provision of this part, or any rule or order made or issued pursuant to this part.	Fine: A Suspension: A Revocation	Fine: B Suspension: B Revocation	Fine: C Suspension: C Revocation
(38)	559.730(1)(l)	Failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by this part and the rules of the commission.	Fine: A Suspension: D Revocation	Fine: B Suspension: D Revocation	Fine: C Suspension: D Revocation
(39)	559.730(1)(m)	Refusal to permit an investigation or examination of books and records, or refusal to comply with an office subpoena or subpoena duces tecum.	Fine: B Suspension: B Revocation	Fine: C Revocation	Revocation
(40)	559.730(1)(n)	Failure to timely pay a fee, charge, or fine imposed or assessed pursuant to this part and the rules of the	Fine: A	Fine: B	Fine: C

Fine A = \$1,000 - \$3500; Fine B = \$3,500 - \$7500; Fine C = \$7,500 - \$10,000  
Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days; Suspension D = up to 90 days  
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		commission.	Suspension: A Revocation	Suspension: B Revocation	Suspension: C Revocation
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Fine A = \$1,000 - \$3500; Fine B = \$3,500 - \$7500; Fine C = \$7,500 - \$10,000  
 Suspension A = 3 to 10 days; Suspension B = 10 to 20 days; Suspension C = 20 to 30 days; Suspension D = up to 90 days  
 Statutory authority: Section 559.730, Florida Statutes

# ATTACHMENT 3

**FINANCIAL SERVICES COMMISSION  
OFFICE OF FINANCIAL REGULATION  
AGENDA ITEM #3: REQUEST APPROVAL TO PUBLISH NOTICES OF PROPOSED RULE**

**Action Requested**

The Office requests approval to publish Notices of Proposed Rule to create three new rules in Chapter 69W-600, F.A.C., the chapter relating to registration of securities dealers, investment advisors, and associated persons. The new rules will specifically relate to crowdfunding issuers and intermediaries.

**Rule 69W-600.0018, F.A.C. (Notice-Filing and Requirements for Florida Intrastate Crowdfunding Issuers):**

Proposed rule 69W-600.0018 provides requirements for the notice-filing process, maintenance of the notice-filing, and termination of the notice-filing for issuers of crowdfunding securities.

**Rule 69W-600.0019, F.A.C. (Registration of Florida Intrastate Crowdfunding Intermediaries):**

Proposed rule 69W-600.0019 provides requirements for the application process, maintenance of the registration, and termination of the registration for crowdfunding intermediaries.

**Rule 69W-600.00145, F.A.C. (Requirements for Florida Intrastate Crowdfunding Intermediaries):**

Proposed rule 69W-600.0145 provides measures that intermediaries are required to take to reduce the risk of fraud with respect to transactions involving crowdfunding securities. The rule provides books and records maintenance and preservation requirements for intermediaries. Additionally, the rule provides for documentation that the intermediary must obtain from investors to affirm residency, and provides for confirmation of the documentation by the intermediary from an independent source.

**Proposed text of rules**

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69W-600.0018 Notice-Filing and Requirements for Florida Intrastate Crowdfunding Issuers.

(1) Notice-filing.

(a) An issuer of securities under the Florida Intrastate Crowdfunding Exemption, Section 517.0611, F.S., shall file the Notice of Crowdfunding Issuer Offering (Form FL-CI) electronically on the Office of Financial Regulation (Office)'s website at <https://real.flofr.com> through the Regulatory Enforcement and Licensing (REAL) System. The notice-filing shall include all information required by such form and payment of the statutory fees required by Section 517.0611(5), F.S. The notice-filing shall be deemed received on the date the Office issues a confirmation of submission and payment to the issuer via the Office's website.

(b) A notice-filing shall include the following:

1. Form FL-CI (10/15). A sample form is hereby incorporated by reference and available at <http://www.flrules.org/> / or <http://www.flofr.com/> /. The accompanying instructions to Form FL-CI, which define certain terms in Section 517.0611, F.S., are hereby incorporated by reference as part of this rule.

2. Documentation required to be uploaded in PDF form to the REAL System as part of the notice-filing, including:

a. Verification of the issuer's organization under the laws of Florida, pursuant to Section 517.0611(5)(g), F.S.;

b. A copy of the issuer's escrow agreement with a financial institution, pursuant to Section 517.0611(8), F.S.; and

c. A copy of the issuer's disclosure statement, pursuant to Section 517.0611(7), F.S.

2. Statutory fee in the amount required by Section 517.0611(5), F.S.

(2) Amendment of notice-filing. If the information contained in the Form FL-CI becomes inaccurate for any reason, the issuer shall amend the information by filing an amended Form FL-CI with the Office within thirty (30) days of the change. Issuers shall amend information by filing the Form FL-CI electronically with the Office through the REAL System. Failure to file amendments shall be considered a violation of Section 517.0611(6), F.S.

(3) Termination of notice-filing. Where an issuer cancels or terminates its notice-filing for any reason, notice of such fact shall be filed electronically with the Office on the Form FL-CI through the REAL System within thirty (30) calendar days of the date of cancellation or termination.

(4) Financial statements. For purposes of subsections 517.0611(7)(h)2. and 3., F.S.:

(a) Financial statements must be reviewed in accordance with United States generally accepted auditing standards; and

(b) Certified public accountants who prepare or review an issuer's financial statements must meet the standards of independence described in Rule 2-01(b) and (c) of Regulation S-X (17 C.F.R. §210.2-01(b) and (c)), which is incorporated by reference in Rule 69W-200.002, F.A.C.

(5) Disclosure statement. Certain terms used in Section 517.0611(7), F.S., regarding the disclosure statement required to be provided by the issuer, are defined in Preparing a Disclosure Statement for a Florida Intrastate Crowdfunding Offering Pursuant to Section 517.0611, Florida Statutes (Supplement CI). Supplement CI is hereby incorporated by reference as part of this rule and is available at <http://www.flrules.org/> / or <http://www.flofr.com/> /.

*Rulemaking Authority 517.03(1), 517.1611 FS. Law Implemented 517.1611 FS. History—New*

69W-600.0019 Registration of Florida Intrastate Crowdfunding Intermediaries.

(1) New Applications.

(a) Applicants for initial registration of intermediaries shall file the Application for Crowdfunding Intermediary Registration (Form FL-INT) electronically on the Office of Financial Regulation's website at <https://real.flofr.com> through the Regulatory Enforcement and Licensing (REAL) System. The application shall include all information required by such form, any other information the Office may require, and payment of the statutory fees required by Section 517.12(20), F.S. The application shall be deemed received on the date the Office issues a confirmation to the applicant of submission and payment via the Office's website. Every application or amendment filed pursuant to this rule shall constitute a "written application" within the meaning of Section 517.12(20), F.S.

(b) An application shall include the following:

1. Form FL-INT (10/15) A sample form is hereby incorporated by reference and available at <http://www.flrules.org/> / or <http://www.flofr.com/> /. The accompanying instructions to Form FL-INT, which define certain terms in Section 517.12(20), F.S., are hereby incorporated by reference as part of this rule;

2. Statutory fee in the amount required by Section 517.12(20), F.S.;

3. Documentation required to be uploaded in PDF form to the REAL System as part of the application, including a copy of the applicant's articles of incorporation, if a corporation or limited liability company, or partnership agreement, if a partnership, pursuant to Section 517.12(20)(a)2., F.S.;

4. Any direct or indirect owner or principal required to be reported on the Form FL-INT shall comply with the fingerprinting requirements as set forth in paragraph (4) of this rule, pursuant to Section 517.12(20)(b), F.S.

(2) Request for Additional Information. All information required by paragraph (1) of this rule shall be submitted with the original application filing. Any request for additional documents or information shall be made by the Office within thirty (30) days after

receipt of the application. The Office may require documentation to be certified by its issuer based upon the Office's review of the nature and substance of the disciplinary history of the applicant and any officer, director, or ultimate owner in the case of a corporation or association, and any partner, co-partner, or member of the partnership in the case of a partnership. For purposes of this rule, "certified" means that there must be an original certification or attestation by the issuer of the record that the document is a true copy of a record contained in its office and its seal, if any. Additional information shall be submitted directly with the Office within sixty (60) days after a request has been made by the Office. Failure to respond to such request within sixty (60) days after the date of the request may be construed by the Office as grounds for denial of an application in accordance with the provisions of Section 120.60(1), F.S.

(3) Amendment of Application. Pursuant to Section 517.12(2)(c), F.S. if the information contained in any application for registration as an intermediary or in any amendment thereto, becomes inaccurate for any reason, the intermediary shall file an amendment on the Form FL-INT, correcting such information within 30 days. Applicants and registrants shall file such amendments directly with the Office electronically through the REAL System. Requests to make changes which are material to the application or to the Office's evaluation of the application filed at any time after the application has been received may be deemed by the Office to be grounds for denial, and a new application, accompanied by the appropriate filing fee, may be required.

(4) Fingerprint Requirements. Fingerprints filed in accordance with Section 517.12(20), F.S., shall be submitted to the Office through a live scan vendor approved by the Florida Department of Law Enforcement (FDLE) and published on FDLE's website for submission to FDLE and the Federal Bureau of Investigation (FBI) for a state criminal background check and a federal criminal background check. The cost of fingerprint processing shall be borne by the applicant and paid directly to the live scan vendor.

(5) Annual Renewal Requirements.

(a) Each intermediary renewing its registration shall pay all renewal fees as required by Section 517.12(20)(e), F.S. Renewal fees for intermediaries shall be filed electronically on the Office's website at <https://real.flofr.com> through the REAL System and shall be deemed received on the date the Office issues a confirmation of submission and payment to the applicant via the Office's website. All renewal fees must be received by the Office by December 31 of the year the registration expires.

(b) Failure to submit the requisite amount of fees as provided for in paragraph (5)(a) by December 31 of the year of expiration of the registration shall result in the intermediary's registration not being renewed. If December 31 falls on a Saturday, Sunday or legal holiday pursuant to Section 110.117, F.S., the renewals received on the next business day shall be considered timely received. However, an expired registration may be reinstated in accordance with Section 517.12(20)(e), F.S., provided that all requisite information and fees are filed electronically on the Office's website at [www.flofr.com](http://www.flofr.com) through the REAL System on or before January 31 of the year following the year of expiration. Failure to submit the requisite amount of fees necessary to reinstate registration by January 31 of the year following the year of expiration shall result in such registration not being reinstated. If January 31 falls on a Saturday, Sunday, or legal holiday pursuant to Section 110.117, F.S., the reinstatement received on the next business day shall be considered timely received. If the renewal or reinstatement is withdrawn or not granted, any fees filed to renew or reinstate registration or notice-filing shall be deposited into the Regulatory Trust Fund of the office and shall not be returnable.

(6) Termination of Registration as Intermediary.

(a) Where a registrant withdraws, cancels, or otherwise terminates registration, or is terminated for any reason, notice of such fact shall be electronically filed with the Office through the REAL System using the Form FL-INT within thirty (30) calendar days of the date of termination.

(b) The Office may deny any request to terminate or withdraw any application or registration as provided under Section 517.161(5), F.S.

(7) Notice of Civil, Criminal or Administrative Action. An intermediary shall:

(a) Notify the Office within thirty (30) calendar days of the date a complaint is served, of any civil, criminal or administrative charges filed against the firm or owner which directly or indirectly relate to the registration or sale of securities, or which directly or indirectly relate to the activities as a dealer, investment adviser, principal or agent, or any other activity where a breach of a fiduciary trust is alleged. This shall not include minor traffic violations; but shall include any notification of investigation by any recognized regulatory agency;

(b) Notify the Office within thirty (30) calendar days of the date filed, any answer or reply to any complaint filed as outlined in paragraph (7)(a);

(c) Notify the Office within thirty (30) calendar days of the date of decision, order, or sanction rendered, or any appeal filed with respect to such decision with regard to any complaint outlined in paragraph (10)(a).

(d) File with the Office one (1) copy of such complaint, answer or reply, decision, order, or sanction at the time of notification in accordance with paragraphs (7)(a), (7)(b), and (7)(c). An intermediary shall file such notifications with the Office through the REAL System in accordance with this rule.

Rulemaking Authority 517.03(1), 517.12(20), 517.1611 FS. Law Implemented 517.12(20), 517.1611 FS. History--New \_\_\_\_\_.

69W-600.00145 Requirements for Florida Intrastate Crowdfunding Intermediaries.

(1) Requirements of intermediaries to reduce risk of fraud. Pursuant to Section 517.0611(13)(a), F.S., an intermediary must take measures to reduce the risk of fraud with respect to transactions. Such measures include denying or removing an issuer's access to the intermediary's platform if:

(a) The issuer fails to either provide the intermediary, or to potential investors through the intermediary's platform, the disclosure statement required under Section 517.0611(7), F.S.;

(b) The issuer fails to have an escrow agreement with a financial institution as required under Subsections 517.0611(4)(f) and (8), F.S., in order for the intermediary to comply with its duties under Subsections 517.0611(13)(f) and (g) and (15), F.S.;

(c) The intermediary has knowledge that the issuer is disqualified from conducting an offering under Section 517.0611, F.S., pursuant to Subsection 517.0611(4)(a), (c), (d), or (e), F.S.; or

(d) The intermediary has knowledge that the issuer has made material false statements or material omissions to investors or potential investors through the intermediary's platform.

(2) Books and records requirements.

(a) Generally. An intermediary shall make and preserve the following records for five years, the first two years in an easily accessible place:

1. All records related to an investor who purchases or attempts to purchase securities through the intermediary;

2. All records related to issuers who offer and sell or attempt to offer and sell securities through the intermediary and the control persons of such issuers;

3. Records of all communications that occur on or through its platform;

4. All records related to persons that use communication channels provided by the intermediary to promote an issuer's securities or communicate with potential investors;

5. All records required to demonstrate compliance with the requirements of this rule;

6. All notices provided by the intermediary to issuers and investors generally through the intermediary's platform or otherwise, including, but not limited to, notices addressing hours of the intermediary's operations (if any), intermediary malfunctions, changes to intermediary procedures, maintenance of hardware and software, instructions pertaining to access to the intermediary's platform and denials of, or limitations on, access to the intermediary's platform;

7. All written agreements (or copies thereof) entered into by the intermediary relating to its business as such;

8. All daily, monthly and quarterly summaries of transactions effected through the intermediary's platform, including:

a. Issuers for which the target offering amount has been reached and funds distributed; and

b. Transaction volume, expressed in: number of transactions; number of securities involved in a transaction; total amounts raised by, and distributed to, issuers; and total dollar amounts raised across all issuers, expressed in U.S. dollars; and

9. A log reflecting the progress of each issuer who offers or sells securities through the intermediary's platform toward meeting the target offering amount.

(b) Organizational Documents. An intermediary shall make and preserve during the operation of the intermediary and of any successor intermediary, all organizational documents relating to the intermediary, including but not limited to, partnership agreements, articles of incorporation or charter, minute books and stock certificate books (or other similar type documents).

(c) Format. The records required to be maintained and preserved pursuant to subparagraph (9)(a) of this rule must be produced, reproduced, and maintained in the original, non-alterable format in which they were created.

(d) Third Parties. The records required to be made and preserved pursuant to this section may be prepared or maintained by a third party on behalf of an intermediary. An agreement with an intermediary shall not relieve an intermediary from the responsibility to prepare and maintain records as specified in this rule.

(e) Review of Records. All records of an intermediary are subject at any time, or from time to time, to reasonable periodic, special, or other examination by the representatives of the Office.

(f) Financial Recordkeeping and Reporting of Currency and Foreign Transactions. Every intermediary, as it is subject to the requirements of the Currency and Foreign Transactions Reporting Act of 1970 (15 U.S.C. 5311 et seq.), shall comply with the reporting, recordkeeping and record retention requirements of 31 CFR chapter X. Where 31 CFR chapter X and §§ 227.404(a) and 404(b) require the same records or reports to be preserved for different periods of time, such records or reports shall be preserved for the longer period of time.

(3) Additional forms of identification; verification of investors. An intermediary shall obtain evidence of residency within Florida from each investor before the purchase of a security. An affirmative representation made by a prospective investor that the prospective investor is a Florida resident and proof of at least one of the following would be considered sufficient evidence that the individual is a resident of this state:

(a) A valid Florida driver license or official personal identification card issued by the State of Florida;

(b) A current Florida voter registration; or

(c) General property tax records showing the individual owns and occupies property in this state as his or her principal residence. The intermediary shall verify the evidence of residency through an independent or governmental source. A record of the method used to verify Florida residency is required to be maintained by the intermediary.

Rulemaking Authority 517.03(1), 517.121, 517.1611 FS. Law Implemented 517.121, 517.1611 FS. History–New

# ATTACHMENT 4



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# State of Florida Financial Services Commission

Drew J. Breakspear  
Commissioner  
August 5, 2015



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## Mission Statement

**To protect the citizens of Florida, promote a safe and sound financial marketplace, and contribute to the growth of Florida's economy with smart, efficient and effective regulation of the financial services industry.**



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# Smart, Efficient and Effective Regulation

**Employees:** 360

**Budget:** \$38.0 million

**Registrants:** 409,348





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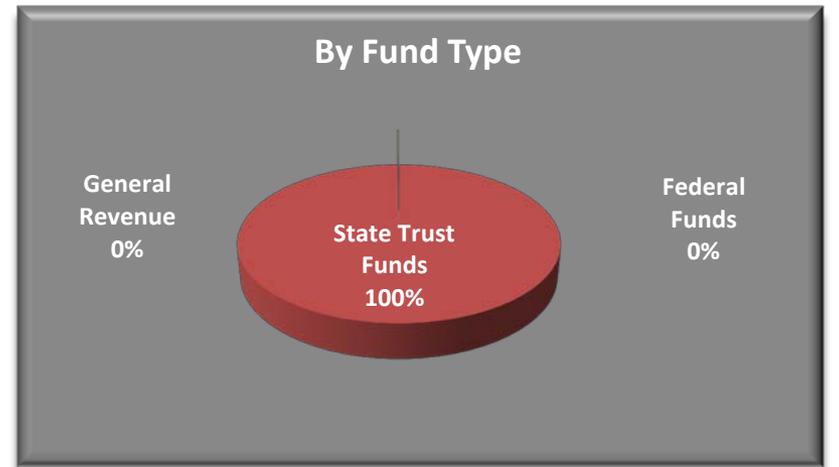
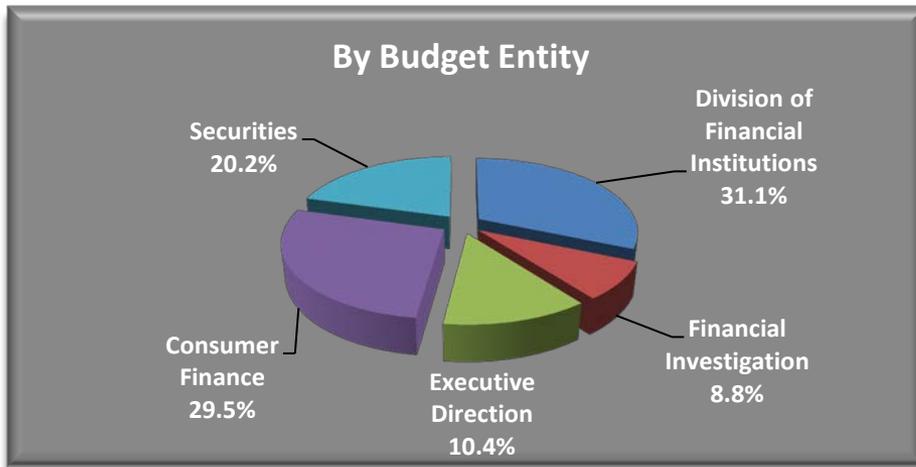
# OFR Operational Units

- Division of Financial Institutions
- Division of Securities
- Division of Consumer Finance
- Bureau of Financial Investigations
- Executive Direction



# Fiscal Year 2015-16 Base Budget Review – Agency Summary

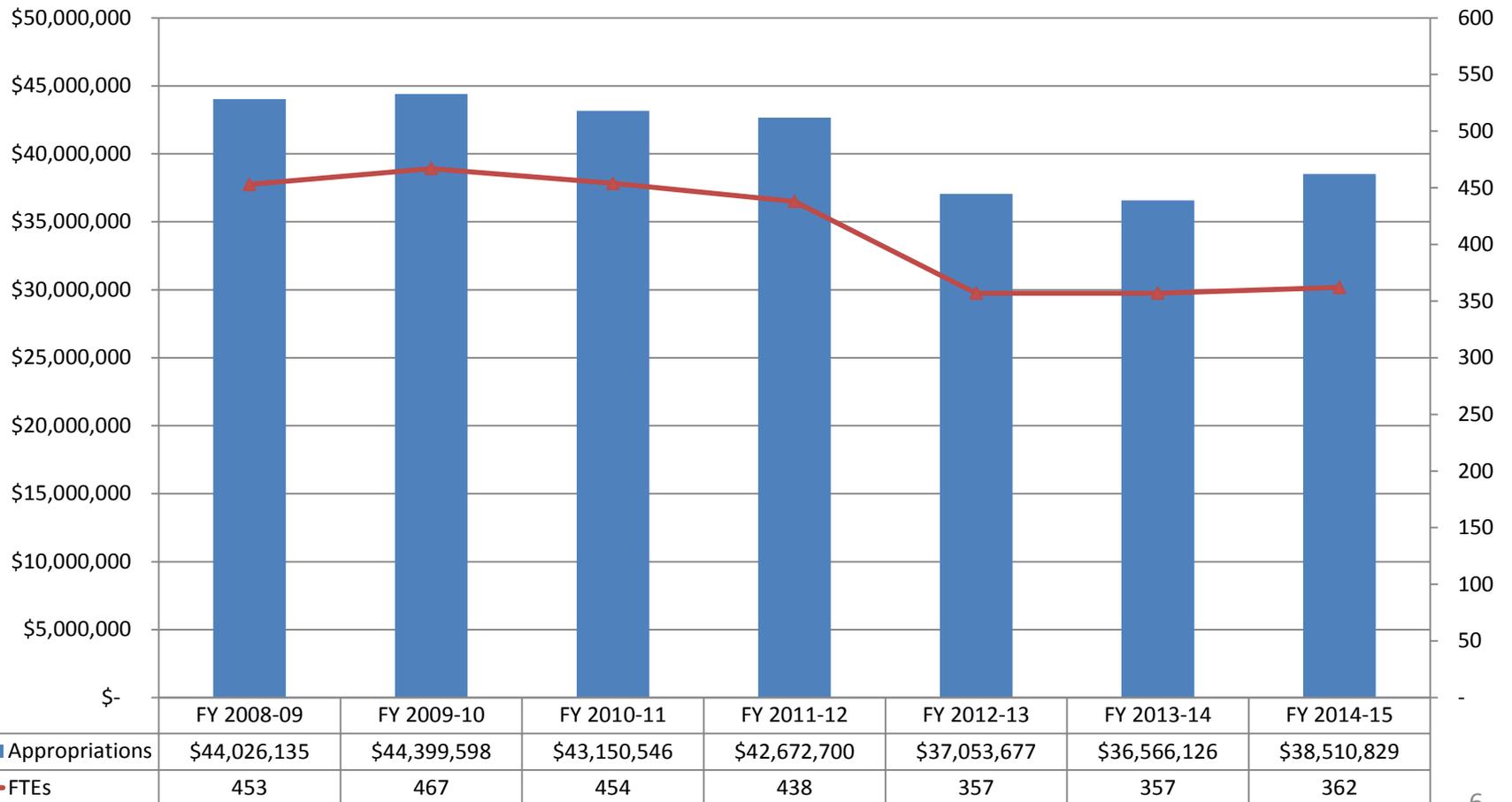
Program	FTE	General Revenue	State Trust Funds	Federal Funds	Total
Division of Financial Institutions	113.00	\$ -	\$ 11,807,253	\$ -	\$ 11,807,253
Division of Securities	95.00	\$ -	\$ 7,668,908	\$ -	\$ 7,668,908
Division of Consumer Finance	98.00	\$ -	\$ 11,197,283	\$ -	\$ 11,197,283
Bureau of Financial Investigation	39.00	\$ -	\$ 3,300,239	\$ 51,758	\$ 3,351,997
Executive Direction and Support Services	15.00	\$ -	\$ 3,928,301	\$ -	\$ 3,928,301
<b>Total</b>	<b>360.00</b>	<b>\$ -</b>	<b>\$ 37,901,984</b>	<b>\$ 51,758</b>	<b>\$ 37,953,742</b>





# Historical Perspective

## Fiscal Years 2008-09 to 2014-15





# Fiscal Year 2016-17 Legislative Budget Request

Program Name	Budget Request	General Revenue	State Trust Funds	Federal Funds	Total All Funds
<b>Division of Financial Institutions</b>	Request Funding for 7 FTEs to establish an IT Examinations Unit	\$0	\$705,000	\$0	\$705,000
<b>Executive Direction</b>	Request Funding for Re-Procurement of the Operations and Maintenance Vendor for the Office's Regulation, Enforcement, And Licensing (REAL) System. PLACEHOLDER	\$0	\$1	\$0	\$1
	Request Funding for Update of the Portal into Office's Regulation, Enforcement, And Licensing (REAL) System. PLACEHOLDER	\$0	\$1	\$0	\$1
	Request Funding for Migrating the Division of Financial Institutions into the Office's Regulation, Enforcement, And Licensing (REAL) System. PLACEHOLDER	\$0	\$1	\$0	\$1
<b>Division of Securities</b>	Request Funding OPS Staff for Crowdfunding Initiative	\$0	\$100,000	\$0	\$100,000



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## Contact Information:

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