A bill to be entitled

An act relating to unauthorized aliens; creating s. 17.72, F.S.; prohibiting the Department of Financial Services from issuing a license or certification to unauthorized aliens; requiring the department to adopt rules; amending s. 125.0167, F.S.; authorizing a county to require a borrower to provide proof of being lawfully present in the United States; creating s. 284.52, F.S.; providing definitions; authorizing the Division of Risk Management to approve or deny claims relating to a minor who is an unauthorized alien; prohibiting the division from approving any claim submitted by an adult who is an authorized alien or fails to provide lawful documentation of citizenship; amending s. 322.53, F.S.; requiring certain procedures, instruction, and testing to be conducted in English; prohibiting alternate language accommodations; creating s. 420.56, F.S.; providing definitions; prohibiting certain entities and corporations from providing down payment assistance to unauthorized aliens; requiring an unauthorized alien to repay such down payment assistance if received; authorizing certain entities and corporations to initiate foreclosure proceedings under certain circumstances; amending s. 420.5088, F.S.; providing

that the Florida Homeownership Assistance Program is to assist certain persons who are lawfully present in the United States; amending s. 420.5096, F.S.; providing that the Florida Hometown Hero Program is to assist certain persons who are lawfully present in the United States; amending s. 440.02, F.S.; revising the definition of the term "employee"; amending s. 440.10, F.S.; conforming a provision to changes made by the act; creating s. 440.1001, F.S.; defining the term "unauthorized alien"; providing that an employer who hires or employs an unauthorized alien is personally liable for any medical and treatment costs resulting from an injury to such person; prohibiting an employer from transferring or shifting financial responsibility for such injury to others; providing penalties; requiring the Department of Financial Services to transfer reported violations to appropriate licensing authorities; creating s. 440.1002, F.S.; defining the term "E-Verify system"; requiring an employer to verify an employee's employment eligibility before submitting a workers' compensation claim; requiring employers to retain and provide to the Department of Financial Services upon request certain documentation and verification; providing construction; authorizing the department to adopt rules; amending s. 448.09,

F.S.; providing penalties for an employer who knowingly employs, hires, recruits, or refers an unauthorized alien; requiring fines collected to be deposited into the State Economic Enhancement and Development Trust Fund; providing a civil cause of action; amending s. 448.095, F.S.; authorizing the Department of Financial Services to request certain verification of an employee's employment eligibility; amending s. 560.208, F.S.; requiring a licensee to verify a person's citizenship status before initiating a foreign remittance transfer; defining the term "foreign remittance transfer"; requiring the Financial Services Commission to adopt certain rules; requiring licensees to submit certain forms to the commission within a specified time period; providing a penalty; requiring a licensee to submit such penalty to the commission within a specified time period; requiring the commission to deposit penalties collected into the Regulatory Trust Fund; providing construction; amending s. 560.211, F.S.; requiring licensees to make, keep, and preserve certain documentation used to verify a sender of a foreign remittance transfer is not an unauthorized alien; creating s. 560.2115, F.S.; defining the terms "foreign remittance transfer" and "unauthorized alien"; authorizing the Office of

Financial Regulation of the commission to request records of certain documentation; authorizing a person to file a complaint with the office; requiring the office to notify a licensee upon a substantiated complaint; requiring the office to conduct random quarterly audits beginning on a specified date; providing for the suspension of licenses under certain circumstances; amending s. 560.310, F.S.; prohibiting certain forms of personal identification for certain corporate payment instruments; creating s. 627.7408, F.S.; defining the terms "invalid out-of-state driver license" and "unauthorized out-of-state driver"; creating a rebuttable presumption of fault against unauthorized out-of-state drivers involved in motor vehicle accidents; providing an exception; providing for the rebuttal of the presumption upon the showing of clear and convincing evidence; requiring law enforcement officers to note the presence of a presumption on a crash report form and notify the Department of Highway Safety and Motor Vehicles within a specified timeframe; requiring insurers to apply the presumption when processing claims; prohibiting insurers from paying or settling claims with unauthorized out-of-state drivers; requiring insurers to notify the Office of Insurance Regulation within a

specified timeframe under certain circumstances; providing administrative penalties; authorizing a private cause of action under certain circumstances; providing for attorney fees and costs; requiring the Department of Highway Safety and Motor Vehicles and the Office of Insurance Regulation to adopt certain rules; providing applicability and construction; creating s. 655.98, F.S.; prohibiting a state-chartered financial institution from accepting certain forms of personal identification; requiring the Office of Financial Regulation to adopt certain rules; providing a directive to the Division of Law Revision; providing an effective date.

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

Section 1. Section 17.72, Florida Statutes, is created to read:

17.72 Prohibition on licensing and certification of unauthorized aliens.—

(1) The department may not issue a license or certification to any person who is an unauthorized alien as defined in s. 908.111(1).

(2) The department shall adopt rules to establish criteria for verifying compliance with subsection (1) before issuing any

license or certificate.

Section 2. Paragraph (c) of subsection (5) of section 125.0167, Florida Statutes, is amended to read:

125.0167 Discretionary surtax on documents; adoption; application of revenue.—

(5)

(c) A county may not impose any requirement as a condition to receiving any financial assistance on a borrower other than requiring proof that the borrower is lawfully present in the United States and that the borrower's income does not exceed 140 percent of the area median income. In addition to the income eligibility requirement, borrowers may only be subject to loan qualifications of lenders licensed to provide mortgage financing as to the amount of the loan. A county may not create requirements that restrict participation by eligible borrowers.

Section 3. Section 284.52, Florida Statutes, is created to read:

284.52 Denial of claims.—

(1) As used in this section, the term:

(a) "Adult" has the same meaning as in s. 847.001.

(b) "Minor" has the same meaning as in s. 847.001.

(c) "Unauthorized alien" has the same meaning as in s. 908.111(1).

(2) The Division of Risk Management may approve or deny claims relating to an unauthorized alien who is a minor;

however, the division may not approve a claim submitted by an unauthorized alien who is an adult or by a person who fails to provide lawful documentation of citizenship to the division as required by state and federal law.

Section 4. Subsection (5) of section 322.53, Florida Statutes, is renumbered as subsection (6), and a new subsection (5) is added to that section, to read:

322.53 License required; exemptions.—

(5) All licensing procedures, prelicensing instruction, and licensing testing under this chapter must be conducted in English. The use of interpreters, translators, translations, or alternate language accommodations are prohibited.

Section 5. Section 420.56, Florida Statutes, is created to read:

420.56 Down payment assistance for unauthorized aliens prohibited.—

(1) As used in this section, the term:

(a) "Down payment assistance" includes, but is not limited to, grants to assist a person in the purchase of a residential property which takes the form of a loan or a silent second mortgage.

(b) "Silent second mortgage" means a second mortgage used to secure funds for a down payment for a residential property which is not disclosed to the original mortgage lender before closing occurs.

(c) "Unauthorized alien" has the same meaning as in s. 908.111(1).

(2) State and local governmental entities, the corporation, and private corporations, including nonprofit organizations incorporated under chapter 617, participating in down payment assistance programs or silent second mortgage programs may not provide any form of down payment assistance to a person who is an unauthorized alien.

(3) If an unauthorized alien is discovered to have received down payment assistance from a state or local governmental entity, the corporation, or a private corporation, the unauthorized alien must immediately repay the down payment assistance to the appropriate entity or corporation. If the unauthorized alien does not repay the down payment assistance, the state or local governmental entity, the corporation, or the private corporation must initiate foreclosure proceedings under chapter 702 against the unauthorized alien.

Section 6. Section 420.5088, Florida Statutes, is amended to read:

420.5088 Florida Homeownership Assistance Program. ~~There is created~~ The Florida Homeownership Assistance Program is created for the purpose of assisting low-income and moderate-income persons who are lawfully present in the United States in purchasing a home as their primary residence by reducing the cost of the home with below-market construction financing, by

reducing the amount of down payment and closing costs paid by the borrower to a maximum of 5 percent of the purchase price, or by reducing the monthly payment to an affordable amount for the borrower ~~purchaser~~. Loans must ~~shall~~ be made available at an interest rate that does not exceed 3 percent. The balance of any loan is due at closing if the property is sold, refinanced, rented, or transferred, unless otherwise approved by the corporation.

(1) For loans made available pursuant to s. 420.507(23)(a)1. or 2.:

(a) The corporation may underwrite and make those mortgage loans through the program to persons or families who are lawfully present in the United States and have incomes that do not exceed 120 percent of the state or local median income, whichever is greater, adjusted for family size.

(b) Loans must ~~shall~~ be made available for the term of the first mortgage.

(c) Loans may not exceed the lesser of 35 percent of the purchase price of the home or the amount necessary to enable the borrower ~~purchaser~~ to meet credit underwriting criteria.

(2) For loans made pursuant to s. 420.507(23)(a)3.:

(a) Availability is limited to nonprofit sponsors or developers who are selected for program participation pursuant to this subsection.

(b) Preference must be given to community-based

organizations as defined in s. 420.503.

(c) Priority must be given to projects that have received state assistance in funding project predevelopment costs.

(d) The benefits of making such loans must ~~shall~~ be contractually provided to the persons or families purchasing homes financed under this subsection.

(e) At least 30 percent of the units in a project financed pursuant to this subsection must be sold to persons or families who are lawfully present in the United States and who have incomes that do not exceed 80 percent of the state or local median income, whichever amount is greater, adjusted for family size; and at least another 30 percent of the units in a project financed pursuant to this subsection must be sold to persons or families who are lawfully present in the United States and who have incomes that do not exceed 65 percent of the state or local median income, whichever amount is greater, adjusted for family size.

(f) The maximum loan amount may not exceed 33 percent of the total project cost.

(g) A person who is lawfully present in the United States and purchases a home in a project financed under this subsection is eligible for a loan authorized by s. 420.507(23)(a)1. or 2. in an aggregate amount not exceeding the construction loan made pursuant to this subsection. The home purchaser must meet all the requirements for loan recipients established pursuant to the

applicable loan program.

(h) The corporation shall provide, by rule, for the establishment of a review committee composed of corporation staff and shall establish, by rule, a scoring system for evaluating and ranking applications submitted for construction loans under this subsection, including, but not limited to, the following criteria:

1. The affordability of the housing proposed to be built.

2. The direct benefits of the assistance to the persons who will reside in the proposed housing.

3. The demonstrated capacity of the applicant to carry out the proposal, including the experience of the development team.

4. The economic feasibility of the proposal.

5. The extent to which the applicant demonstrates potential cost savings by combining the benefits of different governmental programs and private initiatives, including the local government contributions and local government comprehensive planning and activities that promote affordable housing.

6. The use of the least amount of program loan funds compared to overall project cost.

7. The provision of homeownership counseling.

8. The applicant's agreement to exceed the requirements of paragraph (e).

9. The commitment of first mortgage financing for the

balance of the construction loan and for the permanent loans to the purchasers of the housing.

10. The applicant's ability to proceed with construction.

11. The targeting objectives of the corporation which will ensure an equitable distribution of loans between rural and urban areas.

12. The extent to which the proposal will further the purposes of this program.

(i) The corporation may reject any and all applications.

(j) The review committee established by corporation rule pursuant to this subsection shall make recommendations to the corporation board regarding program participation under this subsection. The corporation board shall make the final ranking for participation based on the scores received in the ranking, further review of the applications, and the recommendations of the review committee. The corporation board shall approve or reject applicants for loans and shall determine the tentative loan amount available to each program participant. The final loan amount shall be determined pursuant to rule adopted under s. 420.507(23)(h).

(3) The corporation shall publish a notice of fund availability in a publication of general circulation throughout this ~~the~~ state at least 60 days before ~~prior to~~ the anticipated availability of funds.

(4) ~~There is authorized to be established by~~ The

corporation may establish with a qualified public depository meeting the requirements of chapter 280 the Florida Homeownership Assistance Fund to be administered by the corporation according to the provisions of this program. Any amounts held in the Florida Homeownership Assistance Trust Fund for such purposes as of January 1, 1998, must be transferred to the corporation for deposit in the Florida Homeownership Assistance Fund, whereupon the Florida Homeownership Assistance Trust Fund must be closed. There shall be deposited in the fund moneys from the State Housing Trust Fund created by s. 420.0005, or moneys received from any other source, for the purpose of this program and all proceeds derived from the use of such moneys. In addition, all unencumbered funds, loan repayments, proceeds from the sale of any property, and any other proceeds that would otherwise accrue pursuant to the activities of the programs described in this section shall be transferred to this fund. In addition, all loan repayments, proceeds from the sale of any property, and any other proceeds that would otherwise accrue pursuant to the activities conducted under ~~the provisions of~~ the Florida Homeownership Assistance Program shall be deposited in the fund and may ~~shall~~ not revert to the General Revenue Fund. Expenditures from the Florida Homeownership Assistance Fund are ~~shall~~ not ~~be~~ required to be included in the corporation's budget request or be subject to appropriation by the Legislature.

(5) No more than one-fifth of the funds available in the Florida Homeownership Assistance Fund may be made available to provide loan loss insurance reserve funds to facilitate homeownership for eligible persons.

Section 7. Subsections (2) and (3) of section 420.5096, Florida Statutes, are amended to read:

420.5096 Florida Hometown Hero Program.—

(2) The Florida Hometown Hero Program is created to assist Florida's hometown workforce in attaining homeownership by providing financial assistance to residents to purchase a home as their primary residence. Under the program, a borrower who is lawfully present in the United States may apply to the corporation for a loan to reduce the amount of the down payment and closing costs paid by the borrower by a minimum of $10,000 and up to 5 percent of the first mortgage loan, not exceeding $35,000. Loans must be made available at a zero percent interest rate and must be made available for the term of the first mortgage. The balance of any loan is due at closing if the property is sold, refinanced, rented, or transferred, unless otherwise approved by the corporation.

(3) For loans made available pursuant to s. 420.507(23)(a)1. or 2., the corporation may underwrite and make those mortgage loans through the program to persons or families who are lawfully present in the United States and who have household incomes that do not exceed 150 percent of the state

median income or local median income, whichever is greater. A borrower must be seeking to purchase a home as a primary residence; must be a first-time homebuyer, ~~and~~ a Florida resident, and lawfully present in the United States; and must be employed full-time by a Florida-based employer. The borrower must provide documentation of full-time employment or full-time status for self-employed individuals. The requirement to be a first-time homebuyer does not apply to a borrower who is an active duty servicemember of a branch of the armed forces or the Florida National Guard, as defined in s. 250.01, or a veteran.

Section 8. Subsection (18) of section 440.02, Florida Statutes, is amended to read:

440.02 Definitions.—When used in this chapter, unless the context clearly requires otherwise, the following terms shall have the following meanings:

(18)(a) "Employee" means any person who receives remuneration from an employer for the performance of any work or service while engaged in any employment under any appointment or contract for hire or apprenticeship, express or implied, oral or written, ~~whether lawfully or unlawfully employed,~~ and includes~~, but is not limited to,~~ aliens authorized for employment under federal law and lawfully or unlawfully employed minors.

(b) "Employee" includes any person who is an officer of a corporation and who performs services for remuneration for such corporation within this state, whether or not such services are

continuous.

1. Any officer of a corporation may elect to be exempt from this chapter by filing notice of the election with the department as provided in s. 440.05.

2. As to officers of a corporation who are engaged in the construction industry, no more than three officers of a corporation or of any group of affiliated corporations may elect to be exempt from this chapter by filing a notice of the election with the department as provided in s. 440.05. Officers must be shareholders, each owning at least 10 percent of the stock of such corporation and listed as an officer of such corporation with the Division of Corporations of the Department of State, in order to elect exemptions under this chapter. For purposes of this subparagraph, the term "affiliated" means and includes one or more corporations or entities, any one of which is a corporation engaged in the construction industry, under the same or substantially the same control of a group of business entities which are connected or associated so that one entity controls or has the power to control each of the other business entities. The term "affiliated" includes, but is not limited to, the officers, directors, executives, shareholders active in management, employees, and agents of the affiliated corporation. The ownership by one business entity of a controlling interest in another business entity or a pooling of equipment or income among business entities shall be prima facie evidence that one

business is affiliated with the other.

3. An officer of a corporation who elects to be exempt from this chapter by filing a notice of the election with the department as provided in s. 440.05 is not an employee.

Services are presumed to have been rendered to the corporation if the officer is compensated by other than dividends upon shares of stock of the corporation which the officer owns.

(c) "Employee" includes:

1. A sole proprietor or a partner who is not engaged in the construction industry, devotes full time to the proprietorship or partnership, and elects to be included in the definition of employee by filing notice thereof as provided in s. 440.05.

2. All persons who are being paid by a construction contractor as a subcontractor, unless the subcontractor has validly elected an exemption as permitted by this chapter, or has otherwise secured the payment of compensation coverage as a subcontractor, consistent with s. 440.10, for work performed by or as a subcontractor.

3. An independent contractor working or performing services in the construction industry.

4. A sole proprietor who engages in the construction industry and a partner or partnership that is engaged in the construction industry.

(d) "Employee" does not include:

1. An independent contractor who is not engaged in the construction industry.

a. In order to meet the definition of independent contractor, at least four of the following criteria must be met:

(I) The independent contractor maintains a separate business with his or her own work facility, truck, equipment, materials, or similar accommodations;

(II) The independent contractor holds or has applied for a federal employer identification number, unless the independent contractor is a sole proprietor who is not required to obtain a federal employer identification number under state or federal regulations;

(III) The independent contractor receives compensation for services rendered or work performed and such compensation is paid to a business rather than to an individual;

(IV) The independent contractor holds one or more bank accounts in the name of the business entity for purposes of paying business expenses or other expenses related to services rendered or work performed for compensation;

(V) The independent contractor performs work or is able to perform work for any entity in addition to or besides the employer at his or her own election without the necessity of completing an employment application or process; or

(VI) The independent contractor receives compensation for

work or services rendered on a competitive-bid basis or completion of a task or a set of tasks as defined by a contractual agreement, unless such contractual agreement expressly states that an employment relationship exists.

b. If four of the criteria listed in sub-subparagraph a. do not exist, an individual may still be presumed to be an independent contractor and not an employee based on full consideration of the nature of the individual situation with regard to satisfying any of the following conditions:

(I) The independent contractor performs or agrees to perform specific services or work for a specific amount of money and controls the means of performing the services or work.

(II) The independent contractor incurs the principal expenses related to the service or work that he or she performs or agrees to perform.

(III) The independent contractor is responsible for the satisfactory completion of the work or services that he or she performs or agrees to perform.

(IV) The independent contractor receives compensation for work or services performed for a commission or on a per-job basis and not on any other basis.

(V) The independent contractor may realize a profit or suffer a loss in connection with performing work or services.

(VI) The independent contractor has continuing or recurring business liabilities or obligations.

(VII) The success or failure of the independent contractor's business depends on the relationship of business receipts to expenditures.

c. Notwithstanding anything to the contrary in this subparagraph, an individual claiming to be an independent contractor has the burden of proving that he or she is an independent contractor for purposes of this chapter.

2. A real estate licensee, if that person agrees, in writing, to perform for remuneration solely by way of commission.

3. Bands, orchestras, and musical and theatrical performers, including disk jockeys, performing in licensed premises as defined in chapter 562, if a written contract evidencing an independent contractor relationship is entered into before the commencement of such entertainment.

4. An owner-operator of a motor vehicle who transports property under a written contract with a motor carrier which evidences a relationship by which the owner-operator assumes the responsibility of an employer for the performance of the contract, if the owner-operator is required to furnish motor vehicle equipment as identified in the written contract and the principal costs incidental to the performance of the contract, including, but not limited to, fuel and repairs, provided a motor carrier's advance of costs to the owner-operator when a written contract evidences the owner-operator's obligation to

reimburse such advance shall be treated as the owner-operator furnishing such cost and the owner-operator is not paid by the hour or on some other time-measured basis.

5. A person whose employment is both casual and not in the course of the trade, business, profession, or occupation of the employer.

6. A volunteer, except a volunteer worker for the state or a county, municipality, or other governmental entity. A person who does not receive monetary remuneration for services is presumed to be a volunteer unless there is substantial evidence that a valuable consideration was intended by both employer and employee. For purposes of this chapter, the term "volunteer" includes, but is not limited to:

a. Persons who serve in private nonprofit agencies and who receive no compensation other than expenses in an amount less than or equivalent to the standard mileage and per diem expenses provided to salaried employees in the same agency or, if such agency does not have salaried employees who receive mileage and per diem, then such volunteers who receive no compensation other than expenses in an amount less than or equivalent to the customary mileage and per diem paid to salaried workers in the community as determined by the department; and

b. Volunteers participating in federal programs established under Pub. L. No. 93-113.

7. Unless otherwise prohibited by this chapter, any

officer of a corporation who elects to be exempt from this chapter. Such officer is not an employee for any reason under this chapter until the notice of revocation of election filed pursuant to s. 440.05 is effective.

8. An officer of a corporation that is engaged in the construction industry who elects to be exempt from the provisions of this chapter, as otherwise permitted by this chapter. Such officer is not an employee for any reason until the notice of revocation of election filed pursuant to s. 440.05 is effective.

9. An exercise rider who does not work for a single horse farm or breeder, and who is compensated for riding on a case-by-case basis, provided a written contract is entered into prior to the commencement of such activity which evidences that an employee/employer relationship does not exist.

10. A taxicab, limousine, or other passenger vehicle-for-hire driver who operates said vehicles pursuant to a written agreement with a company which provides any dispatch, marketing, insurance, communications, or other services under which the driver and any fees or charges paid by the driver to the company for such services are not conditioned upon, or expressed as a proportion of, fare revenues.

11. A person who performs services as a sports official for an entity sponsoring an interscholastic sports event or for a public entity or private, nonprofit organization that sponsors

an amateur sports event. For purposes of this subparagraph, such a person is an independent contractor. For purposes of this subparagraph, the term "sports official" means any person who is a neutral participant in a sports event, including, but not limited to, umpires, referees, judges, linespersons, scorekeepers, or timekeepers. This subparagraph does not apply to any person employed by a district school board who serves as a sports official as required by the employing school board or who serves as a sports official as part of his or her responsibilities during normal school hours.

12. Medicaid-enrolled clients under chapter 393 who are excluded from the definition of employment under s. 443.1216(4)(d) and served by Adult Day Training Services under the Home and Community-Based or the Family and Supported Living Medicaid Waiver program in a sheltered workshop setting licensed by the United States Department of Labor for the purpose of training and earning less than the federal hourly minimum wage.

13. Medicaid-enrolled clients under chapter 393 who are excluded from the definition of employment under s. 443.1216(4)(d) and served by Adult Day Training Services under the Family and Supported Living Medicaid Waiver program in a sheltered workshop setting licensed by the United States Department of Labor for the purpose of training and earning less than the federal hourly minimum wage.

14. An unauthorized alien as defined in s. 908.111(1).

Section 9. Subsection (2) of section 440.10, Florida Statutes, is amended to read:

440.10 Liability for compensation.—

(2) Compensation shall be payable irrespective of fault as a cause for the injury, except as provided in ss. 440.09(3) and 440.1001 ~~s. 440.09(3)~~.

Section 10. Section 440.1001, Florida Statutes, is created to read:

440.1001 Employer liability for injuries to unauthorized aliens.—

(1) As used in this section, the term "unauthorized alien" has the same meaning as in s. 908.111(1).

(2) An employer who knowingly hires or employs an individual who is not authorized to work in the United States under federal law is personally and fully liable for all medical and treatment costs and related expenses resulting from an injury sustained by the unauthorized alien during his or her employment.

(3) An employer may not transfer or otherwise shift financial responsibility for medical and treatment costs and related expenses resulting from an injury to any third party, including an insurance company, a state agency, or any other entity.

(4) An employer who violates this section is subject to the following penalties:

(a) A fine not to exceed $50,000 per violation. Fines collected under this paragraph must be deposited into the Workers' Compensation Administration Trust Fund.

(b) Reimbursement of any public funds expended to provide medical care to the unauthorized alien.

(c) Revocation of the employer's business license, registration, or certification issued by the appropriate licensing authority.

(5) The department shall transfer reported violations of this section to the appropriate licensing authority for enforcement.

Section 11. Section 440.1002, Florida Statutes, is created to read:

440.1002 Employment eligibility for purposes of workers' compensation eligibility.—

(1) As used in this section, the term "E-Verify system" has the same meaning as in s. 448.095(1).

(2) Before an employer may submit a claim for workers' compensation benefits for an employee, the employer must first verify the employee's employment eligibility through the E-Verify system.

(3) If an employer fails to check an employee's employment eligibility through the E-Verify system before submitting a claim for workers' compensation benefits, the employer is:

(a) Ineligible to receive indemnity or medical coverage

from the employer's workers compensation insurance provider for injuries sustained by that employee.

(b) Personally liable for all costs, expenses, and benefits that would have otherwise been covered under this chapter.

(4) An employer must retain a copy of the documentation provided and any verification generated, if applicable, by the E-Verify system for each employee. The employer must provide such documentation or verification to the department or insurer upon request.

(5) This section may not be construed to bestow any employment rights or legal status on an employee who is verified through the E-Verify system.

(6) The department may adopt rules to implement and enforce this section.

Section 12. Subsection (5) of section 448.09, Florida Statutes, is renumbered as subsection (9), subsections (3) and (4) are amended, and new subsections (4) through (8) are added to that section, to read:

448.09 Unauthorized aliens; employment prohibited.—

(3) For an employer who knowingly violates ~~a violation of~~ this section, the department shall suspend for 1 year all licenses held by the employer which were issued by a licensing agency under chapter 120 and impose a fine not to exceed $10,000 per violation. Fines collected under this subsection must be

deposited into the State Economic Enhancement and Development Trust Fund.

(4) For an employer who knowingly violates this section a second time, the department shall suspend for 5 years all licenses held by the employer which were issued by a licensing agency under chapter 120 and impose a fine not to exceed $100,000 per violation. Fines collected under this subsection must be deposited into the State Economic Enhancement and Development Trust Fund.

(5) For an employer who knowingly violates this section a third time, the department shall permanently revoke all licenses held by the employer personally, as well as any licenses held by the entity if the employer is a corporation, which were issued by a licensing agency under chapter 120 and impose a fine not to exceed $250,000 per violation. Fines collected under this subsection must be deposited into the State Economic Enhancement and Development Trust Fund.

(6)(a) For an employer who knowingly violates this section and the actions of an unauthorized alien employee result in injuries to another person, the department shall suspend for 5 years all licenses held by the employer which were issued by a licensing agency under chapter 120 and impose a fine not to exceed $100,000 per violation.

(b) For an employer who knowingly violates this section and the actions of an unauthorized alien employee result in the

death of another person, the department shall permanently revoke all licenses held by the employer which were issued by a licensing agency under chapter 120 and impose a fine not to exceed $500,000 per violation.

(c) Fines collected under this subsection must be deposited into the State Economic Enhancement and Development Trust Fund.

(d) There is created a civil cause of action against an employer who violates this section and such violation results in injuries to or the death of another person.

(7) An employer who knowingly hires more than 50 unauthorized aliens commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, and the department shall permanently revoke all licenses held by the employer personally, as well as any licenses held by the entity if the employer is a corporation, which were issued by a licensing agency under chapter 120.

(8) A person who is injured or the next of kin, as defined in s. 744.102, of a person who is killed by the actions of an unauthorized alien employee may bring a cause of action under subsection (6) against the employer for damages for bodily injury or death ~~place the employer on probation for a 1-year period and require that the employer report quarterly to the department to demonstrate compliance with the requirements of subsection (1) and s. 448.095.~~

~~(4) Any violation of this section which takes place within 24 months after a previous violation constitutes grounds for the suspension or revocation of all licenses issued by a licensing agency subject to chapter 120. The department shall take the following actions for a violation involving:~~

~~(a) One to ten unauthorized aliens, suspension of all applicable licenses held by a private employer for up to 30 days by the respective agencies that issued them.~~

~~(b) Eleven to fifty unauthorized aliens, suspension of all applicable licenses held by a private employer for up to 60 days by the respective agencies that issued them.~~

~~(c) More than fifty unauthorized aliens, revocation of all applicable licenses held by a private employer by the respective agencies that issued them~~.

Section 13. Paragraph (a) of subsection (3) of section 448.095, Florida Statutes, is amended to read:

448.095 Employment eligibility.—

(3) ENFORCEMENT.—

(a) For the purpose of enforcement of this section, any of the following persons or entities may request, and an employer must provide, copies of any documentation relied upon by the employer for the verification of a new employee's employment eligibility:

1. The Department of Law Enforcement;

2. The Attorney General;

3. The state attorney in the circuit in which the new employee works;

4. The statewide prosecutor;

5. The Department of Financial Services; or

6.~~5.~~ The Department of Commerce.

Section 14. Subsection (7) is added to section 560.208, Florida Statutes, to read:

560.208 Conduct of business.—In addition to the requirements specified in s. 560.1401, a licensee under this part:

(7) May not initiate a foreign remittance transfer unless the licensee has verified that the sender is not an unauthorized alien as defined in s. 908.111(1).

(a) As used in this subsection, the term "foreign remittance transfer" means a remittance transfer as defined in the Electronic Fund Transfer Act, 15 U.S.C. s. 1693o-1, as amended, the recipient of which is located in any country other than the United States.

(b) The commission shall adopt rules relating to acceptable forms of documentation that a licensee must use to verify that the sender of a foreign remittance transfer is not an unauthorized alien. The licensee must provide confirmation of verification on forms the commission prescribes. All required forms must be submitted to the office by the 15th of the month after the close of each calendar quarter.

(c) A licensee who initiates a foreign remittance transfer in violation of this subsection, must pay a penalty equal to 25 percent of the United States dollar amount transferred, excluding any fees or charges imposed by the licensee. A licensee must remit to the office the amount of any penalty owed, along with any forms prescribed by the office, by the 15th of the month after the close of each calendar quarter. Notwithstanding ss. 252.3711 and 560.144, the office must deposit in the Regulatory Trust Fund the penalties collected under this paragraph. Notwithstanding any other provision of law, the penalty imposed in this paragraph is the only remedy for a violation of this subsection and a licensee may not be subject to any other penalty.

Section 15. Paragraphs (i) and (j) of subsection (1) of section 560.211, Florida Statutes, are redesignated as paragraphs (j) and (k), respectively, and a new paragraph (i) is added to that subsection, to read:

560.211 Required records.—

(1) In addition to the record retention requirements under s. 560.1105, each licensee under this part must make, keep, and preserve the following books, accounts, records, and documents for 5 years:

(i) The documentation used to verify that the sender of a foreign remittance transfer, as defined in s. 560.208(7)(a), is not an unauthorized alien, as defined in s. 908.111(1), and the

penalties paid to the office pursuant to s. 560.208(7)(c), including the date and amount of each foreign remittance transfer and the name, date of birth, and address of each sender.

Section 16. Section 560.2115, Florida Statutes, is created to read:

560.2115 Required records audit.—

(1) As used in this section, the term:

(a) "Foreign remittance transfer" has the same meaning as in s. 560.208(7)(a).

(b) "Unauthorized alien" has the same meaning as in s. 908.111(1).

(2) For enforcement purposes, the office may at any time request, and the licensee must provide, records of documentation used to verify that the sender of a foreign remittance transfer is not an unauthorized alien.

(3)(a) A person who has a good faith belief that a licensee is failing to comply with s. 560.208(7) may file a complaint with the office.

(b) Upon receipt of a valid complaint of a violation of s. 560.208(7), which is substantiated by evidence, the office must notify the licensee of the complaint and the substantiated evidence and the licensee must pay the penalty under s. 560.208(7)(c).

(4) Beginning July 1, 2026, the office must conduct random

quarterly audits of licensees to ensure compliance with s. 560.208(7). During an audit, the licensee must produce to the office records of documentation the licensee used to verify that each sender of a foreign remittance transfer is not an unauthorized alien.

(5) Failure to comply with subsections (1)-(4) constitutes grounds for the suspension of all licenses held by the licensee which were issued by the office.

Section 17. Subsection (2) of section 560.310, Florida Statutes, is amended to read:

560.310 Records of check cashers and foreign currency exchangers.—

(2) If the payment instrument is ~~exceeds~~ $1,000 or more, the following additional information must be maintained or submitted:

(a) Customer files, as prescribed by rule, on all customers who cash corporate payment instruments that are ~~exceed~~ $1,000 or more.

(b) A copy of the personal identification that bears a photograph of the customer used as identification and presented by the customer. Acceptable personal identification is limited to a valid driver license; a state identification card issued by any state of the United States or its territories or the District of Columbia, and showing a photograph and signature; a United States Government Resident Alien Identification Card; a

passport; or a United States Military identification card. The following may not be used as a form of personal identification:

1. A license or identification card issued exclusively to an unauthorized alien or undocumented immigrant.

2. A license or identification card that is substantially the same as a license or identification card issued to a United States citizen or resident or others lawfully present in the United States but which has markings establishing that the license holder did not present proof of his or her lawful presence in the United States.

(c) A thumbprint of the customer taken by the licensee when the payment instrument is presented for negotiation or payment.

(d) The office shall, at a minimum, require licensees to submit the following information to the check cashing database or electronic log, before entering into each check cashing transaction for each payment instrument being cashed, in such format as required by rule:

1. Transaction date.

2. Payor name as displayed on the payment instrument.

3. Payee name as displayed on the payment instrument.

4. Conductor name, if different from the payee name.

5. Amount of the payment instrument.

6. Amount of currency provided.

7. Type of payment instrument, which may include personal,

payroll, government, corporate, third-party, or another type of instrument.

8. Amount of the fee charged for cashing of the payment instrument.

9. Branch or location where the payment instrument was accepted.

10. The type of identification and identification number presented by the payee or conductor.

11. Payee's workers' compensation insurance policy number or exemption certificate number, if the payee is a business.

12. Such additional information as required by rule.

For purposes of this subsection, multiple payment instruments accepted from any one person on any given day which total $1,000 or more must be aggregated and reported in the check cashing database or on the log.

Section 18. Section 627.7408, Florida Statutes, is created to read:

627.7408 Presumption of fault in motor vehicle accidents involving unauthorized out-of-state drivers.—

(1) As used in this section, the term:

(a) "Invalid out-of-state driver license" means a driver license deemed invalid under s. 322.033.

(b) "Unauthorized out-of-state driver" means a person operating a vehicle who has an invalid out-of-state driver

license.

(2) If an unauthorized out-of-state driver is involved in a motor vehicle accident in this state, there is a rebuttable presumption that the unauthorized-out-of-state driver is at fault for the accident for purposes of filing an insurance claim. This presumption applies regardless of the unauthorized out-of-state driver's compliance with other traffic laws at the time of the motor vehicle accident.

(3) The presumption under subsection (2) does not apply if the other driver involved in the motor vehicle accident is determined, by clear and convincing evidence, to be at egregious fault because of, but not limited to, reckless driving in violation of s. 316.192, leaving the scene of an accident in violation of s. 316.027, or racing on highways in violation of s. 316.191.

(4) The presumption established under subsection (2) may be rebutted by clear and convincing evidence that the unauthorized out-of-state driver was not at fault based on factors such as witness statements, accident reconstruction, or video evidence directly related to the circumstances of the motor vehicle accident.

(5) Upon investigation of a motor vehicle accident, a law enforcement officer, as defined in s. 943.10(1), must verify whether any person involved in the motor vehicle accident is an unauthorized out-of-state driver or has an invalid out-of-state

driver license in violation of s. 322.033. If a driver is determined to be in violation of s. 322.033 and he or she does not qualify for an exemption under subsection (3), the law enforcement officer must note the presumption of fault on the Florida Traffic Crash Report, Long Form or short-form crash report under s. 316.066, as applicable, and notify the Department of Highway Safety and Motor Vehicles within 48 hours after the accident.

(6) Insurers licensed under chapter 624 must apply the presumption under subsection (2) in processing claims and may not pay benefits to or settle claims with an unauthorized out-of-state driver. Insurers must report any suspected noncompliance or rebuttal attempts by the unauthorized out-of-state driver to the Office of Insurance Regulation within 30 days after the filing of an insurance claim. An insurer that fails to comply with this subsection is subject to administrative penalties under s. 624.4211.

(7) If an unauthorized out-of-state-driver's insurer is a foreign insurer as defined in s. 624.06(2) and not licensed in this state under chapter 624, any party aggrieved by the nonenforcement of this section may bring a civil action for injunctive relief and the prevailing party is entitled to reasonable attorney fees and costs.

(8) The Department of Highway Safety and Motor Vehicles and the Office of Insurance Regulation shall adopt rules to

implement this section, including standardized verification forms and procedures for interagency coordination.

(9)(a) This section applies to all insurance policies issued or renewed on or after the effective date of this act and to all motor vehicle accidents occurring on or after the effective date of this act.

(b) This section may not be construed to interfere with or limit a law enforcement officer's authority delegated under a 287(g) agreement with United States Immigration and Customs Enforcement.

Section 19. Section 655.98, Florida Statutes, is created to read:

655.98 Prohibited forms of identification for state-chartered financial institutions.—

(1) A state-chartered financial institution may not accept any of the following as a form of identification for the purpose of opening a deposit account, loan account, safe deposit box, or to receive any other services from a state-chartered financial institution:

(a) A license or identification card issued exclusively to an unauthorized alien or undocumented immigrant.

(b) A license or identification card that is substantially the same as a license or identification card issued to a United States citizen or resident or others lawfully present in the United States but which has markings establishing that the

license holder did not present proof of his or her lawful presence in the United States.

(2) The Office of Financial Regulation shall adopt rules to ensure compliance with, and to enforce, this section.

Section 20. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

Section 21. This act shall take effect upon becoming a law.