

By Senator Williams

4-960B-98

See HB

1                                   A bill to be entitled  
2           An act relating to mortgage lenders (RAB);  
3           amending s. 494.0065, F.S.; authorizing a  
4           one-time transfer of ownership, control, or  
5           certain voting power of a licensed mortgage  
6           lender by an ultimate equitable owner under  
7           certain circumstances; providing an exception  
8           for intrafamilial transfers; providing  
9           requirements; providing for denial of the  
10          transfer under certain circumstances; providing  
11          an effective date.

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

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15           Section 1. Subsection (3) of section 494.0065, Florida  
16 Statutes, is amended, and subsections (4), (5), (6), and (7)  
17 are added to that section, to read:

18           494.0065 Saving clause.--

19           (3) The department may prescribe by rule forms for  
20 initial application for licensure, for a one-time transfer in  
21 accordance with paragraph (4)(a) and subsection (5),and for  
22 renewal of licensure of licensees under this section.

23           (4)(a) Notwithstanding ss. 494.0061(5) and  
24 494.0067(3), the ultimate equitable owner, as of the effective  
25 date of this act, of a mortgage lender licensed under this  
26 section may transfer, one time, at least 50 percent of the  
27 ownership, control, or power to vote any class of equity  
28 securities of such mortgage lender, except as provided in  
29 paragraph (b). For purposes of this subsection, satisfaction  
30 of the amount of the ownership transferred may be met in  
31 multiple transactions or in a single transaction.

1           (b) A person who is an ultimate equitable owner on the  
2 effective date of this act may transfer, at any time, at least  
3 50 percent of the ownership, control, or power to vote any  
4 class of equity securities of such person to the person's  
5 spouse or child, and any such transferee may transfer, at any  
6 time, such ownership, control, or power to vote to a spouse or  
7 child of such transferee, in perpetuity.

8           (5) The department may require each applicant for any  
9 transfer to provide any information reasonably necessary to  
10 make a determination of the applicant's eligibility for  
11 licensure. The department shall issue the transfer of  
12 licensure to any person who submits the following  
13 documentation at least 90 days prior to the anticipated  
14 transfer:

15           (a) A completed application form.

16           (b) A nonrefundable fee set by rule of the department  
17 in an amount that may not exceed \$500.

18           (c) Audited financial statements that substantiate  
19 that the applicant has a bona fide and verifiable net worth,  
20 according to generally accepted accounting principles, of at  
21 least \$25,000, which must be continuously maintained as a  
22 condition of licensure.

23           (d) Documentation that the applicant is incorporated,  
24 registered, or otherwise formed as a general partnership,  
25 limited partnership, limited liability company, or other  
26 lawful entity under the laws of this state or another state of  
27 the United States.

28  
29 The department may require that each officer, director, and  
30 ultimate equitable owner of a 10-percent or greater interest  
31

1 in the applicant submit a complete set of fingerprints taken  
2 by an authorized law enforcement officer.

3 (6) Notwithstanding subsection (5), a transfer under  
4 subsection (4) may be denied if the applicant, any principal  
5 officer or director of the applicant, or any natural person  
6 owning a 10-percent or greater interest in the applicant has  
7 committed any violation specified in s. 494.0072, or has  
8 entered a plea of nolo contendere, regardless of adjudication,  
9 or has an action pending against the applicant in any criminal  
10 prosecution or administrative enforcement action, in any  
11 jurisdiction, which involves fraud, dishonest dealing, or any  
12 act of moral turpitude.

13 (7) A license issued in accordance with this section  
14 is not transferable or assignable except as provided in  
15 subsection (4).

16 Section 2. This act shall take effect upon becoming a  
17 law.

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20 LEGISLATIVE SUMMARY

21 Authorizes a one-time transfer of at least 50 percent of  
22 the ownership, control, or voting power of a licensed  
23 mortgage lender by an ultimate equitable owner of the  
24 lender. Authorizes a person who is an ultimate equitable  
25 owner on the act's effective date to transfer at least 50  
26 percent of the ownership, control, or voting power of the  
27 owner to a spouse or child of the owner and provides for  
28 such transfers in perpetuity. Specifies requirements for  
29 the one-time transfer. Provides for denial of the  
30 transfer. (See bill for details.)  
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