

By Senator Constantine

9-751-01

1 A bill to be entitled
2 An act relating to mortgage brokering and
3 lending; amending s. 494.001, F.S.; defining
4 the term "principal representative"; creating
5 s. 494.00295, F.S.; providing educational
6 requirements for licensees and principal
7 representatives for license renewal; amending
8 s. 494.0031, F.S.; expanding the scope of
9 mortgage broker schools to include training for
10 other persons in the mortgage business;
11 amending s. 494.0034, F.S.; adding continuing
12 education requirements for mortgage broker
13 license renewal; amending s. 494.0035, F.S.;
14 requiring brokerage experience requirements for
15 principal brokers; amending s. 494.0061, F.S.;
16 providing educational requirements for mortgage
17 lenders and principal representatives;
18 requiring the designation of a principal
19 representative; requiring testing of such
20 persons; amending s. 494.0062, F.S.; providing
21 educational requirements for correspondent
22 mortgage lenders; requiring the designation of
23 a principal representative and requiring the
24 testing of such persons; amending s. 494.0064,
25 F.S.; conforming provisions; amending s.
26 494.0067, F.S.; requiring loan originators and
27 associate employees to complete certain
28 continuing education programs; providing
29 reporting requirements; providing an effective
30 date.
31

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

2
3 Section 1. Subsection (29) is added to section
4 494.001, Florida Statutes, to read:

5 494.001 Definitions.--As used in ss. 494.001-494.0077,
6 the term:

7 (29) "Principal representative" means an individual
8 who operates the business operations of a licensee under part
9 III of chapter 494.

10 Section 2. Section 494.00295, Florida Statutes, is
11 created to read:

12 494.00295 Professional education.--

13 (1) A mortgage broker or lender, a correspondent
14 lender, or a principal representative of a mortgage lender or
15 correspondent lender must submit proof to the department that
16 during the 2 years prior to an application for license renewal
17 the licensee or the licensee's principal representative has
18 successfully completed at least 14 hours of professional
19 education programs covering primary and subordinate mortgage
20 financing transactions and the provisions of this chapter.
21 Licensees and principal representatives who have completed the
22 professional education programs need not take additional
23 professional education if they are licensed under this
24 chapter.

25 (2) Professional education programs must contribute
26 directly to the professional competency of the participants,
27 may be offered by licensed mortgage business schools, and may
28 include electronically transmitted or distance-education
29 courses. A mortgage business school must electronically
30 transmit promptly to the department the name, address, hours
31 of course content, and applicable license number of

1 individuals who have completed a professional education
2 program.

3 (3) The department shall adopt rules necessary to
4 administer this section, including rules governing qualifying
5 hours for professional education programs and standards for
6 electronically transmitted or distance-education courses,
7 including course completion requirements.

8 Section 3. Section 494.00311, Florida Statutes, is
9 transferred, renumbered as section 494.0029, Florida Statutes,
10 and amended to read:

11 494.0029 ~~494.00311~~ Mortgage business brokerage
12 schools.--

13 (1) Each person, school, or institution, except
14 accredited colleges, universities, community colleges, and
15 area technical centers in this state, which offers or conducts
16 mortgage business brokerage training as a condition precedent
17 to licensure as a mortgage broker or lender or a correspondent
18 mortgage lender shall obtain a permit from the department and
19 abide by the regulations imposed upon such person, school, or
20 institution by this chapter and rules adopted pursuant to this
21 chapter. The department shall, by rule, recertify the mortgage
22 ~~brokerage school~~ permits annually, on an annual basis with
23 initial and renewal permit fees that do ~~which shall~~ not exceed
24 \$500 plus the cost of accreditation.

25 (2) All such ~~mortgage brokerage~~ schools shall maintain
26 curriculum and training materials necessary to determine the
27 ~~mortgage brokerage~~ school's compliance with this chapter and
28 rules adopted pursuant to this chapter. Any school that ~~which~~
29 offers or conducts mortgage business brokerage training shall
30 at all times maintain an operation of training, materials, and
31 curriculum which is open to review by the department to

1 determine compliance and competency as a mortgage business
2 ~~brokerage~~ school.

3 (3)(a) It is unlawful for any such person, school, or
4 institution to offer or conduct mortgage business ~~brokerage~~
5 courses, regardless of the number of pupils, without first
6 procuring a permit or to guarantee that the pupils will pass
7 any mortgage business ~~brokerage~~ examination given on behalf of
8 the department or to represent that the issuance of a permit
9 is any recommendation or endorsement of the person, school, or
10 institution to which it is issued or of any course of
11 instruction given thereunder. Any person who violates this
12 paragraph commits a misdemeanor of the second degree,
13 punishable as provided in s. 775.082 or s. 775.083.

14 (b) The location of classes and the frequency of class
15 meetings shall be in the discretion of the school offering the
16 ~~mortgage brokerage~~ courses, if provided such courses are in
17 conformity with ~~conform to~~ this chapter and related rules
18 adopted by the department.

19 (c) A mortgage business ~~brokerage~~ school may ~~shall~~ not
20 use advertising of any nature which is false, inaccurate,
21 misleading, or exaggerated. Publicity and advertising of a
22 mortgage business ~~brokerage~~ school, or of its representative,
23 must ~~shall~~ be based upon relevant facts and supported by
24 evidence establishing their truth.

25 (d) A ~~No~~ representative of a any mortgage business
26 ~~brokerage~~ school subject to the provisions of this chapter may
27 not ~~shall~~ promise or guarantee employment or placement of any
28 pupil or prospective pupil, using information, training, or
29 skill purported to be provided or otherwise enhanced by a
30 course or school as inducement to enroll in the school, unless
31

1 such person offers the pupil or prospective pupil a bona fide
2 contract of employment.

3 (e) A school shall advertise only as a school and
4 under the permitted name of such school as recognized by the
5 department.

6 (f) ~~No~~ Reference may not be made in any publication or
7 communication medium as to a pass/fail ratio on mortgage
8 business ~~brokerage~~ examinations by any school permitted by the
9 department.

10 Section 4. Subsection (1) of section 494.0034, Florida
11 Statutes, is amended to read:

12 494.0034 Renewal of mortgage broker's license.--

13 (1) The department shall renew a mortgage broker
14 license upon receipt of the completed renewal form, proof of
15 compliance with continuing education requirements, and payment
16 of a nonrefundable renewal fee of \$150.

17 Section 5. Subsection (1) of section 494.0035, Florida
18 Statutes, is amended to read:

19 494.0035 Principal broker and branch broker
20 requirements.--

21 (1) Each mortgage brokerage business must have a
22 principal broker who shall operate the business under such
23 broker's full charge, control, and supervision. The principal
24 broker must have been ~~be~~ a licensed mortgage broker pursuant
25 to s. 494.0033 for at least 1 year, or have been actively
26 engaged in a mortgage-related business for at least 1 year,
27 before being so designated. Each mortgage brokerage business
28 shall maintain a form as prescribed by the department
29 indicating the business's designation of principal broker and
30 the individual's acceptance of such responsibility. If the
31 form is unavailable, inaccurate, or incomplete, it is deemed

1 that the business was operated in the full charge, control,
2 and supervision by each officer, director, or ultimate
3 equitable owner of a 10-percent or greater interest in the
4 mortgage brokerage business, or any other person in a similar
5 capacity.

6 Section 6. Subsection (1) of section 494.0061, Florida
7 Statutes, is amended and subsections (8), (9), and (10) are
8 added to that section to read:

9 494.0061 Mortgage lender's license requirements.--

10 (1) The department may require each applicant for a
11 mortgage lender license to provide any information reasonably
12 necessary to make a determination of the applicant's
13 eligibility for licensure. The department shall issue an
14 initial mortgage lender license to any person that submits:

15 (a) A completed application form;

16 (b) A nonrefundable application fee of \$575;

17 (c) Audited financial statements, which documents
18 disclose that the applicant has a bona fide and verifiable net
19 worth, pursuant to generally accepted accounting principles,
20 of at least \$250,000, which must be continuously maintained as
21 a condition of licensure;

22 (d) A surety bond in the amount of \$10,000, payable to
23 the state and conditioned upon compliance with ss.

24 494.001-494.0077, which inures to the department and which
25 must be continuously maintained thereafter in full force; ~~and~~

26 (e) Documentation that the applicant is duly
27 incorporated, registered, or otherwise formed as a general
28 partnership, limited partnership, limited liability company,
29 or other lawful entity under the laws of this state or another
30 state of the United States; and-

31

1 (f) For applications submitted after October 1, 2001,
2 proof that the applicant or principal representative has
3 completed 24 hours of classroom instruction in primary and
4 subordinate financing transactions and in the provisions of
5 this part and rules enacted thereunder. However, the license
6 may be issued conditioned upon such instruction being
7 completed within 90 days after the application has been filed.

8 (8) Each lender, regardless of the number of branches
9 it operates, must designate a principal representative who
10 exercises control of the licensee's business, and must
11 maintain a form prescribed by the department designating the
12 principal representative. If the form is not accurately
13 maintained, the business is considered to be operated by each
14 officer, director, or equitable owner of a 10-percent or
15 greater interest in the business.

16 (9) After October 1, 2001, an applicant or principal
17 representative must pass a written test prescribed by the
18 department which covers primary and subordinate mortgage
19 financing transactions as specified in this chapter and rules
20 adopted thereunder.

21 (10) A lender must notify the department of the name
22 and address of any new principal representative and must
23 document that the principal has completed the educational and
24 testing requirements of this section upon the designation of a
25 new principal representative.

26 Section 7. Subsection (1) of section 494.0062, Florida
27 Statutes, is amended and subsections (11), (12), and (13) are
28 added to that section to read:

29 494.0062 Correspondent mortgage lender's license
30 requirements.--

31

1 (1) The department shall issue an initial
2 correspondent mortgage lender license to any person who
3 submits:

4 (a) A completed application form;

5 (b) A nonrefundable application fee of \$500;

6 (c) Audited financial statements, which document that
7 the application has a bona fide and verifiable net worth
8 pursuant to generally accepted accounting principles of
9 \$25,000 or more, which must be continuously maintained as a
10 condition of licensure;

11 (d) A surety bond in the amount of \$10,000, payable to
12 the State of Florida and conditioned upon compliance with ss.
13 494.001-494.0077, which inures to the department and which
14 must be continuously maintained, thereafter, in full force;
15 ~~and~~

16 (e) Documentation that the applicant is duly
17 incorporated, registered, or otherwise formed as a general
18 partnership, limited partnership, limited liability company,
19 or other lawful entity under the laws of this state or another
20 state of the United States; ~~and~~.

21 (f) For applications filed after October 1, 2001,
22 proof that the applicant or principal representative has
23 completed 24 hours of classroom instruction in primary and
24 subordinate financing transactions and in the provisions of
25 this chapter and rules enacted thereunder. However, the
26 license may be issued conditioned upon such instruction being
27 completed within 90 days after the application has been filed.

28 (11) Each correspondent lender must designate a
29 principal representative who exercises control over the
30 business, and must maintain a form prescribed by the
31 department designating the principal representative. If the

1 form is not accurately maintained, the business is considered
2 to be operated by each officer, director, or equitable owner
3 of a 10-percent or greater interest in the business.

4 (12) After October 1, 2001, an applicant or principal
5 representative must pass a written test prescribed by the
6 department which covers primary and subordinate mortgage
7 financing transactions as specified in this chapter and rules
8 adopted thereunder.

9 (13) A correspondent lender must notify the department
10 of the name and address of any new principal representative
11 and must document that such person has completed the
12 educational and testing requirements of this section upon the
13 lender's designation of a new principal representative.

14 Section 8. Subsection (1) of section 494.0064, Florida
15 Statutes, is amended to read:

16 494.0064 Renewal of mortgage lender's license; branch
17 office license renewal.--

18 (1)(a) The department shall renew a mortgage lender
19 license upon receipt of a completed renewal form and the
20 nonrefundable renewal fee of \$575. The department shall renew
21 a correspondent lender license upon receipt of a completed
22 renewal form and a nonrefundable renewal fee of \$475. Each
23 licensee shall pay at the time of renewal a nonrefundable fee
24 of \$325 for the renewal of each branch office license.

25 (b) Licensees must also submit with the renewal form
26 proof that during the preceding 2 years they or their
27 principal representatives have completed the education
28 requirements of s. 494.00295.

29 Section 9. Subsection (10) is added to section
30 494.0067, Florida Statutes, to read:

31

1 494.0067 Requirements of licensees under ss.
2 494.006-494.0077.--
3 (10)(a) Each licensee shall require all loan
4 originators or associate employees who perform its services to
5 complete 14 hours of professional education during each
6 biennial license period. The education must cover primary and
7 subordinate mortgage financing transactions and the provisions
8 of this chapter and the rules adopted thereunder.
9 (b) The licensee must maintain records of such
10 training, including records of the content of and hours
11 designated for each program and the date and location of the
12 program.
13 (c) Evidence of completion of such programs must be
14 included with the licensee's renewal application.

15 Section 10. This act shall take effect July 1, 2001.

16
17 *****

18 SENATE SUMMARY

19 Revises provisions relating to mortgage brokerage and
20 mortgage lending and establishes educational requirements
21 for various licensees and their employees. (See bill for
22 details.)
23
24
25
26
27
28
29
30
31