

By the Committee on Banking and Insurance; and Senator  
Constantine

311-1697-01

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 license renewal  
6           educational requirements for licensees and  
7           principal representatives; amending s.  
8           494.00311, F.S.; expanding the scope of  
9           mortgage business schools to include training  
10          for certain other persons; amending s.  
11          494.0034, F.S.; adding continuing education  
12          requirements for mortgage broker license  
13          renewal; amending s. 494.0035, F.S.; requiring  
14          brokerage experience requirements for principal  
15          brokers; amending s. 494.0061, F.S.; providing  
16          educational requirements for mortgage lenders  
17          and principal representatives; requiring the  
18          designation of a principal representative;  
19          requiring testing of such persons; amending s.  
20          494.0062, F.S.; providing educational  
21          requirements for correspondent mortgage  
22          lenders; requiring the designation of a  
23          principal representative; requiring the testing  
24          of such persons; amending s. 494.0064, F.S.;  
25          requiring licensees to submit certification of  
26          completion of certain educational requirements  
27          by certain persons; amending s. 494.0067, F.S.;  
28          requiring licensees to require loan originators  
29          and associates to complete certain continuing  
30          education programs; requiring licensees to  
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1           maintain certain records; providing effective  
2           dates.

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

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6           Section 1. Subsection (29) is added to section  
7 494.001, Florida Statutes, to read:

8           494.001 Definitions.--As used in ss. 494.001-494.0077,  
9 the term:

10           (29) "Principal representative" means an individual  
11 who operates the business operations of a licensee under part  
12 III.

13           Section 2. Section 494.00295, Florida Statutes, is  
14 created to read:

15           494.00295 Professional education.--

16           (1) Each mortgage broker, mortgage lender, and  
17 correspondent mortgage lender must certify to the department  
18 at the time of renewal that during the 2 years prior to an  
19 application for license renewal, all mortgage brokers, and the  
20 principal representative, loan originators, and associates of  
21 a mortgage lender or correspondent mortgage lender have  
22 successfully completed at least 14 hours of professional  
23 education programs covering primary and subordinate mortgage  
24 financing transactions and the provisions of this chapter.  
25 Licensees shall maintain records documenting compliance with  
26 this subparagraph for a period of 4 years.

27           (2) Professional education programs must contribute  
28 directly to the professional competency of the participants,  
29 may only be offered by permitted mortgage business schools or  
30 entities specifically exempted from permitting as mortgage

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1 business schools, and may include electronically transmitted  
2 or distance education courses.

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 renumbered as section 494.0029, Florida Statutes, and is  
10 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  
22 ~~mortgage brokerage school~~ permits annually on an annual basis  
23 with initial and renewal permit fees that do ~~which shall~~ not  
24 exceed \$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 conform  
17 to this chapter and related rules adopted by the department.

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

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

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

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

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

10 494.0034 Renewal of mortgage broker's license.--

11 (1) The department shall renew a mortgage broker  
12 license upon receipt of the completed renewal form,  
13 certification of compliance with continuing education  
14 requirements of s. 494.00295, and payment of a nonrefundable  
15 renewal fee of \$150.

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

18 494.0035 Principal broker and branch broker  
19 requirements.--

20 (1) Each mortgage brokerage business must have a  
21 principal broker who shall operate the business under such  
22 broker's full charge, control, and supervision. The principal  
23 broker must have been ~~be~~ a licensed mortgage broker pursuant  
24 to s. 494.0033 for at least 1 year prior to being designated  
25 as a principal broker, or shall demonstrate to the  
26 satisfaction of the department that such principal broker has  
27 been actively engaged in a mortgage-related business for at  
28 least 1 year prior to being designated as a principal broker.

29 Each mortgage brokerage business shall maintain a form as  
30 prescribed by the department indicating the business's  
31 designation of principal broker and the individual's

1 acceptance of such responsibility. If the form is  
2 unavailable, inaccurate, or incomplete, it is deemed that the  
3 business was operated in the full charge, control, and  
4 supervision by each officer, director, or ultimate equitable  
5 owner of a 10-percent or greater interest in the mortgage  
6 brokerage business, or any other person in a similar capacity.

7 Section 6. Subsection (1) of section 495.0061, Florida  
8 Statutes, is amended, and subsections (8), (9), and (10) are  
9 added to that section, to read:

10 494.0061 Mortgage lender's license requirements.--

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

16 (a) A completed application form;

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

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

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

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

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

1           (f) For applications submitted after October 1, 2001,  
2 proof that the applicant's principal representative has  
3 completed 24 hours of classroom instruction in primary and  
4 subordinate financing transactions and in the provisions of  
5 this chapter and rules adopted under this chapter.

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

14           (9) After October 1, 2001, an applicant's principal  
15 representative must pass a written test prescribed by the  
16 department which covers primary and subordinate mortgage  
17 financing transactions and the provisions of this chapter and  
18 rules adopted under this chapter.

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

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

27           494.0062 Correspondent mortgage lender's license  
28 requirements.--

29           (1) The department shall issue an initial  
30 correspondent mortgage lender license to any person who  
31 submits:

- 1 (a) A completed application form;
- 2 (b) A nonrefundable application fee of \$500;
- 3 (c) Audited financial statements, which document that  
4 the application has a bona fide and verifiable net worth  
5 pursuant to generally accepted accounting principles of  
6 \$25,000 or more, which must be continuously maintained as a  
7 condition of licensure;
- 8 (d) A surety bond in the amount of \$10,000, payable to  
9 the State of Florida and conditioned upon compliance with ss.  
10 494.001-494.0077, which inures to the department and which  
11 must be continuously maintained, thereafter, in full force;  
12 ~~and~~
- 13 (e) Documentation that the applicant is duly  
14 incorporated, registered, or otherwise formed as a general  
15 partnership, limited partnership, limited liability company,  
16 or other lawful entity under the laws of this state or another  
17 state of the United States; and
- 18 (f) For applications filed after October 1, 2001,  
19 proof that the applicant's principal representative has  
20 completed 24 hours of classroom instruction in primary and  
21 subordinate financing transactions and in the provisions of  
22 this chapter and rules enacted under this chapter.
- 23 (11) Each correspondent lender shall designate a  
24 principal representative who exercises control over the  
25 business and shall maintain a form prescribed by the  
26 department designating the principal representative. If the  
27 form is not accurately maintained, the business is considered  
28 to be operated by each officer, director, or equitable owner  
29 of a 10 percent or greater interest in the business.
- 30 (12) After October 1, 2001, an applicant's principal  
31 representative must pass a written test prescribed by the



1 department which covers primary and subordinate mortgage  
2 financing transactions and the provisions of this chapter and  
3 rules adopted under this chapter.

4 (13) A correspondent lender shall notify the  
5 department of the name and address of any new principal  
6 representative and shall document that such person has  
7 completed the educational and testing requirements of this  
8 section upon the lender's designation of a new principal  
9 representative.

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

12 494.0064 Renewal of mortgage lender's license; branch  
13 office license renewal.--

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

21 (b) A licensee shall also submit, as part of the  
22 renewal form, certification that during the preceding 2 years  
23 the licensee's principal representative, loan originators, and  
24 associates have completed the education requirements of s.  
25 494.00295.

26 Section 9. Effective October 1, 2002, subsection (10)  
27 is added to section 494.0067, Florida Statutes, to read:

28 494.0067 Requirements of licensees under ss.  
29 494.006-494.0077.--

30 (10)(a) Each licensee shall require all loan  
31 originators or associates who perform services for the

1 licensee to complete 14 hours of professional education during  
2 each biennial license period. The education shall cover  
3 primary and subordinate mortgage financing transactions and  
4 the provisions of this chapter and the rules adopted under  
5 this chapter.

6 (b) The licensee shall maintain records of such  
7 training for a period of 4 years, including records of the  
8 content of and hours designated for each program and the date  
9 and location of the program.

10 (c) Evidence of completion of such programs shall be  
11 included with the licensee's renewal application.

12 Section 10. Except as otherwise expressly provided in  
13 this act, this act shall take effect October 1, 2001.

14  
15 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
16 COMMITTEE SUBSTITUTE FOR  
17 SB 1896

18 Requires licensees to maintain records documenting compliance  
19 with the education requirements for 4 years and eliminates the  
20 mandatory reporting by mortgage business schools to the  
department of information related to the education courses  
completed by individuals.

21 Changes the effective date for the implementation of the  
22 continuing educational requirements for loan originators or  
23 associates of licensed mortgage lenders from July 1, 2001 to  
October 1, 2002.

24 Requires a principal broker to demonstrate to the satisfaction  
25 of the Department of Banking and Finance that he or she has  
26 been actively engaged in mortgage-related business for at  
least 1 year prior to being designated as a principal broker.

26 Deletes provision authorizing the issuance of a conditional  
27 license.

28 Provides that the bill, except where otherwise provided, takes  
effect October 1, 2001, rather than July 1, 2001.