

**STORAGE NAME:** h0455.ba.doc  
**DATE:** March 8, 2001

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
BANKING  
ANALYSIS**

**BILL #:** HB 455

**RELATING TO:** Continuing education requirements for mortgage brokers and mortgage lenders

**SPONSOR(S):** Representative Detert

**TIED BILL(S):**

**ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:**

- (1) BANKING
  - (2) BUSINESS REGULATION
  - (3) COUNCIL FOR SMARTER GOVERNMENT
  - (4)
  - (5)
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I. SUMMARY:

The bill establishes education requirements for those seeking initial licensure under part III of chapter 494 (mortgage lending) and establishes continuing education requirements as a condition precedent to renewal of licenses under part II (mortgage broker) and part III (mortgage lending) of chapter 494.

According to the Department of Banking and Finance, the estimated fiscal impact for this bill is (\$1,820,000) for FY 01-02, (\$154,500) for FY 02-03, and (\$159,100) for FY 03-04.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

1. Less Government                      Yes     No     N/A

The bill establishes department oversight, and rulemaking authority to regulate and monitor education requirements for chapter 494 licensees.

2. Lower Taxes                              Yes     No     N/A

The bill requires mortgage brokerage and mortgage lending firms to incur expense for continuing education courses for themselves and select employees.

3. Individual Freedom                      Yes     No     N/A

Currently there are no continuing education requirements for mortgage brokers, and no initial or continuing education requirements for mortgage lenders.

4. Personal Responsibility                      Yes     No     N/A

5. Family Empowerment                      Yes     No     N/A

For any principle that received a “no” above, please explain:

B. PRESENT SITUATION:

**Mortgage Brokers/Lenders**

Chapter 494, F.S. governs mortgage brokerage and mortgage lending. **Part I** of Chapter 494, F.S., provides definitions and provisions that apply to the mortgage brokerage and mortgage lending industry. Part I also outlines the general powers and duties of the regulatory agency, the Department of Banking and Finance (“department”), lists prohibited practices, and provides penalties for violations of the act.

**Part II** of Chapter 494, F.S., provides the licensure and eligibility requirements for mortgage broker business and for mortgage brokers, individually. Section 494.003, F.S., exempts from the chapter certain financial entities (any bank, bank holding company, trust company, savings and loan association, savings bank, credit union, or consumer finance company licensed pursuant to Chapter 516, F.S.) and certain federal associations. Separate licenses are required to operate a mortgage brokerage business, and to provide services as a mortgage broker and a mortgage lender. A mortgage broker business is required to designate a “principal broker” within the business, who has responsibility for exercising operational control of the licensee’s business. There is no corresponding “principle” designee for a mortgage lending business licensed pursuant to part III of Chapter 494, F.S.

**Part III** of Chapter 494, F.S., provides the licensure and eligibility requirements for mortgage lenders and for correspondent mortgage lenders. Section 494.006, F.S., outlines which entities are exempt from the requirements of this part and which entities are exempt from licensure under this part. Separate licenses are required to provide services as a mortgage lender and a correspondent mortgage lender. The substantive difference between a mortgage lender and a correspondent mortgage lender is that the latter cannot service loans.

## **Education Requirements for Licensure**

**Part II** of Chapter 494, F.S., provides for departmental permitting and for certification of mortgage brokerage schools. Persons, schools and other institutions may apply for a permit from the department to offer mortgage brokerage training courses as a condition precedent to licensure as a mortgage broker. Accredited universities, community colleges, and technical schools that offer similar courses are exempted from the departmental permitting process. Permitted schools must comply with guidelines and rules established by the department. Currently there are 15 permitted schools and 13 colleges and universities in the state to serve the needs of mortgage broker applicants seeking licensure by the department.

Those seeking licensure as a mortgage broker must complete 24 hours of classroom education on primary and subordinate financing transactions and the laws and rules of Chapter 494, F.S., as a condition precedent for licensure.

### **C. EFFECT OF PROPOSED CHANGES:**

The bill establishes education requirements for those seeking initial licensure under part III of Chapter 494, F.S. (mortgage lending), and establishes continuing education requirements as a condition precedent to renewal of licenses under part II (mortgage broker) and part III (mortgage lending) of Chapter 494 F.S.

See Part III.C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR.

### **D. SECTION-BY-SECTION ANALYSIS:**

**Section 1** amends s. 494.001, F.S., creating a definition for "principle representative" who is a natural person responsible for exercising operational control of the business operations of a licensee under part III of Chapter 494, F.S., -- Mortgage Lender/Correspondence Mortgage Lender.

**Section 2** renumbers s. 494.0311, F.S. as s. 494.0029, F.S., and amends that section by changing the name of the existing "mortgage brokerage school" as the "mortgage business school" throughout. Placing this section within part I of Chapter 494, F.S., --General Provisions -- expands the scope of the school to apply throughout the chapter.

**Section 3** creates s. 494.00295, F.S., establishing a license renewal requirement that mortgage brokers, mortgage lenders, and correspondent mortgage lenders complete not less than 16 hours of professional education courses in primary and subordinate mortgage financing transaction biennially. Courses may only be provided by licensed mortgage business schools and may include Internet-based courses. The mortgage business school is required to report electronically to the department the hour of course content, along with the name, address, and license number of each individual who has completed a course. This section authorizes the department to adopt rules to implement this section.

**Section 4** amends s. 494.0033, F.S., specifically permitting applicants for mortgage broker's licenses to take Internet-based educational courses to complete the eligibility requirement for licensure.

**Section 5** amends s. 494.0034, F.S., making the receipt of confirmation that the licensee has completed requisite continuing education requirements a condition of license renewal.

**Section 6** amends s. 494.0035, F.S., requiring that a mortgage broker be licensed as such for at least one year prior to being designated as a “principal broker” within the brokerage. As an alternative, the principal broker must demonstrate that he/she has been actively engaged in mortgage-related business for at least one year prior to such designation. This section grants rule-making authority to the department.

**Section 7** amends s. 494.0061, F.S., adding paragraphs (f) and (g) to subsection (1), and adding subsection (8), establishing additional license requirements for an initial mortgage lender license, mirroring like requirements for mortgage brokers. An applicant for an initial mortgage lender license is required to designate a “principal representative” within the mortgage lender business, which is comparable to the “principal broker” within a mortgage broker business, who has responsibility for exercising operational control of the licensee’s business.

An applicant for an initial mortgage lender license must submit and maintain a department-generated form that indicates the business’ designation and the individual’s acceptance of that responsibility. If the form is not available, inaccurate or incomplete, the department will deem the business to be operated under the control of each officer, director, or ultimate equitable owner of a 10-percent or greater interest in the business.

An applicant for an initial mortgage lender license must document 24 hours of classroom or Internet-based education on primary and subordinate financing transactions. The applicant, or the designated principal representative, has 90 days after the date of the application in which to complete the required educational courses or the applicant’s license will be rendered inactive.

An applicant for an initial mortgage lender’s license, or the applicant’s principal representative, is required to pass a written test adopted by the department to determine competency in primary and subordinate financing transactions.

**Section 8** amends s. 494.0062, F.S., adding paragraphs (f) and (g) to subsection (1) and adding subsection (11), establishing additional license requirements for an initial correspondent mortgage lender license, mirroring like requirements for mortgage brokers and mortgage lenders. See, Section 7, above.

**Section 9** amends s. 494.0064, F.S., adding subsection (5), making the receipt of confirmation that each licensed mortgage lender and each licensed correspondent mortgage lender has completed requisite continuing education requirements a condition of license renewal.

**Section 10** amends s. 494.0067, F.S., adding subsection (10), establishing continuing education requirements for loan originators or associates of licensed mortgage lenders or correspondent lenders. At the time of the licensee’s license renewal, loan originators or associates who perform services for the licensed entities are required to have completed 16 hours of professional education during the preceding two years. Licensees are required to document for the department the loan originators or associates’ names, addresses, description of course content, the hours designated for each program, and the date and location of the programs.

**Section 11** provides an effective date of October 1, 2001.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

	FY 01-02	FY 02-03	FY 03-04
Required development and enhancements of database, including mainframe and website.	(\$1,500,000)		
Reduction in application revenue. <sup>1</sup>	(\$ 170,000)		
3 FTE's to maintain database noted above.	(\$150,000)	(\$154,500)	(\$159,100)
<b>Total Revenues and Expenditures:</b>	<b>(\$1,820,000)</b>	<b>(\$154,500)</b>	<b>(\$159,100)</b>

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Permitted mortgage business schools, as well as universities and other exempted schools who provide such courses, may likely incur expense developing a continuing education curriculum for the estimated 16,000 loan originators and "principle representatives" which will need to complete the requisite course hours for 2001-2002. In addition, there exists the possibility of loss revenue for mortgage lenders due to the requirement that a designated mortgage lender "principle representative" have a year experience prior to such designation. It is estimated that as many as 30,000 mortgage brokers will need to take continuing education courses prior to license renewal in 2002-2003, and will incur expenses estimated at \$125 per person (estimated cost of a 16 hour course). An annual average of 550 new mortgage companies apply for licensure with the department. These will incur expenses for initial licensure education requirements at \$175 per person (average cost of a 24 hour course).

The department estimates private sector costs to be \$2,079,400 for FY 01-02, \$3,846,250 for FY 02-03, and \$2,079,400 for FY 03-04.

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<sup>1</sup> The bill requires that a principal broker of a mortgage brokerage business have 1-year experience. Currently there are approximately 400 applications yearly that do not meet this requirement and this may result in a 1-year delay in filing for these mortgage brokerage business licenses.

D. FISCAL COMMENTS:

The bill requires an applicant for an initial mortgage lender's license, or the applicant's principal representative, to pass a written test adopted by the department to determine competency in primary and subordinate financing transactions. The bill does not, however, provide a fee for the department to recoup this expense. By law the department may require each mortgage broker applicant to provide any information necessary to make a determination of the applicant's eligibility for licensure. This requirement will now extend to mortgage lenders, their loan originators and their associates, as well as expand to continuing education for license renewal, not just initial licensure.

III. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None evident.

B. RULE-MAKING AUTHORITY:

The bill authorizes the department to promulgate rules relating to forms, electronic filing, and reporting of educational courses completed.

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

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VI. SIGNATURES:

COMMITTEE ON BANKING:

Prepared by:

Staff Director:

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