

By Representative Detert

1 A bill to be entitled
2 An act relating to continuing education
3 requirements for mortgage brokers and mortgage
4 lenders; amending s. 494.001, F.S.; providing a
5 definition; amending s. 494.00311, F.S.;
6 changing provisions relating to mortgage
7 brokerage schools to mortgage business schools;
8 creating s. 494.00295, F.S.; specifying certain
9 professional education requirements for
10 mortgage broker licensure; providing criteria;
11 amending s. 494.0033, F.S.; including
12 Internet-based education hours for certain
13 mortgage broker continuing education
14 requirements; amending s. 494.0034, F.S.;
15 requiring receipt of confirmation of completion
16 of certain professional education requirements
17 for mortgage broker license renewal; amending
18 s. 494.0035, F.S.; revising criteria for
19 principal or branch broker requirements;
20 authorizing the Department of Professional
21 Regulation to adopt rules; amending s.
22 494.0061, F.S.; specifying additional mortgage
23 lender's license requirements; amending s.
24 494.0062, F.S.; specifying additional
25 correspondent mortgage lender's license
26 requirements; amending s. 494.0064, F.S.;
27 specifying certain professional education
28 requirements for renewal of mortgage lender's
29 licenses; amending s. 494.0067, F.S.;
30 specifying that certain employees of mortgage
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1 lenders complete certain professional education
2 requirements; providing an effective date.

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

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6 Section 1. Subsections (25), (26), (27), and (28) of
7 section 494.001, Florida Statutes, are renumbered as
8 subsections (26), (27), (28), and (29), respectively, and new
9 subsection (25) is added to said section, to read:

10 494.001 Definitions.--As used in ss. 494.001-494.0077,
11 the term:

12 (25) "Principal representative" means a natural person
13 responsible for exercising operational control of the business
14 operations of a licensee under part III.

15 Section 2. Section 494.00311, Florida Statutes, is
16 renumbered as section 494.0029, Florida Statutes, and is
17 amended to read:

18 494.0029 ~~494.00311~~ Mortgage business brokerage
19 schools.--

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

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1 (2) All such mortgage business ~~brokerage~~ schools shall
2 maintain curriculum and training materials necessary to
3 determine the mortgage business ~~brokerage~~ school's compliance
4 with this chapter and rules adopted pursuant to this chapter.
5 Any school which offers or conducts mortgage business
6 ~~brokerage~~ training shall at all times maintain an operation of
7 training, materials, and curriculum which is open to review by
8 the department to determine compliance and competency as a
9 mortgage business ~~brokerage~~ school.

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

21 (b) The location of classes and the frequency of class
22 meetings shall be in the discretion of the school offering
23 mortgage business ~~brokerage~~ courses, provided such courses
24 conform to this chapter and related rules adopted by the
25 department.

26 (c) A mortgage business ~~brokerage~~ school shall not use
27 advertising of any nature which is false, inaccurate,
28 misleading, or exaggerated. Publicity and advertising of a
29 mortgage business ~~brokerage~~ school, or of its representative,
30 shall be based upon relevant facts and supported by evidence
31 establishing their truth.

1 (d) No representative of any mortgage business
2 ~~brokerage~~ school subject to the provisions of this chapter
3 shall promise or guarantee employment or placement of any
4 pupil or prospective pupil, using information, training, or
5 skill purported to be provided or otherwise enhanced by a
6 course or school as inducement to enroll in the school, unless
7 such person offers the pupil or prospective pupil a bona fide
8 contract of employment.

9 (e) A school shall advertise only as a school and
10 under the permitted name of such school as recognized by the
11 department.

12 (f) No reference may be made in any publication or
13 communication medium as to a pass/fail ratio on mortgage
14 business ~~brokerage~~ examinations by any school permitted by the
15 department.

16 Section 3. Section 494.00295, Florida Statutes, is
17 created to read:

18 494.00295 Professional education.--

19 (1) The department shall require each mortgage broker,
20 mortgage lender, or correspondent mortgage lender to submit
21 proof, satisfactory to the department, that during the 2 years
22 prior to the application for license renewal, the licensee has
23 successfully completed not less than 16 hours of professional
24 education programs in primary and subordinate mortgage
25 financing transactions under parts I, II, and III and the
26 rules adopted pursuant to such parts.

27 (2) Programs of professional education shall be formal
28 programs of learning which contribute directly to the
29 professional competency of an individual performing mortgage
30 business services. Such programs shall be provided by
31 mortgage business schools licensed pursuant to s. 494.0029 and

1 may include Internet-based education courses. Upon completion
2 of a program of professional education, the mortgage business
3 school shall report electronically to the department the name,
4 address, hour of course content, and applicable license number
5 of each individual who has completed a professional education
6 program.

7 (3) The department may adopt rules to implement the
8 provisions of this section.

9 Section 4. Subsection (3) of section 494.0033, Florida
10 Statutes, is amended to read:

11 494.0033 Mortgage broker's license.--

12 (3) Any person applying after July 1, 1992, must have
13 completed 24 hours of classroom or Internet-based education on
14 primary and subordinate financing transactions and the laws
15 and rules of ss. 494.001-494.0077 to be eligible for
16 licensure. The department may adopt rules regarding
17 qualifying hours.

18 Section 5. Subsection (1) of section 494.0034, Florida
19 Statutes, is amended to read:

20 494.0034 Renewal of mortgage broker's license.--

21 (1) The department shall renew a mortgage broker
22 license upon receipt of the completed renewal form and payment
23 of a nonrefundable renewal fee of \$150 and upon receipt of
24 confirmation that the licensee has satisfactorily completed
25 the continuing education requirements of s. 494.00295.

26 Section 6. Subsection (1) of section 494.0035, Florida
27 Statutes, is amended to read:

28 494.0035 Principal broker and branch broker
29 requirements.--

30 (1) Each mortgage brokerage business must have a
31 principal broker who shall operate the business under such

1 broker's full charge, control, and supervision. The principal
2 broker must be a licensed mortgage broker pursuant to s.
3 494.0033 for at least 1 year prior to being designated as a
4 principal broker, or shall demonstrate to the satisfaction of
5 the department that such principal broker has been actively
6 engaged in a mortgage-related business for at least 1 year
7 prior to being designated as a principal broker. Each
8 mortgage brokerage business shall maintain a form as
9 prescribed by the department indicating the business's
10 designation of principal broker and the individual's
11 acceptance of such responsibility. If the form is
12 unavailable, inaccurate, or incomplete, it is deemed that the
13 business was operated in the full charge, control, and
14 supervision by each officer, director, or ultimate equitable
15 owner of a 10-percent or greater interest in the mortgage
16 brokerage business, or any other person in a similar capacity.
17 The department may adopt rules to implement the provisions of
18 this subsection.

19 Section 7. Paragraphs (f) and (g) are added to
20 subsection (1) of section 495.0061, Florida Statutes, and
21 subsection (8) is added to said section, to read:

22 494.0061 Mortgage lender's license requirements.--

23 (1) The department may require each applicant for a
24 mortgage lender license to provide any information reasonably
25 necessary to make a determination of the applicant's
26 eligibility for licensure. The department shall issue an
27 initial mortgage lender license to any person that submits:

28 (f) Documentation indicating the principal
29 representative of the mortgage lender. Each mortgage lender
30 must have a principal representative who shall be responsible
31 for exercising operational control of the licensee's business.

1 Each mortgage lender shall maintain a form, prescribed by the
2 department, indicating the business's designation of the
3 principal representative and the individual's acceptance of
4 such responsibility. If the form is not available,
5 inaccurate, or incomplete, the business shall be deemed
6 operated under the full charge, control, and supervision of
7 each officer, director, or ultimate equitable owner of a
8 10-percent or greater interest in the mortgage lender's
9 business, or any other person in a similar capacity.

10 (g) Documentation that the applicant, or the natural
11 person designated as the applicant's principal representative,
12 has completed 24 hours of classroom or Internet-based
13 education on primary and subordinate financing transactions
14 under parts I, II, and III and the rules adopted pursuant to
15 such parts. The department shall adopt rules as to the
16 qualifying hours. The applicant, or natural person designated
17 as the applicant's principal representative, shall have 90
18 days after the date of application in which to complete the
19 required classroom or Internet-based education. Failure to
20 complete such education requirement within such time period
21 renders the applicant's license inactive.

22 (8) An applicant for an initial mortgage lender's
23 license, or the natural person designated as the applicant's
24 principal representative, must pass a written test adopted by
25 the department which is designed to determine competency in
26 primary and subordinate mortgage financing transactions as
27 well as to test knowledge of parts I, II, and III and the
28 rules adopted pursuant to such parts.

29 Section 8. Paragraphs (f) and (g) are added to
30 subsection (1) of section 494.0062, Florida Statutes, and
31 subsection (11) is added to said section, to read:

1 494.0062 Correspondent mortgage lender's license
2 requirements.--

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

6 (f) Documentation indicating the principal
7 representative of the correspondent mortgage lender. Each
8 correspondent mortgage lender shall have a principal
9 representative who shall be responsible for exercising
10 operational control of the correspondent mortgage lender's
11 business. Each correspondent mortgage lender shall maintain a
12 form, prescribed by the department, indicating the business's
13 designation of the principal representative and the
14 individual's acceptance of such responsibility. If the form
15 is not available, inaccurate, or incomplete, the business
16 shall be deemed operated under the full charge, control, and
17 supervision of each officer, director, or ultimate equitable
18 owner of a 10-percent or greater interest in the correspondent
19 mortgage lender's business, or any other person in a similar
20 capacity.

21 (g) Documentation that the applicant, or the natural
22 person designated as the applicant's principal representative,
23 has completed 24 hours of classroom or Internet-based
24 education on primary and subordinate financing transactions
25 and the laws and rules of ss. 494.001-494.0077. The
26 department may adopt rules regarding qualifying hours. The
27 applicant or natural person designated as the applicant's
28 principal representative shall have 90 days from the date of
29 application to complete the required classroom education.
30 Failure to complete the education requirement within the time
31 allowed will deem the applicant's license to become inactive.

1 (11) An applicant for an initial correspondent
2 mortgage lender's license, or the natural person designated as
3 the applicant's principal representative, must pass a written
4 test adopted by the department which is designed to determine
5 competency in primary and subordinate mortgage financing
6 transactions as well as to test knowledge of parts I, II, and
7 III and the rules adopted pursuant to such parts.

8 Section 9. Subsection (5) is added to section
9 494.0064, Florida Statutes, to read:

10 494.0064 Renewal of mortgage lender's license; branch
11 office license renewal.--

12 (5) The department shall require each licensed
13 mortgage lender and correspondent mortgage lender, by rule, to
14 submit proof that, during the 2 years prior to the application
15 for license renewal, such lender, or the natural person
16 designated as the licensee's principal representative, has
17 successfully completed the professional education requirements
18 of s. 494.00295.

19 Section 10. Subsection (10) is added to section
20 494.0067, Florida Statutes, to read:

21 494.0067 Requirements of licensees under ss.
22 494.006-494.0077.--

23 (10) Each licensed mortgage lender or correspondent
24 mortgage lender shall be required to certify to the department
25 that each loan originator or associate who is employed by such
26 mortgage lender or correspondent lender, or who performs
27 services on behalf of such mortgage lender or correspondent
28 mortgage lender, at the time such mortgage lender or
29 correspondent mortgage lender renews their biennial license
30 pursuant to s. 494.0064, has completed 16 hours of
31 professional education during the preceding 2 years. Each

1 mortgage lender or correspondent mortgage lender shall submit
2 to the department records documenting:

3 (a) The names and addresses of the originators and
4 associates who are employed by or performed services on behalf
5 of such mortgage lender or correspondent lender as of the date
6 of submission of the biennial license renewal application of
7 such mortgage lender or correspondent mortgage lender.

8 (b) A description of the content of the professional
9 education programs attended by such loan originators and
10 associates during the 2 years preceding the license renewal.

11 (c) The hours designated for each professional
12 education program attended during the preceding 2 years by
13 such loan originators and associates.

14 (d) The date and location of the professional
15 education programs completed by such loan originators and
16 associates. The content of the professional education
17 programs shall include, but not be limited to, primary and
18 subordinate mortgage financing transactions, the contents of
19 parts I, II, and III, and rules adopted pursuant to such
20 parts. The professional education programs may be provided
21 pursuant to s. 494.00295.

22 Section 11. This act shall take effect October 1,
23 2001.

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26 HOUSE SUMMARY

27
28 Revises and clarifies continuing education requirements
29 for mortgage lenders and correspondent mortgage lenders.
30 See bill for details.
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