

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. Subsections (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 subsection 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 said 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 said 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 the principal
31 representative and all loan originators or associates who

1 perform services for the licensee to complete 14 hours of
2 professional education during each biennial license period.
3 The education shall cover primary and subordinate mortgage
4 financing transactions and the provisions of this chapter and
5 the rules adopted under 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 provided herein, this
13 act shall take effect October 1, 2001.

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