

By the Committee on Banking and Insurance; and Senator Clary

311-2027-03

1                                   A bill to be entitled  
2           An act relating to financial services; revising  
3           provisions relating to mortgage brokerage and  
4           mortgage lending; amending s. 494.0029, F.S.;  
5           specifying nontransferability of certain  
6           permits; providing requirements for changes in  
7           certain ownerships or controlling interests;  
8           providing for cancellation and reinstatement of  
9           certain permits; amending s. 494.00295, F.S.;  
10          clarifying certain professional education  
11          provisions as continuing education; amending s.  
12          494.003, F.S.; clarifying types of financial  
13          institutions eligible for exemptions from  
14          application of certain provisions; amending s.  
15          494.0031, F.S.; authorizing the Financial  
16          Services Commission to require information from  
17          applicants for licensure; specifying  
18          nontransferability of certain licenses;  
19          providing requirements for changes in certain  
20          ownerships or controlling interests; amending  
21          s. 494.0032, F.S.; providing for electronic  
22          filing of certain license renewal forms;  
23          providing for cancellation and reinstatement of  
24          certain licenses; amending s. 494.0033, F.S.;  
25          revising mortgage broker licensure  
26          requirements; providing for third-party  
27          administration of certain tests; authorizing  
28          the commission to waive an examination  
29          requirement for certain individuals under  
30          certain circumstances; authorizing the  
31          commission to assess a fee; amending s.

1 494.0034, F.S.; providing for electronic filing  
2 of certain license renewal forms; providing for  
3 cancellation and reinstatement of certain  
4 licenses; amending s. 494.0036, F.S.;  
5 clarifying a provision for issuance of a  
6 mortgage brokerage business branch office  
7 license; amending s. 494.006, F.S.; clarifying  
8 types of financial institutions eligible for  
9 exemptions from application of certain  
10 provisions; amending s. 494.0061, F.S.;  
11 clarifying application of certain accounting  
12 principles; providing requirements for changes  
13 in certain ownerships or controlling interests;  
14 providing for third-party administration of  
15 certain tests; authorizing the commission to  
16 waive an examination requirement for certain  
17 individuals under certain circumstances;  
18 authorizing the commission to assess a fee;  
19 amending s. 494.0062, F.S.; authorizing the  
20 commission or the Office of Financial  
21 Institutions and Securities Regulation to  
22 require information from applicants for  
23 licensure; clarifying application of certain  
24 accounting principles; providing requirements  
25 for changes in certain ownerships or  
26 controlling interests; providing for  
27 third-party administration of certain tests;  
28 authorizing the department to waive an  
29 examination requirement for certain individuals  
30 under certain circumstances; authorizing the  
31 commission to assess a fee; amending s.

1 494.0064, F.S.; providing for electronic filing  
2 of certain license renewal forms; clarifying  
3 certain professional education provisions as  
4 continuing education; providing for  
5 cancellation and reinstatement of certain  
6 licenses; amending s. 494.0065, F.S.;  
7 clarifying application of certain accounting  
8 principles; providing education and testing  
9 requirements for principal representatives;  
10 authorizing the commission to waive an  
11 examination requirement for certain individuals  
12 under certain circumstances; authorizing the  
13 commission to assess a fee; requiring mortgage  
14 lenders to designate a principal representative  
15 for certain purposes; requiring the office to  
16 be notified of the designation and education of  
17 principal representatives; providing for  
18 cancellation and reinstatement of certain  
19 licenses; amending s. 494.0066, F.S.; providing  
20 for cancellation and reinstatement of certain  
21 licenses; amending s. 494.0067, F.S.;  
22 clarifying certain professional education  
23 provisions as continuing education; amending  
24 ss. 494.0016, 516.12, 520.997, and 537.009,  
25 F.S.; revising the authority to regulate  
26 certain licensees; authorizing the commission  
27 to provide by rule requirements for destruction  
28 of certain information; authorizing the  
29 commission to prescribe by rule certain minimum  
30 information to be shown in certain documents;  
31 amending s. 517.12, F.S.; specifying an

1 additional depository for certain fees and  
2 documents required for registration of certain  
3 securities licensees; providing an effective  
4 date.

5  
6 Be It Enacted by the Legislature of the State of Florida:

7  
8 Section 1. Subsection (1) of section 494.0029, Florida  
9 Statutes, is amended, and subsections (4) and (5) are added to  
10 that section, to read:

11 494.0029 Mortgage business schools.--

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

24 (4) A permit issued under this section is not  
25 transferable or assignable. Any person who, directly or  
26 indirectly, seeks to own, control, or hold with power to vote,  
27 or holds proxies representing 50 percent or greater of any  
28 class of equity securities or ultimate equitable ownership of  
29 a mortgage business school, shall file a new application for  
30 and be approved for licensure prior to the effective date of  
31 the change in ownership or controlling interest.

1           (5) If an initial mortgage business school permit or  
2 renewal permit has been issued but the check upon which the  
3 license is based is returned for any reason, the permit shall  
4 be deemed canceled. A permit deemed canceled pursuant to this  
5 subsection shall be reinstated if the department receives a  
6 certified check for the appropriate amount within 30 days  
7 after the date the check was returned.

8           Section 2. Section 494.00295, Florida Statutes, is  
9 amended to read:

10           494.00295 Professional continuing education.--

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

23           (2) Professional continuing education programs must  
24 contribute directly to the professional competency of the  
25 participants, may only be offered by permitted mortgage  
26 business schools or entities specifically exempted from  
27 permitting as mortgage business schools, and may include  
28 electronically transmitted or distance education courses.

29           (3) The commission ~~department~~ shall adopt rules  
30 necessary to administer this section, including rules  
31 governing qualifying hours for professional continuing

1 education programs and standards for electronically  
2 transmitted or distance education courses, including course  
3 completion requirements.

4 Section 3. Paragraphs (b) and (c) of subsection (1)  
5 and paragraph (e) of subsection (2) of section 494.003,  
6 Florida Statutes, are amended to read:

7 494.003 Exemptions.--

8 (1) None of the following persons is subject to the  
9 requirements of ss. 494.003-494.0043:

10 (b) A state or federal chartered bank, bank holding  
11 company formed or regulated under the laws of the United  
12 States or the various states, trust company, savings and loan  
13 association, savings bank, credit union, or consumer finance  
14 company licensed pursuant to chapter 516.

15 (c) A wholly owned bank holding company subsidiary  
16 formed or regulated under the laws of the United States or the  
17 various states or a wholly owned savings and loan association  
18 holding company subsidiary that is approved or certified by  
19 the Department of Housing and Urban Development, the Veterans  
20 Administration, the Government National Mortgage Association,  
21 the Federal National Mortgage Association, or the Federal Home  
22 Loan Mortgage Corporation.

23 (2) None of the following persons is required to be  
24 licensed under ss. 494.003-494.0043:

25 (e) A wholly owned subsidiary of a state or federal  
26 chartered bank or savings and loan association the sole  
27 activity of which is to distribute the lending programs of  
28 such state or federal chartered bank or savings and loan  
29 association to persons who arrange loans for, or make loans  
30 to, borrowers.

31

1           Section 4. Subsections (1), (3), and (5) of section  
2 494.0031, Florida Statutes, are amended, and subsection (6) is  
3 added to that section, to read:

4           494.0031 Licensure as a mortgage brokerage business.--

5           (1) The commission or the office may require each  
6 applicant for a mortgage brokerage business license to provide  
7 any information reasonably necessary to make a determination  
8 of the applicant's eligibility for licensure.The office  
9 ~~department~~ shall issue a mortgage brokerage business license  
10 to each person who:

11           (a) Has submitted a completed application form and a  
12 nonrefundable application fee of \$425; and

13           (b) Has a qualified principal broker pursuant to s.  
14 494.0035.

15           (3) Notwithstanding the provisions of subsection (1),  
16 it is a ground for denial of licensure if the designated  
17 principal mortgage broker; any officer, director, partner, or  
18 joint venturer; ~~any natural person owning a 10-percent or~~  
19 ~~greater interest in the mortgage brokerage business; or any~~  
20 natural person who is the ultimate equitable owner of a  
21 10-percent or greater interest in the mortgage brokerage  
22 business has committed any violation specified in ss.  
23 494.001-494.0077 or has pending against him or her any  
24 criminal prosecution or administrative enforcement action, in  
25 any jurisdiction, which involves fraud, dishonest dealing, or  
26 any other act of moral turpitude.

27           (5) If an initial mortgage brokerage business or  
28 branch office license has been issued but the check upon which  
29 the license is based is returned for any reason ~~due to~~  
30 ~~insufficient funds~~, the license shall be deemed canceled. A  
31 license deemed canceled pursuant to this subsection shall be

1 reinstated if the office department receives a certified check  
2 for the appropriate amount within 30 days after the date the  
3 check was returned ~~due to insufficient funds~~.

4 (6) A license issued under ss. 494.003-494.0043 is not  
5 transferable or assignable. Any person or persons who,  
6 directly or indirectly, seek to own, control, or hold with  
7 power to vote, or hold proxies representing 50 percent or  
8 greater of any class of equity securities or ultimate  
9 equitable ownership of a mortgage brokerage business, shall  
10 file a new application for and be approved for licensure prior  
11 to the effective date of the change in ownership or  
12 controlling interest.

13 Section 5. Subsections (1) and (2) of section  
14 494.0032, Florida Statutes, are amended, and subsection (4) is  
15 added to that section, to read:

16 494.0032 Renewal of mortgage brokerage business  
17 license or branch office license.--

18 (1) The office department shall renew a mortgage  
19 brokerage business license upon receipt of an electronically  
20 filed ~~a~~ completed renewal form and payment of a nonrefundable  
21 renewal fee of \$375. Each licensee shall pay at the time of  
22 renewal a nonrefundable renewal fee of \$225 for the renewal of  
23 each branch office license.

24 (2) The commission department shall adopt rules  
25 establishing a procedure for the biennial renewal of mortgage  
26 brokerage business licenses and branch office licenses. The  
27 commission department may prescribe the electronic format form  
28 for renewal and may require an update of all information  
29 provided in the licensee's initial application.

30 (4) If the renewal of a mortgage brokerage business or  
31 branch office license has been issued but the check upon which



1 the license is based is returned for any reason, the license  
2 shall be deemed canceled. A license deemed canceled pursuant  
3 to this subsection shall be reinstated if the department  
4 receives a certified check for the appropriate amount within  
5 30 days after the date the check was returned.

6 Section 6. Subsection (1), paragraphs (b) and (c) of  
7 subsection (2), and subsection (7) of section 494.0033,  
8 Florida Statutes, are amended to read:

9 494.0033 Mortgage broker's license.--

10 (1) Each natural person who acts as a mortgage broker  
11 for a mortgage brokerage business or acts as an associate for  
12 a mortgage lender or correspondent mortgage lender must be  
13 licensed pursuant to this section. To act as a mortgage  
14 broker, an individual must be an associate of a mortgage  
15 brokerage business, mortgage lender, or correspondent mortgage  
16 lender. A mortgage broker is prohibited from being an  
17 associate of more than one mortgage brokerage business,  
18 mortgage lender, or correspondent mortgage lender.

19 (2) Each initial application for a mortgage broker's  
20 license must be in the form prescribed by rule of the  
21 commission ~~department~~. The commission or office ~~department~~ may  
22 require each applicant to provide any information reasonably  
23 necessary to make a determination of the applicant's  
24 eligibility for licensure. The office ~~department~~ shall issue  
25 an initial license to any natural person who:

26 (b) Has passed a written test, pursuant to rules of  
27 the commission ~~adopted by the~~ and administered by the office  
28 or a third party approved by the office, ~~department~~ which is  
29 designed to determine competency in primary and subordinate  
30 mortgage financing transactions as well as to test knowledge  
31 of ss. 494.001-494.0077 and the rules adopted pursuant

1 thereto. The commission may waive by rule the examination  
2 requirement for any individual who has passed a comparable  
3 test offered by a national group of state mortgage regulators  
4 or a federal governmental agency that covers primary and  
5 subordinate mortgage financing transactions;

6 (c) Has submitted a completed application and a  
7 nonrefundable application fee of \$200. The commission  
8 ~~department~~ may set by rule an additional fee for taking a  
9 retake of the examination and any retakes required; and

10 (7) If an initial mortgage broker license has been  
11 issued but the check upon which the license is based is  
12 returned for any reason ~~due to insufficient funds~~, the license  
13 shall be deemed canceled. A license deemed canceled pursuant  
14 to this subsection shall be reinstated if the office  
15 ~~department~~ receives a certified check for the appropriate  
16 amount within 30 days after the date the check was returned  
17 ~~due to insufficient funds~~.

18 Section 7. Subsections (1) and (2) of section  
19 494.0034, Florida Statutes, are amended, and subsection (4) is  
20 added to that section, to read:

21 494.0034 Renewal of mortgage broker's license.--

22 (1) The office ~~department~~ shall renew a mortgage  
23 broker license upon receipt of an electronically filed ~~the~~  
24 completed renewal form, certification of compliance with  
25 continuing education requirements of s. 494.00295, and payment  
26 of a nonrefundable renewal fee of \$150.

27 (2) The commission ~~department~~ shall adopt rules  
28 establishing a procedure for the biennial renewal of mortgage  
29 broker's licenses. The commission ~~department~~ may prescribe the  
30 electronic format ~~form~~ of the renewal ~~application~~ and may  
31

1 require an update of information since the licensee's last  
2 renewal.

3       (4) If the renewal of a mortgage broker license has  
4 been issued but the check upon which the license is based is  
5 returned for any reason, the license shall be deemed canceled.  
6 A license deemed canceled pursuant to this subsection shall be  
7 reinstated if the office receives a certified check for the  
8 appropriate amount within 30 days after the date the check was  
9 returned.

10       Section 8. Subsection (2) of section 494.0036, Florida  
11 Statutes, is amended to read:

12       494.0036 Mortgage brokerage business branch offices.--

13       (2) The office ~~department~~ shall issue a mortgage  
14 brokerage business branch office license to any licensee, if  
15 the office has determined that the licensee has submitted upon  
16 ~~receipt of~~ a completed application in a form as prescribed by  
17 commission ~~department~~ rule and has paid ~~payment of~~ an initial  
18 nonrefundable branch office license fee of \$225. Branch office  
19 licenses must be renewed in conjunction with the renewal of  
20 the mortgage brokerage business license. The branch office  
21 license shall be issued in the name of the mortgage brokerage  
22 business that maintains the branch office.

23       Section 9. Paragraphs (a) and (c) of subsection (1)  
24 and paragraph (a) of subsection (2) of section 494.006,  
25 Florida Statutes, are amended to read:

26       494.006 Exemptions.--

27       (1) None of the following persons are subject to the  
28 requirements of ss. 494.006-494.0077 in order to act as a  
29 mortgage lender or correspondent mortgage lender:

30       (a) A state or federal chartered bank, bank holding  
31 company formed or regulated under the laws of the United

1 States or the various states, trust company, savings and loan  
2 association, savings bank, credit union, or insurance company  
3 if the insurance company is duly licensed in this state.

4 (c) A wholly owned bank holding company subsidiary  
5 formed or regulated under the laws of the United States or the  
6 various states or a wholly owned savings and loan association  
7 holding company subsidiary that is approved or certified by  
8 the Department of Housing and Urban Development, the Veterans  
9 Administration, the Government National Mortgage Association,  
10 the Federal National Mortgage Association, or the Federal Home  
11 Loan Mortgage Corporation.

12 (2)(a) A natural person employed by a mortgage lender  
13 or correspondent mortgage lender licensed under ss.  
14 494.001-494.0077 is exempt from the licensure requirements of  
15 ss. 494.001-494.0077 when acting within the scope of  
16 employment with the licensee.

17 Section 10. Subsections (1), (5), (7), (9), and (10)  
18 of section 494.0061, Florida Statutes, are amended to read:

19 494.0061 Mortgage lender's license requirements.--

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

26 (a) A completed application form;

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

28 (c) Audited financial statements, which documents  
29 disclose that the applicant has a bona fide and verifiable net  
30 worth, pursuant to accounting principles generally accepted in  
31 the United States ~~accounting principles~~, of at least \$250,000,

1 which must be continuously maintained as a condition of  
2 licensure;

3 (d) A surety bond in the amount of \$10,000, payable to  
4 the state and conditioned upon compliance with ss.  
5 494.001-494.0077, which inures to the department and which  
6 must be continuously maintained thereafter in full force;

7 (e) Documentation that the applicant is duly  
8 incorporated, registered, or otherwise formed as a general  
9 partnership, limited partnership, limited liability company,  
10 or other lawful entity under the laws of this state or another  
11 state of the United States; and

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

17 (5) A license issued in accordance with ss.  
18 494.006-494.0077 is not transferable or assignable. Any person  
19 or persons who, directly or indirectly, seek to own, control,  
20 or hold with power to vote, or hold proxies representing 50  
21 percent or greater of any class of equity securities or  
22 ultimate equitable ownership of a mortgage lender, shall file  
23 a new application for and be approved for licensure prior to  
24 the effective date of the change in ownership or controlling  
25 interest.

26 (7) If an initial mortgage lender or branch office  
27 license has been issued but the check upon which the license  
28 is based is returned for any reason ~~due to insufficient funds~~,  
29 the license shall be deemed canceled. A license deemed  
30 canceled pursuant to this subsection shall be reinstated if  
31 the office ~~department~~ receives a certified check for the

1 appropriate amount within 30 days after the date the check was  
2 returned ~~due to insufficient funds~~.

3 (9) After October 1, 2001, an applicant's principal  
4 representative must pass a written test, pursuant to rules of  
5 the commission and administered by the office or a third party  
6 approved by the office,~~prescribed by the department~~ which  
7 covers primary and subordinate mortgage financing transactions  
8 and the provisions of this chapter and rules adopted under  
9 this chapter. The commission may waive the examination  
10 requirement for any individual who has passed a comparable  
11 test offered by a national group of state mortgage regulators  
12 or a federal governmental agency that covers primary and  
13 subordinate mortgage financing transactions. The commission  
14 may set by rule a fee for taking the examination and any  
15 retakes required.

16 (10) A lender shall notify the office ~~department~~ of  
17 the name and address of any new principal representative and  
18 shall document that the person has completed the educational  
19 and testing requirements of this section within 90 days after  
20 ~~upon~~ the designation of a new principal representative.

21 Section 11. Subsections (1), (3), (8), (10), (12), and  
22 (13) of section 494.0062, Florida Statutes, are amended to  
23 read:

24 494.0062 Correspondent mortgage lender's license  
25 requirements.--

26 (1) The commission or office may require each  
27 applicant for a correspondent mortgage lender license to  
28 provide any information reasonably necessary to make a  
29 determination of the applicant's eligibility for licensure.  
30 The office ~~department~~ shall issue an initial correspondent  
31 mortgage lender license to any person who 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 accounting principles generally accepted in the  
6 United States, ~~accounting principles~~ of \$25,000 or more, which  
7 must be continuously maintained as a 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 office ~~department~~ and  
11 which must be continuously maintained, thereafter, in full  
12 force;
- 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 (3) Each initial application for a correspondent  
24 mortgage lender's license must be in a form prescribed by the  
25 commission ~~department~~. ~~The department may require each~~  
26 ~~applicant to provide any information reasonably necessary to~~  
27 ~~make a determination of the applicant's eligibility for~~  
28 ~~licensure.~~ The commission or office ~~department~~ may require  
29 that each officer, director, and ultimate equitable owner of a  
30 10-percent or greater interest submit a complete set of  
31 fingerprints taken by an authorized law enforcement officer.

1           (8) A license issued under this section is not  
2 transferable or assignable. Any person or persons who,  
3 directly or indirectly, seek to own, control, or hold with  
4 power to vote, or hold proxies representing 50 percent or  
5 greater of any class of equity securities or ultimate  
6 equitable ownership of a correspondent mortgage lender, shall  
7 file a new application for and be approved for licensure prior  
8 to the effective date of the change in ownership or  
9 controlling interest.

10           (10) If an initial correspondent mortgage lender or  
11 branch office license has been issued but the check upon which  
12 the license is based is returned for any reason ~~due to~~  
13 ~~insufficient funds~~, the license shall be deemed canceled. A  
14 license deemed canceled pursuant to this subsection shall be  
15 reinstated if the office ~~department~~ receives a certified check  
16 for the appropriate amount within 30 days after the date the  
17 check was returned ~~due to insufficient funds~~.

18           (12) After October 1, 2001, an applicant's principal  
19 representative must pass a written test, pursuant to rules of  
20 the commission and administered by the office or a third party  
21 approved by the office, ~~prescribed by the department~~ which  
22 covers primary and subordinate mortgage financing transactions  
23 and the provisions of this chapter and rules adopted under  
24 this chapter. The commission may waive the examination  
25 requirement for any individual who has passed a comparable  
26 test offered by a national group of state mortgage regulators  
27 or a federal governmental agency that covers primary and  
28 subordinate mortgage financing transactions. The commission  
29 may set by rule a fee for taking the examination and any  
30 retakes required.

31



1           (13) A correspondent lender shall notify the office  
2 ~~department~~ of the name and address of any new principal  
3 representative and shall document that such person has  
4 completed the educational and testing requirements of this  
5 section within 90 days after ~~upon~~ the lender's designation of  
6 a new principal representative.

7           Section 12. Subsections (1) and (2) of section  
8 494.0064, Florida Statutes, are amended, and subsection (5) is  
9 added to that section, to read:

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

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

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

25           (2) The commission ~~department~~ shall adopt rules  
26 establishing a procedure for the biennial renewal of mortgage  
27 lender's licenses, correspondent lender's licenses, and branch  
28 office permits. The commission ~~department~~ may prescribe the  
29 electronic format ~~form~~ for renewal and may require an update  
30 of all information provided in the licensee's initial  
31 application.

1           (5) If the renewal of a mortgage lender, correspondent  
2 mortgage lender, or branch office license has been issued but  
3 the check upon which the license is based is returned for any  
4 reason, the license shall be deemed canceled. A license deemed  
5 canceled pursuant to this subsection shall be reinstated if  
6 the office receives a certified check for the appropriate  
7 amount within 30 days after the date the check was returned.

8           Section 13. Subsections (2) and (5) of section  
9 494.0065, Florida Statutes, are amended, paragraphs (c) and  
10 (d) are added to subsection (4) of that section, and  
11 subsections (9), (10), and (11) are added to that section, to  
12 read:

13           494.0065 Saving clause.--

14           (2) A licensee issued a license pursuant to subsection  
15 (1) may renew its mortgage lending license if it documents a  
16 minimum net worth of \$25,000, according to accounting  
17 principles generally accepted in the United States accounting  
18 principles, which must be continuously maintained as a  
19 condition to licensure. The office ~~department~~ shall require an  
20 audited financial statement which documents such net worth.

21           (4)

22           (c) For any transfer applications filed after October  
23 1, 2001, proof shall be required that the applicant's  
24 principal representative has completed 24 hours of classroom  
25 instruction in primary and subordinate financing transactions  
26 and in the provisions of this chapter and rules adopted under  
27 this chapter.

28           (d) For any transfer applications filed after October  
29 1, 2001, an applicant's principal representative must pass a  
30 written test, pursuant to rules adopted by the commission and  
31 administered by the office or a third party approved by the

1 office, which covers primary and subordinate mortgage  
2 financing transactions and the provisions of this chapter and  
3 rules adopted under this chapter. The commission may waive the  
4 examination requirement for any individual who has passed a  
5 comparable test offered by a national group of state mortgage  
6 regulators or a federal governmental agency that covers  
7 primary and subordinate mortgage financing transactions. The  
8 commission may set by rule a fee for taking the examination  
9 and any retakes required.

10 (5) The commission or office ~~department~~ may require  
11 each applicant for any transfer to provide any information  
12 reasonably necessary to make a determination of the  
13 applicant's eligibility for licensure. The office ~~department~~  
14 shall issue the transfer of licensure to any person who  
15 submits the following documentation at least 90 days prior to  
16 the anticipated transfer:

17 (a) A completed application form.

18 (b) A nonrefundable fee set by rule of the commission  
19 ~~department~~ in the amount of \$575~~\$500~~.

20 (c) Audited financial statements that substantiate  
21 that the applicant has a bona fide and verifiable net worth,  
22 according to accounting principles generally accepted in the  
23 United States ~~accounting principles~~, of at least \$25,000,  
24 which must be continuously maintained as a condition of  
25 licensure.

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

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1           (e) For applications filed 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           (f) For applications filed after October 1, 2001,  
7 proof that the applicant's principal representative has passed  
8 a written test, pursuant to rules adopted by the commission  
9 and administered by the office or a third party approved by  
10 the office, which covers primary and subordinate mortgage  
11 financing transactions and the provisions of this chapter and  
12 rules adopted under this chapter. The commission may waive the  
13 examination requirement for any individual who has passed a  
14 comparable test offered by a national group of state mortgage  
15 regulators or a federal governmental agency that covers  
16 primary and subordinate mortgage financing transactions. The  
17 commission may set by rule a fee for taking the examination  
18 and any retakes required.

19  
20 The commission or office ~~department~~ may require that each  
21 officer, director, and ultimate equitable owner of a  
22 10-percent or greater interest in the applicant submit a  
23 complete set of fingerprints taken by an authorized law  
24 enforcement officer.

25           (9) Each mortgage lender shall designate a principal  
26 representative who exercises control over the business and  
27 shall maintain a form prescribed by the commission designating  
28 the principal representative. If the form is not accurately  
29 maintained, the business is considered to be operated by each  
30 officer, director, or equitable owner of a 10-percent or  
31 greater interest in the business.

1           (10) A lender shall notify the office of the name and  
2 address of any new principal representative and shall document  
3 that the person has completed the educational and testing  
4 requirements of this section within 90 days after the  
5 designation of a new principal representative.

6           (11) If a change of control license, branch office  
7 license, or lender or branch office renewal license has been  
8 issued but the check upon which the license is based is  
9 returned for any reason, the license shall be deemed canceled.  
10 A license deemed canceled pursuant to this subsection shall be  
11 reinstated if the office receives a certified check for the  
12 appropriate amount within 30 days after the date the check was  
13 returned.

14           Section 14. Section 494.0066, Florida Statutes, is  
15 amended to read:

16           494.0066 Branch offices.--

17           (1) A branch office license is required for each  
18 branch office maintained by a licensee under ss.  
19 494.006-494.0077.

20           (2) The office ~~department~~ shall issue a branch office  
21 license to any licensee, once the office determines the  
22 licensee has submitted ~~upon receipt of~~ a completed application  
23 form as prescribed by rule by the commission ~~department~~ and an  
24 initial nonrefundable branch office license fee of \$325. The  
25 branch office application must include the name and license  
26 number of the licensee under ss. 494.006-494.0077, the name of  
27 the licensee's employee in charge of the branch office, and  
28 the address of the branch office. The branch office license  
29 shall be issued in the name of the licensee under ss.  
30 494.006-494.0077 and must be renewed in conjunction with the  
31 license renewal.

1           (3) If an initial branch office license has been  
2 issued but the check upon which the license is based is  
3 returned for any reason, the license shall be deemed canceled.  
4 A license deemed canceled pursuant to this subsection shall be  
5 reinstated if the office receives a certified check for the  
6 appropriate amount within 30 days after the date the check was  
7 returned.

8           Section 15. Paragraph (a) of subsection (10) of  
9 section 494.0067, Florida Statutes, is amended to read:

10           494.0067 Requirements of licensees under ss.  
11 494.006-494.0077.--

12           (10)(a) Each licensee shall require the principal  
13 representative and all loan originators or associates who  
14 perform services for the licensee to complete 14 hours of  
15 professional continuing education during each biennial license  
16 period. The education shall cover primary and subordinate  
17 mortgage financing transactions and the provisions of this  
18 chapter and the rules adopted under this chapter.

19           Section 16. Subsection (4) of section 494.0016,  
20 Florida Statutes, is amended to read:

21           494.0016 Books, accounts, and records; maintenance;  
22 examinations by the office ~~department~~.--

23           (4) The commission ~~department~~ may prescribe by rule  
24 the minimum information to be shown in the books, accounts,  
25 records, and documents of licensees so that such records will  
26 enable the office ~~department~~ to determine the licensee's  
27 compliance with ss. 494.001-494.0077. In addition, the  
28 commission may prescribe by rule the requirements for  
29 destruction of books, accounts, records, and documents  
30 retained by the licensee after completion of the time period  
31 indicated in subsection (3).

1           Section 17. Subsection (3) is added to section 516.12,  
2 Florida Statutes, to read:

3           516.12 Records to be kept by licensee.--

4           (3) The commission may prescribe by rule the minimum  
5 information to be shown in the books, accounts, records, and  
6 documents of licensees for purposes of enabling the office to  
7 determine the licensee's compliance with ss. 516.001-516.36.  
8 In addition, the commission may prescribe by rule the  
9 requirements for destruction of books, accounts, records, and  
10 documents retained by the licensee after completion of the  
11 time period indicated in subsection (1).

12           Section 18. Subsection (4) of section 520.997, Florida  
13 Statutes, is amended to read:

14           520.997 Books, accounts, and records.--

15           (4) The commission may ~~department is hereby authorized~~  
16 ~~and empowered to~~ prescribe by rule the minimum information to  
17 be shown in the books, accounts, and records, and documents of  
18 licensees so that such records will enable the office  
19 ~~department~~ to determine compliance with the provisions of this  
20 chapter. In addition, the commission may prescribe by rule the  
21 requirements for destruction of books, accounts, records, and  
22 documents retained by the licensee after completion of the  
23 time period indicated in subsection (3).

24           Section 19. Subsection (5) of section 537.009, Florida  
25 Statutes, is amended to read:

26           537.009 Recordkeeping; reporting; safekeeping of  
27 property.--

28           (5) The commission ~~department~~ may prescribe by rule  
29 the books, accounts, ~~and~~ records, and documents, and the  
30 minimum information to be shown in the books, accounts, ~~and~~  
31 records, and documents, of licensees so that such records will

1 enable the office ~~department~~ to determine compliance with the  
2 provisions of this act. In addition, the commission may  
3 prescribe by rule the requirements for destruction of books,  
4 accounts, records, and documents retained by the licensee  
5 after completion of the time period indicated in subsection  
6 (3).

7 Section 20. Subsection (15) of section 517.12, Florida  
8 Statutes, is amended to read:

9 517.12 Registration of dealers, associated persons,  
10 investment advisers, and branch offices.--

11 (15) In lieu of filing with the office ~~department~~ the  
12 applications specified in subsection (6), the fees required by  
13 subsection (10), and the termination notices required by  
14 subsection (12), the commission ~~department~~ may by rule  
15 establish procedures for the deposit of such fees and  
16 documents with the Central Registration Depository or the  
17 Investment Adviser Registration Depository of the National  
18 Association of Securities Dealers, Inc., as developed under  
19 contract with the North American Securities Administrators  
20 Association, Inc.; ~~provided, however, that~~ such procedures  
21 must ~~shall~~ provide the office ~~department~~ with the information  
22 and data as required by this section.

23 Section 21. This act shall take effect October 1,  
24 2003.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
Senate Bill 1924

The committee substitute does the following:

- Provides conforming, statutory changes to reflect the transfer of all activities relating to the regulation of financial institutions, mortgage brokers, finance companies, and the securities industry from the Department of Banking and Finance to the Office of Financial Institutions and Securities Regulation within the Financial Services Commission.
- Requires the commission to adopt rules regarding the mortgage brokerage test and allows the office or a third party authorized by the office to administer the test, rather than a third party only.
- Authorizes the commission, rather than the office, to adopt rules concerning recordkeeping requirements.
- Corrects technical errors.