

1 A bill to be entitled
2 An act relating to mortgages; amending s. 494.001, F.S.;
3 revising definitions; amending s. 494.0014, F.S.;
4 authorizing the Office of Financial Regulation to impose
5 fines; amending s. 494.0029, F.S.; authorizing the office
6 to take certain adverse actions on permits of certain
7 mortgage business schools; providing additional
8 requirements for such schools; amending s. 494.00295,
9 F.S.; providing an additional professional continuing
10 education requirement; authorizing the office to offer
11 professional continuing education programs; specifying
12 requirements for electronically transmitted and distance
13 education courses; amending s. 494.0033, F.S.; revising
14 mortgage broker license applicant requirements;
15 authorizing an additional fee for reviewing mortgage
16 broker's license tests; providing for review of the
17 testing process; amending s. 494.0038, F.S.; providing
18 additional disclosure requirements for mortgage brokerage
19 businesses; amending s. 494.004, F.S.; specifying an
20 additional notification requirement for mortgage broker
21 licensees; providing disclosure requirements; authorizing
22 a borrower to waive notification under certain
23 circumstances; providing waiver requirements; amending s.
24 494.0041, F.S.; specifying additional acts constituting
25 grounds for certain disciplinary actions; providing for
26 fines and penalties; amending s. 494.0064, F.S.; providing
27 additional requirements for renewals of mortgage lender's
28 licenses; amending s. 494.0067, F.S.; providing additional

29 requirements for mortgage lender licenses; providing
 30 disclosure and notification requirements; authorizing a
 31 borrower to waive notification under certain
 32 circumstances; providing waiver requirements; amending s.
 33 494.0072, F.S.; specifying additional acts constituting
 34 grounds for certain disciplinary actions; providing fines
 35 and penalties; amending s. 494.0073, F.S.; providing for
 36 application of certain provisions to mortgage brokerage
 37 businesses; providing for adoption of rules by the
 38 Financial Services Commission; creating s. 817.545, F.S.;
 39 providing a short title; providing a definition;
 40 specifying criteria for committing the offense of mortgage
 41 fraud; providing for venue with respect to the committed
 42 offense; providing a criminal penalty; providing an
 43 effective date.

44
 45 Be It Enacted by the Legislature of the State of Florida:

46
 47 Section 1. Subsection (2) of section 494.001, Florida
 48 Statutes, is amended, and subsections (32), (33), and (34) are
 49 added to that section, to read:

50 494.001 Definitions.--As used in ss. 494.001-494.0077, the
 51 term:

52 (2) "Act as a loan originator" means being employed by a
 53 mortgage lender or correspondent mortgage lender, for
 54 compensation or gain or in the expectation of compensation or
 55 gain, to negotiate, ~~or~~ offer to negotiate, or assist any
 56 licensed or exempt entity in negotiating the making of a

57 mortgage loan, including, but not limited to, working with a
58 licensed or exempt entity to structure a loan or discussing
59 terms and conditions necessary for the delivery of a loan
60 product. A natural person whose activities are ministerial and
61 clerical, which may include quoting available interest rates ~~or~~
62 ~~loan terms and conditions~~, is not acting as a loan originator.

63 (32) "Mortgage loan application" means a submission of a
64 borrower's financial information in anticipation of a credit
65 decision, whether written or computer-generated, relating to a
66 mortgage loan. If the submission does not state or identify a
67 specific property, the submission is an application for a
68 prequalification and not an application for a mortgage loan
69 under this part. The subsequent addition of an identified
70 property to the submission converts the submission to an
71 application for a mortgage loan.

72 (33) "Mortgage brokerage fee" means the total compensation
73 to be received by a mortgage brokerage business for acting as a
74 mortgage broker.

75 (34) "Business day" means any calendar day except Sunday
76 or a legal holiday.

77 Section 2. Subsection (4) is added to section 494.0014,
78 Florida Statutes, to read:

79 494.0014 Cease and desist orders; administrative fines;
80 refund orders.--

81 (4) The office may impose upon any person who makes or
82 brokers a loan, or any mortgage business school, a fine for
83 violations of any provision of ss. 494.001-494.00295 or any rule

84 or order issued under ss. 494.001-494.00295 in an amount not
85 exceeding \$5,000 for each separate count or offense.

86 Section 3. Paragraph (f) is added to subsection (1), and
87 paragraphs (g) and (h) are added to subsection (2) of section
88 494.0029, Florida Statutes, to read:

89 494.0029 Mortgage business schools.--

90 (1)

91 (f) In addition to the remedies set forth in s. 494.0014,
92 the office may revoke, suspend, or place on probation the permit
93 of any mortgage business school that fails to meet the
94 requirements of this section, subject to all reasonable
95 conditions that the office specifies.

96 (2)

97 (g) A school permitted under this section must conduct
98 classes on the basis of a 50-minute classroom hour in accordance
99 with the requirements of this chapter and commission rules.

100 (h) Each school permitted under this section is
101 responsible for developing procedures to confirm, and for
102 actually confirming, the identity of each student attending any
103 course offering.

104 Section 4. Section 494.00295, Florida Statutes, is amended
105 to read:

106 494.00295 Professional continuing education.--

107 (1) Mortgage brokers, and the principal representatives
108 and loan originators of a mortgage lender, correspondent
109 mortgage lender, or mortgage lender pursuant to s. 494.0065,
110 must successfully complete at least 14 hours of professional
111 continuing education covering primary and subordinate mortgage

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112 financing transactions and the provisions of this chapter during
113 the 2-year period immediately preceding the renewal deadline for
114 a mortgage broker, mortgage lender, correspondent mortgage
115 lender, or mortgage lender pursuant to s. 494.0065. A minimum of
116 4 hours shall cover the provisions of this chapter and the rules
117 adopted under this chapter. At the time of license renewal, a
118 licensee must certify to the office that the professional
119 continuing education requirements of this section have been met.
120 Licensees shall maintain records documenting compliance with
121 this subsection for a period of 4 years. The requirements for
122 professional continuing education are waived for the license
123 renewal of a mortgage broker who has completed the 24-hour
124 prelicensing classroom education requirement of s. 494.0033(3)
125 within 90 days of ~~for~~ the biennial license period immediately
126 following the period in which the person became licensed as a
127 mortgage broker. The requirements for professional continuing
128 education for a principal representative are waived for the
129 license renewal of a mortgage lender, correspondent mortgage
130 lender, or mortgage lender pursuant to s. 494.0065 for the
131 biennial license period immediately following the period in
132 which the principal representative completed the 24 hours of
133 classroom education and passed a written test in order to
134 qualify to be a principal representative.

135 (2) Professional continuing education programs must
136 contribute directly to the professional competency of the
137 participants, may only be offered by permitted mortgage business
138 schools, the office, or entities specifically exempted from

139 permitting as mortgage business schools, and may include
140 electronically transmitted or distance education courses.

141 (3) (a) All electronically transmitted courses shall
142 require that the time spent attending electronically transmitted
143 professional education courses is equal to the number of
144 qualifying hours awarded to participants for course attendance.
145 Before allowing a course participant to complete a course and
146 receive a certificate of course completion, the course provider
147 shall ensure that the course participant has:

148 1. Logged the required number of hours for the particular
149 timed module.

150 2. Completed a test that comprehensively covers the course
151 content for the particular timed module.

152 3. Correctly answered all test questions for the
153 particular timed module.

154 (b) All distance education course participants shall
155 successfully complete a test that comprehensively covers course
156 content in order to receive a certificate of course completion.
157 Distance education providers shall not provide answers to test
158 questions to course participants and shall not issue a
159 certificate of course completion to any course participant who
160 has failed to correctly answer at least 75 percent of the total
161 test questions. The test must consist of at least 100 questions.

162 (4) ~~(3)~~ The commission shall adopt rules pursuant to ss.
163 120.536(1) and 120.54 necessary to administer this section,
164 including rules governing qualifying hours for professional
165 continuing education programs and standards for electronically

166 transmitted or distance education courses, including course
167 completion requirements.

168 Section 5. Paragraphs (a) and (b) of subsection (2) of
169 section 494.0033, Florida Statutes, are amended to read:

170 494.0033 Mortgage broker's license.--

171 (2) Each initial application for a mortgage broker's
172 license must be in the form prescribed by rule of the
173 commission. The commission may require each applicant to provide
174 any information reasonably necessary to make a determination of
175 the applicant's eligibility for licensure. The office shall
176 issue an initial license to any natural person who:

177 (a) Is at least 18 years of age and has a high school
178 diploma or its equivalent.

179 (b) Has passed a written test adopted and administered by
180 the office, or has passed an electronic test adopted and
181 administered by the office or a third party approved by the
182 office, which is designed to determine competency in primary and
183 subordinate mortgage financing transactions as well as to test
184 knowledge of ss. 494.001-494.0077 and the rules adopted pursuant
185 thereto. The commission may prescribe by rule an additional fee
186 that may not exceed \$100 for the electronic version of the
187 mortgage broker test. The commission may waive by rule the
188 examination requirement for any person who has passed a test
189 approved by the Conference of State Bank Supervisors, the
190 American Association of Residential Mortgage Regulators, or the
191 United States Department of Housing and Urban Development if the
192 test covers primary and subordinate mortgage financing
193 transactions. The commission may adopt rules prescribing an

194 additional fee that may not exceed \$50 for an applicant to
 195 review his or her completed and graded mortgage broker test. The
 196 commission may adopt rules regarding the administration of the
 197 testing process, including, but not limited to, procedures
 198 relating to pretest registration, test security, scoring,
 199 content, result notification, retest procedures and fees,
 200 postexamination review, and challenge provisions.

201
 202 The commission may require by rule information concerning any
 203 such applicant or person, including, but not limited to, his or
 204 her full name and any other names by which he or she may have
 205 been known, age, social security number, qualifications and
 206 educational and business history, and disciplinary and criminal
 207 history.

208 Section 6. Section 494.0038, Florida Statutes, is amended
 209 to read:

210 494.0038 Mortgage broker disclosures.--

211 (1)(a)1. A person may not receive a mortgage brokerage fee
 212 ~~for acting as a mortgage brokerage business~~ except pursuant to a
 213 written mortgage brokerage agreement between the mortgage
 214 brokerage business and the borrower that is signed and dated by
 215 the business and the borrower.

216 2. The written mortgage brokerage agreement must describe
 217 the services to be provided by the mortgage brokerage business
 218 and specify the amount and terms of the mortgage brokerage fee
 219 that the mortgage brokerage business is to receive. The written
 220 mortgage brokerage agreement must be executed within 3 business
 221 days after a mortgage loan application is accepted if the

222 borrower is present when the application is accepted. If the
223 borrower is not present when the is application accepted, the
224 licensee shall forward the written mortgage brokerage agreement
225 to the borrower within 3 business days after the licensee's
226 acceptance of the application, and the licensee bears the burden
227 of proving that the borrower received and approved the written
228 mortgage brokerage agreement.

229 (b)1. If the mortgage brokerage business is to receive any
230 payment of any kind from the lender, the maximum total dollar
231 amount of the payment must be disclosed to the borrower in the
232 written mortgage brokerage agreement as described in paragraph
233 (a). The commission may prescribe by rule an acceptable form for
234 disclosure of brokerage fees received from the lender. The
235 mortgage brokerage agreement must state the nature of the
236 relationship with the lender, describe how compensation is paid
237 by the lender, and describe how the mortgage interest rate
238 affects the compensation paid to the mortgage brokerage
239 business. ~~If any of the rates, points, fees, and other terms~~
240 ~~quoted by or on behalf of the lender are to be received by the~~
241 ~~mortgage brokerage business, such fact shall be specifically~~
242 ~~disclosed to the borrower.~~

243 2. The exact amount of any payment of any kind by the
244 lender to the mortgage brokerage business must be disclosed in
245 writing to the borrower within 3 business days after the
246 mortgage brokerage business is made aware of the exact amount of
247 the payment from the lender but no later than 3 business days
248 prior to the execution of the closing or settlement statement.
249 The licensee bears the burden of proving such notification was

250 ~~provided to the borrower. If the mortgage brokerage fee is for~~
251 ~~brokering a loan for a particular program under which the~~
252 ~~brokerage fee varies according to the terms of the loan, the~~
253 ~~brokerage fee may be disclosed as a range of fees at the time of~~
254 ~~application. The mortgage broker shall, in such instance,~~
255 ~~disclose the nature of the fee arrangement to the borrower, and~~
256 ~~the exact amount of the fee must be disclosed at settlement or~~
257 ~~closing.~~

258 (c) The commission may prescribe by rule the form of
259 disclosure of brokerage fees.

260 (2) At the time a written mortgage brokerage agreement is
261 executed by the borrower or forwarded to the borrower for
262 execution, or at the time the mortgage brokerage business
263 accepts an application fee, credit report fee, property
264 appraisal fee, or any other third-party fee, but not fewer than
265 3 business days prior to execution of the closing or settlement
266 statement, the mortgage brokerage business shall disclose in
267 writing to any applicant for a mortgage loan the following
268 information:

269 (a) That such mortgage brokerage business may not make
270 mortgage loans or commitments. The mortgage brokerage business
271 may make a commitment and may furnish a lock-in of the rate and
272 program on behalf of the lender when the mortgage brokerage
273 business has obtained a written commitment or lock-in for the
274 loan from the lender on behalf of the borrower for the loan. The
275 commitment must be in the same form and substance as issued by
276 the lender.

277 (b) That such mortgage brokerage business cannot guarantee
278 acceptance into any particular loan program or promise any
279 specific loan terms or conditions.

280 (c) A good faith estimate, signed and dated by the
281 borrower, that discloses of the total amount of each of the fees
282 that the borrower may reasonably expect to pay if the loan is
283 closed, including, but not limited to, fees earned by the
284 mortgage brokerage business, lender fees, third-party fees, and
285 official fees, together with ~~credit report fee, property~~
286 ~~appraisal fee, or any other third-party fee~~ and the terms and
287 conditions for obtaining a refund of such fees, if any. Any
288 amount collected in excess of the actual cost shall be returned
289 within 60 days after rejection, withdrawal, or closing. The good
290 faith estimate must identify the recipient of all payments
291 charged the borrower and, except for all fees to be received by
292 the mortgage brokerage business, may be disclosed in generic
293 terms, such as, but not limited to, paid to lender, appraiser,
294 officials, title company, or any other third-party service
295 provider. This requirement does not supplant or is not a
296 substitute for the written mortgage brokerage agreement
297 described in subsection (1).

298 (3) The disclosures required by this subsection must be
299 furnished in writing at the time an adjustable rate mortgage
300 loan is offered to the borrower and whenever the terms of the
301 adjustable rate mortgage loan offered materially change prior to
302 closing. The broker shall furnish the disclosures relating to
303 adjustable rate mortgages in a format prescribed by ss. 226.18
304 and 226.19 of Regulation Z of the Board of Governors of the

305 Federal Reserve System, as amended, its commentary, as amended,
306 and the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et
307 seq., as amended, together with the Consumer Handbook on
308 Adjustable Rate Mortgages, as amended, published by the Federal
309 Reserve Board and the Federal Home Loan Bank Board. The licensee
310 bears the burden of proving such disclosures were provided to
311 the borrower.

312 (4)~~(3)~~ If the mortgage brokerage agreement includes a
313 nonrefundable application fee, the following requirements are
314 applicable:

315 (a) The amount of the application fee, which must be
316 clearly denominated as such, shall be clearly disclosed.

317 (b) The specific services that will be performed in
318 consideration for the application fee shall be disclosed.

319 (c) The application fee must be reasonably related to the
320 services to be performed and may not be based upon a percentage
321 of the principal amount of the loan or the amount financed.

322 (5)~~(4)~~ A mortgage brokerage business may not accept any
323 fee in connection with a mortgage loan other than an application
324 fee, credit report fee, property appraisal fee, or other third-
325 party fee prior to obtaining a written commitment from a
326 qualified lender.

327 (6)~~(5)~~ Any third-party fee entrusted to a mortgage
328 brokerage business shall immediately, upon receipt, be placed
329 into a segregated account with a financial institution located
330 in the state the accounts of which are insured by the Federal
331 Government. Such funds shall be held in trust for the payor and
332 shall be kept in the account until disbursement. Such funds may

333 be placed in one account if adequate accounting measures are
 334 taken to identify the source of the funds.

335 ~~(7)(6)~~ All mortgage brokerage fees shall be paid to a
 336 mortgage brokerage business licensee.

337 ~~(8)(7)~~ This section does not prohibit a mortgage brokerage
 338 business from offering products and services, in addition to
 339 those offered in conjunction with the loan origination process,
 340 for a fee or commission.

341 Section 7. Subsection (8) is added to section 494.004,
 342 Florida Statutes, to read:

343 494.004 Requirements of licensees.--

344 (8) (a) In every mortgage loan transaction, each licensee
 345 under ss. 494.003-494.0043 shall notify a borrower of any
 346 material changes in the terms of a mortgage loan previously
 347 offered to the borrower within 3 business days after being made
 348 aware of such changes by the lender but not less than 3 business
 349 days before the signing of the settlement or closing statement.
 350 The licensee bears the burden of proving such notification was
 351 provided and accepted by the borrower.

352 (b) A borrower may waive the right to receive notice of a
 353 material change that is granted under paragraph (a) if the
 354 borrower determines that the extension of credit is needed to
 355 meet a bona fide personal financial emergency and the right to
 356 receive notice would delay the closing of the mortgage loan. The
 357 imminent sale of the borrower's home at foreclosure during the
 358 3-day period before the signing of the settlement or closing
 359 statement constitutes an example of a bona fide personal
 360 financial emergency. In order to waive the borrower's right to

361 receive notice not less than 3 business days before the signing
 362 of the settlement or closing statement of any such material
 363 change, the borrower must provide the licensee with a dated
 364 written statement that describes the personal financial
 365 emergency, waives the right to receive the notice, bears the
 366 borrower's signature, and is not on a printed form prepared by
 367 the licensee for the purpose of such a waiver.

368 Section 8. Paragraph (v) is added to subsection (2) of
 369 section 494.0041, Florida Statutes, to read:

370 494.0041 Administrative penalties and fines; license
 371 violations.--

372 (1) Whenever the office finds a person in violation of an
 373 act specified in subsection (2), it may enter an order imposing
 374 one or more of the following penalties against the person:

375 (a) Revocation of a license or registration.

376 (b) Suspension of a license or registration subject to
 377 reinstatement upon satisfying all reasonable conditions that the
 378 office specifies.

379 (c) Placement of the licensee, registrant, or applicant on
 380 probation for a period of time and subject to all reasonable
 381 conditions that the office specifies.

382 (d) Issuance of a reprimand.

383 (e) Imposition of a fine in an amount not exceeding \$5,000
 384 for each count or separate offense.

385 (f) Denial of a license or registration.

386 (2) Each of the following acts constitutes a ground for
 387 which the disciplinary actions specified in subsection (1) may
 388 be taken:

389 (v) In any mortgage transaction, violating any provision
390 of the federal Real Estate Settlement Procedure Act, as amended,
391 12 U.S.C. ss. 2601 et seq., the federal Truth In Lending Act, as
392 amended, 15 U.S.C. ss. 1601 et seq., or any regulations adopted
393 under such acts.

394 Section 9. Subsection (1) of section 494.0064, Florida
395 Statutes, is amended to read:

396 494.0064 Renewal of mortgage lender's license; branch
397 office license renewal.--

398 ~~(1)(a)~~ The office shall renew a mortgage lender license
399 upon receipt of a completed renewal form, certification from the
400 licensee that the licensee currently meets the minimum net worth
401 requirements of s. 494.0061 or s. 494.0065, certification from
402 the licensee that during the preceding 2 years the licensee's
403 principal representative and loan originators have completed the
404 professional continuing education requirements of s. 494.00295,
405 and the nonrefundable renewal fee of \$575. The office shall
406 renew a correspondent lender license upon receipt of a completed
407 renewal form, certification from the licensee that the licensee
408 currently meets the minimum net worth requirements of s.
409 494.0062, certification from the licensee that during the
410 preceding 2 years the licensee's principal representative and
411 loan originators have completed the professional continuing
412 education requirements of s. 494.00295, and a nonrefundable
413 renewal fee of \$475. Each licensee shall pay at the time of
414 renewal a nonrefundable fee of \$325 for the renewal of each
415 branch office license.

416 ~~(b) A licensee shall also submit, as part of the renewal~~
417 ~~form, certification that during the preceding 2 years the~~
418 ~~licensee's principal representative and loan originators have~~
419 ~~completed the professional continuing education requirements of~~
420 ~~s. 494.00295.~~

421 Section 10. Subsection (8) and paragraph (a) of subsection
422 (10) of section 494.0067, Florida Statutes, are amended, and
423 subsections (11) and (12) are added to that section, to read:

424 494.0067 Requirements of licensees under ss. 494.006-
425 494.0077.--

426 (8) Each licensee under ss. 494.006-494.0077 shall provide
427 an applicant for a mortgage loan a good faith estimate of the
428 costs the applicant can reasonably expect to pay in obtaining a
429 mortgage loan. The good faith estimate of costs shall be mailed
430 or delivered to the applicant within a reasonable time after the
431 licensee receives a written loan application from the applicant.
432 The estimate of costs may be provided to the applicant by a
433 person other than the licensee making the loan. The good faith
434 estimate must identify the recipient of all payments charged to
435 the borrower and, except for all fees to be received by the
436 mortgage brokerage business and the mortgage lender or
437 correspondent mortgage lender, may be disclosed in generic
438 terms, such as, but not limited to, paid to appraiser,
439 officials, title company, or any other third-party service
440 provider. The licensee bears the burden of proving such
441 disclosures were provided to the borrower. The commission may
442 adopt rules that set forth the disclosure requirements of this
443 section.

444 (10) (a) Each mortgage lender or correspondent mortgage
445 lender licensee shall require the principal representative and
446 all loan originators, not currently licensed as mortgage brokers
447 pursuant to s. 494.0033, who perform services for the licensee
448 to complete 14 hours of professional continuing education during
449 each biennial license period. The education shall cover primary
450 and subordinate mortgage financing transactions and the
451 provisions of this chapter and the rules adopted under this
452 chapter.

453 (11) The disclosures in this subsection must be furnished
454 in writing at the time an adjustable rate mortgage loan is
455 offered to the borrower and whenever the terms of the adjustable
456 rate mortgage loan offered have a material change prior to
457 closing. The lender shall furnish the disclosures relating to
458 adjustable rate mortgages in a format prescribed by ss. 226.18
459 and 226.19 of Regulation Z of the Board of Governors of the
460 Federal Reserve System, as amended, its commentary, as amended,
461 and the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et
462 seq., as amended, together with the Consumer Handbook on
463 Adjustable Rate Mortgages, as amended, published by the Federal
464 Reserve Board and the Federal Home Loan Bank Board. The licensee
465 bears the burden of proving such disclosures were provided to
466 the borrower.

467 (12) (a) In every mortgage loan transaction, each licensee
468 under ss. 494.006-494.0077 shall notify a borrower of any
469 material changes in the terms of a mortgage loan previously
470 offered to the borrower within 3 business days after being made
471 aware of such changes by the lender but not less than 3 business

472 days before the signing of the settlement or closing statement.
473 The licensee bears the burden of proving such notification was
474 provided and accepted by the borrower.

475 (b) A borrower may waive the right to receive notice of a
476 material change that is granted under paragraph (a) if the
477 borrower determines that the extension of credit is needed to
478 meet a bona fide personal financial emergency and the right to
479 receive notice would delay the closing of the mortgage loan. The
480 imminent sale of the borrower's home at foreclosure during the
481 3-day period before the signing of the settlement or closing
482 statement constitutes an example of a bona fide personal
483 financial emergency. In order to waive the borrower's right to
484 receive notice not less than 3 business days before the signing
485 of the settlement or closing statement of any such material
486 change, the borrower must provide the licensee with a dated
487 written statement that describes the personal financial
488 emergency, waives the right to receive the notice, bears the
489 borrower's signature, and is not on a printed form prepared by
490 the licensee for the purpose of such a waiver.

491 Section 11. Paragraph (v) is added to subsection (2) of
492 section 494.0072, Florida Statutes, subsection (3) of that
493 section is amended, and subsection (5) is added to that section,
494 to read:

495 494.0072 Administrative penalties and fines; license
496 violations.--

497 (1) Whenever the office finds a person in violation of an
498 act specified in subsection (2), it may enter an order imposing
499 one or more of the following penalties against that person:

- 500 (a) Revocation of a license or registration.
- 501 (b) Suspension of a license or registration, subject to
 502 reinstatement upon satisfying all reasonable conditions that the
 503 office specifies.
- 504 (c) Placement of the licensee or applicant on probation
 505 for a period of time and subject to all reasonable conditions
 506 that the office specifies.
- 507 (d) Issuance of a reprimand.
- 508 (e) Imposition of a fine in an amount not exceeding \$5,000
 509 for each count or separate offense.
- 510 (f) Denial of a license or registration.
- 511 (2) Each of the following acts constitutes a ground for
 512 which the disciplinary actions specified in subsection (1) may
 513 be taken:
- 514 (v) In any mortgage transaction, violating any provision
 515 of the federal Real Estate Settlement Procedure Act, as amended,
 516 12 U.S.C. ss. 2601 et seq., the federal Truth In Lending Act, as
 517 amended, 15 U.S.C. ss. 1601 et seq., or any regulations adopted
 518 under such acts.
- 519 (3) A mortgage lender or correspondent mortgage lender is
 520 subject to the disciplinary actions specified in subsection (1)
 521 if any officer, member, director, control person, joint
 522 venturer, or ultimate equitable owner of a 10-percent or greater
 523 interest in the mortgage lender or correspondent mortgage
 524 lender, associate, or employee of the mortgage lender or
 525 correspondent mortgage lender violates or has violated any
 526 provision of subsection (2).

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527 (5) A principal representative of a mortgage lender or
528 correspondent mortgage lender is subject to the disciplinary
529 actions specified in subsection (1) for violations of subsection
530 (2) by associates or employees in the course of an association
531 or employment with the correspondent mortgage lender or the
532 mortgage lender. The principal representative is only subject to
533 suspension or revocation for associate or employee actions if
534 there is a pattern of repeated violations by associates or
535 employees or if the principal broker or principal representative
536 had knowledge of the violations.

537 Section 12. Section 494.0073, Florida Statutes, is amended
538 to read:

539 494.0073 Mortgage lender or correspondent mortgage lender
540 when acting as a mortgage brokerage business.--Sections 494.006-
541 494.0077 do not prohibit a mortgage lender or correspondent
542 mortgage lender from acting as a mortgage brokerage business.
543 However, in mortgage transactions in which a mortgage lender or
544 correspondent mortgage lender acts as a mortgage brokerage
545 business, the provisions of ss. 494.0038, 494.0042, 494.004(8),
546 and 494.0043(1), (2), and (3) apply.

547 Section 13. Section 817.545, Florida Statutes, is created
548 to read:

549 817.545 Mortgage fraud.--

550 (1) This section may be cited as the "Florida Mortgage
551 Fraud Act."

552 (2) For purposes of this section, the term "mortgage
553 lending process" means the process through which a person seeks
554 or obtains a residential mortgage loan, including, but not

555 limited to, solicitation, application or origination,
556 negotiation of terms, third-party provider services,
557 underwriting, signing and closing, and funding of the loan.
558 Documents involved in the mortgage lending process include, but
559 are not limited to, mortgages, deeds, surveys, inspection
560 reports, uniform residential loan applications, or other loan
561 applications; appraisal reports; HUD-1 settlement statements;
562 supporting personal documentation for loan applications such as
563 W-2 forms, verifications of income and employment, credit
564 reports, bank statements, tax returns, and payroll stubs; and
565 any required disclosures.

566 (3) A person commits the offense of mortgage fraud if,
567 with the intent to defraud, the person knowingly:

568 (a) Makes any material misstatement, misrepresentation, or
569 omission during the mortgage lending process with the intention
570 that the misstatement, misrepresentation, or omission will be
571 relied on by a mortgage lender, borrower, or any other person or
572 entity involved in the mortgage lending process, provided that
573 omissions on a loan application regarding employment, income, or
574 assets for a loan that does not require this information shall
575 not be a material omission for purposes of this paragraph.

576 (b) Uses or facilitates the use of any material
577 misstatement, misrepresentation, or omission during the mortgage
578 lending process with the intention that the material
579 misstatement, misrepresentation, or omission will be relied on
580 by a mortgage lender, borrower, or any other person or entity
581 involved in the mortgage lending process, provided that
582 omissions on a loan application regarding employment, income, or

583 assets for a loan that does not require this information shall
 584 not be a material omission for purposes of this paragraph.

585 (c) Receives any proceeds or any other funds in connection
 586 with the mortgage lending process that the person knew resulted
 587 from a violation of paragraph (a) or paragraph (b).

588 (d) Files or causes to be filed with the clerk of the
 589 circuit court for any county of this state a mortgage lending
 590 process document that contains a material misstatement,
 591 misrepresentation, or omission.

592
 593 For the purposes of this subsection, a misstatement,
 594 misrepresentation, or omission is material if the misstatement,
 595 misrepresentation, or omission is an important fact, as
 596 distinguished from some unimportant or trivial detail, and has a
 597 natural tendency to influence or was capable of influencing.

598 (4) An offense of mortgage fraud shall not be predicated
 599 solely upon information lawfully disclosed under federal
 600 disclosure laws, regulations, or interpretations related to the
 601 mortgage lending process.

602 (5) For the purpose of venue under this section, any
 603 violation of this section shall be considered to have been
 604 committed:

605 (a) In the county in which the real property is located;
 606 or

607 (b) In any county in which a material act was performed in
 608 furtherance of the violation.

609 (6) Any person who violates subsection (3) commits a
 610 felony of the third degree, punishable as provided in s.

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611 775.082, s. 775.083, or s. 775.084.

612 Section 14. This act shall take effect October 1, 2007.