

1 A bill to be entitled
 2 An act relating to mortgage broker and lender license
 3 exemptions; amending s. 494.006, F.S.; exempting from
 4 mortgage broker and mortgage lender licensure requirements
 5 natural persons under exclusive contract with certain
 6 licensees; specifying licensee requirements; requiring a
 7 surety bond; providing bond requirements; requiring a
 8 business plan and a national background check; providing
 9 an effective date.

10

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

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13 Section 1. Paragraph (c) is added to subsection (2) of
 14 section 494.006, Florida Statutes, to read:

15 494.006 Exemptions.--

16 (2)

17 (c) A natural person under exclusive contract with a
 18 licensee under ss. 494.006-494.0077 to perform services that
 19 would otherwise require licensure pursuant to this chapter is
 20 exempt from the licensure requirements of ss. 494.001-494.0077
 21 when acting within such contract, provided the licensee:

22 1. Originates or brokers mortgage loans only with mortgage
 23 lenders affiliated with the licensee by way of ultimate common
 24 ownership.

25 2. Has provided the office with evidence of an undertaking
 26 of accountability, in substantially the following form:

27

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28 The undersigned entity hereby undertakes full and direct
 29 financial responsibility for all acts as a loan originator or
 30 acts as a mortgage broker regulated pursuant to ss. 494.001-
 31 494.0077, Florida Statutes, and any rules adopted under such
 32 provisions by its representatives under exclusive contract. It
 33 is fully understood and agreed that the Office of Financial
 34 Regulation of the Department of Financial Services may take
 35 regulatory action against the undersigned corporate licensee for
 36 the unlawful acts as a loan originator or acts as a mortgage
 37 broker of such representatives, which acts are not in
 38 conformance with ss. 494.001-494.0077, Florida Statutes, and any
 39 rules adopted under such provisions.

40

41 [Corporate Name]

42

43 By: _____

44 [Name and title of person signing on
 45 behalf of corporation]

46

47 Date: _____

48

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50 3. Has provided a surety bond in the amount of \$5 million
 51 to guarantee the obligations under subparagraph 2. This
 52 subparagraph shall not be deemed a limitation on the recovery
 53 that may be had against the licensee based upon the mortgage
 54 brokerage or lending activities conducted by any natural person
 55 exempt under this paragraph.

56 a. The surety bond shall be in a form satisfactory to the
57 office and payable to the state for the benefit of any claimants
58 in this state against the licensee or any natural person exempt
59 under this paragraph. Such claimants may themselves bring suit
60 directly on the surety bond or the office may bring suit on
61 behalf of the claimants, in one action or in successive actions,
62 after the claimants have secured a judgment against the licensee
63 and the licensee has not paid the judgment.

64 b. A corporate surety bond filed with the office for
65 purposes of compliance with this subparagraph may not be
66 canceled by the licensee or the corporate surety except upon
67 written notice to the office by registered or certified mail
68 with return receipt requested. A cancellation shall not take
69 effect less than 30 days after receipt by the office of such
70 written notice.

71 c. The corporate surety shall, within 10 days after the
72 surety pays any claim to any claimant, give written notice to
73 the office by registered or certified mail, with return receipt
74 requested, of such payment with details sufficient to identify
75 the claimant and the claim or judgment paid.

76 d. Whenever the principal sum of such bond is reduced by
77 one or more recoveries or payments, the licensee shall furnish a
78 new or additional bond so that the total or aggregate principal
79 sum of such bond equals the sum required by this subparagraph.
80 Alternatively, a licensee may furnish an endorsement executed by
81 the corporate surety reinstating the bond to the required
82 principal sum.

83 e. A licensee shall at all times have and maintain the
84 bond in the amount prescribed by this subparagraph. If the
85 office at any time reasonably determines that the bond is
86 deficient in amount, or exhausted in whole or in part, the
87 office may, by written order, require the filing of a new or
88 supplemental bond.

89 f. The bond shall remain in place for 5 years after the
90 licensee ceases operations in this state.

91 4. Has implemented a business plan providing for the
92 education of the natural persons exempted by this paragraph that
93 is commensurate with their duties and responsibilities, the
94 handling of consumer complaints related to the natural persons
95 exempted by this paragraph, and the supervision of the mortgage-
96 related activities of the natural persons exempted by this
97 paragraph. The business plan shall be reasonably designed to
98 prevent and detect violations of this chapter.

99 5. Has conducted a national background check for each
100 proposed natural person exempted by this paragraph and, based on
101 such background check, the licensee commits to not contracting
102 with, without the prior written consent of the office, any
103 natural person to act as an exclusive agent who has been subject
104 to any action specified in s. 494.0041(2)(a), (t), or (u).

105 Section 2. This act shall take effect July 1, 2007.