

By Senator Fasano

11-1453-07

See HB

1 A bill to be entitled  
2 An act relating to mortgage brokering and  
3 lending; amending s. 494.001, F.S.; revising  
4 definitions; amending s. 494.0014, F.S.;  
5 authorizing the Office of Financial Regulation  
6 to impose fines; amending s. 494.0029, F.S.;  
7 authorizing the office to take certain adverse  
8 actions on permits of certain mortgage business  
9 schools; providing additional requirements for  
10 such schools; amending s. 494.00295, F.S.;  
11 providing an additional professional continuing  
12 education requirement; authorizing the office  
13 to offer professional continuing education  
14 programs; specifying requirements for  
15 electronically transmitted and distance  
16 education courses; amending s. 494.0033, F.S.;  
17 authorizing an additional fee for reviewing  
18 mortgage broker's license tests; providing for  
19 review of the testing process; amending s.  
20 494.0038, F.S.; providing additional disclosure  
21 requirements for mortgage brokerage businesses;  
22 amending s. 494.004, F.S.; specifying an  
23 additional notification requirement for  
24 mortgage broker licensees; amending s.  
25 494.0041, F.S.; specifying additional acts  
26 constituting grounds for certain disciplinary  
27 actions; providing for fines and penalties;  
28 amending s. 494.0042, F.S.; limiting certain  
29 brokerage fees; amending s. 494.0064, F.S.;  
30 providing additional requirements for renewals  
31 of mortgage lender's licenses; amending s.

1 494.0067, F.S.; providing additional  
2 requirements for mortgage lender licenses;  
3 providing disclosure requirements; amending s.  
4 494.0072, F.S.; specifying additional acts  
5 constituting grounds for certain disciplinary  
6 actions; providing fines and penalties;  
7 amending s. 494.0073, F.S.; providing for  
8 application of certain provisions to mortgage  
9 brokerage businesses; providing for adoption of  
10 rules by the Financial Services Commission;  
11 providing an effective date.

12

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

14

15 Section 1. Subsection (2) of section 494.001, Florida  
16 Statutes, is amended, and subsection (32) is added to that  
17 section, to read:

18 494.001 Definitions.--As used in ss. 494.001-494.0077,  
19 the term:

20 (2) "Act as a loan originator" means being employed by  
21 a mortgage lender or correspondent mortgage lender, for  
22 compensation or gain or in the expectation of compensation or  
23 gain, to negotiate, ~~or~~ offer to negotiate, or assist any  
24 licensed or exempt entity in negotiating, the making of a  
25 mortgage loan. A person whose activities are ministerial and  
26 clerical, which may include quoting available interest rates  
27 or loan terms and conditions, is not acting as a loan  
28 originator.

29 (32) "Mortgage loan application" means a submission of  
30 a borrower's financial information in anticipation of a credit  
31 decision, whether written or computer-generated, relating to a

1 mortgage loan. If the submission does not state or identify a  
2 specific property, the submission is an application for a  
3 prequalification and not an application for a mortgage loan  
4 under this part. The subsequent addition of an identified  
5 property to the submission converts the submission to an  
6 application for a mortgage loan.

7 Section 2. Section 494.0014, Florida Statutes, is  
8 amended to read:

9 494.0014 Cease and desist orders; administrative  
10 finer; refund orders.--

11 (1) The office has the power to issue and serve upon  
12 any person an order to cease and desist and to take corrective  
13 action whenever it has reason to believe the person is  
14 violating, has violated, or is about to violate any provision  
15 of ss. 494.001-494.0077, any rule or order issued under ss.  
16 494.001-494.0077, or any written agreement between the person  
17 and the office. All procedural matters relating to issuance  
18 and enforcement of such a cease and desist order are governed  
19 by the Administrative Procedure Act.

20 (2) The office has the power to order the refund of  
21 any fee directly or indirectly assessed and charged on a  
22 mortgage loan transaction which is unauthorized or exceeds the  
23 maximum fee specifically authorized in ss. 494.001-494.0077.

24 (3) The office may prohibit the association by a  
25 mortgage broker business, or the employment by a mortgage  
26 lender or correspondent mortgage lender, of any person who has  
27 engaged in a pattern of misconduct while an associate of a  
28 mortgage brokerage business or an employee of a mortgage  
29 lender or correspondent mortgage lender. For the purpose of  
30 this subsection, the term "pattern of misconduct" means the  
31 commission of three or more violations of ss. 494.001-494.0077

1 or the provisions of chapter 494 in effect prior to October 1,  
2 1991, during any 1-year period or any criminal conviction for  
3 violating ss. 494.001-494.0077 or the provisions of chapter  
4 494 in effect prior to October 1, 1991.

5 (4) The office may impose upon any person who makes or  
6 brokers a loan, or any mortgage business school, a fine for  
7 violations of any provision of ss. 494.001-494.00295 or any  
8 rule or order issued under ss. 494.001-494.00295 in an amount  
9 not exceeding \$5,000 for each separate count or offense. The  
10 borrower may recover reasonable costs and attorney's fees.

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

14 494.0029 Mortgage business schools.--

15 (1)

16 (f) In addition to the remedies set forth in s.  
17 494.0014, the office may revoke, suspend, or place on  
18 probation the permit of any mortgage business school that  
19 fails to meet the requirements of this section, subject to all  
20 reasonable conditions that the office specifies.

21 (2)

22 (g) A school permitted under this section must conduct  
23 classes on an hour-for-hour basis in accordance with the  
24 requirements of this chapter.

25 (h) Each school permitted under this section is  
26 responsible for developing procedures to confirm, and for  
27 actually confirming, the identity of each student attending  
28 any course offering.

29 Section 4. Section 494.00295, Florida Statutes, is  
30 amended to read:

31 494.00295 Professional continuing education.--

1           (1) Mortgage brokers, and the principal  
2 representatives and loan originators of a mortgage lender,  
3 correspondent mortgage lender, or mortgage lender pursuant to  
4 s. 494.0065, must successfully complete at least 14 hours of  
5 professional continuing education covering primary and  
6 subordinate mortgage financing transactions and the provisions  
7 of this chapter during the 2-year period immediately preceding  
8 the renewal deadline for a mortgage broker, mortgage lender,  
9 correspondent mortgage lender, or mortgage lender pursuant to  
10 s. 494.0065. A minimum of 4 hours shall cover the provisions  
11 of this chapter and the rules adopted under this chapter. At  
12 the time of license renewal, a licensee must certify to the  
13 office that the professional continuing education requirements  
14 of this section have been met. Licensees shall maintain  
15 records documenting compliance with this subsection for a  
16 period of 4 years. The requirements for professional  
17 continuing education are waived for the license renewal of a  
18 mortgage broker for the biennial license period immediately  
19 following the period in which the person became licensed as a  
20 mortgage broker. The requirements for professional continuing  
21 education for a principal representative are waived for the  
22 license renewal of a mortgage lender, correspondent mortgage  
23 lender, or mortgage lender pursuant to s. 494.0065 for the  
24 biennial license period immediately following the period in  
25 which the principal representative completed the 24 hours of  
26 classroom education and passed a written test in order to  
27 qualify to be a principal representative.

28           (2) Professional continuing education programs must  
29 contribute directly to the professional competency of the  
30 participants, may only be offered by permitted mortgage  
31 business schools, the office, or entities specifically

1 | exempted from permitting as mortgage business schools, and may  
2 | include electronically transmitted or distance education  
3 | courses.

4 |       (3)(a) All electronically transmitted courses shall  
5 | require that the time spent attending electronically  
6 | transmitted professional education courses is equal to the  
7 | number of qualifying hours awarded to participants for course  
8 | attendance. Before allowing a course participant to complete a  
9 | course and receive a certificate of course completion, the  
10 | course provider shall ensure that the course participant has:

11 |           1. Logged the required number of hours for the  
12 | particular timed module.

13 |           2. Completed a test that comprehensively covers the  
14 | course content for the particular timed module.

15 |           3. Correctly answered all test questions for the  
16 | particular timed module.

17 |       (b) All distance education course participants shall  
18 | successfully complete a test that comprehensively covers  
19 | course content in order to receive a certificate of course  
20 | completion. Distance education providers shall not provide  
21 | answers to test questions to course participants and shall not  
22 | issue a certificate of course completion to any course  
23 | participant who has failed to correctly answer at least 75  
24 | percent of the total test questions.

25 |       ~~(4)(3)~~ The commission shall adopt rules pursuant to  
26 | ss. 120.536(1) and 120.54 necessary to administer this  
27 | section, including rules governing qualifying hours for  
28 | professional continuing education programs and standards for  
29 | electronically transmitted or distance education courses,  
30 | including course completion requirements.

31 |

1           Section 5. Paragraph (b) of subsection (2) of section  
2 494.0033, Florida Statutes, is amended to read:

3           494.0033 Mortgage broker's license.--

4           (2) Each initial application for a mortgage broker's  
5 license must be in the form prescribed by rule of the  
6 commission. The commission may require each applicant to  
7 provide any information reasonably necessary to make a  
8 determination of the applicant's eligibility for licensure.  
9 The office shall issue an initial license to any natural  
10 person who:

11           (b) Has passed a written test adopted and administered  
12 by the office, or has passed an electronic test adopted and  
13 administered by the office or a third party approved by the  
14 office, which is designed to determine competency in primary  
15 and subordinate mortgage financing transactions as well as to  
16 test knowledge of ss. 494.001-494.0077 and the rules adopted  
17 pursuant thereto. The commission may prescribe by rule an  
18 additional fee that may not exceed \$100 for the electronic  
19 version of the mortgage broker test. The commission may waive  
20 by rule the examination requirement for any person who has  
21 passed a test approved by the Conference of State Bank  
22 Supervisors, the American Association of Residential Mortgage  
23 Regulators, or the United States Department of Housing and  
24 Urban Development if the test covers primary and subordinate  
25 mortgage financing transactions. The commission may adopt  
26 rules prescribing an additional fee that may not exceed \$50  
27 for an applicant to review his or her completed and graded  
28 mortgage broker test. The commission may adopt rules regarding  
29 the administration of the testing process, including, but not  
30 limited to, procedures relating to test security, scoring,  
31

1 content, result notification, retest procedures and fees,  
2 postexamination review, and challenge provisions.

3  
4 The commission may require by rule information concerning any  
5 such applicant or person, including, but not limited to, his  
6 or her full name and any other names by which he or she may  
7 have been known, age, social security number, qualifications  
8 and educational and business history, and disciplinary and  
9 criminal history.

10 Section 6. Section 494.0038, Florida Statutes, is  
11 amended to read:

12 494.0038 Mortgage broker disclosures.--

13 (1)(a)1. A person may not receive a fee for acting as  
14 a mortgage brokerage business except pursuant to a written  
15 agreement between the mortgage brokerage business and the  
16 borrower that is signed and dated by the business and the  
17 borrower.

18 2. The written agreement must be executed within 3  
19 days after accepting a mortgage loan application, describe the  
20 services to be provided by the mortgage brokerage business,  
21 and specify the amount and terms of the mortgage brokerage fee  
22 that the mortgage brokerage business is to receive.

23 (b)1. If the mortgage brokerage business is to receive  
24 any payment of any kind from the lender, such fact shall be  
25 specifically disclosed to the borrower and the maximum total  
26 dollar amount of the payment must be disclosed to the borrower  
27 in the written agreement. The commission may prescribe by rule  
28 an acceptable form for disclosure of brokerage fees received  
29 from the lender. If any of the rates, points, fees, and other  
30 terms quoted by or on behalf of the lender are to be received  
31



1 by the mortgage brokerage business, such fact shall be  
2 specifically disclosed to the borrower.

3       2. The exact amount of any payment of any kind by the  
4 lender to the mortgage brokerage business must be disclosed in  
5 writing no later than 10 days prior to the execution of the  
6 closing or settlement statement if the execution of the  
7 closing or settlement statement is scheduled more than 25 days  
8 after the execution of the mortgage brokerage agreement and no  
9 later than 3 days prior to the execution of the closing or  
10 settlement statement if the execution of the closing or  
11 settlement statement is scheduled 25 days or less after the  
12 execution of the mortgage brokerage agreement. If the mortgage  
13 brokerage fee is for brokering a loan for a particular program  
14 under which the brokerage fee varies according to the terms of  
15 the loan, the brokerage fee may be disclosed as a range of  
16 fees at the time of application. The mortgage broker shall, in  
17 such instance, disclose the nature of the fee arrangement to  
18 the borrower, and the exact amount of the fee must be  
19 disclosed at settlement or closing.

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

22       (2) At the time a written agreement is executed by the  
23 borrower or at the time the mortgage brokerage business  
24 accepts an application fee, credit report fee, property  
25 appraisal fee, or any other third-party fee, but not fewer  
26 than 3 days prior to execution of the closing or settlement  
27 statement, the mortgage brokerage business shall disclose in  
28 writing to any applicant for a mortgage loan the following  
29 information:

30       (a) That such mortgage brokerage business may not make  
31 mortgage loans or commitments. The mortgage brokerage business

1 | may make a commitment and may furnish a lock-in of the rate  
2 | and program on behalf of the lender when the mortgage  
3 | brokerage business has obtained a written commitment or  
4 | lock-in for the loan from the lender on behalf of the borrower  
5 | for the loan. The commitment must be in the same form and  
6 | substance as issued by the lender.

7 |         (b) That such mortgage brokerage business cannot  
8 | guarantee acceptance into any particular loan program or  
9 | promise any specific loan terms or conditions.

10 |         (c) A good faith estimate, signed and dated by the  
11 | borrower, that discloses ~~of~~ the total amount of each of the  
12 | fees that the borrower may reasonably expect to pay if the  
13 | loan is closed, including, but not limited to, fees earned by  
14 | the mortgage brokerage business, lender fees, third-party  
15 | fees, and official fees, together with ~~credit report fee,~~  
16 | ~~property appraisal fee, or any other third party fee~~ and the  
17 | terms and conditions for obtaining a refund of such fees, if  
18 | any. Any amount collected in excess of the actual cost shall  
19 | be returned within 60 days after rejection, withdrawal, or  
20 | closing. This requirement does not supplant or is not a  
21 | substitute for the written agreement described in subsection  
22 | (1).

23 |         (3) The disclosures required by this subsection must  
24 | be made in writing at the time an adjustable rate mortgage  
25 | loan is offered to the borrower and whenever the terms of the  
26 | adjustable rate mortgage loan offered change prior to closing.  
27 | The commission may prescribe by rule the form for disclosures  
28 | required by this subsection.

29 |         (a) The highest possible payment that could be reached  
30 | based on the terms of the loan offered shall be disclosed to  
31 | the borrower.

1           (b) The methodology used to determine how and when the  
2 applicable interest rate is calculated shall be fully  
3 explained to the borrower, including identification of what  
4 index will be used to determine the applicable interest rate.

5           (4) The disclosures in this subsection shall be made  
6 in writing at the time a mortgage loan is offered and whenever  
7 the terms of the mortgage loan offered change prior to closing  
8 if, at the time the loan is made, any scheduled payment over  
9 the life of the mortgage loan is insufficient to pay the  
10 interest due at the time the scheduled payment is due. The  
11 commission may prescribe by rule the form for disclosures  
12 required by this subsection.

13           (a) The borrower shall be provided a complete  
14 amortization schedule. Each scheduled payment that is  
15 insufficient to pay the interest due at the time of the  
16 payment shall be specifically identified to the borrower.

17           (b) The borrower shall be provided an explanation of  
18 the effect each insufficient payment will have on the  
19 principal balance of the mortgage loan.

20           (5) The disclosures in this subsection shall be made  
21 in writing at the time a mortgage loan is offered and whenever  
22 the terms of the mortgage loan offered change prior to closing  
23 if, at the time the loan is made, any scheduled payment over  
24 the life of the mortgage loan is sufficient to pay only the  
25 interest due at the time of the scheduled payment. The  
26 commission may prescribe by rule the form for disclosures  
27 required by this subsection.

28           (a) The borrower shall be provided a complete  
29 amortization schedule. Each scheduled payment that is  
30 sufficient to pay only the interest due at the time of the  
31 payment shall be specifically identified to the borrower.

1           (b) The borrower shall be provided an explanation of  
2 the effect each payment that is sufficient to pay only the  
3 interest due at the time the payment is due will have on the  
4 principal balance of the mortgage loan.

5           ~~(6)(3)~~ If the mortgage brokerage agreement includes a  
6 nonrefundable application fee, the following requirements are  
7 applicable:

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

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

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

16           ~~(7)(4)~~ A mortgage brokerage business may not accept  
17 any fee in connection with a mortgage loan other than an  
18 application fee, credit report fee, property appraisal fee, or  
19 other third-party fee prior to obtaining a written commitment  
20 from a qualified lender.

21           ~~(8)(5)~~ Any third-party fee entrusted to a mortgage  
22 brokerage business shall immediately, upon receipt, be placed  
23 into a segregated account with a financial institution located  
24 in the state the accounts of which are insured by the Federal  
25 Government. Such funds shall be held in trust for the payor  
26 and shall be kept in the account until disbursement. Such  
27 funds may be placed in one account if adequate accounting  
28 measures are taken to identify the source of the funds.

29           ~~(9)(6)~~ All mortgage brokerage fees shall be paid to a  
30 mortgage brokerage business licensee.

31

1           ~~(10)(7)~~ This section does not prohibit a mortgage  
2 brokerage business from offering products and services, in  
3 addition to those offered in conjunction with the loan  
4 origination process, for a fee or commission.

5           Section 7. Subsections (8) and (9) are added to  
6 section 494.004, Florida Statutes, to read:

7           494.004 Requirements of licensees.--

8           (8) Each licensee under ss. 494.003-494.0043 has a  
9 duty to act in good faith and with fair dealing in any  
10 transaction, practice, or course of business in connection  
11 with the brokering or originating of any mortgage loan and  
12 shall make reasonable efforts to secure a mortgage loan from  
13 lenders with whom the licensee regularly does business. The  
14 commission may adopt rules providing guidance regarding what  
15 acting in good faith and with fair dealing means.

16           (9) In every mortgage loan transaction, each licensee  
17 under ss. 494.003-494.0043 shall notify a borrower of any  
18 changes in the terms of a mortgage loan previously offered to  
19 the borrower within 24 hours after being made aware of such  
20 changes by the lender but not less than 3 business days before  
21 the signing of the settlement or closing statement. The  
22 licensee bears the burden of proving such notification was  
23 provided and accepted by the borrower.

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

26           494.0041 Administrative penalties and fines; license  
27 violations.--

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

- 1 (a) Revocation of a license or registration.  
2 (b) Suspension of a license or registration subject to  
3 reinstatement upon satisfying all reasonable conditions that  
4 the office specifies.  
5 (c) Placement of the licensee, registrant, or  
6 applicant on probation for a period of time and subject to all  
7 reasonable conditions that the office specifies.  
8 (d) Issuance of a reprimand.  
9 (e) Imposition of a fine in an amount not exceeding  
10 \$5,000 for each count or separate offense.  
11 (f) Denial of a license or registration.

12 (2) Each of the following acts constitutes a ground  
13 for which the disciplinary actions specified in subsection (1)  
14 may be taken:

15 (v) In any mortgage transaction, violating any  
16 provision of the federal Real Estate Settlement Procedure Act,  
17 as amended, 12 U.S.C. s. 2601 et seq., the federal Truth In  
18 Lending Act, 15 U.S.C. s. 1601 et seq., or any regulations  
19 adopted under such acts.

20 Section 9. Subsection (4) is added to section  
21 494.0042, Florida Statutes, to read:

22 494.0042 Brokerage fees.--

23 (4) A person may charge a borrower and receive only  
24 one fee from the borrower for acting as a mortgage broker  
25 business.

26 Section 10. Subsection (1) of section 494.0064,  
27 Florida Statutes, is amended to read:

28 494.0064 Renewal of mortgage lender's license; branch  
29 office license renewal.--

30 (1)~~(a)~~ The office shall renew a mortgage lender  
31 license upon receipt of a completed renewal form.

1 certification from the licensee that the licensee currently  
2 meets the minimum net worth requirements of s. 494.0061 or s.  
3 494.0065, certification from the licensee that during the  
4 preceding 2 years the licensee's principal representative and  
5 loan originators have completed the professional continuing  
6 education requirements of s. 494.00295, and the nonrefundable  
7 renewal fee of \$575. The office shall renew a correspondent  
8 lender license upon receipt of a completed renewal form,  
9 certification from the licensee that the licensee currently  
10 meets the minimum net worth requirements of s. 494.0062,  
11 certification from the licensee that during the preceding 2  
12 years the licensee's principal representative and loan  
13 originators have completed the professional continuing  
14 education requirements of s. 494.00295, and a nonrefundable  
15 renewal fee of \$475. Each licensee shall pay at the time of  
16 renewal a nonrefundable fee of \$325 for the renewal of each  
17 branch office license.

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

23 Section 11. Paragraph (a) of subsection (10) of  
24 section 494.0067, Florida Statutes, is amended, and  
25 subsections (11), (12), (13), and (14) are added to that  
26 section, to read:

27 494.0067 Requirements of licensees under ss.  
28 494.006-494.0077.--

29 (10)(a) Each mortgage lender or correspondent mortgage  
30 lender licensee shall require the principal representative and  
31 all loan originators, not currently licensed as mortgage

1 brokers pursuant to s. 494.0033, who perform services for the  
2 licensee to complete 14 hours of professional continuing  
3 education during each biennial license period. The education  
4 shall cover primary and subordinate mortgage financing  
5 transactions and the provisions of this chapter and the rules  
6 adopted under this chapter.

7 (11) The disclosures in this subsection must be made  
8 in writing at the time an adjustable rate mortgage loan is  
9 offered to the borrower and whenever the terms of the  
10 adjustable rate mortgage loan offered change prior to closing.  
11 The commission may prescribe by rule the form for disclosures  
12 required by this subsection.

13 (a) The highest possible payment that could be reached  
14 based on the terms of the loan offered shall be disclosed to  
15 the borrower.

16 (b) The methodology used to determine how and when the  
17 applicable interest rate is calculated shall be fully  
18 explained to the borrower, including identification of what  
19 index will be used to determine the applicable interest rate.

20 (12) The disclosures in this subsection shall be made  
21 in writing at the time a mortgage loan is offered and whenever  
22 the terms of the mortgage loan offered change prior to closing  
23 if, at the time the loan is made, any scheduled payment over  
24 the life of the mortgage loan is insufficient to pay the  
25 interest due at the time the scheduled payment is due. The  
26 commission may prescribe by rule the form for disclosures  
27 required by this subsection.

28 (a) The borrower shall be provided a complete  
29 amortization schedule. Each scheduled payment that is  
30 insufficient to pay the interest due at the time of the  
31 payment shall be specifically identified to the borrower.



1       (b) The borrower shall be provided an explanation of  
2 the effect each insufficient payment will have on the  
3 principal balance of the mortgage loan.

4       (13) The disclosures in this subsection shall be made  
5 in writing at the time a mortgage loan is offered and whenever  
6 the terms of the mortgage loan offered change prior to closing  
7 if, at the time the loan is made, any scheduled payment over  
8 the life of the mortgage loan is sufficient to pay only the  
9 interest due at the time the scheduled payment is due. The  
10 commission may prescribe by rule the form of disclosure  
11 required by this subsection.

12       (a) The borrower shall be provided a complete  
13 amortization schedule and each scheduled payment that is  
14 sufficient to pay only the interest due at the time of the  
15 payment shall be specifically identified to the borrower.

16       (b) The borrower shall be provided an explanation of  
17 the effect each payment that is sufficient to pay only the  
18 interest due at the time the payment is due will have on the  
19 principal balance of the mortgage loan.

20       (14) In every mortgage loan transaction, each licensee  
21 under ss. 494.003-494.0043 shall notify a borrower of any  
22 changes in the terms of a mortgage loan previously offered to  
23 the borrower within 24 hours after being made aware of such  
24 changes by the lender but not less than 3 business days before  
25 the signing of the settlement or closing statement. The  
26 licensee bears the burden of proving such notification was  
27 provided and accepted by the borrower.

28       Section 12. Paragraph (v) is added to subsection (2)  
29 of section 494.0072, Florida Statutes, subsection (3) of that  
30 section is amended, and subsection (5) is added to that  
31 section, to read:

1           494.0072 Administrative penalties and fines; license  
2 violations.--

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

7           (a) Revocation of a license or registration.

8           (b) Suspension of a license or registration, subject  
9 to reinstatement upon satisfying all reasonable conditions  
10 that the office specifies.

11           (c) Placement of the licensee or applicant on  
12 probation for a period of time and subject to all reasonable  
13 conditions that the office specifies.

14           (d) Issuance of a reprimand.

15           (e) Imposition of a fine in an amount not exceeding  
16 \$5,000 for each count or separate offense.

17           (f) Denial of a license or registration.

18           (2) Each of the following acts constitutes a ground  
19 for which the disciplinary actions specified in subsection (1)  
20 may be taken:

21           (v) In any mortgage transaction, violating any  
22 provision of the federal Real Estate Settlement Procedure Act,  
23 as amended, 12 U.S.C. s. 2601 et seq., the federal Truth In  
24 Lending Act, 15 U.S.C. s. 1601 et seq., or any regulations  
25 adopted under such acts.

26           (3) A mortgage lender or correspondent mortgage lender  
27 is subject to the disciplinary actions specified in subsection  
28 (1) if any officer, member, director, control person, joint  
29 venturer, or ultimate equitable owner of a 10-percent or  
30 greater interest in the mortgage lender or correspondent  
31 mortgage lender, associate, or employee of the mortgage lender

1 or correspondent mortgage lender violates or has violated any  
2 provision of subsection (2).

3 (5) A principal representative of a mortgage lender or  
4 correspondent mortgage lender is subject to the disciplinary  
5 actions specified in subsection (1) for violations of  
6 subsection (2) by associates or employees in the course of an  
7 association or employment with the correspondent mortgage  
8 lender or the mortgage lender. The principal representative is  
9 only subject to suspension or revocation for associate or  
10 employee actions if there is a pattern of repeated violations  
11 by associates or employees or if the principal broker or  
12 principal representative had knowledge of the violations.

13 Section 13. Section 494.0073, Florida Statutes, is  
14 amended to read:

15 494.0073 Mortgage lender or correspondent mortgage  
16 lender when acting as a mortgage brokerage business.--Sections  
17 494.006-494.0077 do not prohibit a mortgage lender or  
18 correspondent mortgage lender from acting as a mortgage  
19 brokerage business. However, in mortgage transactions in which  
20 a mortgage lender or correspondent mortgage lender acts as a  
21 mortgage brokerage business, the provisions of ss. 494.0038,  
22 494.0042, 494.004(8) and (9), and 494.0043(1), (2), and (3)  
23 apply.

24 Section 14. This act shall take effect July 1, 2007.  
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