

By the Committees on Commerce; Banking and Insurance; and
Senator Fasano

577-2323-07

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 revising mortgage broker license applicant
18 requirements; authorizing an additional fee for
19 reviewing mortgage broker's license tests;
20 providing for review of the testing process;
21 amending s. 494.0038, F.S.; providing
22 additional disclosure requirements for mortgage
23 brokerage businesses; amending s. 494.004,
24 F.S.; specifying an additional notification
25 requirement for mortgage broker licensees;
26 authorizing a borrower to waive notification
27 under certain circumstances; providing waiver
28 requirements; amending s. 494.0041, F.S.;
29 specifying additional acts constituting grounds
30 for certain disciplinary actions; providing for
31 fines and penalties; amending s. 494.0064,

1 F.S.; providing additional requirements for
2 renewals of mortgage lender's licenses;
3 amending s. 494.0067, F.S.; providing
4 additional requirements for mortgage lender
5 licensees; providing disclosure and
6 notification requirements; authorizing a
7 borrower to waive notification under certain
8 circumstances; providing waiver requirements;
9 amending s. 494.0072, F.S.; specifying
10 additional acts constituting grounds for
11 certain disciplinary actions; providing fines
12 and penalties; amending s. 494.0073, F.S.;
13 providing for application of certain provisions
14 to mortgage brokerage businesses; providing for
15 adoption of rules by the Financial Services
16 Commission; providing an effective date.

17

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

19

20 Section 1. Subsection (2) of section 494.001, Florida
21 Statutes, is amended, and subsections (32), (33), and (34) are
22 added to that section, to read:

23 494.001 Definitions.--As used in ss. 494.001-494.0077,
24 the term:

25 (2) "Act as a loan originator" means being employed by
26 a mortgage lender or correspondent mortgage lender, for
27 compensation or gain or in the expectation of compensation or
28 gain, to negotiate, ~~or~~ offer to negotiate, or assist any
29 licensed or exempt entity in negotiating the making of a
30 mortgage loan, including, but not limited to, working with a
31 licensed or exempt entity to structure a loan or discussing

1 terms and conditions necessary for the delivery of a loan
2 product. A natural person whose activities are ministerial and
3 clerical, which may include quoting available interest rates
4 ~~or loan terms and conditions~~, is not acting as a loan
5 originator.

6 (32) "Mortgage loan application" means a submission of
7 a borrower's financial information in anticipation of a credit
8 decision, whether written or computer-generated, relating to a
9 mortgage loan. If the submission does not state or identify a
10 specific property, the submission is an application for a
11 prequalification and not an application for a mortgage loan
12 under this part. The subsequent addition of an identified
13 property to the submission converts the submission to an
14 application for a mortgage loan.

15 (33) "Mortgage brokerage fee" means the total
16 compensation to be received by a mortgage brokerage business
17 for acting as a mortgage broker.

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

20 Section 2. Section 494.0014, Florida Statutes, is
21 amended to read:

22 494.0014 Cease and desist orders; administrative
23 finer; refund orders.--

24 (1) The office has the power to issue and serve upon
25 any person an order to cease and desist and to take corrective
26 action whenever it has reason to believe the person is
27 violating, has violated, or is about to violate any provision
28 of ss. 494.001-494.0077, any rule or order issued under ss.
29 494.001-494.0077, or any written agreement between the person
30 and the office. All procedural matters relating to issuance
31

1 and enforcement of such a cease and desist order are governed
2 by the Administrative Procedure Act.

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

7 (3) The office may prohibit the association by a
8 mortgage broker business, or the employment by a mortgage
9 lender or correspondent mortgage lender, of any person who has
10 engaged in a pattern of misconduct while an associate of a
11 mortgage brokerage business or an employee of a mortgage
12 lender or correspondent mortgage lender. For the purpose of
13 this subsection, the term "pattern of misconduct" means the
14 commission of three or more violations of ss. 494.001-494.0077
15 or the provisions of chapter 494 in effect prior to October 1,
16 1991, during any 1-year period or any criminal conviction for
17 violating ss. 494.001-494.0077 or the provisions of chapter
18 494 in effect prior to October 1, 1991.

19 (4) The office may impose upon any person who makes or
20 brokers a loan, or any mortgage business school, a fine for
21 violations of any provision of ss. 494.001-494.00295 or any
22 rule or order issued under ss. 494.001-494.00295 in an amount
23 not exceeding \$5,000 for each separate count or offense.

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

27 494.0029 Mortgage business schools.--

28 (1)

29 (f) In addition to the remedies set forth in s.
30 494.0014, the office may revoke, suspend, or place on
31 probation the permit of any mortgage business school that

1 fails to meet the requirements of this section, subject to all
2 reasonable conditions that the office specifies.

3 (2)

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

8 (h) Each school permitted under this section is
9 responsible for developing procedures to confirm, and for
10 actually confirming, the identity of each student attending
11 any course offering.

12 Section 4. Section 494.00295, Florida Statutes, is
13 amended to read:

14 494.00295 Professional continuing education.--

15 (1) Mortgage brokers, and the principal
16 representatives and loan originators of a mortgage lender,
17 correspondent mortgage lender, or mortgage lender pursuant to
18 s. 494.0065, must successfully complete at least 14 hours of
19 professional continuing education covering primary and
20 subordinate mortgage financing transactions and the provisions
21 of this chapter during the 2-year period immediately preceding
22 the renewal deadline for a mortgage broker, mortgage lender,
23 correspondent mortgage lender, or mortgage lender pursuant to
24 s. 494.0065. A minimum of 4 hours shall cover the provisions
25 of this chapter and the rules adopted under this chapter. At
26 the time of license renewal, a licensee must certify to the
27 office that the professional continuing education requirements
28 of this section have been met. Licensees shall maintain
29 records documenting compliance with this subsection for a
30 period of 4 years. The requirements for professional
31 continuing education are waived for the license renewal of a

1 mortgage broker who has completed the 24-hour prelicensing
2 classroom education requirement of s. 494.0033(3) within 90
3 days of ~~for~~ the biennial license period immediately following
4 the period in which the person became licensed as a mortgage
5 broker. The requirements for professional continuing education
6 for a principal representative are waived for the license
7 renewal of a mortgage lender, correspondent mortgage lender,
8 or mortgage lender pursuant to s. 494.0065 for the biennial
9 license period immediately following the period in which the
10 principal representative completed the 24 hours of classroom
11 education and passed a written test in order to qualify to be
12 a principal representative.

13 (2) Professional continuing education programs must
14 contribute directly to the professional competency of the
15 participants, may only be offered by permitted mortgage
16 business schools, the office, or entities specifically
17 exempted from permitting as mortgage business schools, and may
18 include electronically transmitted or distance education
19 courses.

20 (3)(a) All electronically transmitted courses shall
21 require that the time spent attending electronically
22 transmitted professional education courses is equal to the
23 number of qualifying hours awarded to participants for course
24 attendance. Before allowing a course participant to complete a
25 course and receive a certificate of course completion, the
26 course provider shall ensure that the course participant has:

27 1. Logged the required number of hours for the
28 particular timed module.

29 2. Completed a test that comprehensively covers the
30 course content for the particular timed module.
31

1 3. Correctly answered all test questions for the
2 particular timed module.

3 (b) All distance education course participants shall
4 successfully complete a test that comprehensively covers
5 course content in order to receive a certificate of course
6 completion. Distance education providers shall not provide
7 answers to test questions to course participants and shall not
8 issue a certificate of course completion to any course
9 participant who has failed to correctly answer at least 75
10 percent of the total test questions. The test must consist of
11 at least 100 questions.

12 ~~(4)(3)~~ The commission shall adopt rules pursuant to
13 ss. 120.536(1) and 120.54 necessary to administer this
14 section, including rules governing qualifying hours for
15 professional continuing education programs and standards for
16 electronically transmitted or distance education courses,
17 including course completion requirements.

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

20 494.0033 Mortgage broker's license.--

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

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

30 (b) Has passed a written test adopted and administered
31 by the office, or has passed an electronic test adopted and

1 administered by the office or a third party approved by the
2 office, which is designed to determine competency in primary
3 and subordinate mortgage financing transactions as well as to
4 test knowledge of ss. 494.001-494.0077 and the rules adopted
5 pursuant thereto. The commission may prescribe by rule an
6 additional fee that may not exceed \$100 for the electronic
7 version of the mortgage broker test. The commission may waive
8 by rule the examination requirement for any person who has
9 passed a test approved by the Conference of State Bank
10 Supervisors, the American Association of Residential Mortgage
11 Regulators, or the United States Department of Housing and
12 Urban Development if the test covers primary and subordinate
13 mortgage financing transactions. The commission may adopt
14 rules prescribing an additional fee that may not exceed \$50
15 for an applicant to review his or her completed and graded
16 mortgage broker test. The commission may adopt rules regarding
17 the administration of the testing process, including, but not
18 limited to, procedures relating to pretest registration, test
19 security, scoring, content, result notification, retest
20 procedures and fees, postexamination review, and challenge
21 provisions.

22
23 The commission may require by rule information concerning any
24 such applicant or person, including, but not limited to, his
25 or her full name and any other names by which he or she may
26 have been known, age, social security number, qualifications
27 and educational and business history, and disciplinary and
28 criminal history.

29 Section 6. Section 494.0038, Florida Statutes, is
30 amended to read:

31 494.0038 Mortgage broker disclosures.--

1 (1)(a)1. A person may not receive a mortgage brokerage
2 ~~fee for acting as a mortgage brokerage business~~ except
3 pursuant to a written mortgage brokerage agreement between the
4 mortgage brokerage business and the borrower which is signed
5 and dated by the business and the borrower.

6 2. The written mortgage brokerage agreement must
7 describe the services to be provided by the mortgage brokerage
8 business and specify the amount and terms of the mortgage
9 brokerage fee that the mortgage brokerage business is to
10 receive. The written mortgage brokerage agreement must be
11 executed within 3 business days after a mortgage loan
12 application is accepted if the borrower is present when the
13 application is accepted. If the borrower is not present when
14 such an application is accepted, the licensee shall forward
15 the written mortgage brokerage agreement to the borrower
16 within 3 business days after the licensee's acceptance of the
17 application and the licensee bears the burden of proving that
18 the borrower received and approved the written mortgage
19 brokerage agreement.

20 (b)1. If the mortgage brokerage business is to receive
21 any payment of any kind from the lender, the maximum total
22 dollar amount of the payment must be disclosed to the borrower
23 in the written mortgage brokerage agreement as described in
24 paragraph (a). The commission may prescribe by rule an
25 acceptable form for disclosure of brokerage fees received from
26 the lender. The mortgage brokerage agreement must state the
27 nature of the relationship with the lender, describe how
28 compensation is paid by the lender, and describe how the
29 mortgage interest rate affects the compensation paid to the
30 mortgage brokerage business. ~~If any of the rates, points,~~
31 fees, and other terms quoted by or on behalf of the lender are

1 ~~to be received by the mortgage brokerage business, such fact~~
2 ~~shall be 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 to the borrower within 3 business days after the
6 mortgage brokerage business is made aware of the exact amount
7 of the payment from the lender but not less than 3 business
8 days before the execution of the closing or settlement
9 statement. The licensee bears the burden of proving such
10 notification was provided to the borrower. If the mortgage
11 brokerage fee is for brokering a loan for a particular program
12 under which the brokerage fee varies according to the terms of
13 the loan, the brokerage fee may be disclosed as a range of
14 fees at the time of application. The mortgage broker shall, in
15 such instance, disclose the nature of the fee arrangement to
16 the borrower, and the exact amount of the fee must be
17 disclosed at settlement or closing.

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

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

29 (a) That such mortgage brokerage business may not make
30 mortgage loans or commitments. The mortgage brokerage business
31 may make a commitment and may furnish a lock-in of the rate

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

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

9 (c) A good faith estimate, signed and dated by the
10 borrower, which discloses of the total amount of each of the
11 fees which the borrower may reasonably expect to pay if the
12 loan is closed, including, but not limited to, fees earned by
13 the mortgage brokerage business, lender fees, third-party
14 fees, and official fees, together with ~~credit report fee,~~
15 ~~property appraisal fee, or any other third party fee~~ and the
16 terms and conditions for obtaining a refund of such fees, if
17 any. Any amount collected in excess of the actual cost shall
18 be returned within 60 days after rejection, withdrawal, or
19 closing. The good faith estimate must identify the recipient
20 of all payments charged the borrower and, except for all fees
21 to be received by the mortgage brokerage business, may be
22 disclosed in generic terms, such as, but not limited to, paid
23 to lender, appraiser, officials, title company, or any other
24 third-party service provider. This requirement does not
25 supplant or is not a substitute for the written mortgage
26 brokerage agreement described in subsection (1).

27 (3) The disclosures required by this subsection must
28 be furnished in writing at the time an adjustable rate
29 mortgage loan is offered to the borrower and whenever the
30 terms of the adjustable rate mortgage loan offered materially
31 change prior to closing. The broker shall furnish the

1 disclosures relating to adjustable rate mortgages in a format
2 prescribed by ss. 226.18 and 226.19 of Regulation Z of the
3 Board of Governors of the Federal Reserve System, as amended,
4 its commentary, as amended, and the federal Truth in Lending
5 Act, 15 U.S.C. ss. 1601 et seq., as amended, together with the
6 Consumer Handbook on Adjustable Rate Mortgages, as amended,
7 published by the Federal Reserve Board and the Federal Home
8 Loan Bank Board. The licensee bears the burden of proving such
9 disclosures were provided to the borrower.

10 ~~(4)(3)~~ If the mortgage brokerage agreement includes a
11 nonrefundable application fee, the following requirements are
12 applicable:

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

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

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

21 ~~(5)(4)~~ A mortgage brokerage business may not accept
22 any fee in connection with a mortgage loan other than an
23 application fee, credit report fee, property appraisal fee, or
24 other third-party fee prior to obtaining a written commitment
25 from a qualified lender.

26 ~~(6)(5)~~ Any third-party fee entrusted to a mortgage
27 brokerage business shall immediately, upon receipt, be placed
28 into a segregated account with a financial institution located
29 in the state the accounts of which are insured by the Federal
30 Government. Such funds shall be held in trust for the payor
31 and shall be kept in the account until disbursement. Such

1 funds may be placed in one account if adequate accounting
2 measures are taken to identify the source of the funds.

3 ~~(7)(6)~~ All mortgage brokerage fees shall be paid to a
4 mortgage brokerage business licensee.

5 ~~(8)(7)~~ This section does not prohibit a mortgage
6 brokerage business from offering products and services, in
7 addition to those offered in conjunction with the loan
8 origination process, for a fee or commission.

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

11 494.004 Requirements of licensees.--

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

20 (b) A borrower may waive the right to receive notice
21 of a material change that is granted under paragraph (a) if
22 the borrower determines that the extension of credit is needed
23 to meet a bona fide personal financial emergency and the right
24 to receive notice would delay the closing of the mortgage
25 loan. The imminent sale of the borrower's home at foreclosure
26 during the 3-day period before the signing of settlement or
27 closing statement constitutes an example of a bona fide
28 personal financial emergency. In order to waive the borrower's
29 right to receive notice not less than 3 business days before
30 the signing of the settlement or closing statement of any such
31 material change, the borrower must provide the licensee with a

1 dated written statement that describes the personal financial
2 emergency, waives the right to receive the notice, bears the
3 borrower's signature, and is not on a printed form prepared by
4 the licensee for the purpose of such a waiver.

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

7 494.0041 Administrative penalties and fines; license
8 violations.--

9 (2) Each of the following acts constitutes a ground
10 for which the disciplinary actions specified in subsection (1)
11 may be taken:

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

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

19 494.0064 Renewal of mortgage lender's license; branch
20 office license renewal.--

21 (1)~~(a)~~ The office shall renew a mortgage lender
22 license upon receipt of a completed renewal form,
23 certification from the licensee that the licensee currently
24 meets the minimum net worth requirements of s. 494.0061 or s.
25 494.0065, certification from the licensee that during the
26 preceding 2 years the licensee's principal representative and
27 loan originators have completed the professional continuing
28 education requirements of s. 494.00295, and the nonrefundable
29 renewal fee of \$575. The office shall renew a correspondent
30 lender license upon receipt of a completed renewal form,
31 certification from the licensee that the licensee currently

1 meets the minimum net worth requirements of s. 494.0062,
2 certification from the licensee that during the preceding 2
3 years the licensee's principal representative and loan
4 originators have completed the professional continuing
5 education requirements of s. 494.00295, and a nonrefundable
6 renewal fee of \$475. Each licensee shall pay at the time of
7 renewal a nonrefundable fee of \$325 for the renewal of each
8 branch office license.

9 ~~(b) A licensee shall also submit, as part of the~~
10 ~~renewal form, certification that during the preceding 2 years~~
11 ~~the licensee's principal representative and loan originators~~
12 ~~have completed the professional continuing education~~
13 ~~requirements of s. 494.00295.~~

14 Section 10. Subsection (8) and paragraph (a) of
15 subsection (10) of section 494.0067, Florida Statutes, are
16 amended, and subsections (11) and (12) are added to that
17 section, to read:

18 494.0067 Requirements of licensees under ss.
19 494.006-494.0077.--

20 (8) Each licensee under ss. 494.006-494.0077 shall
21 provide an applicant for a mortgage loan a good faith estimate
22 of the costs the applicant can reasonably expect to pay in
23 obtaining a mortgage loan. The good faith estimate of costs
24 shall be mailed or delivered to the applicant within a
25 reasonable time after the licensee receives a written loan
26 application from the applicant. The estimate of costs may be
27 provided to the applicant by a person other than the licensee
28 making the loan. The good faith estimate must identify the
29 recipient of all payments charged to the borrower and, except
30 for all fees to be received by the mortgage brokerage business
31 and the mortgage lender or correspondent mortgage lender, may

1 be disclosed in generic terms, such as, but not limited to,
2 paid to appraiser, officials, title company, or any other
3 third-party service provider. The licensee bears the burden of
4 proving such disclosures were provided to the borrower. The
5 commission may adopt rules that set forth the disclosure
6 requirements of this section.

7 (10)(a) Each mortgage lender or correspondent mortgage
8 lender licensee shall require the principal representative and
9 all loan originators, not currently licensed as mortgage
10 brokers pursuant to s. 494.0033, who perform services for the
11 licensee to complete 14 hours of professional continuing
12 education during each biennial license period. The education
13 shall cover primary and subordinate mortgage financing
14 transactions and the provisions of this chapter and the rules
15 adopted under this chapter.

16 (11) The disclosures in this subsection must be
17 furnished in writing at the time an adjustable rate mortgage
18 loan is offered to the borrower and whenever the terms of the
19 adjustable rate mortgage loan offered have a material change
20 prior to closing. The lender shall furnish the disclosures
21 relating to adjustable rate mortgages in a format prescribed
22 by ss. 226.18 and 226.19 of Regulation Z of the Board of
23 Governors of the Federal Reserve System, as amended, its
24 commentary, as amended, and the federal Truth in Lending Act,
25 15 U.S.C. ss. 1601 et seq., as amended, together with the
26 Consumer Handbook on Adjustable Rate Mortgages, as amended,
27 published by the Federal Reserve Board and the Federal Home
28 Loan Bank Board. The licensee bears the burden of proving such
29 disclosures were provided to the borrower.

30 (12)(a) In every mortgage loan transaction, each
31 licensee under ss. 494.006-494.0077 shall notify a borrower of

1 any material changes in the terms of a mortgage loan
2 previously offered to the borrower within 3 business days
3 after being made aware of such changes by the lender but not
4 less than 3 business days before the signing of the settlement
5 or closing statement. The licensee bears the burden of proving
6 such notification was provided and accepted by the borrower.

7 (b) A borrower may waive the right to receive notice
8 of a material change that is granted under paragraph (a) if
9 the borrower determines that the extension of credit is needed
10 to meet a bona fide personal financial emergency and the right
11 to receive notice would delay the closing of the mortgage
12 loan. The imminent sale of the borrower's home at foreclosure
13 during the 3-day period before the signing of settlement or
14 closing statement constitutes an example of a bona fide
15 personal financial emergency. In order to waive the borrower's
16 right to receive notice not less than 3 business days before
17 the signing of the settlement or closing statement of any such
18 material change, the borrower must provide the licensee with a
19 dated written statement that describes the personal financial
20 emergency, waives the right to receive the notice, bears the
21 borrower's signature, and is not on a printed form prepared by
22 the licensee for the purpose of such a waiver.

23 Section 11. Paragraph (v) is added to subsection (2)
24 of section 494.0072, Florida Statutes, subsection (3) of that
25 section is amended, and subsection (5) is added to that
26 section, to read:

27 494.0072 Administrative penalties and fines; license
28 violations.--

29 (2) Each of the following acts constitutes a ground
30 for which the disciplinary actions specified in subsection (1)
31 may be taken:

1 (v) In any mortgage transaction, violating any
2 provision of the federal Real Estate Settlement Procedure Act,
3 as amended, 12 U.S.C. ss. 2601 et seq., the federal Truth In
4 Lending Act, as amended, 15 U.S.C. ss. 1601 et seq., or any
5 regulations adopted under such acts.

6 (3) A mortgage lender or correspondent mortgage lender
7 is subject to the disciplinary actions specified in subsection
8 (1) if any officer, member, director, control person, joint
9 venturer, or ultimate equitable owner of a 10-percent or
10 greater interest in the mortgage lender or correspondent
11 mortgage lender, associate, or employee of the mortgage lender
12 or correspondent mortgage lender violates or has violated any
13 provision of subsection (2).

14 (5) A principal representative of a mortgage lender or
15 correspondent mortgage lender is subject to the disciplinary
16 actions specified in subsection (1) for violations of
17 subsection (2) by associates or employees in the course of an
18 association or employment with the correspondent mortgage
19 lender or the mortgage lender. The principal representative is
20 only subject to suspension or revocation for associate or
21 employee actions if there is a pattern of repeated violations
22 by associates or employees or if the principal broker or
23 principal representative had knowledge of the violations.

24 Section 12. Section 494.0073, Florida Statutes, is
25 amended to read:

26 494.0073 Mortgage lender or correspondent mortgage
27 lender when acting as a mortgage brokerage business.--Sections
28 494.006-494.0077 do not prohibit a mortgage lender or
29 correspondent mortgage lender from acting as a mortgage
30 brokerage business. However, in mortgage transactions in which
31 a mortgage lender or correspondent mortgage lender acts as a

1 mortgage brokerage business, the provisions of ss. 494.0038,
2 494.0042, 494.004(8), and 494.0043(1), (2), and (3) apply.

3 Section 13. This act shall take effect October 1,
4 2007.

5

6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 CS/SB 1824

9 This CS/CS differs from the bill as filed in the following
10 manner:

11 The CS/CS clarifies when the mortgage brokerage agreement must
12 be executed and provided to the borrower -- within 3 days if
13 the loan application is accepted in person; or, if the
14 borrower is not present when the loan application is accepted,
15 the brokerage must forward to borrower within 3 business days.
16 The broker bears the burden of proving that the agreement was
17 received and accepted by the borrower.

18 The CS/CS allows the borrower to waive, in writing, notice of
19 material changes if the borrower determines that the loan is
20 needed to meet a personal financial emergency and the
21 notification requirement would delay the closing. An imminent
22 foreclosure during the 3 days prior to closing constitutes a
23 bona fide personal emergency. The CS/CS also provides
24 requirements for the written statement.

25 The CS/CS removes rulemaking authority where it appears
26 burdensome or unnecessary.

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