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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/15/2009	.	
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The Committee on Judiciary (Richter) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 494.001, Florida Statutes, is amended to
read:

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

~~(1) "Act as a correspondent mortgage lender" means to make
a mortgage loan.~~

~~(2) "Act as a loan originator" means being employed by a
mortgage lender or correspondent mortgage lender, for~~



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13 ~~compensation or gain or in the expectation of compensation or~~
14 ~~gain, to negotiate, offer to negotiate, or assist any licensed~~
15 ~~or exempt entity in negotiating the making of a mortgage loan,~~
16 ~~including, but not limited to, working with a licensed or exempt~~
17 ~~entity to structure a loan or discussing terms and conditions~~
18 ~~necessary for the delivery of a loan product. A natural person~~
19 ~~whose activities are ministerial and clerical, which may include~~
20 ~~quoting available interest rates, is not acting as a loan~~
21 ~~originator.~~

22 ~~(3) "Act as a mortgage broker" means, for compensation or~~
23 ~~gain, or in the expectation of compensation or gain, either~~
24 ~~directly or indirectly, accepting or offering to accept an~~
25 ~~application for a mortgage loan, soliciting or offering to~~
26 ~~solicit a mortgage loan on behalf of a borrower, negotiating or~~
27 ~~offering to negotiate the terms or conditions of a mortgage loan~~
28 ~~on behalf of a lender, or negotiating or offering to negotiate~~
29 ~~the sale of an existing mortgage loan to a noninstitutional~~
30 ~~investor. An employee whose activities are ministerial and~~
31 ~~clerical, which may include quoting available interest rates or~~
32 ~~loan terms and conditions, is not acting as a mortgage broker.~~

33 ~~(4) "Act as a mortgage lender" means to make a mortgage~~
34 ~~loan or to service a mortgage loan for others or, for~~
35 ~~compensation or gain, or in the expectation of compensation or~~
36 ~~gain, either directly or indirectly, to sell or offer to sell a~~
37 ~~mortgage loan to a noninstitutional investor.~~

38 ~~(5) "Associate" means a person required to be licensed as a~~
39 ~~mortgage broker under this chapter who is employed by or acting~~
40 ~~as an independent contractor for a mortgage brokerage business~~
41 ~~or a person acting as an independent contractor for a mortgage~~



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42 ~~lender or correspondent mortgage lender. The use of the term~~
43 ~~associate, in contexts other than in the administration of ss.~~
44 ~~494.003-494.0077, shall not be construed to impose or effect the~~
45 ~~common law or statutory liability of the employer.~~

46 (1) "Borrower" means a person obligated to repay a mortgage
47 loan and includes, but is not limited to, a coborrower,
48 cosignor, or guarantor.

49 (2)~~(6)~~ "Branch manager ~~broker"~~ means the licensed loan
50 originator licensee in charge of, and responsible for, the
51 operation of the ~~a~~ branch office of a mortgage broker or
52 mortgage lender brokerage business.

53 (3)~~(7)~~ "Branch office" means a location, other than a
54 mortgage broker's or mortgage lender's licensee's principal
55 place of business:

56 (a) The address of which appears on business cards,
57 stationery, or advertising used by the licensee in connection
58 with business conducted under this chapter;

59 (b) At which the licensee's name, advertising or
60 promotional materials, or signage suggest that mortgage loans
61 are originated, negotiated, funded, or serviced; or

62 (c) At which, ~~due to the actions of any employee or~~
63 ~~associate of the licensee, may be construed by the public as a~~
64 ~~branch office of the licensee where mortgage loans are~~
65 ~~originated, negotiated, funded, or serviced~~ by a licensee.

66 (4)~~(8)~~ "Commission" means the Financial Services
67 Commission.

68 (5)~~(9)~~ "Control person" means an individual, partnership,
69 corporation, trust, or other organization that possesses the
70 power, directly or indirectly, to direct the management or



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71 policies of a company, whether through ownership of securities,
72 by contract, or otherwise. Control person includes, but is not
73 limited to ~~A person is presumed to control a company if, with~~
74 ~~respect to a particular company, that person:~~

75 (a) A company's executive officers, including the
76 president, chief executive officer, chief financial officer,
77 chief operations officer, chief legal officer, chief compliance
78 officer, director, and other individuals having similar status
79 or functions.

80 (b) For a corporation, each shareholder that, directly or
81 indirectly, owns 10 percent or more or that has the power to
82 vote 10 percent or more, of a class of voting securities unless
83 the applicant is a publicly traded company.

84 (c) For a partnership, all general partners and limited or
85 special partners that have contributed 10 percent or more or
86 that have the right to receive, upon dissolution, 10 percent or
87 more of the partnership's capital.

88 (d) For a trust, each trustee.

89 (e) For a limited liability company, all elected managers
90 and those members that have contributed 10 percent or more or
91 that have the right to receive, upon dissolution, 10 percent or
92 more of the partnership's capital.

93 (f) Principal loan originators.

94 (6) "Credit report" means any written, oral, or other
95 information obtained from a consumer reporting agency as
96 described in the federal Fair Credit Reporting Act, which bears
97 on an individual's credit worthiness, credit standing, or credit
98 capacity. A credit score alone, as calculated by the reporting
99 agency, is not considered a credit report.



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100 (7) "Credit score" means a score, grade, or value that is
101 derived by using data from a credit report in any type of model,
102 method, or program, whether electronically, in an algorithm,
103 computer software or program, or any other process, for the
104 purpose of grading or ranking credit report data.

105 (8) "Depository institution" has the same meaning as in s.
106 (3) (c) of the Federal Deposit Insurance Act, and includes any
107 credit union.

108 ~~(a) Is a director, general partner, or officer exercising~~
109 ~~executive responsibility or having similar status or functions;~~

110 ~~(b) Directly or indirectly may vote 10 percent or more of a~~
111 ~~class of voting securities or sell or direct the sale of 10~~
112 ~~percent or more of a class of voting securities; or~~

113 ~~(c) In the case of a partnership, may receive upon~~
114 ~~dissolution or has contributed 10 percent or more of the~~
115 ~~capital.~~

116 ~~(10) "Office" means the Office of Financial Regulation of~~
117 ~~the commission.~~

118 ~~(11) "Employed" means engaged in the service of another for~~
119 ~~salary or wages subject to withholding, FICA, or other lawful~~
120 ~~deductions by the employer as a condition of employment.~~

121 ~~(12) "Employee" means a natural person who is employed and~~
122 ~~who is subject to the right of the employer to direct and~~
123 ~~control the actions of the employee.~~

124 ~~(13) "Good standing" means that the registrant or licensee,~~
125 ~~or a subsidiary or affiliate thereof, is not, at the time of~~
126 ~~application, being penalized for one or more of the following~~
127 ~~disciplinary actions by a licensing authority of any state,~~
128 ~~territory, or country:~~



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129 ~~(a) Revocation of a license or registration.~~

130 ~~(b) Suspension of a license or registration.~~

131 ~~(c) Probation of a license or registration for an offense~~
132 ~~involving fraud, dishonest dealing, or an act of moral~~
133 ~~turpitude.~~

134 (9) "Financial audit report" means a report prepared in
135 connection with a financial audit that is conducted in
136 accordance with generally accepted auditing standards prescribed
137 by the American Institute of Certified Public Accountants by a
138 certified public accountant licensed to do business in the
139 United States, and which must include:

140 (a) Financial statements, including notes related to the
141 financial statements and required supplementary information,
142 prepared in conformity with United States generally accepted
143 accounting principles.

144 (b) An expression of opinion regarding whether the
145 financial statements are presented in conformity with United
146 States generally accepted accounting principles, or an assertion
147 to the effect that such an opinion cannot be expressed and the
148 reasons.

149 ~~(10)-(14)~~ "Institutional investor" means a depository
150 institution state or national bank, state or federal savings and
151 loan association or savings bank, real estate investment trust,
152 insurance company, real estate company, accredited investor as
153 defined in 17 C.F.R. ss. 230.501 et seq., mortgage broker or
154 mortgage lender business licensed under this chapter ss.
155 494.001-494.0077, or other business entity that invests in
156 mortgage loans, including a secondary mortgage market
157 institution including, without limitation, the Federal National



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158 Mortgage Association, the Federal Home Loan Mortgage
159 Corporation, and the Government National Mortgage Association,
160 conduits, investment bankers, and any subsidiary of such
161 entities.

162 (11)-(15) "Loan commitment" or "commitment" means a
163 statement by the lender setting forth the terms and conditions
164 upon which the lender is willing to make a particular mortgage
165 loan to a particular borrower.

166 (12) "Loan modification" means a modification to an
167 existing loan. The term does not include a refinancing
168 transaction.

169 (13) "Loan origination fee" means the total compensation
170 from any source received by a mortgage broker acting as a loan
171 originator. Any payment for processing mortgage loan
172 applications must be included in the fee and must be paid to the
173 mortgage broker.

174 (14) "Loan originator" means an individual who, directly or
175 indirectly, solicits or offers to solicit a mortgage loan,
176 accepts or offers to accept an application for a mortgage loan,
177 negotiates or offers to negotiate the terms or conditions of a
178 new or existing mortgage loan on behalf of a borrower or lender,
179 processes a mortgage loan application, or negotiates or offers
180 to negotiate the sale of an existing mortgage loan to a
181 noninstitutional investor for compensation or gain. The term
182 includes the activities of a loan originator as that term is
183 defined in the S.A.F.E. Mortgage Licensing Act of 2008, and an
184 individual acting as a loan originator pursuant to that
185 definition is acting as a loan originator for purposes of this
186 definition. The term does not include an employee of a mortgage



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187 broker or mortgage lender who performs only administrative or
188 clerical tasks, including quoting available interest rates,
189 physically handling a completed application form, or
190 transmitting a completed form to a lender on behalf of a
191 prospective borrower.

192 ~~(15)~~ ~~(16)~~ "Lock-in agreement" means an agreement whereby the
193 lender guarantees for a specified number of days or until a
194 specified date the availability of a specified rate of interest
195 or specified formula by which the rate of interest will be
196 determined or and/or specific number of discount points will be
197 given, if the loan is approved and closed within the stated
198 period of time.

199 ~~(16)~~ ~~(17)~~ "Making ~~Make~~ a mortgage loan" means to close a
200 mortgage loan in a person's name, ~~or to~~ advance funds, offer to
201 advance funds, or make a commitment to advance funds to an
202 applicant for a mortgage loan.

203 (17) "Material change" means a change that would be
204 important to a reasonable borrower in making a borrowing
205 decision, and includes a change in the interest rate previously
206 offered a borrower, a change in the type of loan offered to a
207 borrower, or a change in fees to be charged to a borrower
208 resulting in total fees greater than \$100.

209 (18) "Mortgage broker" means a person conducting loan
210 originator activities through one or more licensed loan
211 originators employed by the mortgage broker or as independent
212 contractors to the mortgage broker.

213 ~~(18) "Mortgage brokerage fee" means a fee received for~~
214 ~~acting as a mortgage broker.~~

215 ~~(19) "Mortgage brokerage business" means a person acting as~~



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216 ~~a mortgage broker.~~

217 (19) "Mortgage lender" means a person making a mortgage
218 loan or servicing a mortgage loan for others, or, for
219 compensation or gain, directly or indirectly, selling or
220 offering to sell a mortgage loan to a noninstitutional investor.

221 (20)~~(20)~~ "Mortgage loan" means any:

222 (a) Residential ~~mortgage~~ loan primarily for personal,
223 family, or household use which is secured by a mortgage, deed of
224 trust, or other equivalent consensual security interest on a
225 dwelling, as defined in s. 103(v) of the federal Truth in
226 Lending Act, or for the purchase of residential real estate upon
227 which a dwelling is to be constructed;

228 (b) Loan on commercial real property if the borrower is an
229 individual ~~a natural person~~ or the lender is a noninstitutional
230 investor; or

231 (c) Loan on improved real property consisting of five or
232 more dwelling units if the borrower is an individual ~~a natural~~
233 ~~person~~ or the lender is a noninstitutional investor.

234 (21) "Mortgage loan application" means the submission of a
235 borrower's financial information in anticipation of a credit
236 decision, which includes the borrower's name, the borrower's
237 monthly income, the borrower's social security number to obtain
238 a credit report, the property address, an estimate of the value
239 of the property, the mortgage loan amount sought, and any other
240 information deemed necessary by the loan originator. An
241 application may be in writing or electronically submitted,
242 including a written record of an oral application.

243 (22)~~(21)~~ "Net worth" means total assets minus total
244 liabilities pursuant to United States generally accepted



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245 accounting principles.

246 (23)~~(22)~~ "Noninstitutional investor" means an investor
247 other than an institutional investor.

248 ~~(23) "Nonresidential mortgage loan" means a mortgage loan
249 other than a residential mortgage loan.~~

250 (24) "Office" means the Office of Financial Regulation.

251 (25)~~(24)~~ "Person" has the same meaning as in s. 1.01 means
252 an individual, partnership, corporation, association, or other
253 group, however organized.

254 ~~(25) "Principal broker" means a licensee in charge of, and
255 responsible for, the operation of the principal place of
256 business and all branch brokers.~~

257 (26) "Principal loan originator" means the licensed loan
258 originator in charge of, and responsible for, the operation of a
259 mortgage lender or mortgage broker, including all of the
260 activities of the mortgage lender's or mortgage broker's loan
261 originators and branch managers, whether employees or
262 independent contractors.

263 (27)~~(26)~~ "Principal place of business" means a mortgage
264 broker's or mortgage lender's licensee's primary business
265 office, the street address, or physical location that ~~of which~~
266 is designated on the application for licensure or any amendment
267 to such application.

268 (28) "Registered loan originator" means a loan originator
269 who is employed by a depository institution, by a subsidiary
270 that is owned and controlled by a depository institution and
271 regulated by a federal banking agency, or by an institution
272 regulated by the Farm Credit Administration, and who is
273 registered with and maintains a unique identifier through the



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274 registry.

275 (29) "Registry" means the Nationwide Mortgage Licensing
276 System and Registry, which is the mortgage licensing system
277 developed and maintained by the Conference of State Bank
278 Supervisors and the American Association of Residential Mortgage
279 Regulators for the licensing and registration of loan
280 originators.

281 (30) "Relative" means any of the following, whether by the
282 full or half blood or by adoption:

283 (a) A person's spouse, father, mother, children, brothers,
284 and sisters.

285 (b) The father, mother, brothers, and sisters of the
286 person's spouse.

287 (c) The spouses of the person's children, brothers, or
288 sisters.

289 ~~(27) "Residential mortgage loan" means any mortgage or~~
290 ~~other security instrument secured by improved real property~~
291 ~~consisting of no more than four dwelling units.~~

292 (31) "Servicing endorsement" means authorizing a mortgage
293 lender to service a loan for more than 4 months.

294 ~~(32)~~ (28) "Servicing Service a mortgage loan" means to
295 receive, or cause to be received, or transferred for another,
296 installment payments of principal, interest, or other payments
297 pursuant to a mortgage loan.

298 ~~(33)~~ (29) "Substantial fault of the borrower" means that the
299 borrower:

300 (a) Failed to provide information or documentation required
301 by the lender or broker in a timely manner;

302 (b) Provided information, in the application or



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303 subsequently, which upon verification proved to be significantly
304 inaccurate, causing the need for review or further investigation
305 by the lender or broker;

306 (c) Failed to produce by ~~no later than~~ the date specified
307 by the lender all documentation specified in the commitment or
308 closing instructions as being required for closing; or

309 (d) Failed to be ready, willing, or able to close the loan
310 by ~~no later than~~ the date specified by the lender or broker.

311
312 For purposes of this definition, a borrower is considered to
313 have provided information or documentation in a timely manner if
314 such information and documentation was received by the lender
315 within 7 days after the borrower received a request for same,
316 and information is considered significantly inaccurate if the
317 correct information materially affects the eligibility of the
318 borrower for the loan for which application is made.

319 ~~(34)-(30)~~ "Ultimate equitable owner" means an individual a
320 ~~natural person~~ who, directly or indirectly, owns or controls an
321 ownership interest in a corporation, a foreign corporation, an
322 alien business organization, or any other form of business
323 organization, regardless of whether individual ~~such natural~~
324 ~~person~~ owns or controls such ~~ownership~~ interest through one or
325 more individuals ~~natural persons~~ or one or more proxies, powers
326 of attorney, nominees, corporations, associations, partnerships,
327 trusts, joint stock companies, or other entities or devices, or
328 any combination thereof.

329 ~~(31)~~ "Principal representative" means ~~an individual who~~
330 ~~operates the business operations of a licensee under part III.~~

331 ~~(32)~~ "Mortgage loan application" means ~~a submission of a~~



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332 ~~borrower's financial information in anticipation of a credit~~
333 ~~decision, whether written or computer-generated, relating to a~~
334 ~~mortgage loan. If the submission does not state or identify a~~
335 ~~specific property, the submission is an application for a~~
336 ~~prequalification and not an application for a mortgage loan~~
337 ~~under this part. The subsequent addition of an identified~~
338 ~~property to the submission converts the submission to an~~
339 ~~application for a mortgage loan.~~

340 ~~(33) "Mortgage brokerage fee" means the total compensation~~
341 ~~to be received by a mortgage brokerage business for acting as a~~
342 ~~mortgage broker.~~

343 ~~(34) "Business day" means any calendar day except Sunday or~~
344 ~~a legal holiday.~~

345 Section 2. Section 494.0011, Florida Statutes, is amended
346 to read:

347 494.0011 Powers and duties of the commission and office.—

348 (1) The office shall be responsible for the administration
349 and enforcement of ss. 494.001-494.0077.

350 (2) ~~The commission may adopt rules pursuant to ss.~~
351 ~~120.536(1) and 120.54 To administer ~~implement~~ ss. 494.001-~~
352 ~~494.0077,~~ the commission may adopt rules:

353 (a) Requiring electronic submission of any forms,
354 documents, or fees required by this act ~~if such rules reasonably~~
355 ~~accommodate technological or financial hardship.~~

356 (b) Relating to compliance with the S.A.F.E. Mortgage
357 Licensing Act of 2008, including rules to:

358 1. Require loan originators, mortgage brokers, mortgage
359 lenders, and branch offices to register through the registry.

360 2. Require the use of uniform forms that have been approved



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361 by the registry, and any subsequent amendments to such forms if
362 the forms are substantially in compliance with the provisions of
363 this chapter. Uniform forms that the commission may adopt
364 include, but are not limited to:

365 a. Uniform Mortgage Lender/Mortgage Broker Form, MU1.

366 b. Uniform Mortgage Biographical Statement & Consent Form,
367 MU2.

368 c. Uniform Mortgage Branch Office Form, MU3.

369 d. Uniform Individual Mortgage License/Registration &
370 Consent Form, MU4.

371 3. Require the filing of forms, documents, and fees in
372 accordance with the requirements of the registry.

373 4. Prescribe requirements for amending or surrendering a
374 license or other activities as the commission deems necessary
375 for the office's participation in the registry.

376 5. Prescribe procedures that allow a licensee to challenge
377 information contained in the registry.

378 6. Prescribe procedures for reporting violations of this
379 chapter and disciplinary actions on licensees to the registry.

380 ~~The commission may prescribe by rule requirements and procedures~~
381 ~~for obtaining an exemption due to a technological or financial~~
382 ~~hardship. The commission may also adopt rules to accept~~
383 ~~certification of compliance with requirements of this act in~~
384 ~~lieu of requiring submission of documents.~~

385 (c) Establishing time periods during which a loan
386 originator, mortgage broker, or mortgage lender license
387 applicant under part II or part III is barred from licensure due
388 to prior criminal convictions of, or guilty or nolo contendere
389 pleas by, any of the applicant's control persons, regardless of



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390 adjudication.
391 1. The rules must provide:
392 a. Permanent bars for felonies involving fraud, dishonesty,
393 breach of trust, or money laundering;
394 b. A 15-year disqualifying period for felonies involving
395 moral turpitude;
396 c. A 7-year period for all other felonies; and
397 d. A 5-year period for misdemeanors involving fraud,
398 dishonesty, or any other act of moral turpitude.
399 2. The rule may provide for an additional waiting period
400 due to dates of imprisonment or community supervision, the
401 commitment of multiple crimes, and other factors reasonably
402 related to the applicant's criminal history.
403 3. The rule may provide for mitigating factors for crimes
404 identified in sub-subparagraph 1.b. However, the mitigation may
405 not result in a period of disqualification less than 7 years.
406 The rule may not mitigate the disqualifying periods in sub-
407 subparagraphs 1.a., 1.c., and 1.d.
408 4. An applicant is not eligible for licensure until the
409 expiration of the disqualifying period set by rule.
410 5. Section 112.011 is not applicable to eligibility for
411 licensure under this part.
412 (3) Except as provided in s. 494.00172, all fees, charges,
413 and fines collected pursuant to ss. 494.001-494.0077 shall be
414 deposited in ~~the State Treasury to the credit of the Regulatory~~
415 Trust Fund ~~of~~ under the office.
416 (4) The office shall participate in the registry and shall
417 regularly report to the registry violations of this chapter,
418 disciplinary actions, and other information deemed relevant by



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419 the office under this chapter.

420 ~~(4) (a) The office has the power to issue and to serve~~
421 ~~subpoenas and subpoenas duces tecum to compel the attendance of~~
422 ~~witnesses and the production of all books, accounts, records,~~
423 ~~and other documents and materials relevant to an examination or~~
424 ~~investigation. The office, or its duly authorized~~
425 ~~representative, has the power to administer oaths and~~
426 ~~affirmations to any person.~~

427 ~~(b) The office may, in its discretion, seek subpoenas or~~
428 ~~subpoenas duces tecum from any court of competent jurisdiction~~
429 ~~commanding the appearance of witnesses and the production of~~
430 ~~books, accounts, records, and other documents or materials at a~~
431 ~~time and place named in the subpoenas; and any authorized~~
432 ~~representative of the office may serve any subpoena.~~

433 ~~(5) (a) In the event of substantial noncompliance with a~~
434 ~~subpoena or subpoena duces tecum issued or caused to be issued~~
435 ~~by the office, the office may petition the circuit court or any~~
436 ~~other court of competent jurisdiction of the county in which the~~
437 ~~person subpoenaed resides or has its principal place of business~~
438 ~~for an order requiring the subpoenaed person to appear and~~
439 ~~testify and to produce such books, accounts, records, and other~~
440 ~~documents as are specified in the subpoena duces tecum. The~~
441 ~~court may grant injunctive relief restraining the person from~~
442 ~~advertising, promoting, soliciting, entering into, offering to~~
443 ~~enter into, continuing, or completing any mortgage loan~~
444 ~~transaction or mortgage loan servicing transaction. The court~~
445 ~~may grant such other relief, including, but not limited to, the~~
446 ~~restraint, by injunction or appointment of a receiver, of any~~
447 ~~transfer, pledge, assignment, or other disposition of the~~



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448 ~~person's assets or any concealment, alteration, destruction, or~~
449 ~~other disposition of books, accounts, records, or other~~
450 ~~documents and materials as the court deems appropriate, until~~
451 ~~the person has fully complied with the subpoena duces tecum and~~
452 ~~the office has completed its investigation or examination. In~~
453 ~~addition, the court may order the refund of any fees collected~~
454 ~~in a mortgage loan transaction whenever books and documents~~
455 ~~substantiating the transaction are not produced or cannot be~~
456 ~~produced. The office is entitled to the summary procedure~~
457 ~~provided in s. 51.011, and the court shall advance such cause on~~
458 ~~its calendar. Attorney's fees and any other costs incurred by~~
459 ~~the office to obtain an order granting, in whole or part, a~~
460 ~~petition for enforcement of a subpoena or subpoena duces tecum~~
461 ~~shall be taxed against the subpoenaed person, and failure to~~
462 ~~comply with such order is a contempt of court.~~

463 ~~(b) When it appears to the office that the compliance with~~
464 ~~a subpoena or subpoena duces tecum issued or caused to be issued~~
465 ~~by the office pursuant to this section is essential and~~
466 ~~otherwise unavailable to an investigation or examination, the~~
467 ~~office, in addition to the other remedies provided for in this~~
468 ~~section, may apply to the circuit court or any other court of~~
469 ~~competent jurisdiction of the county in which the subpoenaed~~
470 ~~person resides or has its principal place of business for a writ~~
471 ~~of ne exeat. The court shall thereupon direct the issuance of~~
472 ~~the writ against the subpoenaed person requiring sufficient bond~~
473 ~~conditioned on compliance with the subpoena or subpoena duces~~
474 ~~tecum. The court shall cause to be endorsed on the writ a~~
475 ~~suitable amount of bond upon the payment of which the person~~
476 ~~named in the writ shall be freed, having a due regard to the~~



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477 ~~nature of the case.~~

478 ~~(c) Alternatively, the office may seek a writ of attachment~~
479 ~~from the court having jurisdiction over the person who has~~
480 ~~refused to obey a subpoena, who has refused to give testimony,~~
481 ~~or who has refused to produce the matters described in the~~
482 ~~subpoena duces tecum.~~

483 ~~(6) The grant or denial of any license under this chapter~~
484 ~~must be in accordance with s. 120.60.~~

485 Section 3. Section 494.00115, Florida Statutes, is created
486 to read:

487 494.00115 Exemptions.-

488 (1) The following are exempt from regulation as a loan
489 originator, mortgage broker, or mortgage lender under part I,
490 part II, or part III of this chapter:

491 (a) Any person operating exclusively as a registered loan
492 originator in accordance with the S.A.F.E. Mortgage Licensing
493 Act of 2008.

494 (b) A depository institution; subsidiaries that are owned
495 and controlled by a depository institution and regulated by the
496 Board of Governors of the Federal Reserve System, the
497 Comptroller of the Currency, the Director of the Office of
498 Thrift Supervision, the National Credit Union Administration, or
499 the Federal Deposit Insurance Corporation; or institutions
500 regulated by the Farm Credit Administration.

501 (c) The Federal National Mortgage Association; the Federal
502 Home Loan Mortgage Corporation; any agency of the Federal
503 Government; any state, county, or municipal government; or any
504 quasi-governmental agency that acts in such capacity under the
505 specific authority of the laws of any state or the United



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506 States.

507 (d) A licensed attorney who negotiates the terms of a
508 mortgage loan on behalf of a client as an ancillary matter to
509 the attorney's representation of the client.

510 (e) A person involved solely in the extension of credit
511 relating to the purchase of a timeshare plan, as that term is
512 defined in 11 U.S.C. s. 101(53D)

513 (2) The following persons are exempt from regulation as
514 mortgage lender under part III of this chapter:

515 (a) A person acting in a fiduciary capacity conferred by
516 the authority of a court.

517 (b) A person who, as a seller of his or her own real
518 property, receives one or more mortgages in a purchase money
519 transaction.

520 (c) A person who acts solely under contract and as an agent
521 for federal, state, or municipal agencies for the purpose of
522 servicing mortgage loans.

523 (d) A person who makes only nonresidential mortgage loans
524 and sells loans only to institutional investors.

525 (e) An individual making or acquiring a mortgage loan using
526 his or her own funds for his or her own investment, and who does
527 not hold himself or herself out to the public as being in the
528 mortgage lending business.

529 (f) An individual selling a mortgage that was made or
530 purchased with that person's funds for his or her own
531 investment, and who does not hold himself or herself out to the
532 public as being in the mortgage lending business.

533 (3) It is not necessary to negate any of the exemptions
534 provided in this section in any complaint, information,



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535 indictment, or other writ or proceeding brought under ss.
536 494.001-494.0077. The burden of establishing the right to an
537 exemption is on the party claiming the benefit of the exemption.

538 Section 4. Section 494.00135, Florida Statutes, is created
539 to read:

540 494.00135 Subpoenas.—

541 (1) The office may:

542 (a) Issue and serve subpoenas and subpoenas duces tecum to
543 compel the attendance of witnesses and the production of all
544 books, accounts, records, and other documents and materials
545 relevant to an examination or investigation conducted by the
546 office. The office, or its authorized representative, may
547 administer oaths and affirmations to any person.

548 (b) Seek subpoenas or subpoenas duces tecum from any court
549 to command the appearance of witnesses and the production of
550 books, accounts, records, and other documents or materials at a
551 time and place named in the subpoenas, and an authorized
552 representative of the office may serve such subpoena.

553 (2) If there is substantial noncompliance with a subpoena
554 or subpoena duces tecum issued by the office, the office may
555 petition the court in the county where the person subpoenaed
556 resides or has his or her principal place of business for an
557 order requiring the person to appear, testify, or produce such
558 books, accounts, records, and other documents as are specified
559 in the subpoena or subpoena duces tecum.

560 (a) The court may grant injunctive relief restraining the
561 person from advertising, promoting, soliciting, entering into,
562 offering to enter into, continuing, or completing a mortgage
563 loan or servicing a mortgage loan.



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564 (b) The court may grant such other relief, including, but
565 not limited to, the restraint, by injunction or appointment of a
566 receiver, of any transfer, pledge, assignment, or other
567 disposition of the person's assets or any concealment,
568 alteration, destruction, or other disposition of books,
569 accounts, records, or other documents and materials as the court
570 deems appropriate, until the person has fully complied with the
571 subpoena duces tecum and the office has completed its
572 investigation or examination.

573 (c) The court may order the refund of any fees collected in
574 a mortgage loan transaction if books and documents
575 substantiating the transaction are not produced or cannot be
576 produced.

577 (d) If it appears to the office that compliance with a
578 subpoena or subpoena duces tecum issued is essential and
579 otherwise unavailable to an investigation or examination, the
580 office may apply to the court for a writ of ne exeat pursuant to
581 s. 68.02.

582 (e) The office may seek a writ of attachment to obtain all
583 books, accounts, records, and other documents and materials
584 relevant to an examination or investigation.

585 (3) The office is entitled to the summary procedure
586 provided in s. 51.011, and the court shall advance such cause on
587 its calendar. Attorney's fees and any other costs incurred by
588 the office to obtain an order granting, in whole or in part, a
589 petition for enforcement of a subpoena or subpoena duces tecum
590 shall be taxed against the subpoenaed person, and failure to
591 comply with such order is a contempt of court.

592 Section 5. Section 494.0014, Florida Statutes, is amended



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593 to read:

594 494.0014 Cease and desist orders; ~~administrative fines;~~
595 refund orders.—

596 (1) The office may ~~has the power to~~ issue and serve upon
597 any person an order to cease and desist and to take corrective
598 action if ~~whenever~~ it has reason to believe the person is
599 violating, has violated, or is about to violate any provision of
600 ss. 494.001-494.0077, any rule or order issued under ss.
601 494.001-494.0077, or any written agreement between the person
602 and the office. All procedural matters relating to issuance and
603 enforcement of such a ~~cease and desist~~ order are governed by the
604 Administrative Procedure Act.

605 (2) The office may ~~has the power to~~ order the refund of any
606 fee directly or indirectly assessed and charged on a mortgage
607 loan transaction which is unauthorized or exceeds the maximum
608 fee specifically authorized in ss. 494.001-494.0077, or any
609 amount collected for the payment of third-party fees which
610 exceeds the cost of the service provided.

611 ~~(3) The office may prohibit the association by a mortgage~~
612 ~~broker business, or the employment by a mortgage lender or~~
613 ~~correspondent mortgage lender, of any person who has engaged in~~
614 ~~a pattern of misconduct while an associate of a mortgage~~
615 ~~brokerage business or an employee of a mortgage lender or~~
616 ~~correspondent mortgage lender. For the purpose of this~~
617 ~~subsection, the term "pattern of misconduct" means the~~
618 ~~commission of three or more violations of ss. 494.001-494.0077~~
619 ~~or the provisions of chapter 494 in effect prior to October 1,~~
620 ~~1991, during any 1-year period or any criminal conviction for~~
621 ~~violating ss. 494.001-494.0077 or the provisions of chapter 494~~



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622 ~~in effect prior to October 1, 1991.~~

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

628 Section 6. Effective July 1, 2009, section 494.00165,
629 Florida Statutes, is amended to read:

630 494.00165 Prohibited advertising; record requirements.—

631 (1) It is a violation of this chapter for any person to:

632 (a) Advertise that an applicant shall ~~will~~ have unqualified
633 access to credit without disclosing the ~~what~~ material
634 limitations on the availability of such credit ~~exist~~. ~~Such~~
635 Material limitations include, but are not limited to, the
636 percentage of down payment required, that a higher rate or
637 points could be required, or that restrictions on ~~as to~~ the
638 maximum principal amount of the loan offered could apply.

639 (b) Advertise a mortgage loan at an expressed interest rate
640 unless the advertisement specifically states that the expressed
641 rate could change or not be available at commitment or closing.

642 (c) Advertise mortgage loans, including rates, margins,
643 discounts, points, fees, commissions, or other material
644 information, including material limitations on such loans,
645 unless the ~~such~~ person is able to make such mortgage loans
646 available to a reasonable number of qualified applicants.

647 (d) Falsely advertise or misuse names indicating a federal
648 agency pursuant to 18 U.S.C. s. 709.

649 (e) Engage in unfair, deceptive, or misleading advertising
650 regarding mortgage loans, brokering services, or lending



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651 services.

652 (2) Each person required to be licensed under this chapter
653 must ~~shall~~ maintain a record of samples of each of its
654 advertisements, including commercial scripts of each radio or
655 television broadcast, for examination by the office for a ~~period~~
656 ~~of~~ 2 years after the date of publication or broadcast.

657 Section 7. Section 494.0017, Florida Statutes, is repealed.

658 Section 8. Section 494.00172, Florida Statutes, is created
659 to read:

660 494.00172 Mortgage Guaranty Trust Fund; payment of fees and
661 claims.—A nonrefundable fee is imposed on each application for a
662 mortgage broker, mortgage lender, or loan originator license and
663 on each annual application for a renewal of such license. For a
664 loan originator, the initial and renewal fee is \$20. For
665 mortgage brokers and lenders, the initial and renewal fee is
666 \$100. This fee is in addition to the regular application or
667 renewal fee assessed and shall be deposited into the Mortgage
668 Guaranty Trust Fund of the office for the payment of claims in
669 accordance with this section.

670 (1) If the amount in the trust fund exceeds \$5 million, the
671 additional fee shall be discontinued and may not be reimposed
672 until the fund is reduced to below \$1 million pursuant to
673 disbursements made in accordance with this section.

674 (2) A borrower in a mortgage loan transaction is eligible
675 to seek recovery from the trust fund if all of the following
676 conditions are met:

677 (a) The borrower has recorded a final judgment issued by a
678 state court wherein the cause of action against a licensee under
679 this chapter was based on a violation of this chapter and the



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680 damages were the result of that violation.

681 (b) The borrower has caused a writ of execution to be
682 issued upon such judgment, and the officer executing the
683 judgment has made a return showing that no personal or real
684 property of the judgment debtor liable to be levied upon in
685 satisfaction of the judgment can be found or that the amount
686 realized on the sale of the judgment debtor's property pursuant
687 to such execution is insufficient to satisfy the judgment.

688 (c) The borrower has made all reasonable searches and
689 inquiries to ascertain whether the judgment debtor possesses
690 real or personal property or other assets subject to being sold
691 or applied in satisfaction of the judgment, and has discovered
692 no such property or assets; or he or she has discovered property
693 and assets and has taken all necessary action and proceedings
694 for the application thereof to the judgment, but the amount
695 realized is insufficient to satisfy the judgment.

696 (d) The borrower has applied any amounts recovered from the
697 judgment debtor, or from any other source, to the damages
698 awarded by the court.

699 (e) The borrower, at the time the action was instituted,
700 gave notice and provided a copy of the complaint to the office
701 by certified mail. The requirement of a timely giving of notice
702 may be waived by the office upon a showing of good cause.

703 (f) The act for which recovery is sought occurred on or
704 after January 1, 2011.

705 (3) The requirements of subsection (2) are not applicable
706 if the licensee upon which the claim is sought has filed for
707 bankruptcy or has been adjudicated bankrupt. However, the
708 claimant must file a proof of claim in the bankruptcy



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709 proceedings and must notify the office by certified mail of the
710 claim by enclosing a copy of the proof of claim and all
711 supporting documents.

712 (4) Any person who meets all of the conditions in
713 subsection (2) may apply to the office for payment from the
714 trust fund equal to the unsatisfied portion of that person's
715 judgment or \$50,000, whichever is less, but only to the extent
716 that the amount reflected in the judgment is for actual or
717 compensatory damages, plus any attorney's fees and costs awarded
718 by the trial court which have been determined by the court, and
719 the documented costs associated with attempting to collect the
720 judgment. Actual or compensatory damages may not include
721 postjudgment interest. Attorney's fees may not exceed \$5,000 or
722 20 percent of the actual or compensatory damages, whichever is
723 less. If actual or compensatory damages, plus attorney's fees
724 and costs, exceeds \$50,000, actual or compensatory damages must
725 be paid first. The cumulative payment for actual or compensatory
726 damages, plus attorney's fees and costs, may not exceed \$50,000
727 as described in this section.

728 (a) A borrower may not collect more than \$50,000 from the
729 trust fund for any claim regardless of the number of licensees
730 liable for the borrower's damages.

731 (b) Payments for claims are limited in the aggregate to
732 \$250,000 against any one licensee under this chapter. If the
733 total claims exceed the aggregate limit of \$250,000, the office
734 shall prorate payments based on the ratio that a claim bears to
735 the total claims filed.

736 (c) Payments shall be made to all persons meeting the
737 requirements of subsection (2) 2 years after the date the first



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738 complete and valid notice is received by the office. Persons who
739 give notice after 2 years and who otherwise comply with the
740 conditions precedent to recovery may recover from any remaining
741 portion of the \$250,000 aggregate as provided in this
742 subsection, with claims being paid in the order notice was
743 received until the \$250,000 aggregate has been disbursed.

744 (d) The claimant shall assign his right, title, and
745 interest in the judgment, to the extent of his recovery from the
746 fund, to the office and shall record, at his own expense, the
747 assignment of judgment in every county where the judgment is
748 recorded.

749 (e) If the money in the fund is insufficient to satisfy any
750 valid claim or portion thereof, the office shall satisfy such
751 unpaid claim or portion as soon as a sufficient amount of money
752 has been deposited in the trust fund. If there is more than one
753 unsatisfied claim outstanding, such claims shall be paid in the
754 order in which the claims were filed with the office.

755 (f) The payment of any amount from the fund in settlement
756 of a claim or in satisfaction of a judgment against a licensee
757 constitutes prima facie grounds for the revocation of the
758 license.

759 Section 9. Section 494.0018, Florida Statutes, is amended
760 to read:

761 494.0018 Penalties.—

762 (1) Whoever knowingly violates any provision of s.
763 494.00255(1) (a), (b), or (c) s. 494.0041(2) (e), (f), or (g); s.
764 494.0072(2) (e), (f), or (g); or s. 494.0025(1), (2), (3), (4),
765 or (5), except as provided in subsection (2) of this section,
766 commits ~~is guilty of~~ a felony of the third degree, punishable as



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767 provided in s. 775.082, s. 775.083, or s. 775.084. Each such
768 violation constitutes a separate offense.

769 (2) Any person convicted of a violation of any provision of
770 ss. 494.001-494.0077, in which ~~violation~~ the total value of
771 money and property unlawfully obtained exceeds ~~exceeded~~ \$50,000
772 and there were five or more victims, commits ~~is guilty of~~ a
773 felony of the first degree, punishable as provided in s.
774 775.082, s. 775.083, or s. 775.084.

775 Section 10. Effective July 1, 2009, section 494.0019,
776 Florida Statutes, is amended to read:

777 494.0019 Liability in case of unlawful transaction.—

778 (1) If a mortgage loan transaction is made in violation of
779 any provision of ss. 494.001-494.0077, the person making the
780 transaction and every licensee, director, or officer who
781 participated in making the transaction are jointly and severally
782 liable to every party to the transaction in an action for
783 damages incurred by the party or parties.

784 (2) A person is not liable under this section upon a
785 showing that such person's licensees, officers, and directors
786 who participated in making the mortgage loan transaction, if
787 any, acted in good faith and without knowledge and, with the
788 exercise of due diligence, could not have known of the act
789 committed in violation of ss. 494.001-494.0077.

790 Section 11. Effective July 1, 2009, section 494.002,
791 Florida Statutes, is amended to read:

792 494.002 Statutory or common-law remedies.—Sections ~~Nothing~~
793 ~~in ss.~~ 494.001-494.0077 do not limit ~~limits~~ any statutory or
794 common-law right of any person to bring any action in any court
795 for any act involved in the mortgage loan business or the right



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796 of the state to punish any person for any violation of any law.

797 Section 12. Section 494.0023, Florida Statutes, is amended
798 to read:

799 494.0023 Conflicting interest.—

800 (1) If, in a mortgage transaction, a licensee has a
801 conflicting interest as specified in subsection (2), the
802 licensee shall, at a minimum, provide the following disclosures
803 to the borrower in writing:

804 (a) The nature of the relationship, ownership, or financial
805 interest between the provider of products or services, or
806 business incident thereto, and the licensee making the referral;
807 ~~The type of conflicting interest shall be fully and fairly~~
808 ~~disclosed.~~

809 (b) An estimated charge or range of charges generally made
810 by such a provider; ~~The licensee shall inform the borrower in~~
811 ~~writing~~

812 (c) That a financial benefit may be received by the
813 licensee as a result of the conflicting interest; and-

814 (d) ~~(e) The borrower shall be informed~~ That alternative
815 sources may be chosen by the borrower to provide the any
816 required products or services. ~~The following language must be~~
817 ~~contained in 12-point type in any agreement between a mortgage~~
818 ~~broker, mortgage lender, or correspondent mortgage lender and a~~
819 ~~borrower in substantially this form:~~

820
821 ~~You are not required to purchase additional products or services~~
822 ~~from any person or entity suggested or recommended by~~
823 ~~(Broker/Lender/Correspondent Lender). However, the~~
824 ~~(Broker/Lender/Correspondent Lender) hereby reserves the right~~



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825 ~~to approve the entity selected by the borrower, which approval~~
826 ~~may not be unreasonably withheld.~~

827 (2) A licensee has a conflicting interest if:

828 (a) The licensee or the licensee's relative provides the
829 borrower with additional products or services;

830 (b) The licensee or licensee's relative, ~~either~~ directly or
831 indirectly, owns, controls, or holds with power to vote, or
832 holds proxies representing, 1 ~~10~~ percent or more of any class of
833 equity securities or other beneficial interest in the ~~such~~
834 person providing the additional products or services;

835 (c) The person providing the additional products or
836 services, ~~either~~ directly or indirectly, owns, controls, or
837 holds the power to vote, or holds proxies representing, 1 ~~10~~
838 percent or more of any class of equity securities or other
839 beneficial interest in the licensee;

840 (d) A holding company, ~~either~~ directly or indirectly, owns,
841 controls, or holds with power to vote, or holds proxies
842 representing, 1 ~~10~~ percent or more of any class of equity
843 securities or other beneficial interest in both the licensee and
844 the person providing the additional products or services;

845 (e) One or more persons, or such person's relative, sits as
846 an officer or director, or performs similar functions as an
847 officer or director, for both the licensee and the person
848 providing the additional products or services; or

849 (f) The licensee or the licensee's relative sits as an
850 officer or director, or performs similar functions as an officer
851 or director, of the person providing the additional products or
852 services.

853 (3) The commission may adopt rules to administer the



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854 disclosure requirements of this section. The rules must consider
855 the disclosure requirements of the federal Real Estate
856 Settlement Procedures Act, 12 U.S.C. ss. 2601 et seq.; the
857 federal Truth in Lending Act, 15 U.S.C. et seq.; and related
858 federal regulations.

859 ~~(3) As used in this section, the term "relative" of any~~
860 ~~natural person means any of the following persons, whether by~~
861 ~~the full or half blood or by adoption:~~

862 ~~(a) Such person's spouse, father, mother, children,~~
863 ~~brothers, and sisters.~~

864 ~~(b) The father, mother, brothers, and sisters of such~~
865 ~~person's spouse.~~

866 ~~(c) The spouses of children, brothers, or sisters of such~~
867 ~~person.~~

868 Section 13. Section 494.0025, Florida Statutes, is amended
869 to read:

870 494.0025 Prohibited practices.—It is unlawful for any
871 person:

872 ~~(1) To act as a mortgage lender in this state without a~~
873 ~~current, active license issued by the office pursuant to ss.~~
874 ~~494.006-494.0077.~~

875 (1)(2) To act as a loan originator correspondent mortgage
876 lender in this state without a current, active license issued by
877 the office pursuant to part II of this chapter ss. 494.006-
878 494.0077.

879 (2)(3) To act as a mortgage broker in this state without a
880 current, active license issued by the office pursuant to part II
881 of this chapter ss. 494.003-494.0043.

882 (3) To act as a mortgage lender in this state without a



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883 current, active license issued by the office pursuant to part
884 III of this chapter.

885 (4) In any practice or transaction or course of business
886 relating to the sale, purchase, negotiation, promotion,
887 advertisement, or hypothecation of mortgage loan transactions,
888 directly or indirectly:

889 (a) To knowingly or willingly employ any device, scheme, or
890 artifice to defraud;

891 (b) To engage in any transaction, practice, or course of
892 business which operates as a fraud upon any person in connection
893 with the purchase or sale of any mortgage loan; or

894 (c) To obtain property by fraud, willful misrepresentation
895 of a future act, or false promise.

896 (5) In any matter within the jurisdiction of the office, to
897 knowingly and willfully falsify, conceal, or cover up by a
898 trick, scheme, or device a material fact, make any false or
899 fraudulent statement or representation, or make or use any false
900 writing or document, knowing the same to contain any false or
901 fraudulent statement or entry.

902 (6) To violate s. 655.922(2), subject to ss. 494.001-
903 494.0077.

904 ~~(7) Who is required to be licensed under ss. 494.006-~~
905 ~~494.0077, to fail to report to the office the failure to meet~~
906 ~~the net worth requirements of s. 494.0061, s. 494.0062, or s.~~
907 ~~494.0065 within 48 hours after the person's knowledge of such~~
908 ~~failure or within 48 hours after the person should have known of~~
909 ~~such failure.~~

910 (7)(8) To pay a fee or commission in any mortgage loan
911 transaction to any person or entity other than a licensed



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912 mortgage broker ~~brokerage business, mortgage lender,~~ or
913 ~~correspondent~~ mortgage lender, ~~operating under an active~~
914 ~~license,~~ or a person exempt from licensure under this chapter.

915 ~~(8)(9)~~ To record a mortgage broker ~~brokerage~~ agreement or
916 any other document, not rendered by a court of competent
917 jurisdiction, which purports to enforce the terms of the
918 ~~mortgage brokerage~~ agreement.

919 ~~(9)(10)~~ To use the name or logo of a financial institution,
920 as defined in s. 655.005(1), or its affiliates or subsidiaries
921 when marketing or soliciting existing or prospective customers
922 if such marketing materials are used without the written consent
923 of the financial institution and in a manner that would lead a
924 reasonable person to believe that the material or solicitation
925 originated from, was endorsed by, or is related to or the
926 responsibility of the financial institution or its affiliates or
927 subsidiaries.

928 (10) Subject to investigation or examination under this
929 chapter, to knowingly alter, withhold, conceal, or destroy any
930 books, records, computer records, or other information relating
931 to a person's activities which subject the person to the
932 jurisdiction of this chapter.

933 Section 14. Section 494.00255, Florida Statutes, is created
934 to read:

935 494.00255 Administrative penalties and fines; license
936 violations.-

937 (1) Each of the following acts constitutes a ground for
938 which the disciplinary actions specified in subsection (2) may
939 be taken against a person licensed or required to be licensed
940 under part II or part III of chapter:



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941 (a) Failure to immediately place upon receipt, and maintain
942 until authorized to disburse, any money entrusted to the
943 licensee as a licensee in a segregated account of a federally
944 insured financial institution in this state.

945 (b) Failure to account or deliver to any person any
946 property that is not the licensee's, or that the licensee is not
947 entitled to retain, under the circumstances and at the time that
948 has been agreed upon or as required by law or, in the absence of
949 a fixed time, upon demand of the person entitled to such
950 accounting and delivery.

951 (c) Failure to disburse funds in accordance with
952 agreements.

953 (d) Any misuse, misapplication, or misappropriation of
954 personal property entrusted to the licensee's care to which the
955 licensee had no current property right at the time of
956 entrustment.

957 (e) Fraud, misrepresentation, deceit, negligence, or
958 incompetence in any mortgage financing transaction.

959 (f) Requesting a specific valuation, orally or in writing,
960 from an appraiser for a particular property, implying to an
961 appraiser that a specific valuation is needed for a particular
962 property, or in any manner conditioning the order for an
963 appraisal on the appraisal meeting a specific valuation. The
964 numeric value of the specific valuation sought need not be
965 stated, but rather the mere statement that a specific valuation
966 is sought, violates this section.

967 (g) Consistently and materially underestimating maximum
968 closing costs.

969 (h) Disbursement, or an act which has caused or will cause



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970 disbursement, to any person in any amount from the Mortgage
971 Guaranty Trust Fund, the Securities Guaranty Fund, or the
972 Florida Real Estate Recovery Fund, regardless of any repayment
973 or restitution to the disbursed fund by the licensee or any
974 person acting on behalf of the licensee.

975 (i) Commission of fraud, misrepresentation, concealment, or
976 dishonest dealing by trick, scheme, or device; culpable
977 negligence; breach of trust in any business transaction in any
978 state, nation, or territory; or aiding, assisting, or conspiring
979 with any other person engaged in any such misconduct and in
980 furtherance thereof.

981 (j) Being convicted of, or entering a plea of guilty or
982 nolo contendere to, regardless of adjudication, any felony or
983 any crime involving fraud, dishonesty, breach of trust, money
984 laundering, or act of moral turpitude.

985 (k) Having a final judgment entered against the licensee in
986 a civil action upon grounds of fraud, embezzlement,
987 misrepresentation, or deceit.

988 (l) Having been the subject of any:

989 1. Decision, finding, injunction, suspension, prohibition,
990 revocation, denial, judgment, or administrative order by any
991 court, administrative law judge, state or federal agency,
992 national securities exchange, national commodities exchange,
993 national option exchange, national securities association,
994 national commodities association, or national option association
995 involving a violation of any federal or state securities or
996 commodities law or rule or regulation adopted under such law or
997 involving a violation of any rule or regulation of any national
998 securities, commodities, or options exchange or association.



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999 2. Injunction or adverse administrative order by a state or
1000 federal agency regulating banking, insurance, finance or small
1001 loan companies, real estate, mortgage brokers or lenders, money
1002 transmitters, or other related or similar industries.

1003 (m) In any mortgage transaction, violating any provision of
1004 the federal Real Estate Settlement Procedure Act, as amended, 12
1005 U.S.C. ss. 2601 et seq.; the federal Truth in Lending Act, as
1006 amended, 15 U.S.C. ss. 1601 et seq.; or any regulations adopted
1007 under such acts.

1008 (n) Having a loan originator, mortgage broker, or mortgage
1009 lender license, or the equivalent thereof, revoked in any
1010 jurisdiction.

1011 (o) Having a license, or the equivalent, to practice any
1012 profession or occupation revoked, suspended, or otherwise acted
1013 against, including the denial of licensure by a licensing
1014 authority of this state or another state, territory, or country.

1015 (p) Acting as a loan originator, mortgage broker, or
1016 mortgage lender without a current license issued under part II
1017 or part III of this chapter.

1018 (q) Operating a mortgage broker or mortgage lender branch
1019 office without a current license issued under part II or part
1020 III of this chapter.

1021 (r) Conducting any mortgage brokering or mortgage lending
1022 activities in the absence of a properly designated principal
1023 loan originator or mortgage brokering or mortgage lending
1024 activities at any particular branch office without a properly
1025 designated branch manager.

1026 (s) A material misstatement or omission of fact on an
1027 initial or renewal license application.



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1028 (t) Payment to the office for a license or permit with a
1029 check or electronic transmission of funds which is dishonored by
1030 the applicant's or licensee's financial institution.

1031 (u) Failure to comply with, or violations of, any provision
1032 of ss. 494.001-494.0077, or any rule or order made or issued
1033 under ss. 494.001-494.0077.

1034 (v) Failure to maintain, preserve, and keep available for
1035 examination all books, accounts, or other documents required by
1036 ss. 494.001-494.0077 and the rules of the commission.

1037 (w) Refusal to permit an investigation or examination of
1038 books and records, or refusal to comply with an office subpoena
1039 or subpoena duces tecum.

1040 (x) Failure to timely pay any fee, charge, or fine imposed
1041 or assessed pursuant to ss. 494.001-494.0077 or related rules.

1042 (2) If the office finds a person in violation of any act
1043 specified in this section, it may enter an order imposing one or
1044 more of the following penalties:

1045 (a) Issuance of a reprimand.

1046 (b) Suspension of a license, subject to reinstatement upon
1047 satisfying all reasonable conditions imposed by the office.

1048 (c) Revocation of a license.

1049 (d) Denial of a license.

1050 (e) Imposition of a fine in an amount up to \$25,000 for
1051 each count or separate offense.

1052 (f) An administrative fine of up to \$1,000 per day, but not
1053 to exceed \$25,000 cumulatively, for each day that

1054 1. A mortgage broker or mortgage lender conducts business
1055 at an unlicensed branch office.

1056 2. An unlicensed person acts as a loan originator, a



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1057 mortgage broker, or a mortgage lender.
1058 (3) A mortgage broker or mortgage lender, as applicable, is
1059 subject to the disciplinary actions specified in subsection (2)
1060 for a violation of subsection (1) by:
1061 (a) A control person of the mortgage broker or mortgage
1062 lender; or
1063 (b) A loan originator employed by or contracting with the
1064 mortgage broker.
1065 (4) A principal loan originator of a mortgage broker is
1066 subject to the disciplinary actions specified in subsection (2)
1067 for violations of subsection (1) by a loan originator in the
1068 course of an association with the mortgage broker if there is a
1069 pattern of repeated violations by the loan originator or if the
1070 principal loan originator has knowledge of the violations.
1071 (5) A principal loan originator of a mortgage lender is
1072 subject to the disciplinary actions specified in subsection (2)
1073 for violations of subsection (1) by an associate of a mortgage
1074 lender if there is a pattern of repeated violations by the
1075 associate or if the principal loan originator has knowledge of
1076 the violations.
1077 (6) A branch manager is subject to the disciplinary actions
1078 specified in subsection (2) for violations of subsection (1) by
1079 a loan originator in the course of an association with the
1080 mortgage broker or mortgage lender if there is a pattern of
1081 repeated violations by the loan originator or if the branch
1082 manager has knowledge of the violations.
1083 (7) An individual who is associated with a mortgage broker
1084 is subject to the disciplinary actions specified in subsection
1085 (2) for a violation of subsection (1) with respect to an action



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1086 in which such person was involved.

1087 (8) Pursuant to s. 120.60(6), the office may summarily
1088 suspend the license of a loan originator, mortgage broker, or
1089 mortgage lender if the office has reason to believe that a
1090 licensee poses an immediate, serious danger to the public's
1091 health, safety, or welfare. The arrest of the licensee, or the
1092 mortgage broker or the mortgage lender's control person, for any
1093 felony or any crime involving fraud, dishonesty, breach of
1094 trust, money laundering, or any other act of moral turpitude is
1095 deemed sufficient to constitute an immediate danger to the
1096 public's health, safety, or welfare. Any proceeding for the
1097 summary suspension of a license must be conducted by the
1098 commissioner of the office, or designee, who shall issue the
1099 final summary order.

1100 (9) The office may deny any request to terminate or
1101 withdraw any license application or license if the office
1102 believes that an act that would be a ground for license denial,
1103 suspension, restriction, or revocation under this chapter has
1104 been committed.

1105 Section 15. Section 494.0028, Florida Statutes, is amended
1106 to read:

1107 494.0028 Arbitration.—

1108 (1) This section applies to any mortgage broker ~~brokerage~~
1109 ~~agreement, servicing agreement, loan application, or purchase~~
1110 ~~agreement that which~~ provides for arbitration between:

1111 (a) A noninstitutional investor and a mortgage lender
1112 servicing ~~or correspondent mortgage lender to service a mortgage~~
1113 ~~loan.~~

1114 (b) A borrower and a mortgage broker ~~brokerage business,~~



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1115 ~~mortgage lender, or correspondent~~ mortgage lender to obtain a
1116 mortgage loan.

1117 (c) A noninstitutional investor and a mortgage broker
1118 ~~brokerage business, mortgage lender, or correspondent~~ mortgage
1119 lender to fund or purchase a mortgage loan.

1120 (2) All agreements subject to this section must ~~shall~~
1121 provide that, at the voluntary election of the noninstitutional
1122 investor or borrower, disputes shall be handled by ~~either~~ a
1123 court ~~of competent jurisdiction~~ or by binding arbitration.

1124 (3) All agreements subject to this section must ~~shall~~
1125 provide the noninstitutional investor or borrower with the
1126 option to elect arbitration before the American Arbitration
1127 Association or other independent nonindustry arbitration forum.
1128 Any other nonindustry arbitration forum may apply to the office
1129 to allow such forum to provide arbitration services. The office
1130 shall grant the application if the applicant's fees, practices,
1131 and procedures do not materially differ from those of the
1132 American Arbitration Association.

1133 (4) At the election of the noninstitutional investor or
1134 borrower, venue shall be in the county in which the
1135 noninstitutional investor or borrower entered into the agreement
1136 or at a business location of the mortgage broker or ~~brokerage~~
1137 ~~business, mortgage lender, or correspondent~~ lender.

1138 (5) Any fees or charges must be in accordance with ~~shall be~~
1139 ~~made as provided in~~ the rules of the American Arbitration
1140 Association or other approved nonindustry arbitration forum and
1141 may ~~shall~~ not be set in the agreement.

1142 (6) Any election made under this section is ~~shall be~~
1143 irrevocable.



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1144 (7) This section does ~~shall~~ not be construed to require an
1145 agreement that ~~which~~ is subject to this section to contain an
1146 arbitration clause.

1147 Section 16. Sections 494.0029 and 494.00295, Florida
1148 Statutes, are repealed.

1149 Section 17. Effective January 1, 2010, section 494.00296,
1150 Florida Statutes, is created to read:

1151 494.00296 Loan modification.—

1152 (1) PROHIBITED ACTS.—When offering or providing loan
1153 modifications services, a mortgage broker, mortgage brokerage
1154 business, mortgage lender, or correspondent mortgage lender
1155 licensed, or required to be licensed, under ss. 494.001-494.0077
1156 may not:

1157 (a) Engage in or initiate loan modification services
1158 without first executing a written agreement for loan
1159 modification services with the borrower;

1160 (b) Execute a loan modification without the consent of the
1161 borrower after the borrower is made aware of each modified term;
1162 or

1163 (c) Solicit, charge, receive, or attempt to collect or
1164 secure payment, directly or indirectly, for loan modification
1165 services before completing or performing all services included
1166 in the agreement for loan modification services. A fee may be
1167 charged only if the loan modification results in a material
1168 benefit to the borrower. The commission may adopt rules to
1169 provide guidance on what constitutes a material benefit to the
1170 borrower.

1171 (2) LOAN MODIFICATION AGREEMENT.—

1172 (a) The written agreement for loan modification services



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1173 must be printed in at least 12-point uppercase type and signed
1174 by both parties. The agreement must include the name and address
1175 of the person providing loan modification services, the exact
1176 nature and specific detail of each service to be provided, the
1177 total amount and terms of charges to be paid by the borrower for
1178 the services, and the date of the agreement. The date of the
1179 agreement may not be earlier than the date the borrower signed
1180 the agreement. The mortgage brokerage business, mortgage lender,
1181 or correspondent mortgage lender must give the borrower a copy
1182 of the agreement to review at least 1 business day before the
1183 borrower is to sign the agreement.

1184 (b) The borrower has the right to cancel the written
1185 agreement without any penalty or obligation if the borrower
1186 cancels the agreement within 3 business days after signing the
1187 agreement. The right to cancel may not be waived by the borrower
1188 or limited in any manner by the mortgage broker, mortgage
1189 brokerage business, mortgage lender, or correspondent mortgage
1190 lender. If the borrower cancels the agreement, any payments made
1191 must be returned to the borrower within 10 business days after
1192 receipt of the notice of cancellation.

1193 (c) An agreement for loan modification services must
1194 contain, immediately above the signature line, a statement in at
1195 least 12-point uppercase type which substantially complies with
1196 the following:

1197 BORROWER'S RIGHT OF CANCELLATION

1198
1199 YOU MAY CANCEL THIS AGREEMENT FOR LOAN MODIFICATION
1200 SERVICES WITHOUT ANY PENALTY OR OBLIGATION WITHIN 3 BUSINESS
1201 DAYS AFER THE DATE THIS AGREEMENT IS SIGNED BY YOU.



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1202 THE MORTGAGE BROKER, MORTGAGE BROKERAGE BUSINESS, MORTGAGE
1203 LENDER, OR CORRESPONDENT MORTGAGE LENDER IS PROHIBITED BY LAW
1204 FROM ACCEPTING ANY MONEY, PROPERTY, OR OTHER FORM OF PAYMENT
1205 FROM YOU UNTIL ALL PROMISED SERVICES HAVE BEEN COMPLETED. IF FOR
1206 ANY REASON YOU HAVE PAID THE CONSULTANT BEFORE CANCELLATION,
1207 YOUR PAYMENT MUST BE RETURNED TO YOU WITHIN 10 BUSINESS DAYS
1208 AFTER THE CONSULTANT RECEIVES YOUR CANCELLATION NOTICE.

1209 TO CANCEL THIS AGREEMENT, A SIGNED AND DATED COPY OF A
1210 STATEMENT THAT YOU ARE CANCELING THE AGREEMENT SHOULD BE MAILED
1211 (POSTMARKED) OR DELIVERED TO ... (NAME) ... AT ... (ADDRESS) ... NO
1212 LATER THAN MIDNIGHT OF ... (DATE)

1213 IMPORTANT: IT IS RECOMMENDED THAT YOU CONTACT YOUR MORTGAGE
1214 LENDER OR MORTGAGE SERVICER BEFORE SIGNING THIS AGREEMENT. YOUR
1215 LENDER OR SERVICER MAY BE WILLING TO NEGOTIATE A PAYMENT PLAN OR
1216 A RESTRUCTURING WITH YOU FREE OF CHARGE.

1217
1218 (d) The inclusion of the statement does not prohibit a
1219 mortgage broker, mortgage brokerage business, mortgage lender,
1220 or correspondent mortgage lender from giving the homeowner more
1221 time to cancel the agreement than is set forth in the statement
1222 if all other requirements of this subsection are met.

1223 (e) The person offering or providing the loan modification
1224 services must give the borrower a copy of the signed agreement
1225 within 3 hours after the borrower signs the agreement.

1226 (3) REMEDIES.—

1227 (a) Without regard to any other remedy or relief to which a
1228 person is entitled, anyone aggrieved by a violation of this
1229 section may bring an action to obtain a declaratory judgment
1230 that an act or practice violates this section and to enjoin a



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1231 person who has violated, is violating, or is otherwise likely to
1232 violate this section.

1233 (b) In any action brought by a person who has suffered a
1234 loss as a result of a violation of this section, such person may
1235 recover actual damages, plus attorney's fees and court costs, as
1236 follows:

1237 1. In any action brought under this section, upon motion of
1238 the party against whom such action is filed alleging that the
1239 action is frivolous, without legal or factual merit, or brought
1240 for the purpose of harassment, the court may, after hearing
1241 evidence as to the necessity therefore, require the party
1242 instituting the action to post a bond in the amount that the
1243 court finds reasonable to indemnify the defendant for any
1244 damages incurred, including reasonable attorney's fees.

1245 2. In any civil litigation resulting from an act or
1246 practice involving a violation of this section, the prevailing
1247 party, after judgment in the trial court and exhaustion of all
1248 appeals, if any, may receive reasonable attorney's fees and
1249 costs from the nonprevailing party.

1250 3. The attorney for the prevailing party shall submit a
1251 sworn affidavit of time spent on the case and costs incurred for
1252 all the motions, hearings, and appeals to the trial judge who
1253 presided over the civil case.

1254 4. The trial judge may award the prevailing party the sum
1255 of reasonable costs incurred in the action plus a reasonable
1256 legal fee for the hours actually spent on the case as sworn to
1257 in an affidavit.

1258 5. Any award of attorney's fees or costs becomes part of
1259 the judgment and is subject to execution as the law allows.



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1260 (c) The provisions of this subsection do not apply to any
1261 action initiated by the enforcing authority.

1262 (4) DEFINITIONS.—Notwithstanding s. 494.001, as used in
1263 this section, the term:

1264 (a) "Borrower" means a person who is obligated to repay a
1265 mortgage loan and includes, but is not limited to, a coborrower,
1266 cosignor, or guarantor.

1267 (b) "Loan modification" means a modification to an existing
1268 loan. The term does not include a refinancing transaction.

1269 (c) "Mortgage broker" means for compensation or gain,
1270 directly or indirectly, accepting or offering to accept an
1271 application for a mortgage loan, soliciting or offering to
1272 solicit a mortgage loan on behalf of a borrower, negotiating or
1273 offering to negotiate the terms or conditions of a new or
1274 existing mortgage loan on behalf of a borrower or lender, or
1275 negotiating or offering to negotiate the sale of an existing
1276 mortgage loan to a noninstitutional investor. An employee whose
1277 activities are ministerial and clerical, which may include
1278 quoting available interest rates or loan terms and conditions,
1279 is not acting as a mortgage broker.

1280 Section 18. Subsection (1), (2), and (4) of section
1281 494.00296, Florida Statutes, as created by this act, are amended
1282 to read:

1283 494.00296 Loan modification.—

1284 (1) PROHIBITED ACTS.—When offering or providing loan
1285 modifications services, a loan originator, mortgage broker,
1286 ~~mortgage brokerage business, mortgage lender, or correspondent~~
1287 ~~mortgage lender licensed or required to be licensed under ss.~~
1288 ~~494.001-494.0077~~ may not:



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1289 (a) Engage in or initiate loan modification services
1290 without first executing a written agreement for loan
1291 modification services with the borrower;

1292 (b) Execute a loan modification without the consent of the
1293 borrower after the borrower is made aware of each modified term;
1294 or

1295 (c) Solicit, charge, receive, or attempt to collect or
1296 secure payment, directly or indirectly, for loan modification
1297 services before completing or performing all services included
1298 in the agreement for loan modification services. A fee may be
1299 charged only if the loan modification results in a material
1300 benefit to the borrower. The commission may adopt rules to
1301 provide guidance on what constitutes a material benefit to the
1302 borrower

1303 (2) LOAN MODIFICATION AGREEMENT.—

1304 (a) The written agreement for loan modification services
1305 must be printed in at least 12-point uppercase type and signed
1306 by both parties. The agreement must include the name and address
1307 of the person providing loan modification services, the exact
1308 nature and specific detail of each service to be provided, the
1309 total amount and terms of charges to be paid by the borrower for
1310 the services, and the date of the agreement. The date of the
1311 agreement may not be earlier than the date the borrower signed
1312 the agreement. The mortgage broker or ~~brokerage business,~~
1313 ~~mortgage lender, or correspondent~~ mortgage lender must give the
1314 borrower a copy of the agreement to review at least 1 business
1315 day before the borrower is to sign the agreement.

1316 (b) The borrower has the right to cancel the written
1317 agreement without any penalty or obligation if the borrower



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1318 cancels the agreement within 3 business days after signing the
1319 agreement. The right to cancel may not be waived by the borrower
1320 or limited in any manner by the loan originator, mortgage
1321 broker, ~~mortgage brokerage business, mortgage lender, or~~
1322 ~~correspondent~~ mortgage lender. If the borrower cancels the
1323 agreement, any payments made must be returned to the borrower
1324 within 10 business days after receipt of the notice of
1325 cancellation.

1326 (c) An agreement for loan modification services must
1327 contain, immediately above the signature line, a statement in at
1328 least 12-point uppercase type which substantially complies with
1329 the following:

1330 BORROWER'S RIGHT OF CANCELLATION

1331
1332 YOU MAY CANCEL THIS AGREEMENT FOR LOAN MODIFICATION
1333 SERVICES WITHOUT ANY PENALTY OR OBLIGATION WITHIN 3 BUSINESS
1334 DAYS AFER THE DATE THIS AGREEMENT IS SIGNED BY YOU.

1335 THE LOAN ORIGINATOR, MORTGAGE BROKER, ~~MORTGAGE-BROKERAGE~~
1336 ~~BUSINESS, MORTGAGE LENDER, OR CORRESPONDENT~~ MORTGAGE LENDER IS
1337 PROHIBITED BY LAW FROM ACCEPTING ANY MONEY, PROPERTY, OR OTHER
1338 FORM OF PAYMENT FROM YOU UNTIL ALL PROMISED SERVICES HAVE BEEN
1339 COMPLETED. IF FOR ANY REASON YOU HAVE PAID THE CONSULTANT BEFORE
1340 CANCELLATION, YOUR PAYMENT MUST BE RETURNED TO YOU WITHIN 10
1341 BUSINESS DAYS AFTER THE CONSULTANT RECEIVES YOUR CANCELLATION
1342 NOTICE.

1343 TO CANCEL THIS AGREEMENT, A SIGNED AND DATED COPY OF A
1344 STATEMENT THAT YOU ARE CANCELING THE AGREEMENT SHOULD BE MAILED
1345 (POSTMARKED) OR DELIVERED TO ... (NAME) ... AT ... (ADDRESS) ... NO
1346 LATER THAN MIDNIGHT OF ... (DATE)



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1347 IMPORTANT: IT IS RECOMMENDED THAT YOU CONTACT YOUR MORTGAGE
1348 LENDER OR MORTGAGE SERVICER BEFORE SIGNING THIS AGREEMENT. YOUR
1349 LENDER OR SERVICER MAY BE WILLING TO NEGOTIATE A PAYMENT PLAN OR
1350 A RESTRUCTURING WITH YOU FREE OF CHARGE.

1351
1352 (d) The inclusion of the statement does not prohibit a loan
1353 originator, mortgage broker, ~~mortgage brokerage business,~~
1354 ~~mortgage lender,~~ or ~~correspondent~~ mortgage lender from giving
1355 the homeowner more time to cancel the agreement than is set
1356 forth in the statement if all other requirements of this
1357 subsection are met.

1358 (e) The person offering or providing the loan modification
1359 services must give the borrower a copy of the signed agreement
1360 within 3 hours after the borrower signs the agreement.

1361 ~~(4) DEFINITIONS. Notwithstanding s. 494.001, as used in~~
1362 ~~this section, the term:~~

1363 ~~(a) "Borrower" means a person obligated to repay a mortgage~~
1364 ~~loan and includes, but is not limited to, a coborrower,~~
1365 ~~cosignor, or guarantor.~~

1366 ~~(b) "Loan modification" means a modification to an existing~~
1367 ~~loan. The term does not include a refinancing transaction.~~

1368 ~~(c) "Mortgage broker" means for compensation or gain,~~
1369 ~~directly or indirectly, accepting or offering to accept an~~
1370 ~~application for a mortgage loan, soliciting or offering to~~
1371 ~~solicit a mortgage loan on behalf of a borrower, negotiating or~~
1372 ~~offering to negotiate the terms or conditions of a new or~~
1373 ~~existing mortgage loan on behalf of a borrower or lender, or~~
1374 ~~negotiating or offering to negotiate the sale of an existing~~
1375 ~~mortgage loan to a noninstitutional investor. An employee whose~~



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1376 ~~activities are ministerial and clerical, which may include~~
1377 ~~quoting available interest rates or loan terms and conditions,~~
1378 ~~is not acting as a mortgage broker.~~

1379 Section 19. The Division of Statutory Revision is requested
1380 to rename part II of chapter 494, Florida Statutes, consisting
1381 of ss. 494.00312-491.0043, Florida Statutes, as "Loan
1382 Originators and Mortgage Brokers."

1383 Section 20. Sections 494.003 and 494.0031, Florida
1384 Statutes, are repealed.

1385 Section 21. Section 494.00312, Florida Statutes, is created
1386 to read:

1387 494.00312 Loan originator license.—

1388 (1) An individual who acts as a loan originator must be
1389 licensed under this section.

1390 (2) In order to apply for loan originator license, an
1391 applicant must:

1392 (a) Be at least 18 years of age and have a high school
1393 diploma or its equivalent.

1394 (b) Complete a 20-hour prelicensing class approved by the
1395 registry.

1396 (c) Pass a written test developed by the registry and
1397 administered by a provider approved by the registry.

1398 (d) Submit a completed license application form as
1399 prescribed by commission rule.

1400 (e) Submit a nonrefundable application fee of \$195, and the
1401 \$20 nonrefundable fee if required by s. 494.00172. Application
1402 fees may not be prorated for partial years of licensure.

1403 (f) Submit fingerprints in accordance with rules adopted by
1404 the commission:



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1405 1. The fingerprints may be submitted to the registry, the
1406 office, or a vendor acting on behalf of the registry or the
1407 office.

1408 2. The office may contract with a third-party vendor to
1409 provide live-scan fingerprinting in lieu of a paper fingerprint
1410 card.

1411 3. A state criminal history background check must be
1412 conducted through the Department of Law Enforcement and a
1413 federal criminal history background check must be conducted
1414 through the Federal Bureau of Investigation.

1415 4. All fingerprints submitted to the Department of Law
1416 Enforcement must be submitted electronically and entered into
1417 the statewide automated fingerprint identification system
1418 established in s. 943.05(2) (b) and available for use in
1419 accordance with s. 943.05(2) (g) and (h). The office shall pay an
1420 annual fee to the department to participate in the system and
1421 inform the department of any person whose fingerprints are no
1422 longer required to be retained.

1423 5. The costs of fingerprint processing, including the cost
1424 of retaining the fingerprints, shall be borne by the person
1425 subject to the background check.

1426 6. The office is responsible for reviewing the results of
1427 the state and federal criminal history checks and determining
1428 whether the applicant meets licensure requirements.

1429 (g) Authorize the registry to obtain an independent credit
1430 report on the applicant from a consumer reporting agency, and
1431 transmit or provide access to the report to the office. The cost
1432 of the credit report shall be borne by the applicant.

1433 (h) Submit additional information or documentation



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1434 requested by the office and required by rule concerning the
1435 applicant. Additional information may include documentation of
1436 pending and prior disciplinary and criminal history events,
1437 including arrest reports and certified copies of charging
1438 documents, plea agreements, judgments and sentencing documents,
1439 documents relating to pretrial intervention, orders terminating
1440 probation or supervised release, final administrative agency
1441 orders, or other comparable documents that may provide the
1442 office with the appropriate information to determine eligibility
1443 for licensure.

1444 (i) Submit any other information required by the registry
1445 for the processing of the application.

1446 (3) An application is considered received for the purposes
1447 of s. 120.60 upon the office's receipt of all documentation from
1448 the registry, including the completed application form,
1449 documentation of completion of the prelicensure class, test
1450 results, criminal history information, and independent credit
1451 report, as well as the license application fee, the fee required
1452 by s. 494.00172, and all applicable fingerprinting processing
1453 fees.

1454 (4) The office shall issue a loan originator license to
1455 each person who is not otherwise ineligible and who meets the
1456 requirements of this section. However, it is a ground for denial
1457 of licensure if the applicant:

1458 (a) Has committed any violation specified in ss. 494.001-
1459 494.0077, or is the subject of a pending felony criminal
1460 prosecution or a prosecution or an administrative enforcement
1461 action, in any jurisdiction, which involves fraud, dishonesty,
1462 breach of trust, money laundering, or any other act of moral



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1463 turpitude.

1464 (b) Has failed to demonstrate the character, general
1465 fitness, and financial responsibility necessary to command the
1466 confidence of the community and warrant a determination that the
1467 applicant will operate honestly, fairly, and efficiently.

1468 1. If the office has information that could form the basis
1469 for license denial under this paragraph, before denying the
1470 license, the office must notify the applicant in writing of the
1471 specific items of concern and provide the applicant with an
1472 opportunity to explain the circumstances surrounding the
1473 specific items and provide any information that the applicant
1474 believes is relevant to the office's determination.

1475 2. For purposes of evaluating adverse information found in
1476 an applicant's credit report, the information must be considered
1477 within the totality of the circumstances. Information provided
1478 by the applicant under subparagraph 1., or information obtained
1479 by the office by other means, may be used to provide a context
1480 for the adverse items. For example, the adverse items may have
1481 resulted from factors that do not necessarily reflect negatively
1482 upon the applicant's character, general fitness, or financial
1483 responsibility.

1484 3. The office may not use a credit score or the absence or
1485 insufficiency of credit history information to determine
1486 character, general fitness, or financial responsibility.

1487 4. If information contained in a credit report is used as
1488 the basis for denying a license, the office shall, in accordance
1489 with s. 120.60(3), provide with particularity the grounds or
1490 basis for denial. The use of the terms "poor credit history,"
1491 "poor credit rating," or similar language do not meet the



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1492 requirements of this paragraph.

1493 (5) The office may not issue a license to an applicant who
1494 has had a loan originator license or its equivalent revoked in
1495 any jurisdiction.

1496 (6) A loan originator license shall be annulled pursuant to
1497 s. 120.60 if it was issued by the office by mistake. A license
1498 must be reinstated if the applicant demonstrates that the
1499 requirements for obtaining the license under this chapter have
1500 been satisfied.

1501 (7) All loan originator licenses must be renewed annually
1502 by December 31 pursuant to s. 494.00313. If a person holding a
1503 loan originator license has not applied to renew the license on
1504 or before December 31, the loan originator license expires on
1505 December 31. If a person holding an active loan originator
1506 license has applied to renew the license on or before December
1507 31, the loan originator license remains active until the renewal
1508 application is approved or denied. A loan originator is not
1509 precluded from reapplying for licensure upon expiration of a
1510 previous license.

1511 Section 22. Section 494.00313, Florida Statutes, is created
1512 to read:

1513 494.00313 Loan originator license renewal.-

1514 (1) In order to renew a loan originator license, a loan
1515 originator must:

1516 (a) Submit a completed license renewal form as prescribed
1517 by commission rule.

1518 (b) Submit a nonrefundable renewal fee of \$150, the \$20
1519 nonrefundable fee if required by s. 494.00172, and nonrefundable
1520 fees to cover the cost of further fingerprint processing and



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1521 retention as set forth in commission rule.

1522 (c) Provide documentation of completion of at least 8 hours
1523 of continuing education in courses reviewed and approved by the
1524 registry.

1525 (d) Authorize the registry to obtain an independent credit
1526 report on the applicant from a consumer reporting agency, and
1527 transmit or provide access to the report to the office. The cost
1528 of the credit report shall be borne by the applicant.

1529 (e) Submit any additional information or documentation
1530 requested by the office and required by rule concerning the
1531 licensee. Additional information may include documentation of
1532 pending and prior disciplinary and criminal history events,
1533 including arrest reports and certified copies of charging
1534 documents, plea agreements, judgments and sentencing documents,
1535 documents relating to pretrial intervention, orders terminating
1536 probation or supervised release, final administrative agency
1537 orders, or other comparable documents that may provide the
1538 office with the appropriate information to determine eligibility
1539 for licensure.

1540 (2) The office may not renew a loan originator license
1541 unless the loan originator continues to meet the minimum
1542 standards for initial license issuance pursuant to s. 494.00312
1543 and adopted rule.

1544 Section 23. Section 494.0032, Florida Statutes, is
1545 repealed.

1546 Section 24. Section 494.00321, Florida Statutes, is created
1547 to read:

1548 494.00321 Mortgage broker license.—

1549 (1) Each person who acts as a mortgage broker must be



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1550 licensed in accordance with this section.
1551 (2) In order to apply for a mortgage broker license the
1552 applicant must:
1553 (a) Submit a completed license application form as
1554 prescribed by commission rule.
1555 (b) Designate a qualified principal loan originator on the
1556 application form who meets the requirements of s. 494.0035.
1557 (c) Submit a nonrefundable application fee of \$425, and the
1558 \$100 nonrefundable fee if required by s. 494.00172. Application
1559 fees may not be prorated for partial years of licensure.
1560 (d) Submit fingerprints for each of the applicant's control
1561 persons in accordance with rules adopted by the commission:
1562 1. The fingerprints may be submitted to the registry, the
1563 office, or a vendor acting on behalf of the registry or the
1564 office.
1565 2. The office may contract with a third-party vendor to
1566 provide live-scan fingerprinting in lieu of a paper fingerprint
1567 card.
1568 3. A state criminal history background check must be
1569 conducted through the Department of Law Enforcement and a
1570 federal criminal history background check must be conducted
1571 through the Federal Bureau of Investigation.
1572 4. All fingerprints submitted to the Department of Law
1573 Enforcement must be submitted electronically and entered into
1574 the statewide automated fingerprint identification system
1575 established in s. 943.05(2) (b) and available for use in
1576 accordance with s. 943.05(2) (g) and (h). The office shall pay an
1577 annual fee to the department to participate in the system and
1578 inform the department of any person whose fingerprints are no



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1579 longer required to be retained.

1580 5. The costs of fingerprint processing, including the cost
1581 of retaining the fingerprints, shall be borne by the person
1582 subject to the background check.

1583 6. The office is responsible for reviewing the results of
1584 the state and federal criminal history checks and determining
1585 whether the applicant meets licensure requirements.

1586 (e) Authorize the registry to obtain an independent credit
1587 report on each of the applicant's control persons from a
1588 consumer reporting agency, and transmit or provide access to the
1589 report to the office. The cost of the credit report shall be
1590 borne by the applicant.

1591 (f) Submit additional information or documentation
1592 requested by the office and required by rule concerning the
1593 applicant or a control person of the applicant. Additional
1594 information may include documentation of pending and prior
1595 disciplinary and criminal history events, including arrest
1596 reports and certified copies of charging documents, plea
1597 agreements, judgments and sentencing documents, documents
1598 relating to pretrial intervention, orders terminating probation
1599 or supervised release, final administrative agency orders, or
1600 other comparable documents that may provide the office with the
1601 appropriate information to determine eligibility for licensure.

1602 (g) Submit any other information required by the registry
1603 for the processing of the application.

1604 (3) An application is considered received for the purposes
1605 of s. 120.60 upon the office's receipt of all documentation from
1606 the registry, including the completed application form, criminal
1607 history information, and independent credit report, as well as



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1608 the licensed application fee, the fee required by s. 492.00172,
1609 and all applicable fingerprinting processing fees.

1610 (4) The office shall issue a mortgage broker license to
1611 each person who is not otherwise ineligible and who meets the
1612 requirements of this section. However, it is a ground for denial
1613 of licensure if the applicant or one of the applicant's control
1614 persons:

1615 (a) Has committed any violation specified in ss. 494.001-
1616 494.0077, or is the subject of a pending felony criminal
1617 prosecution or a prosecution or an administrative enforcement
1618 action, in any jurisdiction, which involves fraud, dishonesty,
1619 breach of trust, money laundering, or any other act of moral
1620 turpitude.

1621 (b) Has failed to demonstrate the character, general
1622 fitness, and financial responsibility necessary to command the
1623 confidence of the community and warrant a determination that the
1624 applicant will operate honestly, fairly, and efficiently.

1625 1. If the office has information that could form the basis
1626 for license denial under this paragraph, before denying the
1627 license, the office must notify the applicant in writing of the
1628 specific items of concern and provide the applicant with an
1629 opportunity to explain the circumstances surrounding the
1630 specific items and provide any information that the applicant
1631 believes is relevant to the office's determination.

1632 2. For purposes of evaluating adverse information found in
1633 an applicant's credit report, the information must be considered
1634 within the totality of the circumstances. Information provided
1635 by the applicant under subparagraph 1., or information obtained
1636 by the office by other means, may be used to provide a context



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1637 for the adverse items. For example, the adverse items may have
1638 resulted from factors that do not necessarily reflect negatively
1639 upon the applicant's character, general fitness, or financial
1640 responsibility.

1641 3. The office may not use a credit score or the absence or
1642 insufficiency of credit history information to determine
1643 character, general fitness, or financial responsibility.

1644 4. If information contained in a credit report is used as
1645 the basis for denying a license, the office shall, in accordance
1646 with s. 120.60(3), provide with particularity the grounds or
1647 basis for denial. The use of the terms "poor credit history,"
1648 "poor credit rating," or similar language do not meet the
1649 requirements of this paragraph.

1650 (5) The office shall deny a license if the applicant has
1651 had a mortgage broker license, or its equivalent, revoked in any
1652 jurisdiction, or any of the applicant's control persons has had
1653 a loan originator license, or its equivalent, revoked in any
1654 jurisdiction.

1655 (6) A mortgage broker license shall be annulled pursuant to
1656 s. 120.60 if it was issued by the office by mistake. A license
1657 must be reinstated if the applicant demonstrates that the
1658 requirements for obtaining the license under this chapter have
1659 been satisfied.

1660 (7) All mortgage broker licenses must be renewed annually
1661 by December 31 pursuant to s. 494.00322. If a person holding an
1662 active mortgage broker license has not applied to renew the
1663 license annually on or before December 31, the mortgage broker
1664 license expires on December 31. If a person holding an active
1665 mortgage broker license has applied to renew the license on or



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1666 before December 31, the mortgage broker license remains active
1667 until the renewal application is approved or denied. A mortgage
1668 broker is not precluded from reapplying for licensure upon
1669 expiration of a previous license.

1670 Section 25. Section 494.00322, Florida Statutes, is created
1671 to read:

1672 494.00322 Mortgage broker license renewal.-

1673 (1) In order to renew a mortgage broker license, a mortgage
1674 broker must:

1675 (a) Submit a completed license renewal form as prescribed
1676 by commission rule.

1677 (b) Submit a nonrefundable renewal fee of \$375, the \$100
1678 nonrefundable fee if required by s. 494.00172, and nonrefundable
1679 fees to cover the cost of further fingerprint processing and
1680 retention as set forth in commission rule.

1681 (c) Submit fingerprints in accordance with s.
1682 494.00321(2) (d) for any new control persons who have not been
1683 screened.

1684 (d) Authorize the registry to obtain an independent credit
1685 report on each of the applicant's control persons from a
1686 consumer reporting agency, and transmit or provide access to the
1687 report to the office. The cost of the credit report shall be
1688 borne by the applicant.

1689 (e) Submit any additional information or documentation
1690 requested by the office and required by rule concerning the
1691 applicant or a control person of the applicant. Additional
1692 information may include documentation of pending and prior
1693 disciplinary and criminal history events, including arrest
1694 reports and certified copies of charging documents, plea



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1695 agreements, judgments and sentencing documents, documents
1696 relating to pretrial intervention, orders terminating probation
1697 or supervised release, final administrative agency orders, or
1698 other comparable documents that may provide the office with the
1699 appropriate information to determine eligibility for licensure.

1700 (2) The office may not renew a mortgage broker license
1701 unless the licensee continues to meet the minimum requirements
1702 for initial licensure pursuant to s. 494.00321 and adopted rule.

1703 Section 26. Section 494.0033, Florida Statutes, is
1704 repealed.

1705 Section 27. Section 494.00331, Florida Statutes, is amended
1706 to read:

1707 494.00331 ~~Loan originator employment Mortgage broker~~
1708 ~~association.~~—An individual may not act as a loan originator
1709 unless he or she is an employee of, or an independent contractor
1710 for, a mortgage broker or a mortgage lender, and may not be
1711 employed by or contract with more than one mortgage broker or
1712 mortgage lender, or either simultaneously. ~~No person required to~~
1713 ~~be licensed as a mortgage broker under this chapter shall be~~
1714 ~~simultaneously an associate of more than one licensed mortgage~~
1715 ~~brokerage business, licensed mortgage lender, or licensed~~
1716 ~~correspondent mortgage lender.~~

1717 Section 28. Section 494.0034, Florida Statutes, is
1718 repealed.

1719 Section 29. Section 494.0035, Florida Statutes, is amended
1720 to read:

1721 494.0035 Principal loan originator ~~broker~~ and branch
1722 manager for mortgage broker requirements.—

1723 (1) Each mortgage broker ~~brokerage business~~ must be



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1724 operated by a principal loan originator who shall have a
1725 ~~principal broker who shall operate the business under such~~
1726 ~~broker's full charge, control, and supervision of the mortgage~~
1727 ~~broker business.~~ The principal loan originator must have been
1728 licensed as a loan originator ~~broker must have been a licensed~~
1729 ~~mortgage broker pursuant to s. 494.0033~~ for at least 1 year
1730 before ~~prior to~~ being designated as the a principal loan
1731 originator broker, or must shall demonstrate to the satisfaction
1732 of the office that he or she ~~such principal broker~~ has been
1733 actively engaged in a mortgage broker-related ~~mortgage-related~~
1734 business for at least 1 year before ~~prior to~~ being designated as
1735 a principal loan originator ~~broker~~. Each mortgage broker must
1736 keep the office informed of the person designated as the
1737 principal loan originator as prescribed by commission rule
1738 ~~brokerage business shall maintain a form as prescribed by the~~
1739 ~~commission indicating the business's designation of principal~~
1740 ~~broker and the individual's acceptance of such responsibility.~~
1741 If the designation is inaccurate, the business shall be deemed
1742 to be operated under ~~form is unavailable, inaccurate, or~~
1743 ~~incomplete, it is deemed that the business was operated in the~~
1744 full charge, control, and supervision of ~~by~~ each officer,
1745 director, or ultimate equitable owner of a 10-percent or greater
1746 interest in the mortgage broker ~~brokerage business~~, or any other
1747 person in a similar capacity. A loan originator may not be a
1748 principal loan originator for more than one mortgage broker at
1749 any given time.

1750 (2) Each branch office of a mortgage broker ~~brokerage~~
1751 ~~business~~ must be operated by a ~~have a designated branch~~ manager
1752 ~~broker~~ who shall have ~~operate the business under such broker's~~



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1753 full charge, control, and supervision of the branch office. The
1754 designated branch manager ~~broker~~ must be a licensed loan
1755 originator ~~mortgage broker~~ pursuant to s. 494.00312 ~~s. 494.0033~~.
1756 Each branch office must keep the office informed of the person
1757 designated as the branch manager as prescribed by commission
1758 rule, which includes documentation of ~~shall maintain a form as~~
1759 ~~prescribed by the commission logging the branch's designation of~~
1760 ~~a branch broker and the individual's acceptance of such~~
1761 responsibility. If the designation is inaccurate, the branch
1762 office shall be deemed to be operated under ~~form is unavailable,~~
1763 ~~inaccurate, or incomplete, it is deemed that the branch was~~
1764 ~~operated in~~ the full charge, control, and supervision of ~~by~~ each
1765 officer, director, or ultimate equitable owner of a 10-percent
1766 or greater interest in the mortgage broker ~~brokerage business,~~
1767 or any other person in a similar capacity.

1768 Section 30. Section 494.0036, Florida Statutes, is amended
1769 to read:

1770 494.0036 Mortgage broker branch office license ~~brokerage~~
1771 ~~business branch offices.~~

1772 (1) Each branch office of a mortgage broker must be
1773 licensed under this section. ~~A mortgage brokerage business~~
1774 ~~branch office license is required for each branch office~~
1775 ~~maintained by a mortgage brokerage business.~~

1776 (2) The office shall issue a mortgage broker ~~brokerage~~
1777 ~~business~~ branch office license to a mortgage broker ~~brokerage~~
1778 ~~business~~ licensee after the office determines that the licensee
1779 has submitted a completed application for a branch office in a
1780 form ~~as~~ prescribed by commission rule and payment of an initial
1781 nonrefundable branch office license fee of \$225 per branch



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1782 office. Application fees may not be prorated for partial years
1783 of licensure. The branch office license shall be issued in the
1784 name of the mortgage broker ~~brokerage business~~ that maintains
1785 the branch office. An application is considered received for
1786 purposes of s. 120.60 upon receipt of a completed application
1787 form as prescribed by commission rule, and the required fees a
1788 ~~nonrefundable application fee of \$225, and any other fee~~
1789 ~~prescribed by law.~~

1790 (3) A branch office license must be renewed annually at the
1791 time of renewing the mortgage broker license under s. 494.00322.
1792 A nonrefundable branch renewal fee of \$225 per branch office
1793 must be submitted at the time of renewal.

1794 Section 31. Section 494.0038, Florida Statutes, is amended
1795 to read:

1796 494.0038 Loan origination and mortgage broker fees and
1797 ~~Mortgage broker disclosures.-~~

1798 (1)(a)1. A loan origination fee may not be paid ~~person may~~
1799 ~~not receive a mortgage brokerage fee~~ except pursuant to a
1800 written mortgage broker ~~brokerage~~ agreement between the mortgage
1801 broker ~~brokerage business~~ and the borrower which is signed and
1802 dated by the principal loan originator or branch manager, ~~the~~
1803 ~~business~~ and the borrower. The unique registry identifier of
1804 each loan originator responsible for providing loan originator
1805 services must be printed on the mortgage broker agreement.

1806 (a)2. The written mortgage broker ~~brokerage~~ agreement must
1807 describe the services to be provided by the mortgage broker
1808 ~~brokerage business~~ and specify the amount and terms of the loan
1809 origination ~~mortgage brokerage~~ fee that the mortgage broker
1810 ~~brokerage business~~ is to receive.



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1811 1. Except for application and third-party fees, all fees
1812 received by a mortgage broker from a borrower must be identified
1813 as a loan origination fee.

1814 2. All fees on the mortgage broker agreement must be
1815 disclosed in dollar amounts.

1816 3. All loan origination fees must be paid to a mortgage
1817 broker.

1818 (b) The ~~written mortgage brokerage~~ agreement must be
1819 executed within 3 business days after a mortgage loan
1820 application is accepted if the borrower is present when the
1821 mortgage loan application is accepted. If the borrower is not
1822 present ~~when such an application is accepted~~, the licensee shall
1823 forward the ~~written mortgage brokerage~~ agreement to the borrower
1824 within 3 business days after the licensee's acceptance of the
1825 application and the licensee bears the burden of proving that
1826 the borrower received and approved the ~~written mortgage~~
1827 ~~brokerage~~ agreement.

1828 (2)(b)1. If the mortgage broker ~~brokerage business~~ is to
1829 receive any payment of any kind from the mortgage lender, the
1830 maximum total dollar amount of the payment must be disclosed to
1831 the borrower in the written mortgage broker ~~brokerage~~ agreement
1832 as described in paragraph (1)(a). The commission may prescribe
1833 by rule an acceptable form for disclosure of brokerage fees
1834 received from the lender. The ~~mortgage brokerage~~ agreement must
1835 state the nature of the relationship with the lender, describe
1836 how compensation is paid by the lender, and describe how the
1837 mortgage interest rate affects the compensation paid to the
1838 mortgage broker ~~brokerage business~~.

1839 (a)2. The exact amount of any payment of any kind by the



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1840 lender to the mortgage broker ~~brokerage business~~ must be
1841 disclosed in writing to the borrower within 3 business days
1842 after the mortgage broker ~~brokerage business~~ is made aware of
1843 the exact amount of the payment from the lender but not less
1844 than 3 business days before the execution of the closing or
1845 settlement statement. The licensee bears the burden of proving
1846 such notification was provided to the borrower. Notification is
1847 waived if the exact amount of the payment is accurately
1848 disclosed in the written mortgage broker agreement.

1849 (b)(e) The commission may prescribe by rule the form of
1850 disclosure of brokerage fees.

1851 (3)(2) At the time a written mortgage broker ~~brokerage~~
1852 agreement is signed ~~executed~~ by the borrower or forwarded to the
1853 borrower for signature ~~execution~~, or at the time the mortgage
1854 broker ~~brokerage business~~ accepts an application fee, credit
1855 report fee, property appraisal fee, or any other third-party
1856 fee, but at least ~~not less than~~ 3 business days before execution
1857 of the closing or settlement statement, the mortgage broker
1858 ~~brokerage business~~ shall disclose in writing to any applicant
1859 for a mortgage loan the following information:

1860 (a) That the ~~such~~ mortgage broker ~~brokerage business~~ may
1861 not make mortgage loans or commitments. The mortgage broker
1862 ~~brokerage business~~ may make a commitment and may furnish a lock-
1863 in of the rate and program on behalf of the lender if ~~when~~ the
1864 mortgage broker ~~brokerage business~~ has obtained a written
1865 commitment or lock-in for the loan from the lender on behalf of
1866 the borrower for the loan. The commitment must be in the same
1867 form and substance as issued by the lender.

1868 (b) That the ~~such~~ mortgage broker ~~brokerage business~~ cannot



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1869 guarantee acceptance into any particular loan program or promise
1870 any specific loan terms or conditions.

1871 (c) A good faith estimate, signed and dated by the
1872 borrower, which discloses the total amount of each of the fees
1873 ~~which~~ the borrower may reasonably expect to pay if the loan is
1874 closed, including, but not limited to, fees earned by the
1875 mortgage broker ~~brokerage business~~, lender fees, third-party
1876 fees, and official fees, together with the terms and conditions
1877 for obtaining a refund of such fees, if any. Any amount
1878 collected in excess of the actual cost shall be returned within
1879 60 days after rejection, withdrawal, or closing. The good faith
1880 estimate must identify the recipient of all payments charged the
1881 borrower and, except for all fees to be received by the mortgage
1882 broker ~~brokerage business~~, may be disclosed in generic terms,
1883 such as, but not limited to, paid to lender, appraiser,
1884 officials, title company, or any other third-party service
1885 provider. This requirement does not supplant or is not a
1886 substitute for the written mortgage broker ~~brokerage~~ agreement
1887 described in subsection (1).

1888 (4) ~~(3)~~ The disclosures required by this subsection must be
1889 furnished in writing at the time an adjustable rate mortgage
1890 loan is offered to the borrower and whenever the terms of the
1891 adjustable rate mortgage loan offered materially change prior to
1892 closing. The mortgage broker shall furnish the disclosures
1893 relating to adjustable rate mortgages in a format prescribed by
1894 ss. 226.18 and 226.19 of Regulation Z of the Board of Governors
1895 of the Federal Reserve System, as amended; its commentary, as
1896 amended; and the federal Truth in Lending Act, 15 U.S.C. ss.
1897 1601 et seq., as amended; together with the Consumer Handbook on



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1898 Adjustable Rate Mortgages, as amended; published by the Federal
1899 Reserve Board and the Federal Home Loan Bank Board. The licensee
1900 bears the burden of proving such disclosures were provided to
1901 the borrower.

1902 ~~(5)~~(4) If the mortgage broker ~~brokerage~~ agreement includes
1903 a nonrefundable application fee, the following requirements are
1904 applicable:

1905 (a) The amount of the application fee, which must be
1906 clearly denominated as such, must ~~shall~~ be clearly disclosed.

1907 (b) The specific services that will be performed in
1908 consideration for the application fee must ~~shall~~ be disclosed.

1909 (c) The application fee must be reasonably related to the
1910 services to be performed and may not be based upon a percentage
1911 of the principal amount of the loan or the amount financed.

1912 ~~(6)~~(5) A mortgage broker ~~brokerage business~~ may not accept
1913 any fee in connection with a mortgage loan other than an
1914 application fee, credit report fee, property appraisal fee, or
1915 other third-party fee before ~~prior to~~ obtaining a written
1916 commitment from a qualified lender.

1917 ~~(7)~~(6) Any third-party fee entrusted to a mortgage broker
1918 must ~~brokerage business shall~~ immediately, upon receipt, be
1919 placed into a segregated account with a financial institution
1920 located in the state the accounts of which are insured by the
1921 Federal Government. Such funds shall be held in trust for the
1922 payor and shall be kept in the account until disbursement. Such
1923 funds may be placed in one account if adequate accounting
1924 measures are taken to identify the source of the funds.

1925 ~~(7) All mortgage brokerage fees shall be paid to a mortgage~~
1926 ~~brokerage business licensee.~~



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1927 (8) A mortgage broker may not pay a commission to any
1928 person not licensed pursuant to this chapter.

1929 (9)~~(8)~~ This section does not prohibit a mortgage broker
1930 ~~brokerage business~~ from offering products and services, in
1931 addition to those offered in conjunction with the loan
1932 origination process, for a fee or commission.

1933 Section 32. Section 494.0039, Florida Statutes, is amended
1934 to read:

1935 494.0039 Principal place of business requirements.—Each
1936 mortgage broker ~~brokerage business~~ licensee shall maintain and
1937 transact business from a principal place of business.

1938 Section 33. Section 494.004, Florida Statutes, is amended
1939 to read:

1940 494.004 Requirements of licensees.—

1941 (1) Each licensee under this part ~~ss. 494.003-494.0043~~
1942 shall report to the office:

1943 (a) In writing, any conviction of, or plea of nolo
1944 contendere to, regardless of adjudication, any felony or any
1945 crime or administrative violation that involves fraud,
1946 dishonesty, breach of trust, money laundering ~~dishonest dealing,~~
1947 or any other act of moral turpitude, in any jurisdiction, by the
1948 licensee or any control ~~natural~~ person within ~~named in s.~~
1949 ~~494.0031(2)(d), not later than~~ 30 days after the date of
1950 conviction, entry of a plea of nolo contendere, or final
1951 administrative action.

1952 (b)~~(2)~~ ~~Each licensee under ss. 494.003-494.0043 shall~~
1953 ~~report,~~ In a form prescribed by rule of the commission, any
1954 conviction of, or plea of nolo contendere to, regardless of
1955 ~~whether~~ adjudication ~~is withheld,~~ any felony committed by the



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1956 licensee or any control ~~natural~~ person within ~~named in s.~~
1957 ~~494.0031(2)(d), not later than~~ 30 days after the date of
1958 conviction or the date the plea of nolo contendere is entered.

1959 ~~(c)(3) Each licensee under ss. 494.003-494.0043 shall~~
1960 ~~report~~ Any action in bankruptcy, voluntary or involuntary,
1961 within 30 ~~to the office not later than 7 business~~ days after the
1962 action is instituted.

1963 ~~(d)(4) Each licensee under ss. 494.003-494.0043 shall~~
1964 ~~report~~ On a form prescribed by rule of the commission, any
1965 change to the information contained in any initial application
1966 form or any amendment to the application within ~~not later than~~
1967 30 days after the change is effective.

1968 ~~(5) A license issued under ss. 494.003-494.0043 is not~~
1969 ~~transferable or assignable.~~

1970 ~~(e)(6) Each licensee under ss. 494.003-494.0043 shall~~
1971 ~~report~~ Any change in the principal loan originator ~~broker, any~~
1972 addition or subtraction of a control person ~~partners, officers,~~
1973 ~~members, joint venturers, directors, control persons of any~~
1974 ~~licensee, or any individual who is the ultimate equitable owner~~
1975 ~~of a 10-percent or greater interest in the licensee, or any~~
1976 change in the form of business organization, by written
1977 amendment in the form and at the time the commission specifies
1978 by rule.

1979 ~~(a) In any case in which a person or a group of persons,~~
1980 ~~directly or indirectly or acting by or through one or more~~
1981 ~~persons, proposes to purchase or acquire a controlling interest~~
1982 ~~in a licensee, such person or group shall submit an initial~~
1983 ~~application for licensure as a mortgage brokerage business~~
1984 ~~before such purchase or acquisition and at the time and in the~~



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1985 ~~form the commission prescribes by rule.~~

1986 ~~(b) As used in this subsection, the term "controlling~~
1987 ~~interest" means possession of the power to direct or cause the~~
1988 ~~direction of the management or policies of a company whether~~
1989 ~~through ownership of securities, by contract, or otherwise. Any~~
1990 ~~person who directly or indirectly has the right to vote 25~~
1991 ~~percent or more of the voting securities of a company or is~~
1992 ~~entitled to 25 percent or more of the company's profits is~~
1993 ~~presumed to possess a controlling interest.~~

1994 ~~(f)(e) Any addition of a partner, officer, member, joint~~
1995 ~~venturer, director, control person, or ultimate equitable owner~~
1996 ~~of the applicant who does not have a controlling interest and~~
1997 ~~who has not previously filed a Uniform Mortgage Biographical~~
1998 ~~Statement & Consent Form, MU2, or has not previously complied~~
1999 ~~with the fingerprinting and credit report requirements~~
2000 ~~provisions of ss. 494.00321 and 494.00322, s. 494.0031(2)(c) and~~
2001 ~~(d) is subject to the such provisions of these sections unless~~
2002 ~~required to file an initial application in accordance with~~
2003 ~~paragraph (a). If, after the addition of a control person, the~~
2004 ~~office finds that the licensee does not continue to meet~~
2005 ~~licensure requirements, the office may bring an administrative~~
2006 ~~action in accordance with s. 494.00255 ~~s. 494.0041~~ to enforce~~
2007 ~~the provisions of this chapter.~~

2008 ~~(d) The commission shall adopt rules pursuant to ss.~~
2009 ~~120.536(1) and 120.54 providing for the waiver of the~~
2010 ~~application required by this subsection if the person or group~~
2011 ~~of persons proposing to purchase or acquire a controlling~~
2012 ~~interest in a licensee has previously complied with the~~
2013 ~~provisions of s. 494.0031(2)(c) and (d) with respect to the same~~



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2014 ~~legal entity or is currently licensed by the office under this~~
2015 ~~chapter.~~

2016 ~~(7) On or before April 30, 2000, each mortgage brokerage~~
2017 ~~business shall file an initial report stating the name, social~~
2018 ~~security number, date of birth, mortgage broker license number,~~
2019 ~~date of hire and, if applicable, date of termination for each~~
2020 ~~person who was an associate of the mortgage brokerage business~~
2021 ~~during the immediate preceding quarter. Thereafter, A mortgage~~
2022 ~~brokerage business shall file a quarterly report only if a~~
2023 ~~person became an associate or ceased to be an associate of the~~
2024 ~~mortgage brokerage business during the immediate preceding~~
2025 ~~quarter. Such report shall be filed within 30 days after the~~
2026 ~~last day of each calendar quarter and shall contain the name,~~
2027 ~~social security number, date of birth, mortgage broker license~~
2028 ~~number, date of hire and, if applicable, the date of termination~~
2029 ~~of each person who became or ceased to be an associate of the~~
2030 ~~mortgage brokerage business during the immediate preceding~~
2031 ~~quarter. The commission shall prescribe, by rule, the procedures~~
2032 ~~for filing reports required by this subsection.~~

2033 ~~(2)(8)(a)~~ In every mortgage loan transaction, each licensee
2034 under this part must ~~ss. 494.003-494.0043~~ shall notify a
2035 borrower of any material changes in the terms of a mortgage loan
2036 previously offered to the borrower within 3 business days after
2037 being made aware of such changes by the mortgage lender but at
2038 least ~~not less than~~ 3 business days before the signing of the
2039 settlement or closing statement. The licensee bears the burden
2040 of proving such notification was provided and accepted by the
2041 borrower.

2042 ~~(b)~~ A borrower may waive the right to receive notice of a



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2043 material change ~~that is granted under paragraph (a)~~ if the
2044 borrower determines that the extension of credit is needed to
2045 meet a bona fide personal financial emergency and the right to
2046 receive notice would delay the closing of the mortgage loan. The
2047 imminent sale of the borrower's home at foreclosure during the
2048 3-day period before the signing of the settlement or closing
2049 statement is ~~constitutes~~ an example of a bona fide personal
2050 financial emergency. In order to waive the borrower's right to
2051 receive notice ~~not less than 3 business days before the signing~~
2052 ~~of the settlement or closing statement of any such material~~
2053 ~~change~~, the borrower must provide the licensee with a dated
2054 written statement that describes the personal financial
2055 emergency, waives the right to receive the notice, bears the
2056 borrower's signature, and is not on a printed form prepared by
2057 the licensee for the purpose of such a waiver.

2058 (3) Each mortgage broker shall submit to the registry
2059 reports of condition, which must be in such form and shall
2060 contain such information as the registry may require.

2061 (4) A license issued under this part is not transferable or
2062 assignable.

2063 Section 34. Section 494.0041, Florida Statutes, is
2064 repealed.

2065 Section 35. Section 494.0042, Florida Statutes, is amended
2066 to read:

2067 494.0042 Loan originator ~~Brokerage~~ fees.-

2068 (1) A loan originator ~~mortgage brokerage~~ fee earned by a
2069 licensee, pursuant to this part ~~ss. 494.003-494.0043~~, is not
2070 considered interest or a finance charge under chapter 687.

2071 (2) A person may not charge or exact, directly or



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2072 indirectly, from the borrower ~~mortgager~~ a fee or commission in
2073 excess of the maximum fee or commission specified in this
2074 section. The maximum fees or commissions that may be charged for
2075 mortgage loans are as follows:

2076 (a) On a mortgage loan of \$1,000 or less: \$250.

2077 (b) On a mortgage loan exceeding \$1,000 and not exceeding
2078 \$2,000: \$250 for the first \$1,000 of the mortgage loan, plus \$10
2079 for each additional \$100 of the mortgage loan.

2080 (c) On a mortgage loan exceeding \$2,000 and not exceeding
2081 \$5,000: \$350 for the first \$2,000 of the mortgage loan, plus \$10
2082 for each additional \$100 of the mortgage loan.

2083 (d) On a mortgage loan exceeding \$5,000: \$250 plus 10
2084 percent of the entire mortgage loan.

2085

2086 For the purpose of determining the maximum fee, the amount of
2087 the mortgage loan is based on the amount of mortgage loan
2088 actually funded exclusive of the authorized maximum fees or
2089 commissions.

2090 (3) At the time of accepting a mortgage loan application, a
2091 mortgage broker ~~brokerage business~~ may receive from the borrower
2092 a nonrefundable application fee. If the mortgage loan is funded,
2093 the nonrefundable application fee shall be credited against the
2094 amount owed as a result of the loan being funded. A person may
2095 not receive any form of compensation for acting as a loan
2096 originator ~~mortgage broker~~ other than a nonrefundable
2097 application fee, a fee based on the mortgage amount being
2098 funded, or a fee which complies with s. 494.00421.

2099 Section 36. Section 494.00421, Florida Statutes, is amended
2100 to read:



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2101 494.00421 Fees earned upon obtaining a bona fide
2102 commitment.—Notwithstanding the provisions of ss. 494.001-
2103 494.0077, any mortgage broker ~~brokerage business~~ which contracts
2104 to receive ~~from a borrower~~ a mortgage broker ~~brokerage~~ fee from
2105 a borrower upon obtaining a bona fide commitment shall
2106 accurately disclose in the mortgage broker ~~brokerage~~ agreement:
2107 (1) The gross loan amount.
2108 (2) In the case of a fixed-rate mortgage, the note rate.
2109 (3) In the case of an adjustable rate mortgage:
2110 (a) The initial note rate.
2111 (b) The length of time for which the initial note rate is
2112 effective.
2113 (c) The frequency of changes.
2114 (d) The limitation upon such changes including adjustment
2115 to adjustment cap and life cap.
2116 (e) Whether the loan has any potential for negative
2117 amortization.
2118 (f) Identification of the margin-interest rate
2119 differential.
2120 (g) Identification of a nationally recognized index which
2121 index must be free from control of the mortgage broker, ~~mortgage~~
2122 ~~brokerage business, mortgage lender, or correspondent mortgage~~
2123 ~~lender.~~
2124 (4) The estimated net proceeds to be paid directly to the
2125 borrower. “Estimated net proceeds” means the cash to be received
2126 by the borrower after payment of any fees, charges, debts,
2127 liens, or encumbrances to perfect the lien of the new mortgage
2128 and establish the agreed-upon priority of the new mortgage.
2129 (5) The lien priority of the new proposed mortgage.



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2130 (6) The number of calendar days, which are mutually agreed
2131 upon, within which the mortgage broker ~~brokerage business~~ shall
2132 obtain a bona fide mortgage commitment.

2133 (7) (a) The following statement, in at least ~~no less than~~
2134 12-point boldface type immediately above the signature lines for
2135 the borrowers:

2136

2137 “You are entering into a contract with a mortgage broker
2138 ~~brokerage business~~ to obtain a bona fide mortgage loan
2139 commitment under the same terms and conditions as stated
2140 hereinabove or in a separate executed good faith estimate form.
2141 If the mortgage broker ~~brokerage business~~ obtains a bona fide
2142 commitment under the same terms and conditions, you will be
2143 obligated to pay the mortgage broker ~~brokerage business~~ fees,
2144 including, but not limited to, a mortgage broker ~~brokerage~~ fee,
2145 even if you choose not to complete the loan transaction. If the
2146 provisions of s. 494.00421, Florida Statutes, are not met, the
2147 mortgage broker ~~brokerage~~ fee can only be earned upon the
2148 funding of the mortgage loan. The borrower may contact the
2149 Department of Financial Services, Tallahassee, Florida,
2150 regarding any complaints that the borrower may have against the
2151 mortgage broker ~~or the mortgage brokerage business~~. The
2152 telephone number of the department is: ...~~(insert telephone~~
2153 ~~number)~~....”

2154 (b) Paragraph (a) does not apply to nonresidential mortgage
2155 loan commitments in excess of \$1 million.

2156 (8) Any other disclosure required pursuant to s. 494.0038.

2157 Section 37. Section 494.0043, Florida Statutes, is amended
2158 to read:



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2159 494.0043 Requirements for brokering loans to
2160 noninstitutional investors.—

2161 (1) A loan originator ~~mortgage broker~~, when arranging a
2162 mortgage loan for a noninstitutional investor, shall:

2163 (a) Before any payment of money by the ~~a~~ noninstitutional
2164 investor, provide an opinion of value from an appraiser stating
2165 the value of the security property unless the opinion is waived
2166 in writing. The opinion must state the value of the property as
2167 it exists on the date of the opinion. If any relationship exists
2168 between the mortgage broker and the appraiser, that relationship
2169 shall be disclosed to the investor.

2170 (b) Provide to the noninstitutional investor a mortgagee's
2171 title insurance policy or an opinion of title by an attorney
2172 licensed to practice law in the state, or a copy thereof.

2173 1. If a title insurance policy is issued, it must insure
2174 the noninstitutional investor against the unmarketability of the
2175 mortgagee's interest in such title. It must ~~shall~~ also specify
2176 any superior liens that exist against the property. If an
2177 opinion of title is issued by an attorney ~~licensed to practice~~
2178 ~~law in the state~~, the opinion must include a statement as to the
2179 marketability of the title to the property described in the
2180 mortgage and specify the priority of the mortgage being closed.

2181 2. If the title insurance policy or opinion of title is not
2182 available at the time of purchase, the licensee shall provide a
2183 binder of the title insurance or conditional opinion of title.
2184 This binder or opinion must include any conditions or
2185 requirements that need ~~needed~~ to be corrected before ~~prior to~~
2186 the issuance of the final title policy or opinion of title. The
2187 binder or opinion must also include information concerning the



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2188 requirements specified in subparagraph 1. Any conditions must be
2189 eliminated or waived in writing by the investor before ~~prior to~~
2190 delivery to the noninstitutional investor. The policy or
2191 opinion, or a copy thereof, shall be delivered to the investor
2192 within a reasonable period of time, not exceeding 6 months,
2193 after closing.

2194 3. The requirements of this paragraph may be waived in
2195 writing. If the requirements are waived by the noninstitutional
2196 investor, the waiver must include the following statement
2197 ~~wording~~: "The noninstitutional investor acknowledges that the
2198 mortgage broker or mortgage lender brokering this mortgage loan
2199 is not providing a title insurance policy or opinion of title
2200 issued by an attorney who is licensed to practice law in the
2201 State of Florida. Any requirement for title insurance or for a
2202 legal opinion of title is the sole responsibility of the
2203 noninstitutional mortgage investor."

2204 (c) Provide, if the loan is other than a first mortgage, a
2205 statement showing the balance owed by the mortgagor on any
2206 existing mortgages prior to this investment and the status of
2207 such existing mortgages.

2208 (d) Provide a disclosure if the licensee is directly or
2209 indirectly acting as a borrower or principal in the transaction.

2210 (2) Each original or certified copy of the mortgage, or
2211 other instrument securing a note or assignment thereof, must
2212 ~~shall~~ be recorded before being delivered to the noninstitutional
2213 investor. A mortgage broker shall cause the properly endorsed
2214 original note to be delivered to the noninstitutional investor.

2215 (3) Each mortgage and assignment must ~~shall~~ be recorded as
2216 soon as practical, but no later than 30 business days after the



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2217 date of closing.

2218 (4) Any money from a noninstitutional investor for
2219 disbursement at a mortgage loan closing must ~~shall~~ be deposited
2220 with and disbursed by an attorney duly licensed in this state or
2221 by a title company duly licensed in this state. A person acting
2222 as a loan originator ~~mortgage broker~~ may not have control of any
2223 money from a noninstitutional investor. This subsection does not
2224 prohibit a licensee under this part ~~ss. 494.003-494.0043~~ from
2225 receiving a loan originator ~~mortgage brokerage~~ fee upon the
2226 closing of the mortgage loan funded by the noninstitutional
2227 investor.

2228 Section 38. Sections 494.006 and 494.0061, Florida
2229 Statutes, are repealed.

2230 Section 39. Section 494.00611, Florida Statutes, is created
2231 to read:

2232 494.00611 Mortgage lender license.-

2233 (1) Each person who acts as a mortgage lender must be
2234 licensed under this section.

2235 (2) In order to apply for a mortgage lender license the
2236 applicant must:

2237 (a) Submit a completed application form as prescribed by
2238 the commission by rule.

2239 (b) Designate a qualified principal loan originator who
2240 meets the requirements of s. 494.0035 on the application form.

2241 (c) Submit a nonrefundable application fee of \$500, and the
2242 \$100 nonrefundable fee if required by s. 494.00172. Application
2243 fees may not be prorated for partial years of licensure.

2244 (d) Submit fingerprints for each of the applicant's control
2245 persons in accordance with rules adopted by the commission:



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2246 1. The fingerprints may be submitted to the registry, the
2247 office, or a vendor acting on behalf of the registry or the
2248 office.

2249 2. The office may contract with a third-party vendor to
2250 provide live-scan fingerprinting in lieu of a paper fingerprint
2251 card.

2252 3. A state criminal history background check must be
2253 conducted through the Department of Law Enforcement and a
2254 federal criminal history background check must be conducted
2255 through the Federal Bureau of Investigation.

2256 4. All fingerprints submitted to the Department of Law
2257 Enforcement must be submitted electronically and entered into
2258 the statewide automated fingerprint identification system
2259 established in s. 943.05(2) (b) and available for use in
2260 accordance with s. 943.05(2) (g) and (h). The office shall pay an
2261 annual fee to the department to participate in the system and
2262 inform the department of any person whose fingerprints are no
2263 longer required to be retained.

2264 5. The costs of fingerprint processing, including the cost
2265 of retaining the fingerprints, shall be borne by the person
2266 subject to the background check.

2267 6. The office is responsible for reviewing the results of
2268 the state and federal criminal history checks and determining
2269 whether the applicant meets licensure requirements.

2270 (e) Indicate whether the applicant will be seeking a
2271 servicing endorsement on the application form.

2272 (f) Submit a copy of the applicant's financial audit report
2273 for the most recent fiscal year which, pursuant to United States
2274 generally accepted accounting principles. If the applicant is a



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2275 wholly owned subsidiary of another corporation, the financial
2276 audit report for the parent corporation's satisfies this
2277 requirement. The commission may establish by rule the form and
2278 procedures for filing the financial audit report, including the
2279 requirement to file the report with the registry when technology
2280 is available. The financial audit report must document that the
2281 applicant has a bona fide and verifiable net worth, of at least
2282 \$63,000 if the applicant is not seeking a servicing endorsement,
2283 or at least \$250,000 if the applicant is seeking a servicing
2284 endorsement, which must be continuously maintained as a
2285 condition of licensure. However, if the applicant held an active
2286 license issued before October 1, 2010, pursuant to former s.
2287 494.0065, and the applicant is seeking a servicing endorsement,
2288 the minimum net worth requirement:

2289 1. Until September 30, 2011, is \$63,000.

2290 2. Between October 1, 2011, and September 30, 2012, is
2291 \$125,000.

2292 3. On or after October 1, 2012, is \$250,000.

2293 (g) Authorize the registry to obtain an independent credit
2294 report on each of the applicant's control persons from a
2295 consumer reporting agency, and transmit or provide access to the
2296 report to the office. The cost of the credit report shall be
2297 borne by the applicant.

2298 (h) Submit additional information or documentation
2299 requested by the office and required by rule concerning the
2300 applicant or a control person of the applicant. Additional
2301 information may include documentation of pending and prior
2302 disciplinary and criminal history events, including arrest
2303 reports and certified copies of charging documents, plea



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2304 agreements, judgments and sentencing documents, documents
2305 relating to pretrial intervention, orders terminating probation
2306 or supervised release, final administrative agency orders, or
2307 other comparable documents that may provide the office with the
2308 appropriate information to determine eligibility for licensure.

2309 (i) Submit any other information required by the registry
2310 for the processing of the application.

2311 (3) An application is considered received for the purposes
2312 of s. 120.60 upon the office's receipt of all documentation from
2313 the registry, including the completed application form, criminal
2314 history information, and independent credit report, as well as
2315 the license application fee, the fee required under s.
2316 494.00172, and all applicable fingerprinting processing fees.

2317 (4) The office shall issue a mortgage lender license to
2318 each person who is not otherwise ineligible and who meets the
2319 requirements of this section. However, it is a ground for denial
2320 of licensure if the applicant or one of the applicant's control
2321 persons:

2322 (a) Has committed any violation specified in ss. 494.001-
2323 494.0077, or is the subject of a pending felony criminal
2324 prosecution or a prosecution or an administrative enforcement
2325 action, in any jurisdiction, which involves fraud, dishonesty,
2326 breach of trust, money laundering, or any other act of moral
2327 turpitude.

2328 (b) Has failed to demonstrate the character, general
2329 fitness, and financial responsibility necessary to command the
2330 confidence of the community and warrant a determination that the
2331 applicant will operate honestly, fairly, and efficiently.

2332 1. If the office has information that could form the basis



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2333 for license denial under this paragraph, before denying the
2334 license, the office must notify the applicant in writing of the
2335 specific items of concern and provide the applicant with an
2336 opportunity to explain the circumstances surrounding the
2337 specific items and provide any information that the applicant
2338 believes is relevant to the office's determination.

2339 2. For purposes of evaluating adverse information found in
2340 an applicant's credit report, the information must be considered
2341 within the totality of the circumstances. Information provided
2342 by the applicant under subparagraph 1., or information obtained
2343 by the office by other means, may be used to provide a context
2344 for the adverse items. For example, the adverse items may have
2345 resulted from factors that do not necessarily reflect negatively
2346 upon the applicant's character, general fitness, or financial
2347 responsibility.

2348 3. The office may not use a credit score or the absence or
2349 insufficiency of credit history information to determine
2350 character, general fitness, or financial responsibility.

2351 4. If information contained in a credit report is used as
2352 the basis for denying a license, the office shall, in accordance
2353 with s. 120.60(3), provide with particularity the grounds or
2354 basis for denial. The use of the terms "poor credit history,"
2355 "poor credit rating," or similar language do not meet the
2356 requirements of this paragraph.

2357 (5) The office may not issue a license if the applicant has
2358 had a mortgage lender license or its equivalent revoked in any
2359 jurisdiction, or any of the applicant's control persons has ever
2360 had a loan originator license or its equivalent revoked in any
2361 jurisdiction.



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2362 (6) A person required to be licensed under this part, or an
2363 agent or employee thereof, is deemed to have consented to the
2364 venue of courts in this state regarding any matter within the
2365 authority of ss. 494.001-494.0077 regardless of where an act or
2366 violation was committed.

2367 (7) A license issued in accordance with this part is not
2368 transferable or assignable.

2369 (8) A mortgage lender or branch office license may be
2370 annulled pursuant to s. 120.60 if it was issued by the office by
2371 mistake. A license must be reinstated if the applicant
2372 demonstrates that the requirements for obtaining the license
2373 under this chapter have been satisfied.

2374 (9) Each lender, regardless of the number of branches it
2375 operates, shall designate a principal loan originator
2376 representative who exercises control of the licensee's business,
2377 and a branch manager for each branch office. Each mortgage
2378 lender must keep the office informed of the persons designated
2379 as prescribed by commission rule, which includes documentation
2380 of the individual's acceptance of such responsibility. If the
2381 designation is inaccurate, the branch shall be deemed to be
2382 operated under the full charge, control, and supervision by each
2383 officer, director, or ultimate equitable owner of a 10 percent
2384 or greater interest in the mortgage lender business, or any
2385 other person in a similar capacity during that time.

2386 (10) All mortgage lender licenses must be renewed annually
2387 by December 31 pursuant to s. 494.00612. If a person holding an
2388 active mortgage lender license has not applied to renew the
2389 license annually on or before December 31, the mortgage lender
2390 license expires on December 31. If a person holding an active



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2391 mortgage lender license has applied to renew the license on or
2392 before December 31, the mortgage lender license remains active
2393 until the renewal application is approved or denied. A mortgage
2394 lender is not precluded from reapplying for licensure upon
2395 expiration of a previous license.

2396 Section 40. Section 494.00612, Florida Statutes, is created
2397 to read:

2398 494.00612 Mortgage lender license renewal.-

2399 (1) In order to renew a mortgage lender license, a mortgage
2400 lender must:

2401 (a) Submit a completed license renewal form as prescribed
2402 by commission rule.

2403 (b) Submit a nonrefundable renewal fee of \$475, the \$100
2404 nonrefundable fee if required by s. 494.00172, and nonrefundable
2405 fees to cover the cost of further fingerprint processing and
2406 retention as set forth in commission rule.

2407 (c) Submit fingerprints in accordance with s.
2408 494.00611(2) (d) for any new control persons who have not been
2409 screened.

2410 (d) Provide proof that the mortgage lender continues to
2411 meet the applicable net worth requirement in a form prescribed
2412 by commission rule.

2413 (e) Authorize the registry to obtain an independent credit
2414 report on the mortgage lender from a consumer reporting agency,
2415 and transmit or provide access to the report to the office. The
2416 cost of the credit report shall be borne by the applicant.

2417 (f) Submit any additional information or documentation
2418 requested by the office and required by rule concerning the
2419 licensee. Additional information may include documentation of



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2420 pending and prior disciplinary and criminal history events,
2421 including arrest reports and certified copies of charging
2422 documents, plea agreements, judgments and sentencing documents,
2423 documents relating to pretrial intervention, orders terminating
2424 probation or supervised release, final administrative agency
2425 orders, or other comparable documents that may provide the
2426 office with the appropriate information to determine eligibility
2427 for licensure.

2428 (2) The office may not renew a mortgage lender license
2429 unless the mortgage lender continues to meet the minimum
2430 standards for initial license issuance pursuant to s. 494.00611
2431 and adopted rule.

2432 Section 41. Section 494.0062, Florida Statutes, is
2433 repealed.

2434 Section 42. Section 494.0063, Florida Statutes, is amended
2435 to read:

2436 494.0063 Audited financial statements.—All audited
2437 financial statements required by ss. 494.001-494.0077 must be
2438 prepared by an independent licensed certified public accountant.
2439 A mortgage lender must obtain an annual financial audit report
2440 as of the date of the licensee's fiscal year end, as disclosed
2441 to the office on the application or a subsequent amendment to
2442 the application. The mortgage lender shall submit a copy of the
2443 report to the office within 120 days after the end of the
2444 licensee's fiscal year. If the applicant is a wholly owned
2445 subsidiary of another corporation, the financial audit report of
2446 the parent corporation's satisfies this requirement. If the
2447 licensee changes its fiscal year, the licensee must file report
2448 within 18 months after the previously submitted report. The



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2449 commission may establish by rule the procedures and form for
2450 filing a financial audit report, including the requirement to
2451 file the report with the registry when technology is available.

2452 Section 43. Section 494.0064, Florida Statutes, is
2453 repealed.

2454 Section 44. Section 494.0065, Florida Statutes, is
2455 repealed.

2456 Section 45. Section 494.0066, Florida Statutes, is amended
2457 to read:

2458 494.0066 Branch offices.—

2459 (1) Each branch office of a mortgage lender must be
2460 licensed under this section ~~A branch office license is required~~
2461 ~~for each branch office maintained by a licensee under ss.~~
2462 ~~494.006-494.0077.~~

2463 (2) The office shall issue a branch office license to a
2464 mortgage lender licensee licensed under ss. 494.006-494.0077
2465 after the office determines that the mortgage lender licensee
2466 has submitted a completed branch office application form as
2467 prescribed by rule by the commission, ~~and~~ an initial
2468 nonrefundable branch office license fee of \$225 per branch
2469 office \$325. Application fees may not be prorated for partial
2470 years of licensure. The branch office application must include
2471 the name and license number of the mortgage lender licensee
2472 under this part ~~ss. 494.006-494.0077~~, the name of the branch
2473 manager licensee's ~~employee~~ in charge of the branch office, and
2474 the address of the branch office. The branch office license
2475 shall be issued in the name of the mortgage lender licensee
2476 ~~under ss. 494.006-494.0077~~ and must be renewed in conjunction
2477 with the license renewal. An application is considered received



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2478 for purposes of s. 120.60 upon receipt of a completed branch
2479 office renewal form, as prescribed by commission rule, and the
2480 required fees.

2481 (3) A branch office license must be renewed at the time of
2482 renewing the mortgage lender license. A nonrefundable fee of
2483 \$225 per branch office must be submitted at the time of renewal.

2484 Section 46. Section 494.00665, Florida Statutes, is created
2485 to read:

2486 494.00665 Principal loan originator and branch manager for
2487 mortgage lender.-

2488 (1) Each mortgage lender business must be operated by a
2489 principal loan originator who shall have full charge, control,
2490 and supervision of the mortgage lender business. The principal
2491 loan originator must be licensed as a loan originator pursuant
2492 to s. 494.00312. Each mortgage lender must keep the office
2493 informed of the person designated as the principal loan
2494 originator as prescribed by commission rule. If the designation
2495 is inaccurate, the business shall be deemed to be operated under
2496 the full charge, control, and supervision of each officer,
2497 director, or ultimate equitable owner of a 10 percent or greater
2498 interest in the mortgage lender business, or any other person in
2499 a similar capacity during that time.

2500 (2) Each branch office of a mortgage lender must be
2501 operated by a branch manager who shall have full charge,
2502 control, and supervision of the branch office. The designated
2503 branch manager must be a licensed loan originator pursuant to s.
2504 494.00312. Each mortgage lender must keep the office informed of
2505 the person designated as the branch manager as prescribed by
2506 commission rule, which includes documentation of the



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2507 individual's acceptance of such responsibility. If the
2508 designation is inaccurate, the branch office shall be deemed to
2509 be operated under the full charge, control, and supervision of
2510 each officer, director, or ultimate equitable owner of a 10
2511 percent or greater interest in the mortgage lender business, or
2512 any other person in a similar capacity during that time.

2513 Section 47. Section 494.0067, Florida Statutes, is amended
2514 to read:

2515 494.0067 Requirements of mortgage lenders ~~licensees under~~
2516 ~~ss. 494.006-494.0077.~~

2517 (1) A mortgage lender that ~~Each licensee under ss. 494.006-~~
2518 ~~494.0077 which~~ makes mortgage loans on real estate in this state
2519 shall transact business from a principal place of business. Each
2520 principal place of business and each branch office shall be
2521 operated under the full charge, control, and supervision of the
2522 licensee pursuant to this part ~~under ss. 494.006-494.0077.~~

2523 (2) A license issued under this part ~~ss. 494.006-494.0077~~
2524 is not transferable or assignable.

2525 (3) A mortgage lender ~~Each licensee under ss. 494.006-~~
2526 ~~494.0077~~ shall report, on a form prescribed by rule of the
2527 commission, any change in the information contained in any
2528 initial application form, or any amendment thereto, within ~~not~~
2529 ~~later than~~ 30 days after the change is effective.

2530 (4) A mortgage lender ~~Each licensee under ss. 494.006-~~
2531 ~~494.0077~~ shall report any changes in the principal loan
2532 originator, any addition or subtraction of a control person,
2533 ~~partners, officers, members, joint venturers, directors, or~~
2534 ~~control persons of any licensee or~~ any change ~~changes~~ in the
2535 form of business organization by written amendment in such form



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2536 and at such time that the commission specifies by rule.

2537 (a) In any case in which a person or a group of persons,
2538 directly or indirectly or acting by or through one or more
2539 persons, proposes to purchase or acquire a controlling interest
2540 in a licensee, such person or group must submit an initial
2541 application for licensure as a mortgage lender ~~or correspondent~~
2542 ~~mortgage lender~~ before such purchase or acquisition and at the
2543 time and in the form prescribed by the commission by rule.

2544 ~~(b) As used in this subsection, the term "controlling~~
2545 ~~interest" means possession of the power to direct or cause the~~
2546 ~~direction of the management or policies of a company whether~~
2547 ~~through ownership of securities, by contract, or otherwise. Any~~
2548 ~~person who directly or indirectly has the right to vote 25~~
2549 ~~percent or more of the voting securities of a company or who is~~
2550 ~~entitled to 25 percent or more of the company's profits is~~
2551 ~~presumed to possess a controlling interest.~~

2552 (b)(c) Any addition of a designated principal
2553 representative, partner, officer, member, joint venturer,
2554 director, or control person of the applicant who does not have a
2555 controlling interest and who has not previously filed a Uniform
2556 Mortgage Biographical Statement & Consent Form, MU2, or has not
2557 previously complied with fingerprinting and credit report
2558 requirements of s. 494.00611 is the provisions of s.
2559 494.0061(2)(g) and (h), s. 494.0062(2)(g) and (h), or s.
2560 494.0065(5)(e) and (f) shall be subject to the such provisions
2561 of this section unless required to file an initial application
2562 in accordance with paragraph (a). If after the addition of a
2563 control person, the office determines that the licensee does not
2564 continue to meet licensure requirements, the office may bring



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2565 administrative action in accordance with s. 494.00255 ~~s.~~
2566 ~~494.0072~~ to enforce ~~the provisions of~~ this section.

2567 ~~(d) The commission shall adopt rules pursuant to ss.~~
2568 ~~120.536(1) and 120.54 providing for the waiver of the~~
2569 ~~application required by this subsection if the person or group~~
2570 ~~of persons proposing to purchase or acquire a controlling~~
2571 ~~interest in a licensee has previously complied with the~~
2572 ~~provisions of s. 494.0061(2)(g) and (h), s. 494.0062(2)(g) and~~
2573 ~~(h), or s. 494.0065(5)(e) and (f) with the same legal entity or~~
2574 ~~is currently licensed with the office under this chapter.~~

2575 ~~(5) Each mortgage lender licensee under ss. 494.006-~~
2576 ~~494.0077 shall report in a form prescribed by rule by the~~
2577 ~~commission any indictment, information, charge, conviction, plea~~
2578 ~~of guilty or nolo contendere, regardless of adjudication, or~~
2579 ~~plea of guilty to any felony or any crime or administrative~~
2580 ~~violation that involves fraud, dishonesty, breach of trust,~~
2581 ~~money laundering ~~dishonest dealing~~, or any other act of moral~~
2582 ~~turpitude, in any jurisdiction, by the licensee under ss.~~
2583 ~~494.006-494.0077 or any principal officer, director, or ultimate~~
2584 ~~equitable owner of 10 percent or more of the licensed~~
2585 ~~corporation, within ~~not later than~~ 30 business days after the~~
2586 ~~indictment, information, charge, conviction, or final~~
2587 ~~administrative action.~~

2588 ~~(6) Each mortgage lender licensee under ss. 494.006-~~
2589 ~~494.0077 shall report any action in bankruptcy, voluntary or~~
2590 ~~involuntary, to the office, within ~~not later than~~ 7 business~~
2591 ~~days after the action is instituted.~~

2592 ~~(7) Each mortgage lender licensee under ss. 494.006-~~
2593 ~~494.0077 shall designate a registered agent in this state for~~



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2594 service of process.

2595 (8) Each mortgage lender licensee ~~under ss. 494.006-~~
2596 ~~494.0077~~ shall provide an applicant for a mortgage loan a good
2597 faith estimate of the costs the applicant can reasonably expect
2598 to pay in obtaining a mortgage loan. The good faith estimate of
2599 costs must ~~shall~~ be mailed or delivered to the applicant within
2600 3 business days ~~a reasonable time~~ after the licensee receives a
2601 written loan application from the applicant. The estimate of
2602 costs may be provided to the applicant by a person other than
2603 the licensee making the loan. The good faith estimate must
2604 identify the recipient of all payments charged to the borrower
2605 and, except for all fees to be received by the mortgage broker
2606 ~~brokerage business~~ and the mortgage lender ~~or correspondent~~
2607 ~~mortgage lender~~, may be disclosed in generic terms, such as, but
2608 not limited to, paid to appraiser, officials, title company, or
2609 any other third-party service provider. The licensee bears the
2610 burden of proving such disclosures were provided to the
2611 borrower. The commission may adopt rules that set forth the
2612 disclosure requirements of this section.

2613 ~~(9) On or before April 30, 2000, each mortgage lender or~~
2614 ~~correspondent mortgage lender shall file an initial report~~
2615 ~~stating the full legal name, residential address, social~~
2616 ~~security number, date of birth, mortgage broker license number,~~
2617 ~~date of hire, and, if applicable, date of termination for each~~
2618 ~~person who acted as a loan originator or an associate of the~~
2619 ~~mortgage lender or correspondent mortgage lender during the~~
2620 ~~immediate preceding quarter. Thereafter, a mortgage lender or~~
2621 ~~correspondent mortgage lender shall file a report only if a~~
2622 ~~person became or ceased to be a loan originator or an associate~~



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2623 ~~of the mortgage lender or correspondent mortgage lender during~~
2624 ~~the immediate preceding quarter. Such report shall be filed~~
2625 ~~within 30 days after the last day of each calendar quarter and~~
2626 ~~shall contain the full legal name, residential address, social~~
2627 ~~security number, date of birth, date of hire and, if applicable,~~
2628 ~~the mortgage broker license number and date of termination of~~
2629 ~~each person who became or ceased to be a loan originator or an~~
2630 ~~associate of the mortgage lender or correspondent mortgage~~
2631 ~~lender during the immediate preceding quarter. The commission~~
2632 ~~shall prescribe, by rule, the procedures for filing reports~~
2633 ~~required by this subsection.~~

2634 ~~(10) (a) Each mortgage lender or correspondent mortgage~~
2635 ~~lender licensee shall require the principal representative and~~
2636 ~~all loan originators, not currently licensed as mortgage brokers~~
2637 ~~pursuant to s. 494.0033, who perform services for the licensee~~
2638 ~~to complete 14 hours of professional continuing education during~~
2639 ~~each biennial license period. The education shall cover primary~~
2640 ~~and subordinate mortgage financing transactions and the~~
2641 ~~provisions of this chapter and the rules adopted under this~~
2642 ~~chapter.~~

2643 ~~(b) The licensee shall maintain records of such training~~
2644 ~~for a period of 4 years, including records of the content of and~~
2645 ~~hours designated for each program and the date and location of~~
2646 ~~the program.~~

2647 ~~(c) Evidence of completion of such programs shall be~~
2648 ~~included with the licensee's renewal application.~~

2649 ~~(9) (11)~~ The disclosures in this subsection must be
2650 furnished in writing at the time an adjustable rate mortgage
2651 loan is offered to the borrower and whenever the terms of the



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2652 adjustable rate mortgage loan offered have a material change
2653 prior to closing. The lender shall furnish the disclosures
2654 relating to adjustable rate mortgages in a format prescribed by
2655 ss. 226.18 and 226.19 of Regulation Z of the Board of Governors
2656 of the Federal Reserve System, as amended; its commentary, as
2657 amended; and the federal Truth in Lending Act, 15 U.S.C. ss.
2658 1601 et seq., as amended; together with the Consumer Handbook on
2659 Adjustable Rate Mortgages, as amended; published by the Federal
2660 Reserve Board and the Federal Home Loan Bank Board. The licensee
2661 bears the burden of proving such disclosures were provided to
2662 the borrower.

2663 (10) ~~(12)(a)~~ In every mortgage loan transaction, each
2664 mortgage lender licensee ~~licensee under ss. 494.006-494.0077~~ shall notify
2665 a borrower of any material changes in the terms of a mortgage
2666 loan previously offered to the borrower within 3 business days
2667 after being made aware of such changes by the lender but at
2668 least ~~not less than~~ 3 business days before ~~the~~ signing ~~of~~ the
2669 settlement or closing statement. The licensee bears the burden
2670 of proving such notification was provided and accepted by the
2671 borrower.

2672 ~~(b)~~ A borrower may waive the right to receive notice of a
2673 material change ~~that is granted under paragraph (a)~~ if the
2674 borrower determines that the extension of credit is needed to
2675 meet a bona fide personal financial emergency and the right to
2676 receive notice would delay the closing of the mortgage loan. The
2677 imminent sale of the borrower's home at foreclosure during the
2678 3-day period before the signing of the settlement or closing
2679 statement constitutes an example of a bona fide personal
2680 financial emergency. In order to waive the borrower's right to



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2681 receive notice ~~not less than 3 business days before the signing~~
2682 ~~of the settlement or closing statement of any such material~~
2683 ~~change~~, the borrower must provide the licensee with a dated
2684 written statement that describes the personal financial
2685 emergency, waives the right to receive the notice, bears the
2686 borrower's signature, and is not on a printed form prepared by
2687 the licensee for the purpose of such a waiver.

2688 (11) A mortgage lender may close loans in its own name but
2689 may not service the loan for more than 4 months unless the
2690 lender has a servicing endorsement. Only a mortgage lender who
2691 continuously maintains a net worth of at least \$250,000 may
2692 obtain a servicing endorsement.

2693 (12) A mortgage lender must report to the office the
2694 failure to meet the applicable net worth requirements of s.
2695 494.00611 within 2 days after the mortgage lender's knowledge of
2696 such failure or after the mortgage lender should have known of
2697 such failure.

2698 Section 48. Section 494.0068, Florida Statutes, is amended
2699 to read:

2700 494.0068 Loan application process.—

2701 (1) In addition to the requirements set forth in s.
2702 494.0067(8), before accepting an application fee in whole or in
2703 part, a credit report fee, an appraisal fee, or a fee charged as
2704 reimbursement for third-party charges, a mortgage lender shall
2705 make a written disclosure to the borrower, which disclosure may
2706 be contained in the application, setting forth:

2707 (a) Whether all or any part of such fees or charges is
2708 refundable.

2709 (b) The terms and conditions for the refund, if all or any



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2710 part of the fees or charges is refundable.

2711 (c) A realistic estimate of the number of days required to
2712 issue a commitment following receipt of the application by the
2713 lender.

2714 (d) The name or title of a person within the lender's
2715 organization to whom the borrower may address written questions,
2716 comments, or complaints and who is required to promptly respond
2717 to such inquiries.

2718 (2) The disclosures required in subsection (1) must ~~shall~~
2719 be acknowledged in writing by the borrower and maintained by the
2720 mortgage lender, and a copy of such acknowledgment shall be
2721 given to the borrower.

2722 (3) The borrower may, without penalty or responsibility for
2723 paying additional fees and charges, withdraw an application at
2724 any time prior to acceptance of commitment. Upon such
2725 withdrawal, the mortgage lender is responsible for refunding to
2726 the borrower only those fees and charges to which the borrower
2727 may be entitled pursuant to the terms set forth in the written
2728 disclosure required by subsection (1), except that:

2729 (a) If the lender failed to provide the borrower with the
2730 written disclosure required by subsection (1), the lender shall
2731 promptly refund to the borrower all funds paid to the lender; or

2732 (b) If the lender failed to make a good faith effort to
2733 approve the loan, the lender shall promptly refund to the
2734 borrower all funds paid to the lender.

2735 (4) The application fee must be reasonably related to the
2736 services to be performed and may not be based upon a percentage
2737 of the principal amount of the loan or the amount financed.

2738 (5) For the purposes of this section, the term "application



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2739 fee" means any moneys advanced by the borrower upon filing an
2740 application with a mortgage lender to offset the lender's
2741 expenses for determining whether the borrower is qualified for
2742 the mortgage loan or whether the mortgage loan should be funded.

2743 Section 49. Section 494.0069, Florida Statutes, is amended
2744 to read:

2745 494.0069 Lock-in agreement.-

2746 (1) Each lock-in agreement must be in writing and must
2747 contain:

2748 (a) The expiration date of the lock-in, if any;

2749 (b) The interest rate locked in, if any;

2750 (c) The discount points locked in, if any;

2751 (d) The commitment fee locked in, if any;

2752 (e) The lock-in fee, if any; and

2753 (f) A statement advising of the provisions of ss. 494.006-
2754 494.0077 regarding lock-in agreements.

2755 (2) The mortgage lender ~~or correspondent mortgage lender~~
2756 shall make a good faith effort to process the mortgage loan
2757 application and stand ready to fulfill the terms of its
2758 commitment before the expiration date of the lock-in agreement
2759 or any extension thereof.

2760 (3) Any lock-in agreement received by a mortgage lender ~~or~~
2761 ~~correspondent mortgage lender~~ by mail or through a mortgage
2762 broker must be signed by the mortgage lender ~~or correspondent~~
2763 ~~mortgage lender~~ in order to become effective. The borrower may
2764 rescind any lock-in agreement until a written confirmation of
2765 the agreement has been signed by the lender and mailed to the
2766 borrower or to the mortgage broker ~~brokerage business~~ pursuant
2767 to its contractual relationship with the borrower. If a borrower



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2768 elects to so rescind, the mortgage lender ~~or correspondent~~
2769 ~~mortgage lender~~ shall promptly refund any lock-in fee paid.

2770 (4) ~~(a) Before Any correspondent mortgage lender or mortgage~~
2771 ~~lender prior to~~ issuing a mortgage loan rate lock-in agreement, a mortgage lender
2772 must have the ability to timely advance funds
2773 on all mortgage loans for which rate lock-in agreements have
2774 been issued. As used in this section, "ability to timely advance
2775 funds" means having sufficient liquid assets or a line of credit
2776 necessary to cover all rate lock-in agreements issued with
2777 respect to which a lock-in fee is collected.

2778 ~~(a)(b)~~ A ~~correspondent mortgage lender or~~ mortgage lender
2779 that does not comply with this subsection ~~paragraph (a)~~ may
2780 issue mortgage rate lock-in agreements only if, prior to the
2781 issuance, the ~~correspondent mortgage lender or~~ mortgage lender:

2782 1. Has received a written rate lock-in agreement from a
2783 ~~correspondent mortgage lender or~~ mortgage lender that complies
2784 with this subsection ~~paragraph (a)~~; or

2785 2. Has received a written rate lock-in agreement from an
2786 institutional investor or an agency of the Federal Government or
2787 the state or local government that will be funding, making, or
2788 purchasing the mortgage loan.

2789 ~~(b)(e)~~ All rate lock-in fees collected by a mortgage lender
2790 ~~or correspondent mortgage lender~~ who is not in compliance with
2791 ~~paragraph (a)~~ must be deposited into an escrow account in a
2792 federally insured financial institution, and such fees may ~~shall~~
2793 not be removed from such escrow account until:

2794 1. The mortgage loan closes and is funded;

2795 2. The applicant cancels the loan application or the loan
2796 application is rejected; or



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2797 3. The mortgage lender ~~or correspondent mortgage lender~~ is
2798 required to forward a portion of the lock-in fee to another
2799 ~~correspondent mortgage lender,~~ mortgage lender, institutional
2800 investor, or agency that will be funding, making, or purchasing
2801 the loan. The mortgage lender ~~or correspondent mortgage lender~~
2802 may remove only the amount of the lock-in fee actually paid to
2803 another mortgage lender, ~~correspondent mortgage lender,~~
2804 institutional investor, or agency.

2805 (5) For purposes of this section, the term "lock-in fee"
2806 means any moneys advanced by the borrower to lock in for a
2807 specified period of time a specified interest rate or discount
2808 points.

2809 (6) The commission may adopt by rule a form for required
2810 lock-in agreement disclosures.

2811 Section 50. Effective July 1, 2009, section 494.007,
2812 Florida Statutes, is amended to read:

2813 494.007 Commitment process.—

2814 (1) If a commitment is issued, the mortgage lender shall
2815 disclose in writing:

2816 (a) The expiration date of the commitment;

2817 (b) The mortgage amount, meaning the face amount of credit
2818 provided to the borrower or in the borrower's behalf;

2819 (c) If the interest rate or other terms are subject to
2820 change before expiration of the commitment:

2821 1. The basis, index, or method, if any, which will be used
2822 to determine the rate at closing. Such basis, index, or method
2823 shall be established and disclosed with direct reference to the
2824 movement of an interest rate index or of a national or regional
2825 index that is available to and verifiable by the borrower and



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2826 beyond the control of the lender; or
2827 2. The following statement, in at least 10-point bold type:
2828 "The interest rate will be the rate established by the lender in
2829 its discretion as its prevailing rate . . . days before
2830 closing.";

2831 (d) The amount of the commitment fee, if any, and whether
2832 and under what circumstances the commitment fee is refundable;
2833 and

2834 (e) The time, if any, within which the commitment must be
2835 accepted by the borrower.

2836 (2) The provisions of a commitment cannot be changed prior
2837 to expiration of the specified period within which the borrower
2838 must accept it. If any information necessary for an accurate
2839 disclosure required by subsection (1) is unknown to the mortgage
2840 lender at the time disclosure is required, the lender shall make
2841 the disclosure based upon the best information reasonably
2842 available to it and shall state that the disclosure is an
2843 estimate.

2844 (3) A commitment fee is refundable if:

2845 (a) The commitment is contingent upon approval by parties
2846 to whom the mortgage lender seeks to sell the loan.

2847 (b) The loan purchaser's requirements are not met due to
2848 circumstances beyond the borrower's control.

2849 (c) The borrower is willing but unable to comply with the
2850 loan purchaser's requirements.

2851 Section 51. Section 494.0071, Florida Statutes, is amended
2852 to read:

2853 494.0071 Expiration of lock-in agreement or commitment.—If
2854 a lock-in agreement has been executed and the loan does not



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2855 close before the expiration date of ~~either~~ the lock-in agreement
2856 or any commitment issued consistent therewith through no
2857 substantial fault of the borrower, the borrower may withdraw the
2858 application or reject or terminate any commitment, whereupon the
2859 mortgage lender ~~or correspondent mortgage lender~~ shall promptly
2860 refund to the borrower any lock-in fee and any commitment fee
2861 paid by the borrower.

2862 Section 52. Section 494.0072, Florida Statutes, is
2863 repealed.

2864 Section 53. Section 494.00721, Florida Statutes, is amended
2865 to read:

2866 494.00721 Net worth.—

2867 (1) The net worth requirements ~~required~~ in s. 494.00611 ~~ss.~~
2868 ~~494.0061, 494.0062, and 494.0065~~ shall be continually maintained
2869 as a condition of licensure.

2870 (2) If a mortgage lender ~~or correspondent mortgage lender~~
2871 fails to satisfy the net worth requirements, the mortgage lender
2872 ~~or correspondent mortgage lender~~ shall immediately cease taking
2873 any new mortgage loan applications. Thereafter, the mortgage
2874 lender ~~or correspondent mortgage lender~~ shall have up to 60 days
2875 within which to satisfy the net worth requirements. If the
2876 licensee makes the office aware, prior to an examination, that
2877 the licensee no longer meets the net worth requirements, the
2878 mortgage lender ~~or correspondent mortgage lender~~ shall have 120
2879 days within which to satisfy the net worth requirements. A
2880 mortgage lender may ~~or correspondent mortgage lender shall not~~
2881 resume acting as a mortgage lender ~~or correspondent mortgage~~
2882 ~~lender~~ without written authorization from the office, which
2883 authorization shall be granted if the mortgage lender ~~or~~



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2884 ~~correspondent mortgage lender~~ provides the office with
2885 documentation which satisfies the requirements of s. 494.00611
2886 ~~s. 494.0061(2)(c), s. 494.0062(2)(c), or s. 494.0065(2),~~
2887 whichever is applicable.

2888 (3) If the mortgage lender ~~or correspondent mortgage lender~~
2889 does not satisfy the net worth requirements within 120 days ~~the~~
2890 ~~120-day period~~, the license of the mortgage lender ~~or~~
2891 ~~correspondent mortgage lender~~ shall be deemed to be relinquished
2892 and canceled and all servicing contracts shall be disposed of in
2893 a timely manner by the mortgage lender ~~or correspondent mortgage~~
2894 ~~lender~~.

2895 Section 54. Section 494.0073, Florida Statutes, is amended
2896 to read:

2897 494.0073 Mortgage lender ~~or correspondent mortgage lender~~
2898 when acting as a mortgage broker ~~brokerage business~~. ~~The~~
2899 provision of this part Sections 494.006-494.0077 do not prohibit
2900 a mortgage lender ~~or correspondent mortgage lender~~ from acting
2901 as a mortgage broker ~~brokerage business~~. However, in mortgage
2902 transactions in which a mortgage lender ~~or correspondent~~
2903 ~~mortgage lender~~ acts as a mortgage broker ~~brokerage business~~,
2904 the provisions of ss. 494.0038, 494.004(2) ~~494.004(8)~~, 494.0042,
2905 and 494.0043(1), (2), and (3) apply.

2906 Section 55. Effective July 1, 2009, section 494.0075,
2907 Florida Statutes, is amended to read:

2908 494.0075 Requirements for selling loans to noninstitutional
2909 investors.—

2910 (1) A mortgage lender, when selling a mortgage loan to a
2911 noninstitutional investor, shall:

2912 (a) Before any payment of money by a noninstitutional



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2913 investor, provide an opinion of value from an appraiser stating
2914 the value of the security property unless the opinion is waived
2915 in writing. The opinion must state the value of the property as
2916 it exists on the date of the opinion. If any relationship exists
2917 between the lender and the appraiser, that relationship must
2918 ~~shall~~ be disclosed.†

2919 (b) Provide to the noninstitutional investor a mortgagee's
2920 title insurance policy or an opinion of title by an attorney
2921 licensed to practice law in this state, or a copy thereof:

2922 1. If a title insurance policy is issued, it must insure
2923 the noninstitutional investor against the unmarketability of the
2924 mortgagee's interest in such title. It must also specify any
2925 superior liens that exist against the property. If an opinion of
2926 title is issued by an attorney ~~licensed to practice law in this~~
2927 ~~state~~, the opinion must include a statement as to the
2928 marketability of the title to the property described in the
2929 mortgage and specify the priority of the mortgage being
2930 purchased.

2931 2. If the title insurance policy or opinion of title is not
2932 available at the time of purchase, the licensee shall provide a
2933 binder of the title insurance or conditional opinion of title.
2934 This binder or opinion must include any conditions or
2935 requirements needed to be corrected before ~~prior to~~ the issuance
2936 of the final title policy or opinion of title. The binder or
2937 opinion must also include information concerning the
2938 requirements specified in subparagraph 1. Any conditions must be
2939 eliminated or waived in writing by the investor before ~~prior to~~
2940 delivery to the noninstitutional investor. The policy or
2941 opinion, or a copy thereof, shall be delivered to the investor



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2942 within a reasonable period of time, not exceeding 6 months,
2943 after purchase.

2944 3. The requirements of this paragraph may be waived in
2945 writing. If the requirements are waived by the noninstitutional
2946 investor, the waiver must include the following wording: "The
2947 noninstitutional investor acknowledges that the mortgage lender
2948 selling this mortgage loan is not providing a title insurance
2949 policy or opinion of title issued by an attorney who is licensed
2950 to practice law in the State of Florida. Any requirement for
2951 title insurance or for a legal opinion of title is the sole
2952 responsibility of the noninstitutional mortgage purchaser."

2953 (c) Provide, if the loan is other than a first mortgage, a
2954 statement showing the balance owed by the mortgagor on any
2955 existing mortgages prior to this investment and the status of
2956 such existing mortgages.

2957 (d) Provide a disclosure if the licensee is directly or
2958 indirectly acting as a borrower or principal in the transaction.

2959 (2) Each mortgage, or other instrument securing a note or
2960 assignment thereof, must ~~shall~~ be recorded before being
2961 delivered to the noninstitutional investor.

2962 (3) Each mortgage and assignment shall be recorded as soon
2963 as practical, but within ~~no later than~~ 30 business days after
2964 the date of purchase.

2965 (4) If the loan is to be serviced by a licensee under this
2966 part ~~ss. 494.006-494.0077~~ for a noninstitutional investor, there
2967 shall be a written servicing agreement.

2968 (5) The mortgage lender shall cause the original note to be
2969 properly endorsed showing the assignment of the note to the
2970 noninstitutional investor.



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2971 Section 56. Effective July 1, 2009, section 494.0077,
2972 Florida Statutes, is amended to read:

2973 494.0077 Other products and services.—This part does
2974 ~~Sections 494.006-494.0077 do~~ not prohibit a mortgage lender from
2975 offering, for a fee or commission, products and services in
2976 addition to those offered in conjunction with making a mortgage
2977 loan.

2978 Section 57. Effective July 1, 2009, subsection (2) of
2979 section 501.1377, Florida Statutes, is amended to read:

2980 501.1377 Violations involving homeowners during the course
2981 of residential foreclosure proceedings.—

2982 (2) DEFINITIONS.—As used in this section, the term:

2983 (a) "Equity purchaser" means a ~~any~~ person who acquires a
2984 legal, equitable, or beneficial ownership interest in any
2985 residential real property as a result of a foreclosure-rescue
2986 transaction. The term does not apply to a person who acquires
2987 the legal, equitable, or beneficial interest in such property:

2988 1. By a certificate of title from a foreclosure sale
2989 conducted under chapter 45;

2990 2. At a sale of property authorized by statute;

2991 3. By order or judgment of any court;

2992 4. From a spouse, parent, grandparent, child, grandchild,
2993 or sibling of the person or the person's spouse; or

2994 5. As a deed in lieu of foreclosure, a workout agreement, a
2995 bankruptcy plan, or any other agreement between a foreclosing
2996 lender and a homeowner.

2997 (b) "Foreclosure-rescue consultant" means a person who
2998 directly or indirectly makes a solicitation, representation, or
2999 offer to a homeowner to provide or perform, in return for



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3000 payment of money or other valuable consideration, foreclosure-
3001 related rescue services. The term does not apply to:

3002 1. A person excluded under s. 501.212.

3003 2. A person acting under the express authority or written
3004 approval of the United States Department of Housing and Urban
3005 Development or other department or agency of the United States
3006 or this state to provide foreclosure-related rescue services.

3007 3. A charitable, not-for-profit agency or organization, as
3008 determined by the United States Internal Revenue Service under
3009 s. 501(c)(3) of the Internal Revenue Code, which offers
3010 counseling or advice to an owner of residential real property in
3011 foreclosure or loan default if the agency or organization does
3012 not contract for foreclosure-related rescue services with a for-
3013 profit lender or person facilitating or engaging in foreclosure-
3014 rescue transactions.

3015 4. A person who holds or is owed an obligation secured by a
3016 lien on any residential real property in foreclosure if the
3017 person performs foreclosure-related rescue services in
3018 connection with this obligation or lien and the obligation or
3019 lien was not the result of or part of a proposed foreclosure
3020 reconveyance or foreclosure-rescue transaction.

3021 5. A financial institution as defined in s. 655.005 and any
3022 parent or subsidiary of the financial institution or of the
3023 parent or subsidiary.

3024 6. A licensed mortgage broker, mortgage lender, or
3025 correspondent mortgage lender that provides mortgage counseling
3026 or advice regarding residential real property in foreclosure,
3027 which counseling or advice is within the scope of services set
3028 forth in chapter 494 and is provided without payment of money or



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3029 other consideration other than a mortgage brokerage fee as
3030 defined in s. 494.001.

3031 7. A licensed attorney who negotiates the terms of a
3032 mortgage loan on behalf of a client as an ancillary matter to
3033 the attorney's representation of the client.

3034 (c) "Foreclosure-related rescue services" means any good or
3035 service related to, or promising assistance in connection with:

3036 1. Stopping, avoiding, or delaying foreclosure proceedings
3037 concerning residential real property; or

3038 2. Curing or otherwise addressing a default or failure to
3039 timely pay with respect to a residential mortgage loan
3040 obligation.

3041 (d) "Foreclosure-rescue transaction" means a transaction:

3042 1. By which residential real property in foreclosure is
3043 conveyed to an equity purchaser and the homeowner maintains a
3044 legal or equitable interest in the residential real property
3045 conveyed, including, without limitation, a lease option
3046 interest, an option to acquire the property, an interest as
3047 beneficiary or trustee to a land trust, or other interest in the
3048 property conveyed; and

3049 2. That is designed or intended by the parties to stop,
3050 avoid, or delay foreclosure proceedings against a homeowner's
3051 residential real property.

3052 (e) "Homeowner" means the any record title owner of
3053 residential real property ~~that is the subject of foreclosure~~
3054 ~~proceedings.~~

3055 (f) "Residential real property" means real property
3056 consisting of one-family to four-family dwelling units, ~~one of~~
3057 ~~which is occupied by the owner as his or her principal place of~~



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3058 ~~residence.~~

3059 (g) "Residential real property in foreclosure" means
3060 residential real property against which there is an outstanding
3061 notice of the pendency of foreclosure proceedings recorded
3062 pursuant to s. 48.23.

3063 Section 58. Paragraph (b) of subsection (2) of section
3064 501.0377, Florida Statutes, as amended by this act, is amended
3065 to read:

3066 (2) DEFINITIONS.—As used in this section, the term:

3067 (b) "Foreclosure-rescue consultant" means a person who
3068 directly or indirectly makes a solicitation, representation, or
3069 offer to a homeowner to provide or perform, in return for
3070 payment of money or other valuable consideration, foreclosure-
3071 related rescue services. The term does not apply to:

3072 1. A person excluded under s. 501.212.

3073 2. A person acting under the express authority or written
3074 approval of the United States Department of Housing and Urban
3075 Development or other department or agency of the United States
3076 or this state to provide foreclosure-related rescue services.

3077 3. A charitable, not-for-profit agency or organization, as
3078 determined by the United States Internal Revenue Service under
3079 s. 501(c)(3) of the Internal Revenue Code, which offers
3080 counseling or advice to an owner of residential real property in
3081 foreclosure or loan default if the agency or organization does
3082 not contract for foreclosure-related rescue services with a for-
3083 profit lender or person facilitating or engaging in foreclosure-
3084 rescue transactions.

3085 4. A person who holds or is owed an obligation secured by a
3086 lien on any residential real property in foreclosure if the



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3087 person performs foreclosure-related rescue services in
3088 connection with this obligation or lien and the obligation or
3089 lien was not the result of or part of a proposed foreclosure
3090 reconveyance or foreclosure-rescue transaction.

3091 5. A financial institution as defined in s. 655.005 and any
3092 parent or subsidiary of the financial institution or of the
3093 parent or subsidiary.

3094 6. A licensed mortgage broker, ~~mortgage lender~~, or
3095 ~~correspondent~~ mortgage lender that provides mortgage counseling
3096 or advice regarding residential real property in foreclosure,
3097 which counseling or advice is within the scope of services set
3098 forth in chapter 494 and is provided without payment of money or
3099 other consideration other than a mortgage broker ~~brokerage~~ fee
3100 as defined in s. 494.001.

3101 7. A licensed attorney who negotiates the terms of a
3102 mortgage loan on behalf of a client as an ancillary matter to
3103 the attorney's representation of the client.

3104 Section 59. Effective September 1, 2010:

3105 (1) All mortgage business school permits issued pursuant to
3106 s. 494.0029, Florida Statutes, expire on September 30, 2010.

3107 (2) All mortgage brokerage business licenses issued before
3108 October 1, 2010, pursuant to s. 494.0031 or s. 494.0032, Florida
3109 Statutes, expire on December 31, 2010. However, if a person
3110 holding an active mortgage brokerage business license issued
3111 before October 1, 2010, applies for a mortgage broker license
3112 through the Nationwide Mortgage Licensing System and Registry
3113 between October 1, 2010, and December 31, 2010, the mortgage
3114 brokerage business license does not expire until the Office of
3115 Financial Regulation approves or denies the mortgage broker



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3116 license application. A mortgage broker license approved on or
3117 after October 1, 2010, is effective until December 31, 2011.
3118 Application fees may not be prorated for partial years of
3119 licensure.

3120 (3) All mortgage broker licenses issued before October 1,
3121 2010, pursuant to s. 494.0033 or s. 494.0034, Florida Statutes,
3122 expire on December 31, 2010. However, if a person holding an
3123 active mortgage broker license issued before October 1, 2010,
3124 applies for a loan originator license through the Nationwide
3125 Mortgage Licensing System and Registry between October 1, 2010,
3126 and December 31, 2010, the mortgage broker license does not
3127 expire until the Office of Financial Regulation approves or
3128 denies the loan originator license application. Notwithstanding
3129 s. 120.60, Florida Statutes, for mortgage broker applications
3130 submitted between July 1, 2009, and December 31, 2009, or loan
3131 originator applications submitted between October 1, 2010, and
3132 December 31, 2010, the office has 60 days to notify the
3133 applicant of any apparent errors or omissions in an application
3134 and to request any additional information that the agency may
3135 require, and the office has 180 days to approve or deny a
3136 completed application. Application fees may not be prorated for
3137 partial years of licensure.

3138 (4) All mortgage lender licenses issued before October 1,
3139 2010, pursuant to s. 494.0061 or s. 494.0064, Florida Statutes,
3140 expire on December 31, 2010. However, if a person holding an
3141 active mortgage lender license applies for a mortgage broker
3142 license or mortgage lender license through the Nationwide
3143 Mortgage Licensing System and Registry between October 1, 2010,
3144 and December 31, 2010, the mortgage lender license does not



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3145 expire until the Office of Financial Regulation approves or
3146 denies the mortgage broker license or mortgage lender license
3147 application. Application fees may not be prorated for partial
3148 years of licensure.

3149 (5) All mortgage lender licenses issued before October 1,
3150 2010, pursuant to s. 494.0065 or s. 494.0064, Florida Statutes,
3151 expire on December 31, 2010. However, if a person holding such
3152 license applies for a mortgage broker license or mortgage lender
3153 license through the Nationwide Mortgage Licensing System and
3154 Registry between October 1, 2010, and December 31, 2010, the
3155 mortgage lender license does not expire until the Office of
3156 Financial Regulation approves or denies the mortgage broker
3157 license or mortgage lender license application. Application fees
3158 may not be prorated for partial years of licensure.

3159 (6) All correspondent mortgage lender licenses issued
3160 before October 1, 2010, pursuant to s. 494.0062 or s. 494.0064,
3161 Florida Statutes, expire on December 31, 2010. However, if a
3162 person holding an active correspondent mortgage lender license
3163 issued before October 1, 2010, applies for a mortgage broker or
3164 mortgage lender license through the Nationwide Mortgage
3165 Licensing System and Registry between October 1, 2010, and
3166 December 31, 2010, the correspondent mortgage lender license
3167 does not expire until the Office of Financial Regulation
3168 approves or denies the mortgage broker or mortgage lender
3169 license application. Application fees may not be prorated for
3170 partial years of licensure.

3171 Section 60. Except as otherwise expressly provided in this
3172 act and except for this section, which shall take effect July 1,
3173 2009, this act shall take effect October 1, 2010.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to mortgage brokering and mortgage
lending; amending s. 494.001, F.S.; redefining terms,
defining new terms, and deleting terms; amending s.
494.0011, F.S.; authorizing the Financial Services
Commission to adopt rules relating to compliance with
the S.A.F.E. Mortgage Licensing Act of 2008; requiring
the commission to adopt rules establishing time
periods for barring licensure for certain misdemeanors
and felonies; authorizing the Office of Financial
Regulation to participate in the Nationwide Mortgage
Licensing System and Registry; creating s. 494.00115,
F.S.; providing exemptions from part I, II, and III of
ch. 494, F.S., relating to the licensing and
regulation of loan originators, mortgage brokers, and
mortgage lenders; creating s. 494.00135, F.S.;
providing for the issuance of subpoenas; amending s.
494.0014, F.S.; revising provisions relating to the
refund of fees; deleting an obsolete provision;
amending s. 494.00165, F.S.; prohibiting unfair and
deceptive advertising relating to mortgage brokering
and lending; repealing s. 494.0017, F.S., relating to
claims paid from the Regulatory Trust Fund; creating



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3203 s. 494.00172, F.S.; providing for a \$20 fee to be
3204 assessed against loan originators and a \$100 fee to be
3205 assessed against mortgage brokers and lenders at the
3206 time of license application or renewal; providing that
3207 such fees shall be deposited into the Mortgage
3208 Guaranty Trust Fund and used to pay claims against
3209 licensees; providing for a cap on the amount collected
3210 and deposited; providing requirements for seeking
3211 recovery from the trust fund; providing limitations on
3212 the amount paid; providing for the assignment of
3213 certain rights to the office; providing that payment
3214 for a claim is prima facie grounds for the revocation
3215 of a license; amending s. 494.0018, F.S.; conforming
3216 cross-references; amending ss. 494.0019 and 494.002,
3217 F.S.; conforming terms; amending s. 494.0023, F.S.;
3218 deleting the statutory disclosure form and revising
3219 the disclosure that must be provided to a borrower in
3220 writing; providing that there is a conflicting
3221 interest if a licensee or the licensee's relatives
3222 have a 1 percent or more interest in the person
3223 providing additional products or services; authorizing
3224 the commission to adopt rules; amending s. 494.0025,
3225 F.S.; prohibiting the alteration, withholding,
3226 concealment, or destruction of records relevant to
3227 regulated activities; creating s. 494.255, F.S.;
3228 providing for license violations and administrative
3229 penalties; authorizing a fine of \$1,000 for each day
3230 of unlicensed activity up to \$25,000; amending s.
3231 494.0028, F.S.; conforming terms; repealing ss.



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3232 494.0029 and 494.00295, F.S., relating to mortgage
3233 business schools and continuing education
3234 requirements; creating s. 494.00296, F.S.; providing
3235 for loan modification services; prohibiting certain
3236 related acts by a mortgage broker, mortgage brokerage
3237 business, correspondent mortgage lender, or mortgage
3238 lender; providing for a loan modification agreement
3239 and for the inclusion of a borrower's right of
3240 cancellation statement; providing remedies; amending
3241 s. 494.00295, F.S.; deleting references to a mortgage
3242 brokerage business and a correspondent mortgage
3243 lender, and adding reference to a loan originator;
3244 providing a directive to the Division of Statutory
3245 Revision; repealing s. 494.003, F.S., relating to
3246 exemptions from mortgage broker licensing and
3247 regulation; repealing s. 494.0031, F.S., relating to
3248 licensure as a mortgage brokerage business; creating
3249 s. 494.00312, F.S.; providing for the licensure of
3250 loan originators; providing license application
3251 requirements; providing grounds for license denial
3252 based on a failure to demonstrate character, general
3253 fitness, or financial responsibility sufficient to
3254 command community confidence; requiring the denial of
3255 a license under certain circumstances; requiring
3256 licenses to be renewed annually by a certain date;
3257 creating s. 494.00313, F.S.; providing for the renewal
3258 of a loan originator license; repealing s. 494.0032,
3259 F.S., relating to renewal of a mortgage brokerage
3260 business license or branch office license; creating s.



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3261 494.00321, F.S.; providing for the licensure of
3262 mortgage brokers; providing license application
3263 requirements; providing grounds for license denial
3264 based on a failure to demonstrate character, general
3265 fitness, or financial responsibility sufficient to
3266 command community confidence; requiring the denial of
3267 a license under certain circumstances; requiring
3268 licenses to be renewed by a certain date; creating s.
3269 494.00322, F.S.; providing for the annual renewal of a
3270 mortgage broker license; providing license renewal
3271 requirements; repealing s. 494.0033, F.S., relating to
3272 a mortgage broker license; amending s. 494.00331,
3273 F.S.; requiring a loan originator to be an employee or
3274 independent contractor for a mortgage broker or
3275 mortgage lender; repealing s. 494.0034, F.S., relating
3276 to renewal of mortgage broker license; amending s.
3277 494.0035, F.S.; providing for the management of a
3278 mortgage broker by a principal loan originator and a
3279 branch office by a loan originator; providing minimum
3280 requirements; amending s. 494.0036, F.S.; revising
3281 provisions relating to the licensure of a mortgage
3282 broker's branch office; amending s. 494.0038, F.S.;
3283 revising provisions relating to loan origination and
3284 mortgage broker fees; amending s. 494.0039, F.S.;
3285 conforming terms; amending s. 494.004, F.S.; revising
3286 provisions relating to licensees; providing for
3287 registry requirements; deleting obsolete provisions;
3288 repealing s. 494.0041, F.S., relating to license
3289 violations and administrative penalties; providing



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3290 additional grounds for assessing fines and penalties;
3291 amending s. 494.0042, F.S.; providing for loan
3292 originator fees; conforming terms; amending ss.
3293 494.00421 and 494.0043, F.S.; conforming terms;
3294 repealing s. 494.006, F.S., relating to mortgage
3295 lender licensing and regulation; repealing s.
3296 494.0061, F.S., relating to mortgage lender license
3297 requirements; creating s. 494.00611, F.S.; providing
3298 for the licensure of mortgage lenders; providing
3299 license application requirements; providing grounds
3300 for license denial based on a failure to demonstrate
3301 character, general fitness, or financial
3302 responsibility sufficient to command community
3303 confidence; requiring the denial of a license under
3304 certain circumstances; requiring licenses to be
3305 renewed annually by a certain date; creating s.
3306 494.00612, F.S.; providing for the renewal of a
3307 mortgage lender license; repealing s. 494.0062, F.S.,
3308 relating to correspondent mortgage lender license
3309 requirements; amending s. 494.0063, F.S.; requiring a
3310 mortgage lender to obtain an annual financial audit
3311 report and submit a copy to the office within certain
3312 time periods; repealing s. 494.0064, F.S., relating to
3313 renewal of mortgage lender license; repealing s.
3314 494.0065, F.S., relating to certain licenses and
3315 registrations that were converted into mortgage lender
3316 licenses; amending s. 494.0066, F.S.; revising
3317 provisions relating to a mortgage lender branch office
3318 license; creating s. 494.00665, F.S.; providing for a



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3319 principal loan originator and branch manager for a
3320 mortgage lender; providing requirements and
3321 limitations; amending s. 494.0067, F.S.; revising
3322 requirements of mortgage lenders; providing for
3323 registry requirements; deleting obsolete provisions;
3324 providing for servicing agreements; amending ss.
3325 494.0068, 494.0069, 494.007, and 494.0071, F.S.;
3326 conforming terms; repealing s. 494.0072, F.S.,
3327 relating to license violations and administrative
3328 penalties; amending ss. 494.00721, 494.0073, 494.0075,
3329 494.0077, and 501.1377 F.S.; redefining terms;
3330 providing for the termination of mortgage business
3331 school licenses; providing for the expiration of
3332 mortgage brokerage business licenses, mortgage broker
3333 licenses, and correspondent mortgage lender licenses;
3334 providing requirements for applying for a loan
3335 originator, mortgage broker and mortgage lender
3336 license by a certain date; providing effective dates.