

Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

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1 Committee/Subcommittee hearing bill: Insurance & Banking  
2 Subcommittee

3 Representative Workman offered the following:

**Amendment (with title amendment)**

6 Remove lines 125-408 and insert:

7 (3) If a licensed loan originator fails to meet the  
8 requirements of this section for annual license renewal on or  
9 before December 31 but meets such requirements before March 1,  
10 the licensed loan originator's license status shall be changed  
11 to "failed to renew" pending review and renewal by the office. A  
12 nonrefundable reinstatement fee of \$150 shall be charged in  
13 addition to registry fees. The license status shall not be  
14 changed until the requirements of this section are met and all  
15 fees are paid. If the licensee fails to complete the required  
16 information and pay all required fees by March 1, such license

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17 is expired and such licensed loan originator must apply for a  
18 new loan originator license under s. 494.00312.

19 Section 6. Subsection (3) is added to section 494.00322,  
20 Florida Statutes, to read:

21 494.00322 Mortgage broker license renewal.—

22 (3) If a licensed mortgage broker fails to meet the  
23 requirements of this section for annual license renewal on or  
24 before December 31 but meets such requirements before March 1,  
25 the mortgage broker's license status shall be changed to "failed  
26 to renew" pending review and renewal by the office. A  
27 nonrefundable reinstatement fee of \$250 shall be charged in  
28 addition to registry fees. The license status shall not be  
29 changed until the requirements of this section are met and all  
30 fees are paid. If the licensee fails to complete the required  
31 information and pay all required fees by March 1, such license  
32 is expired and such mortgage broker must apply for a new  
33 mortgage broker license under s. 494.00321.

34 Section 7. Subsection (3) of section 494.0036, Florida  
35 Statutes, is amended, and subsections (4) and (5) are added to  
36 that section, to read:

37 494.0036 Mortgage broker branch office license.—

38 (3) A branch office license must be renewed annually at  
39 the time of renewing the mortgage broker license under s.  
40 494.00322. A nonrefundable branch renewal fee of \$225 per branch  
41 office must be submitted at the time of renewal. To renew a  
42 branch office license, a mortgage broker must:

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43 (a) Submit a completed license renewal form as prescribed  
44 by commission rule.

45 (b) Submit a nonrefundable renewal fee.

46 (c) Submit any additional information or documentation  
47 requested by the office and required by rule concerning the  
48 licensee. Additional information may include documents that may  
49 provide the office with the appropriate information to determine  
50 eligibility for license renewal.

51 (4) The office may not renew a branch office license  
52 unless the branch office continues to meet the minimum  
53 requirements for initial licensure under this section and  
54 adopted rule.

55 (5) If a licensed branch office fails to meet the  
56 requirements of this section for annual license renewal on or  
57 before December 31 but meets such requirements before March 1,  
58 the branch office's license status shall be changed to "failed  
59 to renew" pending review and renewal by the office. A  
60 nonrefundable reinstatement fee of \$225 shall be charged in  
61 addition to registry fees. The license status shall not be  
62 changed until the requirements of this section are met and all  
63 fees are paid. If the licensee fails to complete the required  
64 information and pay all required fees by March 1, such license  
65 is expired and such branch office must apply for a new mortgage  
66 broker branch office license under subsection (2).

67 Section 8. Section 494.0038, Florida Statutes, is amended  
68 to read:

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69 494.0038 ~~Loan origination and Mortgage broker fees and~~  
70 ~~disclosures.-~~

71 ~~(1) A loan origination fee may not be paid except pursuant~~  
72 ~~to a written mortgage broker agreement between the mortgage~~  
73 ~~broker and the borrower which is signed and dated by the~~  
74 ~~principal loan originator or branch manager, and the borrower.~~  
75 ~~The unique registry identifier of each loan originator~~  
76 ~~responsible for providing loan originator services must be~~  
77 ~~printed on the mortgage broker agreement.~~

78 ~~(a) The written mortgage broker agreement must describe~~  
79 ~~the services to be provided by the mortgage broker and specify~~  
80 ~~the amount and terms of the loan origination fee that the~~  
81 ~~mortgage broker is to receive.~~

82 ~~1. Except for application and third-party fees, all fees~~  
83 ~~received by a mortgage broker from a borrower must be identified~~  
84 ~~as a loan origination fee.~~

85 ~~2. All fees on the mortgage broker agreement must be~~  
86 ~~disclosed in dollar amounts.~~

87 ~~3. All loan origination fees must be paid to a mortgage~~  
88 ~~broker.~~

89 ~~(b) The agreement must be executed within 3 business days~~  
90 ~~after a mortgage loan application is accepted if the borrower is~~  
91 ~~present when the mortgage loan application is accepted. If the~~  
92 ~~borrower is not present, the licensee shall forward the~~  
93 ~~agreement to the borrower within 3 business days after the~~  
94 ~~licensee's acceptance of the application and the licensee bears~~

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95 ~~the burden of proving that the borrower received and approved~~  
96 ~~the agreement.~~

97 ~~(2) If the mortgage broker is to receive any payment of~~  
98 ~~any kind from the mortgage lender, the maximum total dollar~~  
99 ~~amount of the payment must be disclosed to the borrower in the~~  
100 ~~written mortgage broker agreement as described in paragraph~~  
101 ~~(1) (a). The commission may prescribe by rule an acceptable form~~  
102 ~~for disclosure of brokerage fees received from the lender. The~~  
103 ~~agreement must state the nature of the relationship with the~~  
104 ~~lender, describe how compensation is paid by the lender, and~~  
105 ~~describe how the mortgage interest rate affects the compensation~~  
106 ~~paid to the mortgage broker.~~

107 ~~(a) The exact amount of any payment of any kind by the~~  
108 ~~lender to the mortgage broker must be disclosed in writing to~~  
109 ~~the borrower within 3 business days after the mortgage broker is~~  
110 ~~made aware of the exact amount of the payment from the lender~~  
111 ~~but not less than 3 business days before the execution of the~~  
112 ~~closing or settlement statement. The licensee bears the burden~~  
113 ~~of proving such notification was provided to the borrower.~~  
114 ~~Notification is waived if the exact amount of the payment is~~  
115 ~~accurately disclosed in the written mortgage broker agreement.~~

116 ~~(b) The commission may prescribe by rule the form of~~  
117 ~~disclosure of brokerage fees.~~

118 ~~(3) At the time a written mortgage broker agreement is~~  
119 ~~signed by the borrower or forwarded to the borrower for~~  
120 ~~signature, or at the time the mortgage broker business accepts~~

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121 ~~an application fee, credit report fee, property appraisal fee,~~  
122 ~~or any other third party fee, but at least 3 business days~~  
123 ~~before execution of the closing or settlement statement, the~~  
124 ~~mortgage broker shall disclose in writing to any applicant for a~~  
125 ~~mortgage loan the following information:~~

126 ~~(a) That the mortgage broker may not make mortgage loans~~  
127 ~~or commitments. The mortgage broker may make a commitment and~~  
128 ~~may furnish a lock-in of the rate and program on behalf of the~~  
129 ~~lender if the mortgage broker has obtained a written commitment~~  
130 ~~or lock-in for the loan from the lender on behalf of the~~  
131 ~~borrower for the loan. The commitment must be in the same form~~  
132 ~~and substance as issued by the lender.~~

133 ~~(b) That the mortgage broker cannot guarantee acceptance~~  
134 ~~into any particular loan program or promise any specific loan~~  
135 ~~terms or conditions.~~

136 ~~(c) A good faith estimate that discloses settlement~~  
137 ~~charges and loan terms.~~

138 ~~1. Any amount collected in excess of the actual cost shall~~  
139 ~~be returned within 60 days after rejection, withdrawal, or~~  
140 ~~closing.~~

141 ~~2. At the time a good faith estimate is provided to the~~  
142 ~~borrower, the loan originator must identify in writing an~~  
143 ~~itemized list that provides the recipient of all payments~~  
144 ~~charged the borrower, which, except for all fees to be received~~  
145 ~~by the mortgage broker, may be disclosed in generic terms, such~~  
146 ~~as, but not limited to, paid to lender, appraiser, officials,~~

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147 ~~title company, or any other third-party service provider. This~~  
148 ~~requirement does not supplant or is not a substitute for the~~  
149 ~~written mortgage broker agreement described in subsection (1).~~  
150 ~~The disclosure required under this subparagraph must be signed~~  
151 ~~and dated by the borrower.~~

152 ~~(4) The disclosures required by this subsection must be~~  
153 ~~furnished in writing at the time an adjustable rate mortgage~~  
154 ~~loan is offered to the borrower and whenever the terms of the~~  
155 ~~adjustable rate mortgage loan offered materially change prior to~~  
156 ~~closing. The mortgage broker shall furnish the disclosures~~  
157 ~~relating to adjustable rate mortgages in a format prescribed by~~  
158 ~~ss. 226.18 and 226.19 of Regulation Z of the Board of Governors~~  
159 ~~of the Federal Reserve System, as amended; its commentary, as~~  
160 ~~amended; and the federal Truth in Lending Act, 15 U.S.C. ss.~~  
161 ~~1601 et seq., as amended; together with the Consumer Handbook on~~  
162 ~~Adjustable Rate Mortgages, as amended; published by the Federal~~  
163 ~~Reserve Board and the Federal Home Loan Bank Board. The licensee~~  
164 ~~bears the burden of proving such disclosures were provided to~~  
165 ~~the borrower.~~

166 ~~(5) If the mortgage broker agreement includes a~~  
167 ~~nonrefundable application fee, the following requirements are~~  
168 ~~applicable:~~

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

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

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

176 ~~(6) A mortgage broker may not accept any fee in connection~~  
177 ~~with a mortgage loan other than an application fee, credit~~  
178 ~~report fee, property appraisal fee, or other third party fee~~  
179 ~~before obtaining a written commitment from a qualified lender.~~

180 (1)~~(7)~~ Any third-party fee entrusted to a mortgage broker  
181 must immediately, upon receipt, be placed into a segregated  
182 account with a financial institution located in the state the  
183 accounts of which are insured by the Federal Government. Such  
184 funds shall be held in trust for the payor and shall be kept in  
185 the account until disbursement. Such funds may be placed in one  
186 account if adequate accounting measures are taken to identify  
187 the source of the funds.

188 (2)~~(8)~~ A mortgage broker may not pay a commission to any  
189 person not licensed pursuant to this chapter.

190 (3)~~(9)~~ This section does not prohibit a mortgage broker  
191 from offering products and services, in addition to those  
192 offered in conjunction with the loan origination process, for a  
193 fee or commission.

194 Section 9. Subsections (2) and (3) of section 494.004,  
195 Florida Statutes, are amended to read:

196 494.004 Requirements of licensees.—

197 ~~(2) In every mortgage loan transaction, each licensee~~  
198 ~~under this part must notify a borrower of any material changes~~

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199 ~~in the terms of a mortgage loan previously offered to the~~  
200 ~~borrower within 3 business days after being made aware of such~~  
201 ~~changes by the mortgage lender but at least 3 business days~~  
202 ~~before the signing of the settlement or closing statement. The~~  
203 ~~licensee bears the burden of proving such notification was~~  
204 ~~provided and accepted by the borrower. A borrower may waive the~~  
205 ~~right to receive notice of a material change if the borrower~~  
206 ~~determines that the extension of credit is needed to meet a bona~~  
207 ~~fide personal financial emergency and the right to receive~~  
208 ~~notice would delay the closing of the mortgage loan. The~~  
209 ~~imminent sale of the borrower's home at foreclosure during the~~  
210 ~~3-day period before the signing of the settlement or closing~~  
211 ~~statement is an example of a bona fide personal financial~~  
212 ~~emergency. In order to waive the borrower's right to receive~~  
213 ~~notice, the borrower must provide the licensee with a dated~~  
214 ~~written statement that describes the personal financial~~  
215 ~~emergency, waives the right to receive the notice, bears the~~  
216 ~~borrower's signature, and is not on a printed form prepared by~~  
217 ~~the licensee for the purpose of such a waiver.~~

218 (2)(3) Each mortgage broker shall submit to the registry  
219 reports of condition, which must be in such form and shall  
220 contain such information as the registry may require. The  
221 commission may adopt rules prescribing the time by which a  
222 mortgage broker must file a report of condition. For purposes of  
223 this section, the report of condition is synonymous with the  
224 registry's Mortgage Call Report.

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225 Section 10. Subsection (3) of section 494.0042, Florida  
226 Statutes, is amended to read:

227 494.0042 Loan origination fees.—

228 (3) At the time of accepting a mortgage loan application,  
229 a mortgage broker may receive from the borrower a nonrefundable  
230 application fee. If the mortgage loan is funded, the  
231 nonrefundable application fee shall be credited against the  
232 amount owed as a result of the loan being funded. A person may  
233 not receive any form of compensation for acting as a loan  
234 originator other than a nonrefundable application fee, a fee  
235 based on the mortgage amount being funded, ~~or a fee which~~  
236 ~~complies with s. 494.00421.~~

237 Section 11. Section 494.00421, Florida Statutes, is  
238 repealed.

239 Section 12. Paragraph (b) of subsection (2) of section  
240 494.00611, Florida Statutes, is amended to read:

241 494.00611 Mortgage lender license.—

242 (2) In order to apply for a mortgage lender license, an  
243 applicant must:

244 (b) Designate a qualified principal loan originator who  
245 meets the requirements of s. 494.00665 ~~494.0035~~ on the  
246 application form.

247 Section 13. Subsection (3) is added to section 494.00612,  
248 Florida Statutes, to read:

249 494.00612 Mortgage lender license renewal.—

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250 (3) If a licensed mortgage lender fails to meet the  
251 requirements of this section for annual license renewal on or  
252 before December 31 but meets such requirements before March 1,  
253 the mortgage lender's license status shall be changed to "failed  
254 to renew" pending review and renewal by the office. A  
255 nonrefundable reinstatement fee of \$475 shall be charged in  
256 addition to registry fees. The license status shall not be  
257 changed until the requirements of this section are met and all  
258 fees are paid. If the licensee fails to complete the required  
259 information and pay all required fees by March 1, such license  
260 is expired and such licensed mortgage lender must apply for a  
261 new mortgage lender license under s. 494.00611.

262 Section 14. Subsection (3) of section 494.0066, Florida  
263 Statutes, is amended, and subsections (4) and (5) are added to  
264 that section, to read:

265 494.0066 Branch offices.—

266 (3) A branch office license must be renewed at the time of  
267 renewing the mortgage lender license. A nonrefundable fee of  
268 \$225 per branch office must be submitted at the time of renewal.  
269 To renew a branch office license, a mortgage lender must:

270 (a) Submit a completed license renewal form as prescribed  
271 by commission rule.

272 (b) Submit a nonrefundable renewal fee.

273 (c) Submit any additional information or documentation  
274 requested by the office and required by rule concerning the  
275 licensee. Additional information may include documents that may

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276 provide the office with the appropriate information to determine  
277 eligibility for license renewal.

278 (4) The office may not renew a branch office license  
279 unless the branch office continues to meet the minimum  
280 requirements for initial licensure under this section and  
281 adopted rule.

282 (5) If a licensed branch office fails to meet the  
283 requirements of this section for annual license renewal on or  
284 before December 31 but meets such requirements before March 1,  
285 the branch office's license status shall be changed to "failed  
286 to renew" pending review and renewal by the office. A  
287 nonrefundable reinstatement fee of \$225 shall be charged in  
288 addition to registry fees. The license status shall not be  
289 changed until the requirements of this section are met and all  
290 fees are paid. If the licensee fails to complete the required  
291 information and pay all required fees by March 1, such license  
292 is expired and such branch office must apply for a new mortgage  
293 lender branch office license under subsection (2).

294  
295 -----  
296 **T I T L E A M E N D M E N T**

297 Remove lines 12-42 and insert:

298 F.S.; providing for change in license status if a  
299 licensed loan originator or mortgage broker fails to  
300 meet certain requirements for annual license renewal  
301 by specified dates; amending s. 494.0036, F.S.;

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302 providing guidelines for renewal of a mortgage broker  
303 branch office license; providing for change in license  
304 status if a licensed branch office fails to meet  
305 certain requirements for annual license renewal by  
306 specified dates; amending s. 494.0038, F.S.; deleting  
307 certain requirements regarding loan origination and  
308 disclosure; amending s. 494.004, F.S.; deleting a  
309 requirement that a licensee provide certain notice to  
310 a borrower in mortgage loan transactions; authorizing  
311 the Financial Services Commission to adopt rules  
312 prescribing the time by which a mortgage broker must  
313 file a report of condition; amending s. 494.0042,  
314 F.S.; conforming a cross-reference; repealing s.  
315 494.00421, F.S., relating to required disclosures to  
316 borrowers in mortgage broker agreements by mortgage  
317 brokers receiving loan origination fees; amending s.  
318 494.00611, F.S.; revising a cross-reference; amending  
319 s. 494.00612, F.S.; providing for change in license  
320 status if a licensed mortgage lender fails to meet  
321 certain requirements for annual license renewal by  
322 specified dates; amending s. 494.0066, F.S.; providing  
323 guidelines for renewal of a mortgage lender branch  
324 office license; providing for change in license status  
325 if a licensed branch office fails to meet certain  
326 requirements for annual license renewal by specified  
327 dates;