

1 A bill to be entitled

2 An act relating to loan originators, mortgage brokers,
3 and mortgage lenders; amending s. 494.001, F.S.;
4 providing and revising definitions; amending s.
5 494.0012, F.S.; authorizing the Office of Financial
6 Regulation to conduct joint or concurrent examinations
7 of licensees; amending s. 494.00255, F.S.; providing
8 that violating specified rules is grounds for
9 disciplinary action; repealing s. 494.0028, F.S.,
10 relating to arbitration of disputes involving certain
11 agreements; amending ss. 494.00313 and 494.00322,
12 F.S.; providing for change in license status if a
13 licensed loan originator or mortgage broker fails to
14 meet certain requirements for annual license renewal
15 by specified dates; amending s. 494.0036, F.S.;
16 providing guidelines for renewal of a mortgage broker
17 branch office license; providing for change in license
18 status if a licensed branch office fails to meet
19 certain requirements for annual license renewal by
20 specified dates; amending s. 494.0038, F.S.; deleting
21 certain requirements regarding loan origination and
22 disclosure; amending s. 494.004, F.S.; deleting a
23 requirement that a licensee provide certain notice to
24 a borrower in mortgage loan transactions; authorizing
25 the Financial Services Commission to adopt rules
26 prescribing the time by which a mortgage broker must

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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27 | file a report of condition; amending s. 494.0042,
28 | F.S.; conforming a cross-reference; repealing s.
29 | 494.00421, F.S., relating to required disclosures to
30 | borrowers in mortgage broker agreements by mortgage
31 | brokers receiving loan origination fees; amending s.
32 | 494.00611, F.S.; revising a cross-reference; amending
33 | s. 494.00612, F.S.; providing for change in license
34 | status if a licensed mortgage lender fails to meet
35 | certain requirements for annual license renewal by
36 | specified dates; amending s. 494.0066, F.S.; providing
37 | guidelines for renewal of a mortgage lender branch
38 | office license; providing for change in license status
39 | if a licensed branch office fails to meet certain
40 | requirements for annual license renewal by specified
41 | dates; amending s. 494.0067, F.S.; deleting
42 | requirements that a mortgage lender provide an
43 | applicant for a mortgage loan a good faith estimate of
44 | costs and written disclosures related to adjustable
45 | rate mortgages; deleting requirement that mortgage
46 | lender provide notice of material changes in terms of
47 | a mortgage loan to a borrower in mortgage loan
48 | transactions; revising period during which mortgage
49 | lenders may service loans without meeting certain
50 | requirements; authorizing the commission to adopt
51 | rules prescribing the time by which a mortgage lender
52 | must file a report of condition; repealing s.

53 494.0068, F.S., relating to required disclosures to
 54 borrowers by mortgage lenders before the borrower
 55 accepts certain fees; amending s. 494.007, F.S.;
 56 deleting the requirement that a mortgage lender
 57 disclose a certain fee and whether the fee is
 58 refundable; amending s. 494.0073, F.S.; conforming a
 59 cross-reference; repealing part IV of chapter 494,
 60 F.S., relating to the Florida Fair Lending Act;
 61 repealing s. 494.008, F.S., relating to conditions for
 62 mortgage loans of specified amounts secured by vacant
 63 land; providing an effective date.

64

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

66

67 Section 1. Subsections (12) through (36) of section
 68 494.001, Florida Statutes, are renumbered as subsections (13)
 69 through (37), respectively, a new subsection (12) is added, and
 70 present subsection (15) of that section is amended, to read:

71 494.001 Definitions.—As used in ss. 494.001-494.0077, the
 72 term:

73 (12) "Indirect owner" means, with respect to direct owners
 74 and other indirect owners in a multilayered organization:

75 (a) For an owner that is a corporation, each of its
 76 shareholders that beneficially owns, has the right to vote, or
 77 has the power to sell or direct the sale of, 25 percent or more
 78 of voting security of the corporation.

79 (b) For an owner that is a partnership, each general
 80 partner and each limited or special partner that has the right
 81 to receive upon dissolution, or has contributed, 25 percent or
 82 more of the partnership's capital.

83 (c) For an owner that is a trust, the trust and each
 84 trustee.

85 (d) For an owner that is a limited liability company:

86 1. Each member that has the right to receive upon
 87 dissolution, or that has contributed, 25 percent or more of the
 88 limited liability company's capital; and

89 2. If managed by elected managers or appointed managers,
 90 each elected or appointed manager.

91 (e) For an indirect owner, each parent owner of 25 percent
 92 or more of its subsidiary.

93 ~~(16)-(15)~~ "Loan origination fee" means the total
 94 compensation from any source received by a mortgage broker
 95 acting as a loan originator. ~~Any payment for processing mortgage~~
 96 ~~loan applications must be included in the fee and must be paid~~
 97 ~~to the mortgage broker.~~

98 Section 2. Subsection (4) is added to section 494.0012,
 99 Florida Statutes, to read:

100 494.0012 Investigations; complaints; examinations.—

101 (4) To reduce the burden on persons subject to this
 102 chapter, the office may conduct a joint or concurrent
 103 examination with a state or federal regulatory agency and may
 104 furnish a copy of all examinations to an appropriate regulator

105 if the regulator agrees to abide by the confidentiality
 106 provisions in chapter 119 and this chapter. The office may also
 107 accept an examination from an appropriate regulator.

108 Section 3. Paragraph (y) of subsection (1) of section
 109 494.00255, Florida Statutes, is amended, and paragraph (m) of
 110 that subsection is reenacted, to read:

111 494.00255 Administrative penalties and fines; license
 112 violations.—

113 (1) Each of the following acts constitutes a ground for
 114 which the disciplinary actions specified in subsection (2) may
 115 be taken against a person licensed or required to be licensed
 116 under part II or part III of this chapter:

117 (m) In any mortgage transaction, violating any provision
 118 of the federal Real Estate Settlement Procedures Act, as
 119 amended, 12 U.S.C. ss. 2601 et seq.; the federal Truth in
 120 Lending Act, as amended, 15 U.S.C. ss. 1601 et seq.; or any
 121 regulations adopted under such acts.

122 (y) Pursuant to an investigation by the Mortgage Testing
 123 and Education Board acting on behalf of the registry, being
 124 found in violation of Nationwide Mortgage Licensing System and
 125 Registry Rules of Conduct.

126 Section 4. Section 494.0028, Florida Statutes, is
 127 repealed.

128 Section 5. Subsection (3) is added to section 494.00313,
 129 Florida Statutes, to read:

130 494.00313 Loan originator license renewal.—

131 (3) If a licensed loan originator fails to meet the
132 requirements of this section for annual license renewal on or
133 before December 31 but meets such requirements before March 1,
134 the loan originator's license status shall be changed to "failed
135 to renew" pending review and renewal by the office. A
136 nonrefundable reinstatement fee of \$150 shall be charged in
137 addition to registry fees. The license status shall not be
138 changed until the requirements of this section are met and all
139 fees are paid. If the licensee fails to meet the requirements of
140 this section and pay all required fees before March 1, such
141 license is expired and such loan originator must apply for a new
142 loan originator license under s. 494.00312.

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

145 494.00322 Mortgage broker license renewal.—

146 (3) If a licensed mortgage broker fails to meet the
147 requirements of this section for annual license renewal on or
148 before December 31 but meets such requirements before March 1,
149 the mortgage broker's license status shall be changed to "failed
150 to renew" pending review and renewal by the office. A
151 nonrefundable reinstatement fee of \$250 shall be charged in
152 addition to registry fees. The license status shall not be
153 changed until the requirements of this section are met and all
154 fees are paid. If the licensee fails to meet the requirements of
155 this section and pay all required fees before March 1, such
156 license is expired and such mortgage broker must apply for a new

157 mortgage broker license under s. 494.00321.

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

161 494.0036 Mortgage broker branch office license.—

162 (3) A branch office license must be renewed annually at
 163 the time of renewing the mortgage broker license under s.
 164 494.00322. A nonrefundable branch renewal fee of \$225 per branch
 165 office must be submitted at the time of renewal. To renew a
 166 branch office license, a mortgage broker must:

167 (a) Submit a completed license renewal form as prescribed
 168 by commission rule.

169 (b) Submit a nonrefundable renewal fee.

170 (c) Submit any additional information or documentation
 171 requested by the office and required by rule concerning the
 172 licensee. Additional information may include documents that may
 173 provide the office with the appropriate information to determine
 174 eligibility for license renewal.

175 (4) The office may not renew a branch office license
 176 unless the branch office continues to meet the minimum
 177 requirements for initial licensure under this section and
 178 adopted rule.

179 (5) If a licensed branch office fails to meet the
 180 requirements of this section for annual license renewal on or
 181 before December 31 but meets such requirements before March 1,
 182 the branch office's license status shall be changed to "failed

183 to renew" pending review and renewal by the office. A
184 nonrefundable reinstatement fee of \$225 shall be charged in
185 addition to registry fees. The license status shall not be
186 changed until the requirements of this section are met and all
187 fees are paid. If the licensee fails to meet the requirements of
188 this section and pay all required fees before March 1, such
189 license is expired and such branch office must apply for a new
190 mortgage broker branch office license under this section.

191 Section 8. Section 494.0038, Florida Statutes, is amended
192 to read:

193 494.0038 ~~Loan origination and Mortgage broker fees and~~
194 ~~disclosures.-~~

195 ~~(1) A loan origination fee may not be paid except pursuant~~
196 ~~to a written mortgage broker agreement between the mortgage~~
197 ~~broker and the borrower which is signed and dated by the~~
198 ~~principal loan originator or branch manager, and the borrower.~~
199 ~~The unique registry identifier of each loan originator~~
200 ~~responsible for providing loan originator services must be~~
201 ~~printed on the mortgage broker agreement.~~

202 ~~(a) The written mortgage broker agreement must describe~~
203 ~~the services to be provided by the mortgage broker and specify~~
204 ~~the amount and terms of the loan origination fee that the~~
205 ~~mortgage broker is to receive.~~

206 ~~1. Except for application and third party fees, all fees~~
207 ~~received by a mortgage broker from a borrower must be identified~~
208 ~~as a loan origination fee.~~

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

211 ~~3. All loan origination fees must be paid to a mortgage~~
212 ~~broker.~~

213 ~~(b) The agreement must be executed within 3 business days~~
214 ~~after a mortgage loan application is accepted if the borrower is~~
215 ~~present when the mortgage loan application is accepted. If the~~
216 ~~borrower is not present, the licensee shall forward the~~
217 ~~agreement to the borrower within 3 business days after the~~
218 ~~licensee's acceptance of the application and the licensee bears~~
219 ~~the burden of proving that the borrower received and approved~~
220 ~~the agreement.~~

221 ~~(2) If the mortgage broker is to receive any payment of~~
222 ~~any kind from the mortgage lender, the maximum total dollar~~
223 ~~amount of the payment must be disclosed to the borrower in the~~
224 ~~written mortgage broker agreement as described in paragraph~~
225 ~~(1)(a). The commission may prescribe by rule an acceptable form~~
226 ~~for disclosure of brokerage fees received from the lender. The~~
227 ~~agreement must state the nature of the relationship with the~~
228 ~~lender, describe how compensation is paid by the lender, and~~
229 ~~describe how the mortgage interest rate affects the compensation~~
230 ~~paid to the mortgage broker.~~

231 ~~(a) The exact amount of any payment of any kind by the~~
232 ~~lender to the mortgage broker must be disclosed in writing to~~
233 ~~the borrower within 3 business days after the mortgage broker is~~
234 ~~made aware of the exact amount of the payment from the lender~~

235 ~~but not less than 3 business days before the execution of the~~
236 ~~closing or settlement statement. The licensee bears the burden~~
237 ~~of proving such notification was provided to the borrower.~~
238 ~~Notification is waived if the exact amount of the payment is~~
239 ~~accurately disclosed in the written mortgage broker agreement.~~

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

242 ~~(3) At the time a written mortgage broker agreement is~~
243 ~~signed by the borrower or forwarded to the borrower for~~
244 ~~signature, or at the time the mortgage broker business accepts~~
245 ~~an application fee, credit report fee, property appraisal fee,~~
246 ~~or any other third-party fee, but at least 3 business days~~
247 ~~before execution of the closing or settlement statement, the~~
248 ~~mortgage broker shall disclose in writing to any applicant for a~~
249 ~~mortgage loan the following information:~~

250 ~~(a) That the mortgage broker may not make mortgage loans~~
251 ~~or commitments. The mortgage broker may make a commitment and~~
252 ~~may furnish a lock-in of the rate and program on behalf of the~~
253 ~~lender if the mortgage broker has obtained a written commitment~~
254 ~~or lock-in for the loan from the lender on behalf of the~~
255 ~~borrower for the loan. The commitment must be in the same form~~
256 ~~and substance as issued by the lender.~~

257 ~~(b) That the mortgage broker cannot guarantee acceptance~~
258 ~~into any particular loan program or promise any specific loan~~
259 ~~terms or conditions.~~

260 ~~(c) A good faith estimate that discloses settlement~~

261 ~~charges and loan terms.~~

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

265 ~~2. At the time a good faith estimate is provided to the~~
266 ~~borrower, the loan originator must identify in writing an~~
267 ~~itemized list that provides the recipient of all payments~~
268 ~~charged the borrower, which, except for all fees to be received~~
269 ~~by the mortgage broker, may be disclosed in generic terms, such~~
270 ~~as, but not limited to, paid to lender, appraiser, officials,~~
271 ~~title company, or any other third-party service provider. This~~
272 ~~requirement does not supplant or is not a substitute for the~~
273 ~~written mortgage broker agreement described in subsection (1).~~
274 ~~The disclosure required under this subparagraph must be signed~~
275 ~~and dated by the borrower.~~

276 ~~(4) The disclosures required by this subsection must be~~
277 ~~furnished in writing at the time an adjustable rate mortgage~~
278 ~~loan is offered to the borrower and whenever the terms of the~~
279 ~~adjustable rate mortgage loan offered materially change prior to~~
280 ~~closing. The mortgage broker shall furnish the disclosures~~
281 ~~relating to adjustable rate mortgages in a format prescribed by~~
282 ~~ss. 226.18 and 226.19 of Regulation Z of the Board of Governors~~
283 ~~of the Federal Reserve System, as amended; its commentary, as~~
284 ~~amended; and the federal Truth in Lending Act, 15 U.S.C. ss.~~
285 ~~1601 et seq., as amended; together with the Consumer Handbook on~~
286 ~~Adjustable Rate Mortgages, as amended; published by the Federal~~

287 ~~Reserve Board and the Federal Home Loan Bank Board. The licensee~~
288 ~~bears the burden of proving such disclosures were provided to~~
289 ~~the borrower.~~

290 ~~(5) If the mortgage broker agreement includes a~~
291 ~~nonrefundable application fee, the following requirements are~~
292 ~~applicable:~~

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

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

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

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

304 (1)(7) Any third-party fee entrusted to a mortgage broker
305 must immediately, upon receipt, be placed into a segregated
306 account with a financial institution located in the state the
307 accounts of which are insured by the Federal Government. Such
308 funds shall be held in trust for the payor and shall be kept in
309 the account until disbursement. Such funds may be placed in one
310 account if adequate accounting measures are taken to identify
311 the source of the funds.

312 (2)(8) A mortgage broker may not pay a commission to any

313 person not licensed pursuant to this chapter.

314 (3)~~(9)~~ This section does not prohibit a mortgage broker
315 from offering products and services, in addition to those
316 offered in conjunction with the loan origination process, for a
317 fee or commission.

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

320 494.004 Requirements of licensees.—

321 ~~(2) In every mortgage loan transaction, each licensee
322 under this part must notify a borrower of any material changes
323 in the terms of a mortgage loan previously offered to the
324 borrower within 3 business days after being made aware of such
325 changes by the mortgage lender but at least 3 business days
326 before the signing of the settlement or closing statement. The
327 licensee bears the burden of proving such notification was
328 provided and accepted by the borrower. A borrower may waive the
329 right to receive notice of a material change if the borrower
330 determines that the extension of credit is needed to meet a bona
331 fide personal financial emergency and the right to receive
332 notice would delay the closing of the mortgage loan. The
333 imminent sale of the borrower's home at foreclosure during the
334 3-day period before the signing of the settlement or closing
335 statement is an example of a bona fide personal financial
336 emergency. In order to waive the borrower's right to receive
337 notice, the borrower must provide the licensee with a dated
338 written statement that describes the personal financial~~

339 ~~emergency, waives the right to receive the notice, bears the~~
340 ~~borrower's signature, and is not on a printed form prepared by~~
341 ~~the licensee for the purpose of such a waiver.~~

342 (2)~~(3)~~ Each mortgage broker shall submit to the registry
343 reports of condition, which must be in such form and shall
344 contain such information as the registry may require. The
345 commission may adopt rules prescribing the time by which a
346 mortgage broker must file a report of condition. For purposes of
347 this section, the report of condition is synonymous with the
348 registry's Mortgage Call Report.

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

351 494.0042 Loan origination fees.—

352 (3) At the time of accepting a mortgage loan application,
353 a mortgage broker may receive from the borrower a nonrefundable
354 application fee. If the mortgage loan is funded, the
355 nonrefundable application fee shall be credited against the
356 amount owed as a result of the loan being funded. A person may
357 not receive any form of compensation for acting as a loan
358 originator other than a nonrefundable application fee, a fee
359 based on the mortgage amount being funded, ~~or a fee which~~
360 ~~complies with s. 494.00421.~~

361 Section 11. Section 494.00421, Florida Statutes, is
362 repealed.

363 Section 12. Paragraph (b) of subsection (2) of section
364 494.00611, Florida Statutes, is amended to read:

365 494.00611 Mortgage lender license.-

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

368 (b) Designate a qualified principal loan originator who
369 meets the requirements of s. 494.00665 ~~494.0035~~ on the
370 application form.

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

373 494.00612 Mortgage lender license renewal.-

374 (3) If a licensed mortgage lender fails to meet the
375 requirements of this section for annual license renewal on or
376 before December 31 but meets such requirements before March 1,
377 the mortgage lender's license status shall be changed to "failed
378 to renew" pending review and renewal by the office. A
379 nonrefundable reinstatement fee of \$475 shall be charged in
380 addition to registry fees. The license status shall not be
381 changed until the requirements of this section are met and all
382 fees are paid. If the licensee fails to meet the requirements of
383 this section and pay all required fees before March 1, such
384 license is expired and such mortgage lender must apply for a new
385 mortgage lender license under s. 494.00611.

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

389 494.0066 Branch offices.-

390 (3) A branch office license must be renewed at the time of

391 renewing the mortgage lender license. A nonrefundable fee of
392 \$225 per branch office must be submitted at the time of renewal.
393 To renew a branch office license, a mortgage lender must:

394 (a) Submit a completed license renewal form as prescribed
395 by commission rule.

396 (b) Submit a nonrefundable renewal fee.

397 (c) Submit any additional information or documentation
398 requested by the office and required by rule concerning the
399 licensee. Additional information may include documents that may
400 provide the office with the appropriate information to determine
401 eligibility for license renewal.

402 (4) The office may not renew a branch office license
403 unless the branch office continues to meet the minimum
404 requirements for initial licensure under this section and
405 adopted rule.

406 (5) If a licensed branch office fails to meet the
407 requirements of this section for annual license renewal on or
408 before December 31 but meets such requirements before March 1,
409 the branch office's license status shall be changed to "failed
410 to renew" pending review and renewal by the office. A
411 nonrefundable reinstatement fee of \$225 shall be charged in
412 addition to registry fees. The license status shall not be
413 changed until the requirements of this section are met and all
414 fees are paid. If the licensee fails to meet the requirements of
415 this section and pay all required fees before March 1, such
416 license is expired and such branch office must apply for a new

417 mortgage lender branch office license under this section.

418 Section 15. Subsections (8) through (13) of section
419 494.0067, Florida Statutes, are amended to read:

420 494.0067 Requirements of mortgage lenders.—

421 ~~(8) Each mortgage lender shall provide an applicant for a~~
422 ~~mortgage loan a good faith estimate of the costs the applicant~~
423 ~~can reasonably expect to pay in obtaining a mortgage loan. The~~
424 ~~good faith estimate of costs must be mailed or delivered to the~~
425 ~~applicant within 3 business days after the licensee receives a~~
426 ~~written loan application from the applicant. The estimate of~~
427 ~~costs may be provided to the applicant by a person other than~~
428 ~~the licensee making the loan. The good faith estimate must~~
429 ~~identify the recipient of all payments charged to the borrower~~
430 ~~and, except for all fees to be received by the mortgage broker~~
431 ~~and the mortgage lender, may be disclosed in generic terms, such~~
432 ~~as, but not limited to, paid to appraiser, officials, title~~
433 ~~company, or any other third-party service provider. The licensee~~
434 ~~bears the burden of proving such disclosures were provided to~~
435 ~~the borrower. The commission may adopt rules that set forth the~~
436 ~~disclosure requirements of this section.~~

437 ~~(9) The disclosures in this subsection must be furnished~~
438 ~~in writing at the time an adjustable rate mortgage loan is~~
439 ~~offered to the borrower and whenever the terms of the adjustable~~
440 ~~rate mortgage loan offered have a material change prior to~~
441 ~~closing. The lender shall furnish the disclosures relating to~~
442 ~~adjustable rate mortgages in a format prescribed by ss. 226.18~~

443 ~~and 226.19 of Regulation Z of the Board of Governors of the~~
444 ~~Federal Reserve System, as amended; its commentary, as amended;~~
445 ~~and the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et~~
446 ~~seq., as amended; together with the Consumer Handbook on~~
447 ~~Adjustable Rate Mortgages, as amended; published by the Federal~~
448 ~~Reserve Board and the Federal Home Loan Bank Board. The licensee~~
449 ~~bears the burden of proving such disclosures were provided to~~
450 ~~the borrower.~~

451 ~~(10) In every mortgage loan transaction, each mortgage~~
452 ~~lender shall notify a borrower of any material changes in the~~
453 ~~terms of a mortgage loan previously offered to the borrower~~
454 ~~within 3 business days after being made aware of such changes by~~
455 ~~the lender but at least 3 business days before signing the~~
456 ~~settlement or closing statement. The licensee bears the burden~~
457 ~~of proving such notification was provided and accepted by the~~
458 ~~borrower. A borrower may waive the right to receive notice of a~~
459 ~~material change if the borrower determines that the extension of~~
460 ~~credit is needed to meet a bona fide personal financial~~
461 ~~emergency and the right to receive notice would delay the~~
462 ~~closing of the mortgage loan. The imminent sale of the~~
463 ~~borrower's home at foreclosure during the 3-day period before~~
464 ~~the signing of the settlement or closing statement constitutes~~
465 ~~an example of a bona fide personal financial emergency. In order~~
466 ~~to waive the borrower's right to receive notice, the borrower~~
467 ~~must provide the licensee with a dated written statement that~~
468 ~~describes the personal financial emergency, waives the right to~~

469 ~~receive the notice, bears the borrower's signature, and is not~~
470 ~~on a printed form prepared by the licensee for the purpose of~~
471 ~~such a waiver.~~

472 (8)~~(11)~~ A mortgage lender may close loans in its own name
473 but may not service the loan for more than 6 ~~4~~ months unless the
474 lender has a servicing endorsement. Only a mortgage lender who
475 continuously maintains a net worth of at least \$250,000 may
476 obtain a servicing endorsement.

477 (9)~~(12)~~ A mortgage lender must report to the office the
478 failure to meet the applicable net worth requirements of s.
479 494.00611 within 2 days after the mortgage lender's knowledge of
480 such failure or after the mortgage lender should have known of
481 such failure.

482 (10)~~(13)~~ Each mortgage lender shall submit to the registry
483 reports of condition which are in a form and which contain such
484 information as the registry may require. The commission may
485 adopt rules prescribing the time by which a mortgage lender must
486 file a report of condition. For purposes of this section, the
487 report of condition is synonymous with the registry's Mortgage
488 Call Report.

489 Section 16. Section 494.0068, Florida Statutes, is
490 repealed.

491 Section 17. Paragraphs (c), (d), and (e) of subsection (1)
492 of section 494.007, Florida Statutes, are amended to read:

493 494.007 Commitment process.—

494 (1) If a commitment is issued, the mortgage lender shall

495 disclose in writing:

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

498 1. The basis, index, or method, if any, which will be used
499 to determine the rate at closing. Such basis, index, or method
500 shall be established and disclosed with direct reference to the
501 movement of an interest rate index or of a national or regional
502 index that is available to and verifiable by the borrower and
503 beyond the control of the lender; or

504 2. The following statement, in at least 10-point bold
505 type: "The interest rate will be the rate established by the
506 lender in its discretion as its prevailing rate . . . days
507 before closing."; and

508 ~~(d) The amount of the commitment fee, if any, and whether~~
509 ~~and under what circumstances the commitment fee is refundable;~~
510 ~~and~~

511 (d)(e) The time, if any, within which the commitment must
512 be accepted by the borrower.

513 Section 18. Section 494.0073, Florida Statutes, is amended
514 to read:

515 494.0073 Mortgage lender when acting as a mortgage
516 broker.—The provisions of this part do not prohibit a mortgage
517 lender from acting as a mortgage broker. However, in mortgage
518 transactions in which a mortgage lender acts as a mortgage
519 broker, the provisions of ss. 494.0038, ~~494.004(2)~~, 494.0042,
520 and 494.0043(1), (2), and (3) apply.

CS/CS/HB 631

2014

521 Section 19. Part IV of chapter 494, Florida Statutes,
522 consisting of ss. 494.0078, 494.0079, 494.00791, 494.00792,
523 494.00793, 494.00794, 494.00795, 494.00796, and 494.00797, is
524 repealed.

525 Section 20. Section 494.008, Florida Statutes, is
526 repealed.

527 Section 21. This act shall take effect July 1, 2014.