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2 An act relating to mortgage brokers and  
3 lenders; amending s. 494.001, F.S.; revising  
4 definitions; amending s. 494.0011, F.S.;  
5 authorizing the Department of Banking and  
6 Finance to adopt rules; amending s. 494.0012,  
7 F.S.; requiring the Department of Banking and  
8 Finance to charge a fee for certain  
9 examinations; deleting a limitation on  
10 aggregate amount of examination fees; requiring  
11 the department to conduct certain examinations  
12 in this state; providing an exception; revising  
13 travel expense and per diem subsistence  
14 requirements for licensees; amending s.  
15 494.00125, F.S.; deleting references to  
16 registrations and permits; amending s.  
17 494.0016, F.S.; specifying department  
18 prescription by rule of certain required  
19 information; creating s. 494.00165, F.S.;  
20 prohibiting certain advertising activities;  
21 requiring a record of certain advertisements;  
22 amending s. 494.0025, F.S.; deleting certain  
23 prohibited advertising activities; prohibiting  
24 payment of a mortgage transaction fee or  
25 commission to other than certain actively  
26 licensed persons; amending s. 494.0031, F.S.;  
27 providing for licensure of mortgage brokerage  
28 business branches; increasing license fees;  
29 deleting references to registrations and  
30 permits; amending s. 494.0032, F.S.; providing  
31 for renewal of branch licenses; increasing

1 license renewal fees; providing for reversion  
2 of licenses to inactive status under certain  
3 circumstances; providing for reactivation of  
4 licenses; providing for a reactivation fee;  
5 amending s. 494.0033, F.S.; specifying an  
6 application fee; clarifying provisions;  
7 amending s. 494.00331, F.S.; prohibiting  
8 simultaneous multiple licensures; amending s.  
9 494.0034, F.S.; deleting an automatic license  
10 expiration provision; clarifying provisions;  
11 amending s. 494.0036, F.S.; requiring a license  
12 to operate a mortgage brokerage business branch  
13 office; requiring display of licenses; amending  
14 s. 494.0038, F.S.; clarifying the timing of  
15 certain disclosures; amending s. 494.0039,  
16 F.S.; revising mortgage brokerage business  
17 principal place of business requirements;  
18 amending s. 494.004, F.S.; including pleas of  
19 nolo contendere to certain crimes within  
20 certain licensee reporting requirements;  
21 requiring licensees to report conviction or  
22 pleas of nolo contendere to felonies; requiring  
23 licensees to provide the department with  
24 certain information relating to associated  
25 mortgage brokers; requiring the department to  
26 adopt certain rules; amending s. 494.0041,  
27 F.S.; revising the list of acts constituting  
28 grounds for disciplinary action; amending s.  
29 494.0061, F.S.; providing for mortgage lender  
30 branch office licenses; increasing a license  
31 fee; clarifying provisions; amending s.

1           494.0062, F.S.; providing for correspondent  
2 mortgage lender branch office licenses;  
3 increasing a license fee; clarifying  
4 provisions; amending s. 494.0064, F.S.;  
5 providing for renewal of certain licenses;  
6 increasing license renewal fees; providing for  
7 reversion of licenses to inactive status;  
8 deleting an automatic license expiration  
9 provision; amending s. 494.0066, F.S.;  
10 requiring mortgage lender and correspondent  
11 mortgage lender branch office licenses;  
12 increasing license fees; amending s. 494.0067,  
13 F.S.; requiring display of certain licenses;  
14 requiring registration of loan originators;  
15 requiring certain information relating to loan  
16 originators; amending s. 494.0072, F.S.;  
17 revising a list of certain acts constituting  
18 grounds for disciplinary action; clarifying  
19 application of certain disciplinary actions;  
20 amending s. 494.0073, F.S.; providing for  
21 mortgage lenders or correspondent mortgage  
22 lenders to act as mortgage brokerage  
23 businesses; repealing s. 494.0037, F.S.,  
24 relating to books, accounts, and records;  
25 providing effective dates.

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

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

31

1           494.001 Definitions.--As used in ss. 494.001-494.0077,  
2 the term:

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

5           (2) "Act as a loan originator" means being employed by  
6 a mortgage lender or correspondent mortgage lender, for  
7 compensation or gain or in the expectation of compensation or  
8 gain, to negotiate or offer to negotiate the making of a  
9 mortgage loan. A person whose activities are ministerial and  
10 clerical, which may include quoting available interest rates  
11 or loan terms and conditions, is not acting as a loan  
12 originator.

13           ~~(3)(2)~~ "Act as a mortgage broker" means, for  
14 compensation or gain, or in the expectation of compensation or  
15 gain, either directly or indirectly, accepting or offering to  
16 accept an application for a mortgage loan, soliciting or  
17 offering to solicit a mortgage loan on behalf of a borrower,  
18 negotiating or offering to negotiate the terms or conditions  
19 of a mortgage loan on behalf of a lender, or negotiating or  
20 offering to negotiate the sale of an existing mortgage loan to  
21 a noninstitutional investor. An employee whose activities are  
22 ministerial and clerical, which may include quoting available  
23 interest rates or loan terms and conditions, is not acting as  
24 a mortgage broker.

25           ~~(4)(3)~~ "Act as a mortgage lender" means to make a  
26 mortgage loan or to service a mortgage loan for others or, for  
27 compensation or gain, or in the expectation of compensation or  
28 gain, either directly or indirectly, to sell or offer to sell  
29 a mortgage loan to a noninstitutional investor.

30           ~~(5)(4)~~ "Associate" means ~~for the purposes of ss.~~  
31 ~~494.003-494.0043 solely,~~ a person required to be licensed as a

1 mortgage broker under this chapter who is employed by or  
2 acting as an independent contractor for a mortgage brokerage  
3 business or a person acting as an independent contractor for a  
4 mortgage lender or correspondent mortgage lender. The use of  
5 the term associate, in contexts other than in the  
6 administration of ss. 494.003-494.0077 ~~494.003-494.0043~~, shall  
7 not be construed to impose or effect the common-law or  
8 statutory liability of the employer.

9 (6)(5) "Branch broker" means the licensee in charge  
10 of, and responsible for, the operation of a branch office of a  
11 mortgage brokerage business.

12 (7) "Branch office" means a location, other than a  
13 licensee's principal place of business:

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

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

20 (c) Which, due to the actions of any employee or  
21 associate of the licensee, may be construed by the public as a  
22 branch office of the licensee where mortgage loans are  
23 originated, negotiated, funded, or serviced.

24 (8)(6) "Department" means the Department of Banking  
25 and Finance.

26 (9) "Employed" means engaged in the service of another  
27 for salary or wages subject to withholding, FICA, or other  
28 lawful deductions by the employer as a condition of  
29 employment.

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1           (10) "Employee" means a natural person who is employed  
2 and who is subject to the right of the employer to direct and  
3 control the actions of the employee.

4           (11)~~(7)~~ "Good standing" means that the registrant or  
5 licensee, or a subsidiary or affiliate thereof, is not, at the  
6 time of application, being penalized for one or more of the  
7 following disciplinary actions by a licensing authority of any  
8 state, territory, or country:

9           (a) Revocation of a license or registration.

10           (b) Suspension of a license or registration.

11           (c) Probation of a license or registration for an  
12 offense involving fraud, dishonest dealing, or an act of moral  
13 turpitude.

14           (12)~~(8)~~ "Institutional investor" means a state or  
15 national bank, state or federal savings and loan association  
16 or savings bank, real estate investment trust, insurance  
17 company, real estate company, accredited investor as defined  
18 in 17 C.F.R. ss. 230.501 et seq., business licensed under ss.  
19 494.001-494.0077, or other business entity that invests in  
20 mortgage loans, including a secondary mortgage market  
21 institution including, without limitation, the Federal  
22 National Mortgage Association, the Federal Home Loan Mortgage  
23 Corporation, and the Government National Mortgage Association,  
24 conduits, investment bankers, and any subsidiary of such  
25 entities.

26           (13)~~(9)~~ "Loan commitment" or "commitment" means a  
27 statement by the lender setting forth the terms and conditions  
28 upon which the lender is willing to make a particular mortgage  
29 loan to a particular borrower.

30           (14)~~(10)~~ "Lock-in agreement" means an agreement  
31 whereby the lender guarantees for a specified number of days

1 or until a specified date the availability of a specified rate  
2 of interest or specified formula by which the rate of interest  
3 will be determined and/or specific number of discount points,  
4 if the loan is approved and closed within the stated period of  
5 time.

6 (15)~~(11)~~ "Make a mortgage loan" means to close a  
7 mortgage loan in a person's name or to advance funds, offer to  
8 advance funds, or make a commitment to advance funds to an  
9 applicant for a mortgage loan.

10 (16)~~(12)~~ "Mortgage brokerage ~~broker~~ fee" means a fee  
11 received for acting as a mortgage broker.

12 (17)~~(13)~~ "Mortgage brokerage business" means a person  
13 acting as a mortgage broker.

14 (18) "Mortgage loan" means any:

15 (a) Residential mortgage loan;

16 (b) Loan on commercial real property if the borrower  
17 is a natural person or the lender is a noninstitutional  
18 investor; or

19 (c) Loan on improved real property consisting of five  
20 or more dwelling units if the borrower is a natural person or  
21 the lender is a noninstitutional investor.

22 (19)~~(14)~~ "Net worth" means total assets minus total  
23 liabilities pursuant to generally accepted accounting  
24 principles.

25 (20)~~(15)~~ "Noninstitutional investor" means an investor  
26 other than an institutional investor.

27 (21)~~(16)~~ "Nonresidential mortgage loan" means a  
28 mortgage loan other than a residential mortgage loan.

29 (22)~~(17)~~ "Person" means an individual, partnership,  
30 corporation, association, or other group, however organized.

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1           ~~(23)(18)~~ "Principal broker" means a licensee in charge  
2 of, and responsible for, the operation of the principal place  
3 of business and all branch brokers.

4           (24) "Principal place of business" means a licensee's  
5 primary business office the street address or physical  
6 location of which is designated on the application for  
7 licensure or any amendment to such application.

8           ~~(25)(19)~~ "Residential mortgage loan" means any  
9 mortgage or other security instrument secured by improved real  
10 property consisting of no more than four dwelling units.

11           ~~(26)(20)~~ "Service a mortgage loan" means to receive or  
12 cause to be received or transferred for another installment  
13 payments of principal, interest, or other payments pursuant to  
14 a mortgage loan.

15           ~~(27)(21)~~ "Substantial fault of the borrower" means  
16 that the borrower:

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

19           (b) Provided information, in the application or  
20 subsequently, which upon verification proved to be  
21 significantly inaccurate, causing the need for review or  
22 further investigation by the lender or broker;

23           (c) Failed to produce no later than the date specified  
24 by the lender all documentation specified in the commitment or  
25 closing instructions as being required for closing; or

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

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29 For purposes of this definition, a borrower is considered to  
30 have provided information or documentation in a timely manner  
31 if such information and documentation was received by the



1 lender within 7 days after the borrower received a request for  
2 same, and information is considered significantly inaccurate  
3 if the correct information materially affects the eligibility  
4 of the borrower for the loan for which application is made.

5 ~~(28)(22)~~ "Ultimate equitable owner" means a natural  
6 person who, directly or indirectly, owns or controls an  
7 ownership interest in a corporation, a foreign corporation, an  
8 alien business organization, or any other form of business  
9 organization, regardless of whether such natural person owns  
10 or controls such ownership interest through one or more  
11 natural persons or one or more proxies, powers of attorney,  
12 nominees, corporations, associations, partnerships, trusts,  
13 joint stock companies, or other entities or devices, or any  
14 combination thereof.

15 Section 2. Subsection (2) of section 494.0011, Florida  
16 Statutes, 1998 Supplement, is amended to read:

17 494.0011 Powers and duties of the department.--

18 (2) The department has authority to adopt rules  
19 pursuant to ss. 120.536(1) and 120.54 to implement ss.  
20 494.001-494.0077. The department may adopt rules to allow  
21 electronic submission of any forms, documents, or fees  
22 required by this act. The department may also adopt rules to  
23 accept certification of compliance with requirements of this  
24 act in lieu of requiring submission of documents.

25 Section 3. Effective September 1, 2000, subsection (3)  
26 of section 494.0012, Florida Statutes, is amended to read:

27 494.0012 Investigations; complaints; examinations.--

28 (3)(a) The department may, at intermittent periods,  
29 conduct examinations of any licensee or other person under the  
30 provisions of ss. 494.001-494.0077. ~~The department may charge~~  
31 ~~an examination fee prescribed by rule, but such fee may not~~

1 ~~exceed \$300 per 8-hour day for each examiner. Such~~  
2 ~~examination fee shall be calculated on an hourly basis and~~  
3 ~~shall be rounded to the nearest hour.~~

4 (b) The department shall conduct all examinations at a  
5 convenient location in this state unless the department  
6 determines that it is more effective or cost-efficient to  
7 perform an examination at the licensee's out-of-state  
8 location. For an examination performed at the licensee's  
9 out-of-state location travel, the licensee shall also pay the  
10 travel expense and per diem subsistence at the rate provided  
11 by law for up to 30 8-hour days per year for each department  
12 examiner who participates in such an examination. However, if  
13 the examination involves or reveals fraudulent conduct by the  
14 licensee, the licensee shall pay the travel expense and per  
15 diem subsistence provided by law, without limitation, for each  
16 participating examiner allowance provided for state employees  
17 under s. 112.061. The department may not charge more than  
18 \$500 in examination fees per biennial period to any one  
19 mortgage brokerage business, mortgage lender, or correspondent  
20 mortgage lender.

21 Section 4. Paragraph (a) of subsection (1) of section  
22 494.00125, Florida Statutes, is amended to read:

23 494.00125 Confidentiality of information relating to  
24 investigations and examinations.--

25 (1)(a) Except as otherwise provided by this section,  
26 information relative to an investigation or examination by the  
27 department pursuant to this chapter, including any consumer  
28 complaint, is confidential and exempt from s. 119.07(1) until  
29 the investigation or examination is completed or ceases to be  
30 active. The information compiled by the department in such an  
31 investigation or examination shall remain confidential and

1 exempt from s. 119.07(1) after the department's investigation  
2 or examination is completed or ceases to be active if the  
3 department submits the information to any law enforcement or  
4 administrative agency for further investigation. Such  
5 information shall remain confidential and exempt from s.  
6 119.07(1) until that agency's investigation is completed or  
7 ceases to be active. For purposes of this section, an  
8 investigation or examination shall be considered "active" so  
9 long as the department or any law enforcement or  
10 administrative agency is proceeding with reasonable dispatch  
11 and has a reasonable good faith belief that the investigation  
12 or examination may lead to the filing of an administrative,  
13 civil, or criminal proceeding or to the denial or conditional  
14 grant of a license, ~~registration, or permit~~. This section  
15 shall not be construed to prohibit disclosure of information  
16 which is required by law to be filed with the department and  
17 which, but for the investigation or examination, would be  
18 subject to s. 119.07(1).

19 Section 5. Subsection (4) of section 494.0016, Florida  
20 Statutes, is amended to read:

21 494.0016 Books, accounts, and records; maintenance;  
22 examinations by the department.--

23 (4) The department may prescribe by rule the minimum  
24 information to be shown in the books, accounts, records, and  
25 documents of licensees so that such records will enable the  
26 department to determine the licensee's compliance with ss.  
27 494.001-494.0077.

28 Section 6. Section 494.00165, Florida Statutes, is  
29 created to read:

30 494.00165 Prohibited advertising; record  
31 requirements.--

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

3           (a) Advertise that an applicant will have unqualified  
4 access to credit without disclosing what material limitations  
5 on the availability of credit exist. Such material limitations  
6 include, but are not limited to, the percentage of down  
7 payment required, that a higher rate or points could be  
8 required, or that restrictions as to the maximum principal  
9 amount of the loan offered could apply.

10           (b) Advertise a mortgage loan at an expressed interest  
11 rate unless the advertisement specifically states that the  
12 expressed rate could change or not be available at commitment  
13 or closing.

14           (c) Advertise mortgage loans, including rates,  
15 margins, discounts, points, fees, commissions, or other  
16 material information, including material limitations on such  
17 loans, unless such person is able to make such mortgage loans  
18 available to a reasonable number of qualified applicants.

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

21           (2) Each person required to be licensed under this  
22 chapter shall maintain a record of samples of each of its  
23 advertisements, including commercial scripts of each radio or  
24 television broadcast, for examination by the department for a  
25 period of 2 years after the date of publication or broadcast.

26           Section 7. Subsections (6), (7), (8), (9), (10), (11),  
27 and (12) of section 494.0025, Florida Statutes, are amended to  
28 read:

29           494.0025 Prohibited practices.--It is unlawful for any  
30 person:

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1           ~~(6) To advertise that an applicant will have~~  
2 ~~unqualified access to credit without disclosing what material~~  
3 ~~limitations on the availability of credit exist, such as the~~  
4 ~~percentage of down payment required, that a higher rate or~~  
5 ~~points could be required, or that restrictions as to the~~  
6 ~~maximum principal amount of the loan offered could apply.~~

7           ~~(7) To advertise a mortgage loan where a prevailing~~  
8 ~~rate is indicated in the advertisement, unless the~~  
9 ~~advertisement specifically states that the expressed rate~~  
10 ~~could change or not be available at commitment or closing.~~

11           ~~(8) To advertise mortgage loans, including rates,~~  
12 ~~margins, discounts, points, fees, commissions, or other~~  
13 ~~material information, including material limitations on such~~  
14 ~~loans, unless such person is able to make such mortgage loans~~  
15 ~~available to a reasonable number of qualified applicants.~~

16           ~~(6)(9) To violate s. 655.922(2), subject to ss.~~  
17 ~~494.001-494.0077.~~

18           ~~(7)(10) Who is required to be licensed under ss.~~  
19 ~~494.006-494.0077, to fail to report to the department the~~  
20 ~~failure to meet the net worth requirements of s. 494.0061, s.~~  
21 ~~494.0062, or s. 494.0065 within 48 hours after the person's~~  
22 ~~knowledge of such failure or within 48 hours after the person~~  
23 ~~should have known of such failure.~~

24           ~~(8)(11) To pay a fee or commission in any mortgage~~  
25 ~~loan transaction to any person or entity other than a~~  
26 ~~mortgage brokerage business, mortgage lender, or correspondent~~  
27 ~~mortgage lender, operating under an active license, or a~~  
28 ~~person exempt from licensure under this chapter.~~Who is  
29 ~~required to be licensed under ss. 494.001-494.0077, to falsely~~  
30 ~~advertise or misuse names indicating a federal agency pursuant~~  
31 ~~to 18 U.S.C. s. 709.~~

1           ~~(9)(12)~~ To record a mortgage brokerage agreement or  
2 any other document, not rendered by a court of competent  
3 jurisdiction, which purports to enforce the terms of the  
4 mortgage brokerage agreement.

5           Section 8. Subsections (1), (4), and (5) of section  
6 494.0031, Florida Statutes, are amended to read:

7           494.0031 Licensure as a mortgage brokerage business.--

8           (1) The department shall issue a mortgage brokerage  
9 business license to each person who:

10           (a) Has submitted a completed application form and a  
11 nonrefundable application fee of \$425 ~~in an amount that may~~  
12 ~~not exceed \$350~~; and

13           (b) Has a qualified principal broker pursuant to s.  
14 494.0035.

15           (4) A mortgage brokerage business or branch office  
16 ~~license, permit, or registration~~ may be canceled if it was  
17 issued through mistake or inadvertence of the department. A  
18 notice of cancellation must be issued by the department within  
19 90 days after the issuance of the license. A notice of  
20 cancellation shall be effective upon receipt. The notice of  
21 cancellation shall provide the applicant with notification of  
22 the right to request a hearing within 21 days after the  
23 applicant's receipt of the notice of cancellation. A license,  
24 ~~permit, or registration~~ shall be reinstated if the applicant  
25 can demonstrate that the requirements for obtaining the  
26 ~~license, permit, or registration~~ pursuant to this chapter ss.  
27 ~~494.001-494.0077~~ have been satisfied.

28           (5) If an initial mortgage brokerage business or  
29 branch office license, ~~permit, or registration~~ has been issued  
30 but the check upon which the license, ~~permit, or registration~~  
31 is based is returned due to insufficient funds, the license,

1 ~~permit, or registration~~ shall be deemed canceled. A license,  
2 ~~permit, or registration~~ deemed canceled pursuant to this  
3 subsection shall be reinstated if the department receives a  
4 certified check for the appropriate amount within 30 days  
5 after the date the check was returned due to insufficient  
6 funds.

7 Section 9. Section 494.0032, Florida Statutes, is  
8 amended to read:

9 494.0032 Renewal of mortgage brokerage business  
10 license; ~~permit~~ renewal of mortgage brokerage business branch  
11 office license.--

12 (1) The department shall renew a mortgage brokerage  
13 business license upon receipt of a completed renewal form and  
14 payment of a nonrefundable renewal fee of \$375 ~~that may not~~  
15 ~~exceed \$300~~. Each licensee shall pay at the time of renewal a  
16 nonrefundable renewal fee of \$225 ~~that may not exceed \$150~~ for  
17 the renewal of each branch office license ~~permit~~.

18 (2) The department shall adopt rules establishing a  
19 procedure for the biennial renewal of mortgage brokerage  
20 business licenses and branch office licenses ~~permits~~. The  
21 department may prescribe the form for renewal and may require  
22 an update of all information provided in the licensee's  
23 initial application.

24 (3) A mortgage brokerage business or branch office  
25 license that is not renewed by the end of the biennium  
26 established by the department shall revert from active to  
27 inactive status. An inactive license may be reactivated  
28 within 6 months after becoming inactive by filing a completed  
29 reactivation form with the department, payment of the renewal  
30 fee, and payment of a nonrefundable reactivation fee of \$100.

31

1 ~~The department may set by rule a late renewal fee in an amount~~  
2 ~~that may not exceed \$100.~~

3       (4) A license that is not renewed within 6 months  
4 after the end of the biennial period automatically expires.

5       Section 10. Subsections (2), (6), and (7) of section  
6 494.0033, Florida Statutes, are amended to read:

7       494.0033 Mortgage broker's license.--

8       (2) Each initial application for a mortgage broker's  
9 license must be in the ~~written~~ form ~~as~~ prescribed by rule of  
10 the department. The department may require each applicant to  
11 provide any information reasonably necessary to make a  
12 determination of the applicant's eligibility for licensure.  
13 The department shall issue an initial license to any natural  
14 person who:

15       (a) Is at least 18 years of age;

16       (b) Has passed a written test adopted by the  
17 department which is designed to determine competency in  
18 primary and subordinate mortgage financing transactions as  
19 well as to test knowledge of ss. 494.001-494.0077 and the  
20 rules adopted pursuant thereto;

21       (c) Has submitted a completed application and a  
22 nonrefundable application fee of ~~that may not exceed~~ \$200.

23 The department may set by rule an additional fee for a retake  
24 of the examination; and

25       (d) Has filed a complete set of fingerprints, taken by  
26 an authorized law enforcement officer, for submission by the  
27 department to the Department of Law Enforcement or the Federal  
28 Bureau of Investigation for processing.

29       (6) A mortgage broker license, ~~permit, or registration~~  
30 may be canceled if it was issued through mistake or  
31 inadvertence of the department. A notice of cancellation must



1 be issued by the department within 90 days after the issuance  
2 of the license. A notice of cancellation shall be effective  
3 upon receipt. The notice of cancellation shall provide the  
4 applicant with notification of the right to request a hearing  
5 within 21 days after the applicant's receipt of the notice of  
6 cancellation. A license, ~~permit, or registration~~ shall be  
7 reinstated if the applicant can demonstrate that the  
8 requirements for obtaining the license, ~~permit, or~~  
9 ~~registration~~ pursuant to this chapter ~~ss. 494.001-494.0077~~  
10 have been satisfied.

11 (7) If an initial mortgage broker license, ~~permit, or~~  
12 ~~registration~~ has been issued but the check upon which the  
13 license, ~~permit, or registration~~ is based is returned due to  
14 insufficient funds, the license, ~~permit, or registration~~ shall  
15 be deemed canceled. A license, ~~permit, or registration~~ deemed  
16 canceled pursuant to this subsection shall be reinstated if  
17 the department receives a certified check for the appropriate  
18 amount within 30 days after the date the check was returned  
19 due to insufficient funds.

20 Section 11. Section 494.00331, Florida Statutes, is  
21 amended to read:

22 494.00331 Mortgage broker association.--No person  
23 required to be licensed acting as a mortgage broker under this  
24 chapter shall be simultaneously an associate of more than one  
25 licensed a single mortgage brokerage business, licensed  
26 mortgage lender, or licensed correspondent mortgage lender.

27 Section 12. Subsections (1), (3), and (4) of section  
28 494.0034, Florida Statutes, are amended to read:

29 494.0034 Renewal of mortgage broker's license.--

30 (1) The department shall renew a mortgage broker  
31 ~~broker's~~ license upon receipt of the completed renewal form

1 and payment of a nonrefundable renewal fee of ~~that may not~~  
2 ~~exceed~~ \$150.

3 (3) A license that is not renewed by the end of the  
4 biennium prescribed by the department shall revert from active  
5 ~~automatically reverts~~ to inactive status. An inactive license  
6 may be reactivated within 2 years after becoming inactive by  
7 ~~the filing of~~ a completed reactivation form ~~application~~ with  
8 the department, payment of the renewal fee, and payment of a  
9 nonrefundable reactivation fee of \$100.

10 ~~(4)~~ A license that is not renewed within 2 years after  
11 becoming inactive automatically expires.

12 Section 13. Section 494.0036, Florida Statutes, is  
13 amended to read:

14 494.0036 Mortgage brokerage business branch offices.--

15 (1) A mortgage brokerage business branch office  
16 license permit is required for each branch office maintained  
17 by a mortgage brokerage business licensee.

18 (2) The department shall issue a mortgage brokerage  
19 business branch office license permit upon receipt of a  
20 completed application in a form as prescribed by ~~the~~  
21 department rule and payment of an initial nonrefundable branch  
22 office license permit fee of \$225 ~~that may not exceed \$150~~.  
23 Branch office licenses permits must be renewed in conjunction  
24 with the renewal of the mortgage brokerage business license.  
25 The branch office license permit shall be issued in the name  
26 of the mortgage brokerage business that maintains the branch  
27 office.

28 (3) Each branch office must prominently display the  
29 license issued for such branch office. Each person licensed as  
30 a mortgage broker must prominently display his or her license  
31 in the office where such person acts as a mortgage broker.

1           Section 14. Subsection (2) of section 494.0038,  
2 Florida Statutes, is amended to read:

3           494.0038 Mortgage broker disclosures.--

4           (2) At the time ~~Prior to entering into~~ a written  
5 agreement is executed by the borrower or at the time the  
6 mortgage brokerage business accepts ~~accepting an application,~~  
7 an application fee, credit report fee, property appraisal fee,  
8 or any other third-party fee, the ~~a~~ mortgage brokerage  
9 business shall ~~must~~ disclose in writing to any applicant for a  
10 mortgage loan the following information:

11           (a) That such mortgage brokerage business may not make  
12 mortgage loans or commitments. The mortgage brokerage  
13 business may make a commitment and may furnish a lock-in of  
14 the rate and program on behalf of the lender when the mortgage  
15 brokerage business has obtained a written commitment or  
16 lock-in for the loan from the lender on behalf of the borrower  
17 for the loan. The commitment must be in the same form and  
18 substance as issued by the lender.

19           (b) That such mortgage brokerage business cannot  
20 guarantee acceptance into any particular loan program or  
21 promise any specific loan terms or conditions.

22           (c) A good faith estimate of the credit report fee,  
23 property appraisal fee, or any other third-party fee and the  
24 terms and conditions for obtaining a refund of such fees, if  
25 any. Any amount collected in excess of the actual cost shall  
26 be returned within 60 days after rejection, withdrawal, or  
27 closing.

28           Section 15. Subsections (1) and (3) of section  
29 494.0039, Florida Statutes, are amended to read:

30           494.0039 Principal place of business requirements.--

31

1           (1) Each mortgage brokerage business licensee shall  
2 maintain and transact business from a principal place of  
3 business ~~in the state. A principal place of business or~~  
4 ~~branch office must consist of at least one enclosed room or~~  
5 ~~building of stationary construction in which negotiations of~~  
6 ~~mortgage loan transactions of others may be conducted and~~  
7 ~~carried on in privacy and in which all of the books, records,~~  
8 ~~and files pertaining to mortgage loan transactions of others~~  
9 ~~are maintained, and:~~

10           ~~(a) Must be in compliance with local zoning ordinances~~  
11 ~~and must have posted any occupational licenses required by~~  
12 ~~local government agencies. It is the responsibility of the~~  
13 ~~licensee to meet local zoning ordinances and obtain the~~  
14 ~~required occupational licenses; and~~

15           ~~(b) Must maintain a sign that is publicly displayed.~~  
16 ~~Such sign must contain the name of the licensee under ss.~~  
17 ~~494.003-494.0043 and the words "Licensed Mortgage Brokerage~~  
18 ~~Business."~~

19           (3) Each mortgage brokerage business must prominently  
20 display its license at the principal place of business. ~~Each~~  
21 ~~branch office must prominently display its branch office~~  
22 ~~permit. Each person licensed mortgage broker pursuant to s.~~  
23 ~~494.0033 must prominently display his or her license in the~~  
24 office where such person acts as a mortgage broker.

25           Section 16. Subsection (1) of section 494.004, Florida  
26 Statutes, is amended, present subsections (2), (3), and (4) of  
27 that section are renumbered as subsections (3), (4), and (5),  
28 respectively, and a new subsection (2) is added to that  
29 section, to read:

30           494.004 Requirements of licensees.--

31

1           (1) Each licensee under ss. 494.003-494.0043 shall  
2 report, in writing, any conviction of, or plea of nolo  
3 contendere to, regardless of adjudication, any crime or  
4 administrative violation that involves fraud, dishonest  
5 dealing, or any other act of moral turpitude, in any  
6 jurisdiction, by the licensee or any natural person named in,  
7 ~~pursuant to~~ s. 494.0031(3), not later than 30 days after the  
8 date of conviction, entry of a plea of nolo contendere, or  
9 final administrative action.

10           (2) Each licensee under ss. 494.003-494.0043 shall  
11 report, in a form prescribed by rule of the department, any  
12 conviction of, or plea of nolo contendere to, regardless of  
13 whether adjudication is withheld, any felony committed by the  
14 licensee or any natural person named in s. 494.0031(3), not  
15 later than 30 days after the date of conviction or the date  
16 the plea of nolo contendere is entered.

17           Section 17. Effective January 1, 2000, subsection (6)  
18 is added to section 494.004, Florida Statutes, as amended by  
19 this act, to read:

20           494.004 Requirements of licensees.--

21           (6) On or before April 30, 2000, each mortgage  
22 brokerage business shall file an initial report stating the  
23 name, social security number, date of birth, mortgage broker  
24 license number, date of hire and, if applicable, date of  
25 termination for each person who was an associate of the  
26 mortgage brokerage business during the immediate preceding  
27 quarter. Thereafter, a mortgage brokerage business shall file  
28 a quarterly report only if a person became an associate or  
29 ceased to be an associate of the mortgage brokerage business  
30 during the immediate preceding quarter. Such report shall be  
31 filed within 30 days after the last day of each calendar

1 quarter and shall contain the name, social security number,  
2 date of birth, mortgage broker license number, date of hire  
3 and, if applicable, the date of termination of each person who  
4 became or ceased to be an associate of the mortgage brokerage  
5 business during the immediate preceding quarter. The  
6 department shall prescribe, by rule, the procedures for filing  
7 reports required by this subsection.

8           Section 18. Paragraph (a) of subsection (2) of section  
9 494.0041, Florida Statutes, is amended, and paragraph (r) is  
10 added to that subsection, to read:

11           494.0041 Administrative penalties and fines; license  
12 violations.--

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

16           (a) Pleading nolo contendere to, or having been ~~Being~~  
17 convicted or found guilty of, regardless of whether  
18 adjudication is withheld, of a crime involving in any  
19 ~~jurisdiction which involves~~ fraud, dishonest dealing, or any  
20 ~~other~~ act of moral turpitude.

21           (r) Failure to timely pay any fee, charge, or fine  
22 imposed or assessed pursuant to this chapter or rules adopted  
23 under this chapter.

24           Section 19. Subsections (1), (3), (6), and (7) of  
25 section 494.0061, Florida Statutes, are amended to read:

26           494.0061 Mortgage lender's license requirements.--

27           (1) The department may require each applicant for a  
28 mortgage lender ~~lender's~~ license to provide any information  
29 reasonably necessary to make a determination of the  
30 applicant's eligibility for licensure. The department shall  
31

1 issue an initial mortgage lender ~~lender's~~ license to any  
2 person that submits:

3 (a) A completed application form;

4 (b) A nonrefundable application fee of \$575 ~~set by~~  
5 ~~rule of the department in an amount that may not exceed \$500;~~

6 (c) Audited financial statements, which documents  
7 disclose that the applicant has a bona fide and verifiable net  
8 worth, pursuant to generally accepted accounting principles,  
9 of at least \$250,000, which must be continuously maintained as  
10 a condition of licensure;

11 (d) A surety bond in the amount of \$10,000, payable to  
12 the state and conditioned upon compliance with ss.  
13 494.001-494.0077, which inures to the department and which  
14 must be continuously maintained thereafter in full force; and

15 (e) Documentation that the applicant is duly  
16 incorporated, registered, or otherwise formed as a general  
17 partnership, limited partnership, limited liability company,  
18 or other lawful entity under the laws of this state or another  
19 state of the United States.

20 (3) Each initial application for a mortgage lender's  
21 license must be in a written form prescribed by the  
22 department. The division may require each applicant to  
23 provide any information reasonably necessary to make a  
24 determination of the applicant's eligibility for licensure.  
25 The department may require that each officer, director, and  
26 ultimate equitable owner of a 10-percent or greater interest  
27 in the applicant submit a complete set of fingerprints taken  
28 by an authorized law enforcement officer.

29 (6) A mortgage lender or branch office license,  
30 ~~permit, or registration~~ may be canceled if it was issued  
31 through mistake or inadvertence of the department. A notice of

1 cancellation must be issued by the department within 90 days  
2 after the issuance of the license. A notice of cancellation  
3 shall be effective upon receipt. The notice of cancellation  
4 shall provide the applicant with notification of the right to  
5 request a hearing within 21 days after the applicant's receipt  
6 of the notice of cancellation. A license, ~~permit, or~~  
7 ~~registration~~ shall be reinstated if the applicant can  
8 demonstrate that the requirements for obtaining the license,  
9 ~~permit, or registration~~ pursuant to this chapter ss.  
10 ~~494.001-494.0077~~ have been satisfied.

11 (7) If an initial mortgage lender or branch office  
12 ~~license, permit, or registration~~ has been issued but the check  
13 upon which the license, ~~permit, or registration~~ is based is  
14 returned due to insufficient funds, the license, ~~permit, or~~  
15 ~~registration~~ shall be deemed canceled. A license, ~~permit, or~~  
16 ~~registration~~ deemed canceled pursuant to this subsection shall  
17 be reinstated if the department receives a certified check for  
18 the appropriate amount within 30 days after the date the check  
19 was returned due to insufficient funds.

20 Section 20. Subsections (1), (3), (9), and (10) of  
21 section 494.0062, Florida Statutes, are amended to read:

22 494.0062 Correspondent mortgage lender's license  
23 requirements.--

24 (1) The department shall issue an initial  
25 correspondent mortgage lender ~~lender's~~ license to any person  
26 who submits:

27 (a) A completed application form;

28 (b) A nonrefundable application fee of \$500 ~~set by~~  
29 ~~rule of the department in an amount that may not exceed \$400;~~

30 (c) Audited financial statements, which document that  
31 the application has a bona fide and verifiable net worth



1 pursuant to generally accepted accounting principles of  
2 \$25,000 or more, which must be continuously maintained as a  
3 condition of licensure;

4 (d) A surety bond in the amount of \$10,000, payable to  
5 the State of Florida and conditioned upon compliance with ss.  
6 494.001-494.0077, which inures to the department and which  
7 must be continuously maintained, thereafter, in full force;  
8 and

9 (e) Documentation that the applicant is duly  
10 incorporated, registered, or otherwise formed as a general  
11 partnership, limited partnership, limited liability company,  
12 or other lawful entity under the laws of this state or another  
13 state of the United States.

14 (3) Each initial application for a correspondent  
15 mortgage lender's license must be in a written form prescribed  
16 by the department. The division may require each applicant to  
17 provide any information reasonably necessary to make a  
18 determination of the applicant's eligibility for licensure.  
19 The department may require that each officer, director, and  
20 ultimate equitable owner of a 10-percent or greater interest  
21 submit a complete set of fingerprints taken by an authorized  
22 law enforcement officer.

23 (9) A correspondent mortgage lender or branch office  
24 ~~license, permit, or registration~~ may be canceled if it was  
25 issued through mistake or inadvertence of the department. A  
26 notice of cancellation must be issued by the department within  
27 90 days after the issuance of the license. A notice of  
28 cancellation shall be effective upon receipt. The notice of  
29 cancellation shall provide the applicant with notification of  
30 the right to request a hearing within 21 days after the  
31 applicant's receipt of the notice of cancellation. A license,

1 ~~permit, or registration~~ shall be reinstated if the applicant  
2 can demonstrate that the requirements for obtaining the  
3 license, ~~permit, or registration~~ pursuant to this chapter ss.  
4 ~~494.001-494.0077~~ have been satisfied.

5 (10) If an initial correspondent mortgage lender or  
6 branch office license, ~~permit, or registration~~ has been issued  
7 but the check upon which the license, ~~permit, or registration~~  
8 is based is returned due to insufficient funds, the license,  
9 ~~permit, or registration~~ shall be deemed canceled. A license,  
10 ~~permit, or registration~~ deemed canceled pursuant to this  
11 subsection shall be reinstated if the department receives a  
12 certified check for the appropriate amount within 30 days  
13 after the date the check was returned due to insufficient  
14 funds.

15 Section 21. Subsections (1), (3), and (4) of section  
16 494.0064, Florida Statutes, are amended to read:

17 494.0064 Renewal of mortgage lender's license; branch  
18 office license ~~permit~~ renewal.--

19 (1) The department shall renew a mortgage lender  
20 ~~lender's license or correspondent lender's license~~ upon  
21 receipt of a completed renewal form and the nonrefundable  
22 renewal fee of \$575, ~~in an amount not exceeding \$500~~. The  
23 department shall renew a correspondent lender license upon  
24 receipt of a completed renewal form and a nonrefundable  
25 renewal fee of \$475. Each licensee shall pay at the time of  
26 renewal a nonrefundable fee of \$325 ~~that may not exceed \$250~~  
27 for the renewal of each branch office license ~~permit~~.

28 (3) The license of a mortgage lender, correspondent  
29 mortgage lender, or branch office that is not renewed by the  
30 end of the biennium prescribed by the department automatically  
31 reverts to inactive status. An inactive license may be

1 reactivated within 6 months after becoming inactive by filing  
2 a completed reactivation form with the department, payment of  
3 the appropriate renewal fee, and payment of a nonrefundable  
4 reactivation fee of \$100.~~A fee of \$100 shall be charged for~~  
5 ~~late renewal.~~

6       ~~(4)~~ A license that is not renewed within 6 months  
7 after the end of the biennial period automatically expires.

8       Section 22. Subsections (1) and (2) of section  
9 494.0066, Florida Statutes, are amended to read:

10       494.0066 Branch offices.--

11       (1) A branch office license permit is required for  
12 each branch office maintained by a licensee under ss.  
13 494.006-494.0077.

14       (2) The department shall issue a branch office license  
15 permit upon receipt of a completed application form as  
16 prescribed by by rule by the department and an initial  
17 nonrefundable branch office license permit fee of \$325 ~~set by~~  
18 ~~rule of the department in an amount that may not exceed \$250.~~  
19 The branch office application must include the name and  
20 license number of the licensee under ss. 494.006-494.0077, the  
21 name of the licensee's employee in charge of the branch  
22 office, and the address of the branch office. The branch  
23 office license permit shall be issued in the name of the  
24 licensee under ss. 494.006-494.0077 and must be renewed in  
25 conjunction with the license renewal.

26       Section 23. Subsections (1), (2), (3), (4), (5), and  
27 (9) of section 494.0067, Florida Statutes, are amended to  
28 read:

29       494.0067 Requirements of licensees under ss.  
30 494.006-494.0077.--

31

1           (1) Each license of a mortgage lender, correspondent  
2 mortgage lender, or branch office ~~permit~~ shall be prominently  
3 displayed in the office for which it is issued.

4           (2) Each licensee under ss. 494.006-494.0077 which  
5 makes mortgage loans on real estate in this state shall  
6 transact business from a principal place of business ~~in the~~  
7 ~~state~~. Each principal place of business and each branch  
8 office shall be operated under the full charge, control, and  
9 supervision of the licensee under ss. 494.006-494.0077.

10           (3) A license ~~or branch office permit~~ issued under ss.  
11 494.006-494.0077 is not transferable or assignable.

12           (4) The department may require each licensee under ss.  
13 494.006-494.0077 to report any change of address of the  
14 principal place of business, change of address of any branch  
15 office, or change of principal officer, director, or ultimate  
16 equitable owner of 10 percent or more of the licensed  
17 corporation to the department in a form prescribed by rule of  
18 the department ~~writing~~ not later than 30 business days after  
19 the change is effective.

20           (5) Each licensee under ss. 494.006-494.0077 shall  
21 report in a form prescribed by rule by the department ~~writing~~  
22 any indictment, information, charge, conviction, plea of nolo  
23 contendere, or plea of guilty to any crime or administrative  
24 violation that involves fraud, dishonest dealing, or any other  
25 act of moral turpitude, in any jurisdiction, by the licensee  
26 under ss. 494.006-494.0077 or any principal officer, director,  
27 or ultimate equitable owner of 10 percent or more of the  
28 licensed corporation, not later than 30 business days after  
29 the indictment, information, charge, conviction, or final  
30 administrative action.

31

1           ~~(9) Each licensee under ss. 494.006-494.0077, or~~  
2 ~~person not required to be licensed under those sections, shall~~  
3 ~~maintain a record of samples of each of its advertisements,~~  
4 ~~including commercial scripts of each radio or television~~  
5 ~~broadcast, for examination by the department for a period of 2~~  
6 ~~years after the date of publication or broadcast.~~

7           Section 24. Effective January 1, 2000, subsection (10)  
8 is added to section 494.0067, Florida Statutes, to read:

9           494.0067 Requirements of licensees under ss.  
10 494.006-494.0077.--

11           (10) On or before April 30, 2000, each mortgage lender  
12 or correspondent mortgage lender shall file an initial report  
13 stating the full legal name, residential address, social  
14 security number, date of birth, mortgage broker license  
15 number, date of hire, and, if applicable, date of termination  
16 for each person who acted as a loan originator or an associate  
17 of the mortgage lender or correspondent mortgage lender during  
18 the immediate preceding quarter. Thereafter, a mortgage  
19 lender or correspondent mortgage lender shall file a report  
20 only if a person became or ceased to be a loan originator or  
21 an associate of the mortgage lender or correspondent mortgage  
22 lender during the immediate preceding quarter. Such report  
23 shall be filed within 30 days after the last day of each  
24 calendar quarter and shall contain the full legal name,  
25 residential address, social security number, date of birth,  
26 date of hire and, if applicable, the mortgage broker license  
27 number and date of termination of each person who became or  
28 ceased to be a loan originator or an associate of the mortgage  
29 lender or correspondent mortgage lender during the immediate  
30 preceding quarter. The department shall prescribe, by rule,  
31 the procedures for filing reports required by this subsection.

1           Section 25. Paragraph (a) of subsection (2) and  
2 subsections (3) and (4) of section 494.0072, Florida Statutes,  
3 are amended, and paragraph (r) is added to subsection (2), to  
4 read:

5           494.0072 Administrative penalties and fines; license  
6 violations.--

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

10           (a) Pleading nolo contendere to, or having been ~~Being~~  
11 convicted or found guilty of, regardless of whether  
12 adjudication is withheld, ~~of~~ a crime involving in any  
13 ~~jurisdiction which involves~~ fraud, dishonest dealing, or any  
14 ~~other~~ act of moral turpitude.

15           (r) Failure to timely pay any fee, charge, or fine  
16 imposed or assessed pursuant to this chapter or rules adopted  
17 under this chapter.

18           (3) A mortgage lender or correspondent mortgage lender  
19 is subject to the disciplinary actions specified in subsection  
20 (1) ~~if for a violation of subsection (2) by~~ any officer,  
21 director, or ultimate equitable owner of a 10-percent or  
22 greater interest in the mortgage lender or correspondent  
23 mortgage lender, associate, or employee of the mortgage lender  
24 or correspondent mortgage lender violates any provision of  
25 subsection (2) licensee.

26           (4) A natural person who is an associate of or  
27 employed by a mortgage lender or correspondent mortgage lender  
28 is subject to the disciplinary actions specified in subsection  
29 (1) if such person violates any provision ~~for a violation of~~  
30 subsection (2) ~~regarding any action for which such person was~~  
31 ~~involved.~~

1           Section 26. Section 494.0073, Florida Statutes, is  
2 amended to read:  
3           494.0073 Mortgage lender or correspondent mortgage  
4 lender when acting as a mortgage brokerage business  
5 ~~broker~~.--Sections 494.006-494.0077 do not prohibit a mortgage  
6 lender or correspondent mortgage lender from acting as a  
7 mortgage brokerage business ~~broker~~. However, in mortgage  
8 transactions in which a mortgage lender or correspondent  
9 mortgage lender acts as a mortgage brokerage business ~~broker~~,  
10 the provisions of ss. 494.0038, 494.0042, and 494.0043(1),  
11 (2), and (3) apply.

12           Section 27. Section 494.0037, Florida Statutes, is  
13 repealed.

14           Section 28. Except as otherwise provided in this act,  
15 this act shall take effect October 1, 1999.

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