

CHAPTER 98-45

Senate Bill No. 1350

An act relating to mortgage lenders (RAB); amending s. 494.0065, F.S.; authorizing a one-time transfer of ownership, control, or certain voting power of a licensed mortgage lender by an ultimate equitable owner under certain circumstances; providing an exception for intrafamilial transfers; providing requirements; providing for denial of the transfer under certain circumstances; providing an effective date.

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

Section 1. Subsection (3) of section 494.0065, Florida Statutes, is amended, and subsections (4), (5), (6), (7), and (8) are added to that section, to read:

494.0065 Saving clause.—

(3) The department may prescribe by rule forms and procedures for initial application for licensure, and amendment and withdrawal of application for licensure, or transfer, including any existing branch offices, in accordance with subsections (4) and (5), and for renewal of licensure of licensees under this section.

(4)(a) Notwithstanding ss. 494.0061(5) and 494.0067(3), the ultimate equitable owner, as of the effective date of this act, of a mortgage lender licensed under this section may transfer, one time, at least 50 percent of the ownership, control, or power to vote any class of equity securities of such mortgage lender, except as provided in paragraph (b). For purposes of this subsection, satisfaction of the amount of the ownership transferred may be met in multiple transactions or in a single transaction.

(b) A person who is an ultimate equitable owner on the effective date of this act may transfer, at any time, at least 50 percent of the ownership, control, or power to vote any class of equity securities of such person to the person's spouse or child, and any such transferee may transfer, at any time, such ownership, control, or power to vote to a spouse or child of such transferee, in perpetuity.

(5) The department may require each applicant for any transfer to provide any information reasonably necessary to make a determination of the applicant's eligibility for licensure. The department shall issue the transfer of licensure to any person who submits the following documentation at least 90 days prior to the anticipated transfer:

(a) A completed application form.

(b) A nonrefundable fee set by rule of the department in the amount of \$500.

(c) Audited financial statements that substantiate that the applicant has a bona fide and verifiable net worth, according to generally accepted accounting principles, of at least \$25,000, which must be continuously maintained as a condition of licensure.

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

The department may require that each officer, director, and ultimate equitable owner of a 10-percent or greater interest in the applicant submit a complete set of fingerprints taken by an authorized law enforcement officer.

(6) Notwithstanding subsection (5), a transfer under subsection (4) may be denied if the applicant, any principal officer or director of the applicant, or any natural person owning a 10-percent or greater interest in the applicant has committed any violation specified in s. 494.0072, or has entered a plea of nolo contendere, regardless of adjudication, or has an action pending against the applicant in any criminal prosecution or administrative enforcement action, in any jurisdiction, which involves fraud, dishonest dealing, or any act of moral turpitude.

(7) A license issued in accordance with this section is not transferable or assignable except as provided in subsection (4).

(8) The department shall require each person applying for a transfer of any branch office pursuant to subsection (4) of this section to comply with the requirements of s. 494.0066.

Section 2. This act shall take effect upon becoming a law.

Became a law without the Governor's approval April 30, 1998.

Filed in Office Secretary of State April 29, 1998.