

CHAPTER 99-213

Committee Substitute for Senate Bill No. 1326

An act relating to mortgage brokers and lenders; amending s. 494.001, F.S.; revising definitions; amending s. 494.0011, F.S.; authorizing the Department of Banking and Finance to adopt rules; amending s. 494.0012, F.S.; requiring the Department of Banking and Finance to charge a fee for certain examinations; deleting a limitation on aggregate amount of examination fees; requiring the department to conduct certain examinations in this state; providing an exception; revising travel expense and per diem subsistence requirements for licensees; amending s. 494.00125, F.S.; deleting references to registrations and permits; amending s. 494.0016, F.S.; specifying department prescription by rule of certain required information; creating s. 494.00165, F.S.; prohibiting certain advertising activities; requiring a record of certain advertisements; amending s. 494.0025, F.S.; deleting certain prohibited advertising activities; prohibiting payment of a mortgage transaction fee or commission to other than certain actively licensed persons; amending s. 494.0031, F.S.; providing for licensure of mortgage brokerage business branches; increasing license fees; deleting references to registrations and permits; amending s. 494.0032, F.S.; providing for renewal of branch licenses; increasing license renewal fees; providing for reversion of licenses to inactive status under certain circumstances; providing for reactivation of licenses; providing for a reactivation fee; amending s. 494.0033, F.S.; specifying an application fee; clarifying provisions; amending s. 494.00331, F.S.; prohibiting simultaneous multiple licensures; amending s. 494.0034, F.S.; deleting an automatic license expiration provision; clarifying provisions; amending s. 494.0036, F.S.; requiring a license to operate a mortgage brokerage business branch office; requiring display of licenses; amending s. 494.0038, F.S.; clarifying the timing of certain disclosures; amending s. 494.0039, F.S.; revising mortgage brokerage business principal place of business requirements; amending s. 494.004, F.S.; including pleas of nolo contendere to certain crimes within certain licensee reporting requirements; requiring licensees to report conviction or pleas of nolo contendere to felonies; requiring licensees to provide the department with certain information relating to associated mortgage brokers; requiring the department to adopt certain rules; amending s. 494.0041, F.S.; revising the list of acts constituting grounds for disciplinary action; amending s. 494.0061, F.S.; providing for mortgage lender branch office licenses; increasing a license fee; clarifying provisions; amending s. 494.0062, F.S.; providing for correspondent mortgage lender branch office licenses; increasing a license fee; clarifying provisions; amending s. 494.0064, F.S.; providing for renewal of certain licenses; increasing license renewal fees; providing for reversion of licenses to inactive status; deleting an automatic license expiration provision; amending s. 494.0066, F.S.; requiring mortgage lender and correspondent mortgage lender branch office licenses; increasing license fees; amending

s. 494.0067, F.S.; requiring display of certain licenses; requiring registration of loan originators; requiring certain information relating to loan originators; amending s. 494.0072, F.S.; revising a list of certain acts constituting grounds for disciplinary action; clarifying application of certain disciplinary actions; amending s. 494.0073, F.S.; providing for mortgage lenders or correspondent mortgage lenders to act as mortgage brokerage businesses; repealing s. 494.0037, F.S., relating to books, accounts, and records; providing effective dates.

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

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

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

(1) “Act as a correspondent mortgage lender” means to make a mortgage loan.

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

(3)(2) “Act as a mortgage broker” means, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, accepting or offering to accept an application for a mortgage loan, soliciting or offering to solicit a mortgage loan on behalf of a borrower, negotiating or offering to negotiate the terms or conditions of a mortgage loan on behalf of a lender, or negotiating or offering to negotiate the sale of an existing mortgage loan to a noninstitutional investor. An employee whose activities are ministerial and clerical, which may include quoting available interest rates or loan terms and conditions, is not acting as a mortgage broker.

(4)(3) “Act as a mortgage lender” means to make a mortgage loan or to service a mortgage loan for others or, for compensation or gain, or in the expectation of compensation or gain, either directly or indirectly, to sell or offer to sell a mortgage loan to a noninstitutional investor.

(5)(4) “Associate” means for the purposes of ss. 494.003-494.0043 solely, a person required to be licensed as a mortgage broker under this chapter who is employed by or acting as an independent contractor for a mortgage brokerage business or a person acting as an independent contractor for a mortgage lender or correspondent mortgage lender. The use of the term associate, in contexts other than in the administration of ss. 494.003-494.0077 494.003-494.0043, shall not be construed to impose or effect the common-law or statutory liability of the employer.

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

(7) “Branch office” means a location, other than a licensee’s principal place of business:

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

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

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

~~(8)~~(6) “Department” means the Department of Banking and Finance.

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

(10) “Employee” means a natural person who is employed and who is subject to the right of the employer to direct and control the actions of the employee.

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

(a) Revocation of a license or registration.

(b) Suspension of a license or registration.

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

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

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

~~(14)~~(10) “Lock-in agreement” means an agreement whereby the lender guarantees for a specified number of days or until a specified date the availability of a specified rate of interest or specified formula by which the

rate of interest will be determined and/or specific number of discount points, if the loan is approved and closed within the stated period of time.

~~(15)~~~~(11)~~ “Make a mortgage loan” means to close a mortgage loan in a person’s name or to advance funds, offer to advance funds, or make a commitment to advance funds to an applicant for a mortgage loan.

~~(16)~~~~(12)~~ “Mortgage brokerage ~~broker~~ fee” means a fee received for acting as a mortgage broker.

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

~~(18)~~ “Mortgage loan” means any:

~~(a)~~ Residential mortgage loan;

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

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

~~(19)~~~~(14)~~ “Net worth” means total assets minus total liabilities pursuant to generally accepted accounting principles.

~~(20)~~~~(15)~~ “Noninstitutional investor” means an investor other than an institutional investor.

~~(21)~~~~(16)~~ “Nonresidential mortgage loan” means a mortgage loan other than a residential mortgage loan.

~~(22)~~~~(17)~~ “Person” means an individual, partnership, corporation, association, or other group, however organized.

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

~~(24)~~ “Principal place of business” means a licensee’s primary business office the street address or physical location of which is designated on the application for licensure or any amendment to such application.

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

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

~~(27)~~~~(21)~~ “Substantial fault of the borrower” means that the borrower:

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

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

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

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

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

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

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

494.0011 Powers and duties of the department.—

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

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

494.0012 Investigations; complaints; examinations.—

(3)^(a) ~~The department may, at intermittent periods, conduct examinations of any licensee or other person under the provisions of ss. 494.001-494.0077. The department may charge an examination fee prescribed by rule, but such fee may not exceed \$300 per 8-hour day for each examiner. Such examination fee shall be calculated on an hourly basis and shall be rounded to the nearest hour.~~

(b) The department shall conduct all examinations at a convenient location in this state unless the department determines that it is more effective

or cost-efficient to perform an examination at the licensee's out-of-state location. For an examination performed at the licensee's out-of-state location travel, the licensee shall also pay the travel expense and per diem subsistence at the rate provided by law for up to 30 8-hour days per year for each department examiner who participates in such an examination. However, if the examination involves or reveals fraudulent conduct by the licensee, the licensee shall pay the travel expense and per diem subsistence provided by law, without limitation, for each participating examiner allowance provided for state employees under s. 112.061. The department may not charge more than \$500 in examination fees per biennial period to any one mortgage brokerage business, mortgage lender, or correspondent mortgage lender.

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

494.00125 Confidentiality of information relating to investigations and examinations.—

(1)(a) Except as otherwise provided by this section, information relative to an investigation or examination by the department pursuant to this chapter, including any consumer complaint, is confidential and exempt from s. 119.07(1) until the investigation or examination is completed or ceases to be active. The information compiled by the department in such an investigation or examination shall remain confidential and exempt from s. 119.07(1) after the department's investigation or examination is completed or ceases to be active if the department submits the information to any law enforcement or administrative agency for further investigation. Such information shall remain confidential and exempt from s. 119.07(1) until that agency's investigation is completed or ceases to be active. For purposes of this section, an investigation or examination shall be considered "active" so long as the department or any law enforcement or administrative agency is proceeding with reasonable dispatch and has a reasonable good faith belief that the investigation or examination may lead to the filing of an administrative, civil, or criminal proceeding or to the denial or conditional grant of a license, ~~registration, or permit~~. This section shall not be construed to prohibit disclosure of information which is required by law to be filed with the department and which, but for the investigation or examination, would be subject to s. 119.07(1).

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

494.0016 Books, accounts, and records; maintenance; examinations by the department.—

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

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

494.00165 Prohibited advertising; record requirements.—

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

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

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

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

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

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

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

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

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

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

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

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

~~(10)~~ Who is required to be licensed under ss. 494.006-494.0077, to fail to report to the department the failure to meet the net worth requirements of s. 494.0061, s. 494.0062, or s. 494.0065 within 48 hours after the person's

knowledge of such failure or within 48 hours after the person should have known of such failure.

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

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

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

494.0031 Licensure as a mortgage brokerage business.—

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

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

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

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

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

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

494.0032 Renewal of mortgage brokerage business license; ~~permit~~ renewal of mortgage brokerage business branch office license.—

(1) The department shall renew a mortgage brokerage business license upon receipt of a completed renewal form and payment of a nonrefundable

renewal fee ~~of \$375 that may not exceed \$300~~. Each licensee shall pay at the time of renewal a nonrefundable renewal fee of \$225 ~~that may not exceed \$150~~ for the renewal of each branch office license permit.

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

(3) A mortgage brokerage business or branch office license that is not renewed by the end of the biennium established by the department shall revert from active to inactive status. An inactive license may be reactivated within 6 months after becoming inactive by filing a completed reactivation form with the department, payment of the renewal fee, and payment of a nonrefundable reactivation fee of \$100. The department may set by rule a late renewal fee in an amount that may not exceed \$100.

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

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

494.0033 Mortgage broker's license.—

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

(a) Is at least 18 years of age;

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

(c) Has submitted a completed application and a nonrefundable application fee ~~of that may not exceed \$200~~. The department may set by rule an additional fee for a retake of the examination; and

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

(6) A mortgage broker license, permit, or registration may be canceled if it was issued through mistake or inadvertence of the department. A notice of cancellation must be issued by the department within 90 days after the issuance of the license. A notice of cancellation shall be effective upon receipt. The notice of cancellation shall provide the applicant with notification of the right to request a hearing within 21 days after the applicant's receipt

of the notice of cancellation. A license, ~~permit, or registration~~ shall be reinstated if the applicant can demonstrate that the requirements for obtaining the license, ~~permit, or registration~~ pursuant to this chapter ss. 494.001-494.0077 have been satisfied.

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

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

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

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

494.0034 Renewal of mortgage broker's license.—

(1) The department shall renew a mortgage ~~broker~~ broker's license upon receipt of the completed renewal form and payment of a nonrefundable renewal fee of that may not exceed \$150.

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

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

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

494.0036 Mortgage brokerage business branch offices.—

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

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

shall be issued in the name of the mortgage brokerage business that maintains the branch office.

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

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

494.0038 Mortgage broker disclosures.—

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

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

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

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

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

494.0039 Principal place of business requirements.—

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

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

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

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

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

494.004 Requirements of licensees.—

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

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

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

494.004 Requirements of licensees.—

(6) On or before April 30, 2000, each mortgage brokerage business shall file an initial report stating the name, social security number, date of birth, mortgage broker license number, date of hire and, if applicable, date of termination for each person who was an associate of the mortgage brokerage business during the immediate preceding quarter. Thereafter, a mortgage brokerage business shall file a quarterly report only if a person became an associate or ceased to be an associate of the mortgage brokerage business during the immediate preceding quarter. Such report shall be filed within 30 days after the last day of each calendar quarter and shall contain the name, social security number, date of birth, mortgage broker license number, date of hire and, if applicable, the date of termination of each person who became or ceased to be an associate of the mortgage brokerage business during the immediate preceding quarter. The department shall prescribe, by rule, the procedures for filing reports required by this subsection.

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

494.0041 Administrative penalties and fines; license violations.—

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

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

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

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

494.0061 Mortgage lender's license requirements.—

(1) The department may require each applicant for a mortgage lender ~~lender's~~ license to provide any information reasonably necessary to make a determination of the applicant's eligibility for licensure. The department shall issue an initial mortgage lender ~~lender's~~ license to any person that submits:

(a) A completed application form;

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

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

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

(e) Documentation that the applicant is duly 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.

(3) Each initial application for a mortgage lender's license must be in a ~~written~~ form prescribed by the department. The division may require each applicant to provide any information reasonably necessary to make a determination of the applicant's eligibility for licensure. 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) A mortgage lender or branch office license, ~~permit, or registration~~ may be canceled if it was issued through mistake or inadvertence of the

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

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

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

494.0062 Correspondent mortgage lender's license requirements.—

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

(a) A completed application form;

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

(c) Audited financial statements, which document that the application has a bona fide and verifiable net worth pursuant to generally accepted accounting principles of \$25,000 or more, which must be continuously maintained as a condition of licensure;

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

(e) Documentation that the applicant is duly 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.

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

(9) A correspondent mortgage lender or branch office license, ~~permit, or registration~~ may be canceled if it was issued through mistake or inadvertence of the department. A notice of cancellation must be issued by the department within 90 days after the issuance of the license. A notice of cancellation shall be effective upon receipt. The notice of cancellation shall provide the applicant with notification of the right to request a hearing within 21 days after the applicant's receipt of the notice of cancellation. A ~~license, permit, or registration~~ shall be reinstated if the applicant can demonstrate that the requirements for obtaining the license, ~~permit, or registration~~ pursuant to this chapter ss. 494.001-494.0077 have been satisfied.

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

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

494.0064 Renewal of mortgage lender's license; branch office license ~~permit~~ renewal.—

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

(3) The license of a mortgage lender, correspondent mortgage lender, or branch office that is not renewed by the end of the biennium prescribed by the department automatically reverts to inactive status. An inactive license may be reactivated within 6 months after becoming inactive by filing a completed reactivation form with the department, payment of the appropriate renewal fee, and payment of a nonrefundable reactivation fee of \$100. A fee of \$100 shall be charged for late renewal.

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

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

494.0066 Branch offices.—

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

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

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

494.0067 Requirements of licensees under ss. 494.006-494.0077.—

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

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

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

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

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

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

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

494.0067 Requirements of licensees under ss. 494.006-494.0077.—

(10) On or before April 30, 2000, each mortgage lender or correspondent mortgage lender shall file an initial report stating the full legal name, residential address, social security number, date of birth, mortgage broker license number, date of hire, and, if applicable, date of termination for each person who acted as a loan originator or an associate of the mortgage lender or correspondent mortgage lender during the immediate preceding quarter. Thereafter, a mortgage lender or correspondent mortgage lender shall file a report only if a person became or ceased to be a loan originator or an associate of the mortgage lender or correspondent mortgage lender during the immediate preceding quarter. Such report shall be filed within 30 days after the last day of each calendar quarter and shall contain the full legal name, residential address, social security number, date of birth, date of hire and, if applicable, the mortgage broker license number and date of termination of each person who became or ceased to be a loan originator or an associate of the mortgage lender or correspondent mortgage lender during the immediate preceding quarter. The department shall prescribe, by rule, the procedures for filing reports required by this subsection.

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

494.0072 Administrative penalties and fines; license violations.—

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

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

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

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

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

Section 26. Section 494.0073, Florida Statutes, is amended to read:

494.0073 Mortgage lender or correspondent mortgage lender when acting as a mortgage brokerage business ~~broker~~.—Sections 494.006-494.0077

do not prohibit a mortgage lender or correspondent mortgage lender from acting as a mortgage brokerage business broker. However, in mortgage transactions in which a mortgage lender or correspondent mortgage lender acts as a mortgage brokerage business broker, the provisions of ss. 494.0038, 494.0042, and 494.0043(1), (2), and (3) apply.

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

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

Approved by the Governor May 26, 1999.

Filed in Office Secretary of State May 26, 1999.