

Committee Substitute for
Committee Substitute for Senate Bill No. 2226

An act relating to mortgage brokering and mortgage lending; amending s. 494.001, F.S.; redefining terms, defining new terms, and deleting terms; amending s. 494.0011, F.S.; authorizing the Financial Services Commission to adopt rules relating to compliance with the S.A.F.E. Mortgage Licensing Act of 2008; requiring the commission to adopt rules establishing time periods for barring licensure for certain misdemeanors and felonies; authorizing the Office of Financial Regulation to participate in the Nationwide Mortgage Licensing System and Registry; creating s. 494.00115, F.S.; providing exemptions from part I, II, and III of ch. 494, F.S., relating to the licensing and regulation of loan originators, mortgage brokers, and mortgage lenders; creating s. 494.00135, F.S.; providing for the issuance of subpoenas; amending s. 494.0014, F.S.; revising provisions relating to the refund of fees; deleting an obsolete provision; amending s. 494.00165, F.S.; prohibiting unfair and deceptive advertising relating to mortgage brokering and lending; repealing s. 494.0017, F.S., relating to claims paid from the Regulatory Trust Fund; creating s. 494.00172, F.S.; providing for a \$20 fee to be assessed against loan originators and a \$100 fee to be assessed against mortgage brokers and lenders at the time of license application or renewal; providing that such fees shall be deposited into the Mortgage Guaranty Trust Fund and used to pay claims against licensees; providing for a cap on the amount collected and deposited; providing requirements for seeking recovery from the trust fund; providing limitations on the amount paid; providing for the assignment of certain rights to the office; providing that payment for a claim is prima facie grounds for the revocation of a license; amending s. 494.0018, F.S.; conforming cross-references; amending ss. 494.0019 and 494.002, F.S.; conforming terms; amending s. 494.0023, F.S.; deleting the statutory disclosure form and revising the disclosure that must be provided to a borrower in writing; providing that there is a conflicting interest if a licensee or the licensee's relatives have a 1 percent or more interest in the person providing additional products or services; authorizing the commission to adopt rules; amending s. 494.0025, F.S.; prohibiting the alteration, withholding, concealment, or destruction of records relevant to regulated activities; creating s. 494.255, F.S.; providing for license violations and administrative penalties; authorizing a fine of \$1,000 for each day of unlicensed activity up to \$25,000; amending s. 494.0026, F.S.; conforming cross-references; amending s. 494.0028, F.S.; conforming terms; repealing ss. 494.0029 and 494.00295, F.S., relating to mortgage business schools and continuing education requirements; creating s. 494.00296, F.S.; providing for loan modification services; prohibiting certain related acts by a mortgage broker, mortgage brokerage business, correspondent mortgage lender, or mortgage lender; providing for a loan modification agreement and for the inclusion of a borrower's right of cancellation statement; providing remedies; amending s. 494.00295, F.S.;

deleting references to a mortgage brokerage business and a correspondent mortgage lender, and adding reference to a loan originator; providing a directive to the Division of Statutory Revision; repealing s. 494.003, F.S., relating to exemptions from mortgage broker licensing and regulation; repealing s. 494.0031, F.S., relating to licensure as a mortgage brokerage business; creating s. 494.00312, F.S.; providing for the licensure of loan originators; providing license application requirements; providing grounds for license denial based on a failure to demonstrate character, general fitness, or financial responsibility sufficient to command community confidence; requiring the denial of a license under certain circumstances; requiring licenses to be renewed annually by a certain date; creating s. 494.00313, F.S.; providing for the renewal of a loan originator license; repealing s. 494.0032, F.S., relating to renewal of a mortgage brokerage business license or branch office license; creating s. 494.00321, F.S.; providing for the licensure of mortgage brokers; providing license application requirements; providing grounds for license denial based on a failure to demonstrate character, general fitness, or financial responsibility sufficient to command community confidence; requiring the denial of a license under certain circumstances; requiring licenses to be renewed by a certain date; creating s. 494.00322, F.S.; providing for the annual renewal of a mortgage broker license; providing license renewal requirements; repealing s. 494.0033, F.S., relating to a mortgage broker license; amending s. 494.00331, F.S.; requiring a loan originator to be an employee or independent contractor for a mortgage broker or mortgage lender; repealing s. 494.0034, F.S., relating to renewal of mortgage broker license; amending s. 494.0035, F.S.; providing for the management of a mortgage broker by a principal loan originator and a branch office by a loan originator; providing minimum requirements; amending s. 494.0036, F.S.; revising provisions relating to the licensure of a mortgage broker's branch office; amending s. 494.0038, F.S.; revising provisions relating to loan origination and mortgage broker fees; amending s. 494.0039, F.S.; conforming terms; amending s. 494.004, F.S.; revising provisions relating to licensees; providing for registry requirements; deleting obsolete provisions; repealing s. 494.0041, F.S., relating to license violations and administrative penalties; providing additional grounds for assessing fines and penalties; amending s. 494.0042, F.S.; providing for loan origination fees; conforming terms; amending ss. 494.00421 and 494.0043, F.S.; conforming terms; repealing s. 494.006, F.S., relating to mortgage lender licensing and regulation; repealing s. 494.0061, F.S., relating to mortgage lender license requirements; creating s. 494.00611, F.S.; providing for the licensure of mortgage lenders; providing license application requirements; providing grounds for license denial based on a failure to demonstrate character, general fitness, or financial responsibility sufficient to command community confidence; requiring the denial of a license under certain circumstances; requiring licenses to be renewed annually by a certain date; creating s. 494.00612, F.S.; providing for the renewal of a mortgage lender license; repealing s. 494.0062, F.S., relating to correspondent mort-

gage lender license requirements; amending s. 494.0063, F.S.; requiring a mortgage lender to obtain an annual financial audit report and submit a copy to the office within certain time periods; repealing s. 494.0064, F.S., relating to renewal of mortgage lender license; repealing s. 494.0065, F.S., relating to certain licenses and registrations that were converted into mortgage lender licenses; amending s. 494.0066, F.S.; revising provisions relating to a mortgage lender branch office license; creating s. 494.00665, F.S.; providing for a principal loan originator and branch manager for a mortgage lender; providing requirements and limitations; amending s. 494.0067, F.S.; revising requirements of mortgage lenders; providing for registry requirements; deleting obsolete provisions; providing for servicing agreements; amending ss. 494.0068, 494.0069, 494.007, and 494.0071, F.S.; conforming terms; repealing s. 494.0072, F.S., relating to license violations and administrative penalties; amending ss. 494.00721, 494.0073, 494.0075, 494.0076, and 494.0077, F.S.; conforming terms and cross-references; amending s. 501.1377, F.S.; revising definitions and conforming terms; exempting certain attorneys from the definition of “foreclosure-rescue consultant”; amending ss. 201.23, 420.507, 520.52, 520.63, 607.0505, and 687.12, F.S.; conforming cross-references; providing for the termination of mortgage business school licenses; providing for the expiration of mortgage brokerage business licenses, mortgage broker licenses, and correspondent mortgage lender licenses; providing requirements for applying for a loan originator, mortgage broker and mortgage lender license by a certain date; providing effective dates.

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

Section 1. Effective January 1, 2010, subsection (3) of section 494.001, Florida Statutes, is amended to read:

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

(3) “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 new or existing mortgage loan on behalf of a borrower or 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.

Section 2. Section 494.001, Florida Statutes, as amended by this act, 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, offer to negotiate, or assist any licensed or exempt entity in negotiating the making of a mortgage loan, including, but not limited to, working with a licensed or exempt entity to structure a loan or discussing terms and conditions necessary for the delivery of a loan product. A natural person whose activities are ministerial and clerical, which may include quoting available interest rates, is not acting as a loan originator.~~

(3) ~~“Act as a mortgage broker” means, for compensation or gain, or in the expectation of compensation or gain, 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 new or existing mortgage loan on behalf of a borrower or 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) ~~“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) ~~“Associate” means 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, shall not be construed to impose or effect the common-law or statutory liability of the employer.~~

(1) “Borrower” means a person obligated to repay a mortgage loan and includes, but is not limited to, a coborrower, cosignor, or guarantor.

(2)(6) “Branch manager broker” means the licensed loan originator licensee in charge of, and responsible for, the operation of the a branch office of a mortgage broker or mortgage lender brokerage business.

(3)(7) “Branch office” means a location, other than a mortgage broker’s or mortgage lender’s 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 ~~suggests~~ suggest that mortgage loans are originated, negotiated, funded, or serviced; or

(c) At 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 by a licensee.

~~(4)~~(8) “Commission” means the Financial Services Commission.

~~(5)~~(9) “Control person” means an individual, partnership, corporation, trust, or other organization that possesses the power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. The term includes, but is not limited to A person is presumed to control a company if, with respect to a particular company, that person:

(a) A company’s executive officers, including the president, chief executive officer, chief financial officer, chief operations officer, chief legal officer, chief compliance officer, director, and other individuals having similar status or functions.

(b) For a corporation, each shareholder that, directly or indirectly, owns 10 percent or more or that has the power to vote 10 percent or more, of a class of voting securities unless the applicant is a publicly traded company.

(c) For a partnership, all general partners and limited or special partners that have contributed 10 percent or more or that have the right to receive, upon dissolution, 10 percent or more of the partnership’s capital.

(d) For a trust, each trustee.

(e) For a limited liability company, all elected managers and those members that have contributed 10 percent or more or that have the right to receive, upon dissolution, 10 percent or more of the partnership’s capital.

(f) Principal loan originators.

(6) “Credit report” means any written, oral, or other information obtained from a consumer reporting agency as described in the federal Fair Credit Reporting Act, which bears on an individual’s credit worthiness, credit standing, or credit capacity. A credit score alone, as calculated by the reporting agency, is not considered a credit report.

(7) “Credit score” means a score, grade, or value that is derived by using data from a credit report in any type of model, method, or program, whether electronically, in an algorithm, in a computer software or program, or by any other process for the purpose of grading or ranking credit report data.

(8) “Depository institution” has the same meaning as in s. (3)(c) of the Federal Deposit Insurance Act, and includes any credit union.

~~(a) Is a director, general partner, or officer exercising executive responsibility or having similar status or functions;~~

~~(b) Directly or indirectly may vote 10 percent or more of a class of voting securities or sell or direct the sale of 10 percent or more of a class of voting securities; or~~

~~(e) In the case of a partnership, may receive upon dissolution or has contributed 10 percent or more of the capital.~~

~~(10) "Office" means the Office of Financial Regulation of the commission.~~

~~(11) "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.~~

~~(12) "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.~~

~~(13) "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.~~

(9) "Financial audit report" means a report prepared in connection with a financial audit that is conducted in accordance with generally accepted auditing standards prescribed by the American Institute of Certified Public Accountants by a certified public accountant licensed to do business in the United States, and which must include:

(a) Financial statements, including notes related to the financial statements and required supplementary information, prepared in conformity with United States generally accepted accounting principles.

(b) An expression of opinion regarding whether the financial statements are presented in conformity with United States generally accepted accounting principles, or an assertion to the effect that such an opinion cannot be expressed and the reasons.

~~(10)(14) "Institutional investor" means a depository institution 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., mortgage broker or mortgage lender business licensed under this chapter 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.~~

~~(11)(15) "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.~~

(12) “Loan modification” means a modification to an existing loan. The term does not include a refinancing transaction.

(13) “Loan origination fee” means the total compensation from any source received by a mortgage broker acting as a loan originator. Any payment for processing mortgage loan applications must be included in the fee and must be paid to the mortgage broker.

(14) “Loan originator” means an individual who, directly or indirectly, solicits or offers to solicit a mortgage loan, accepts or offers to accept an application for a mortgage loan, negotiates or offers to negotiate the terms or conditions of a new or existing mortgage loan on behalf of a borrower or lender, processes a mortgage loan application, or negotiates or offers to negotiate the sale of an existing mortgage loan to a noninstitutional investor for compensation or gain. The term includes the activities of a loan originator as that term is defined in the S.A.F.E. Mortgage Licensing Act of 2008, and an individual acting as a loan originator pursuant to that definition is acting as a loan originator for purposes of this definition. The term does not include an employee of a mortgage broker or mortgage lender who performs only administrative or clerical tasks, including quoting available interest rates, physically handling a completed application form, or transmitting a completed form to a lender on behalf of a prospective borrower.

(15)(16) “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 or and/or specific number of discount points will be given, if the loan is approved and closed within the stated period of time.

(16)(17) “~~Making~~ ~~Make~~ a mortgage loan” means ~~closing to close~~ a mortgage loan in a person’s name, ~~advancing or to advance~~ funds, ~~offering offer~~ to advance funds, or ~~making make~~ a commitment to advance funds to an applicant for a mortgage loan.

(17) “Material change” means a change that would be important to a reasonable borrower in making a borrowing decision, and includes a change in the interest rate previously offered a borrower, a change in the type of loan offered to a borrower, or a change in fees to be charged to a borrower resulting in total fees greater than \$100.

(18) “Mortgage broker” means a person conducting loan originator activities through one or more licensed loan originators employed by the mortgage broker or as independent contractors to the mortgage broker.

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

(19) “Mortgage brokerage business” means a person acting as a mortgage broker.

(19) “Mortgage lender” means a person making a mortgage loan or servicing a mortgage loan for others, or, for compensation or gain, directly or

indirectly, selling or offering to sell a mortgage loan to a noninstitutional investor.

~~(20)~~(20) “Mortgage loan” means any:

(a) Residential ~~mortgage loan primarily for personal, family, or household use which is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a dwelling, as defined in s. 103(v) of the federal Truth in Lending Act, or for the purchase of residential real estate upon which a dwelling is to be constructed;~~

(b) Loan on commercial real property if the borrower is an individual 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 an individual a natural person or the lender is a noninstitutional investor.

(21) “Mortgage loan application” means the submission of a borrower’s financial information in anticipation of a credit decision, which includes the borrower’s name, the borrower’s monthly income, the borrower’s social security number to obtain a credit report, the property address, an estimate of the value of the property, the mortgage loan amount sought, and any other information deemed necessary by the loan originator. An application may be in writing or electronically submitted, including a written record of an oral application.

~~(22)~~(21) “Net worth” means total assets minus total liabilities pursuant to United States generally accepted accounting principles.

~~(23)~~(22) “Noninstitutional investor” means an investor other than an institutional investor.

~~(23) “Nonresidential mortgage loan” means a mortgage loan other than a residential mortgage loan.~~

(24) “Office” means the Office of Financial Regulation.

~~(25)~~(24) “Person” has the same meaning as in s. 1.01 means ~~an individual, partnership, corporation, association, or other group, however organized.~~

~~(25) “Principal broker” means a licensee in charge of, and responsible for, the operation of the principal place of business and all branch brokers.~~

(26) “Principal loan originator” means the licensed loan originator in charge of, and responsible for, the operation of a mortgage lender or mortgage broker, including all of the activities of the mortgage lender’s or mortgage broker’s loan originators and branch managers, whether employees or independent contractors.

~~(27)~~(26) “Principal place of business” means a mortgage broker’s or mortgage lender’s licensee’s primary business office, the street address, or physi-

cal location ~~that of which~~ is designated on the application for licensure or any amendment to such application.

(28) “Registered loan originator” means a loan originator who is employed by a depository institution, by a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency, or by an institution regulated by the Farm Credit Administration, and who is registered with and maintains a unique identifier through the registry.

(29) “Registry” means the Nationwide Mortgage Licensing System and Registry, which is the mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of loan originators.

(30) “Relative” means any of the following, whether by the full or half blood or by adoption:

- (a) A person’s spouse, father, mother, children, brothers, and sisters.
- (b) The father, mother, brothers, and sisters of the person’s spouse.
- (c) The spouses of the person’s children, brothers, or sisters.

~~(27) “Residential mortgage loan” means any mortgage or other security instrument secured by improved real property consisting of no more than four dwelling units.~~

(31) “Servicing endorsement” means authorizing a mortgage lender to service a loan for more than 4 months.

~~(32)(28) “Servicing 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.~~

~~(33)(29) “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 by 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 by 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.

~~(34)~~(30) “Ultimate equitable owner” means an individual 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 the individual ~~such natural person~~ owns or controls such ~~ownership~~ interest through one or more ~~individuals 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.

~~(31)~~ “Principal representative” means ~~an individual who operates the business operations of a licensee under part III.~~

~~(32)~~ “Mortgage loan application” means ~~a submission of a borrower’s financial information in anticipation of a credit decision, whether written or computer-generated, relating to a mortgage loan. If the submission does not state or identify a specific property, the submission is an application for a prequalification and not an application for a mortgage loan under this part. The subsequent addition of an identified property to the submission converts the submission to an application for a mortgage loan.~~

~~(33)~~ “Mortgage brokerage fee” means ~~the total compensation to be received by a mortgage brokerage business for acting as a mortgage broker.~~

~~(34)~~ “Business day” means ~~any calendar day except Sunday or a legal holiday.~~

Section 3. Section 494.0011, Florida Statutes, is amended to read:

494.0011 Powers and duties of the commission and office.—

(1) The office shall be responsible for the administration and enforcement of ss. 494.001-494.0077.

~~(2) The commission may adopt rules pursuant to ss. 120.536(1) and 120.54 To administer implement ss. 494.001-494.0077, the commission may adopt rules;~~

(a) Requiring electronic submission of any forms, documents, or fees required by this act if such rules reasonably accommodate technological or financial hardship.

(b) Relating to compliance with the S.A.F.E. Mortgage Licensing Act of 2008, including rules to:

1. Require loan originators, mortgage brokers, mortgage lenders, and branch offices to register through the registry.

2. Require the use of uniform forms that have been approved by the registry, and any subsequent amendments to such forms if the forms are

substantially in compliance with the provisions of this chapter. Uniform forms that the commission may adopt include, but are not limited to:

- a. Uniform Mortgage Lender/Mortgage Broker Form, MU1.
- b. Uniform Mortgage Biographical Statement & Consent Form, MU2.
- c. Uniform Mortgage Branch Office Form, MU3.
- d. Uniform Individual Mortgage License/Registration & Consent Form, MU4.

3. Require the filing of forms, documents, and fees in accordance with the requirements of the registry.

4. Prescribe requirements for amending or surrendering a license or other activities as the commission deems necessary for the office's participation in the registry.

5. Prescribe procedures that allow a licensee to challenge information contained in the registry.

6. Prescribe procedures for reporting violations of this chapter and disciplinary actions on licensees to the registry. The commission may prescribe by rule requirements and procedures for obtaining an exemption due to a technological or financial hardship. The commission may also adopt rules to accept certification of compliance with requirements of this act in lieu of requiring submission of documents.

(c) Establishing time periods during which a loan originator, mortgage broker, or mortgage lender license applicant under part II or part III is barred from licensure due to prior criminal convictions of, or guilty or nolo contendere pleas by, any of the applicant's control persons, regardless of adjudication.

1. The rules must provide:

a. Permanent bars for felonies involving fraud, dishonesty, breach of trust, or money laundering;

b. A 15-year disqualifying period for felonies involving moral turpitude;

c. A 7-year disqualifying period for all other felonies; and

d. A 5-year disqualifying period for misdemeanors involving fraud, dishonesty, or any other act of moral turpitude.

2. The rules may provide for an additional waiting period due to dates of imprisonment or community supervision, the commitment of multiple crimes, and other factors reasonably related to the applicant's criminal history.

3. The rules may provide for mitigating factors for crimes identified in sub-subparagraph 1.b. However, the mitigation may not result in a period

of disqualification less than 7 years. The rule may not mitigate the disqualifying periods in sub-subparagraphs 1.a., 1.c., and 1.d.

4. An applicant is not eligible for licensure until the expiration of the disqualifying period set by rule.

5. Section 112.011 is not applicable to eligibility for licensure under this part.

~~(3) Except as provided in s. 494.00172, all fees, charges, and fines collected pursuant to ss. 494.001-494.0077 shall be deposited in the State Treasury to the credit of the Regulatory Trust Fund of under the office.~~

(4) The office shall participate in the registry and shall regularly report to the registry violations of this chapter, disciplinary actions, and other information deemed relevant by the office under this chapter.

~~(4)(a) The office has the power to issue and to serve subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of all books, accounts, records, and other documents and materials relevant to an examination or investigation. The office, or its duly authorized representative, has the power to administer oaths and affirmations to any person.~~

~~(b) The office may, in its discretion, seek subpoenas or subpoenas duces tecum from any court of competent jurisdiction commanding the appearance of witnesses and the production of books, accounts, records, and other documents or materials at a time and place named in the subpoenas; and any authorized representative of the office may serve any subpoena.~~

~~(5)(a) In the event of substantial noncompliance with a subpoena or subpoena duces tecum issued or caused to be issued by the office, the office may petition the circuit court or any other court of competent jurisdiction of the county in which the person subpoenaed resides or has its principal place of business for an order requiring the subpoenaed person to appear and testify and to produce such books, accounts, records, and other documents as are specified in the subpoena duces tecum. The court may grant injunctive relief restraining the person from advertising, promoting, soliciting, entering into, offering to enter into, continuing, or completing any mortgage loan transaction or mortgage loan servicing transaction. The court may grant such other relief, including, but not limited to, the restraint, by injunction or appointment of a receiver, of any transfer, pledge, assignment, or other disposition of the person's assets or any concealment, alteration, destruction, or other disposition of books, accounts, records, or other documents and materials as the court deems appropriate, until the person has fully complied with the subpoena duces tecum and the office has completed its investigation or examination. In addition, the court may order the refund of any fees collected in a mortgage loan transaction whenever books and documents substantiating the transaction are not produced or cannot be produced. The office is entitled to the summary procedure provided in s. 51.011, and the court shall advance such cause on its calendar. Attorney's fees and any other costs incurred by the office to obtain an order granting, in whole or part, a petition for enforcement of a subpoena or subpoena duces tecum shall be~~

taxed against the subpoenaed person, and failure to comply with such order is a contempt of court.

~~(b) When it appears to the office that the compliance with a subpoena or subpoena duces tecum issued or caused to be issued by the office pursuant to this section is essential and otherwise unavailable to an investigation or examination, the office, in addition to the other remedies provided for in this section, may apply to the circuit court or any other court of competent jurisdiction of the county in which the subpoenaed person resides or has its principal place of business for a writ of ne exeat. The court shall thereupon direct the issuance of the writ against the subpoenaed person requiring sufficient bond conditioned on compliance with the subpoena or subpoena duces tecum. The court shall cause to be endorsed on the writ a suitable amount of bond upon the payment of which the person named in the writ shall be freed, having a due regard to the nature of the case.~~

~~(c) Alternatively, the office may seek a writ of attachment from the court having jurisdiction over the person who has refused to obey a subpoena, who has refused to give testimony, or who has refused to produce the matters described in the subpoena duces tecum.~~

~~(6) The grant or denial of any license under this chapter must be in accordance with s. 120.60.~~

Section 4. Effective January 1, 2010, section 494.00115, Florida Statutes, is created to read:

494.00115 Exemptions.—

(1) The following are exempt from regulation under parts I, II, and III of this chapter.

(a) Any person operating exclusively as a registered loan originator in accordance with the S.A.F.E. Mortgage Licensing Act of 2008.

(b) A depository institution; subsidiaries that are owned and controlled by a depository institution and regulated by the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, or the Federal Deposit Insurance Corporation; or institutions regulated by the Farm Credit Administration.

(c) The Federal National Mortgage Association; the Federal Home Loan Mortgage Corporation; any agency of the Federal Government; any state, county, or municipal government; or any quasi-governmental agency that acts in such capacity under the specific authority of the laws of any state or the United States.

(d) An attorney licensed in this state who negotiates the terms of a mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client.

(e) A person involved solely in the extension of credit relating to the purchase of a timeshare plan, as that term is defined in 11 U.S.C. s. 101(53D)

(2) The following persons are exempt from regulation under part III of this chapter:

(a) A person acting in a fiduciary capacity conferred by the authority of a court.

(b) A person who, as a seller of his or her own real property, receives one or more mortgages in a purchase money transaction.

(c) A person who acts solely under contract and as an agent for federal, state, or municipal agencies for the purpose of servicing mortgage loans.

(d) A person who makes only nonresidential mortgage loans and sells loans only to institutional investors.

(e) An individual making or acquiring a mortgage loan using his or her own funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business.

(f) An individual selling a mortgage that was made or purchased with that individual's funds for his or her own investment, and who does not hold himself or herself out to the public as being in the mortgage lending business.

(3) It is not necessary to negate any of the exemptions provided in this section in any complaint, information, indictment, or other writ or proceeding brought under ss. 494.001-494.0077. The burden of establishing the right to an exemption is on the party claiming the benefit of the exemption.

Section 5. Section 494.00135, Florida Statutes, is created to read:

494.00135 Subpoenas.—

(1) The office may:

(a) Issue and serve subpoenas and subpoenas duces tecum to compel the attendance of witnesses and the production of all books, accounts, records, and other documents and materials relevant to an examination or investigation conducted by the office. The office, or its authorized representative, may administer oaths and affirmations to any person.

(b) Seek subpoenas or subpoenas duces tecum from any court to command the appearance of witnesses and the production of books, accounts, records, and other documents or materials at a time and place named in the subpoenas, and an authorized representative of the office may serve such subpoena.

(2) If there is substantial noncompliance with a subpoena or subpoena duces tecum issued by the office, the office may petition the court in the county where the person subpoenaed resides or has his or her principal place of business for an order requiring the person to appear, testify, or produce such books, accounts, records, and other documents as are specified in the subpoena or subpoena duces tecum.

(a) The court may grant injunctive relief restraining the person from advertising, promoting, soliciting, entering into, offering to enter into, continuing, or completing a mortgage loan or servicing a mortgage loan.

(b) The court may grant such other relief, including, but not limited to, the restraint, by injunction or appointment of a receiver, of any transfer, pledge, assignment, or other disposition of the person's assets or any concealment, alteration, destruction, or other disposition of books, accounts, records, or other documents and materials as the court deems appropriate, until the person has fully complied with the subpoena duces tecum and the office has completed its investigation or examination.

(c) The court may order the refund of any fees collected in a mortgage loan transaction if books and documents substantiating the transaction are not produced or cannot be produced.

(d) If it appears to the office that compliance with a subpoena or subpoena duces tecum issued is essential and otherwise unavailable to an investigation or examination, the office may apply to the court for a writ of ne exeat pursuant to s. 68.02.

(e) The office may seek a writ of attachment to obtain all books, accounts, records, and other documents and materials relevant to an examination or investigation.

(3) The office is entitled to the summary procedure provided in s. 51.011, and the court shall advance such cause on its calendar. Attorney's fees and any other costs incurred by the office to obtain an order granting, in whole or in part, a petition for enforcement of a subpoena or subpoena duces tecum shall be taxed against the subpoenaed person, and failure to comply with such order is a contempt of court.

Section 6. Section 494.0014, Florida Statutes, is amended to read:

494.0014 Cease and desist orders; ~~administrative fines~~; refund orders.—

(1) The office ~~may~~ has the power to issue and serve upon any person an order to cease and desist and to take corrective action ~~if whenever~~ it has reason to believe the person is violating, has violated, or is about to violate any provision of ss. 494.001-494.0077, any rule or order issued under ss. 494.001-494.0077, or any written agreement between the person and the office. All procedural matters relating to issuance and enforcement of such ~~a cease and desist order~~ are governed by the Administrative Procedure Act.

(2) The office ~~may~~ has the power to order the refund of any fee directly or indirectly assessed and charged on a mortgage loan transaction which is unauthorized or exceeds the maximum fee specifically authorized in ss. 494.001-494.0077, or any amount collected for the payment of third-party fees which exceeds the cost of the service provided.

~~(3) The office may prohibit the association by a mortgage broker business, or the employment by a mortgage lender or correspondent mortgage lender, of any person who has engaged in a pattern of misconduct while an~~

associate of a mortgage brokerage business or an employee of a mortgage lender or correspondent mortgage lender. For the purpose of this subsection, the term “pattern of misconduct” means the commission of three or more violations of ss. 494.001-494.0077 or the provisions of chapter 494 in effect prior to October 1, 1991, during any 1-year period or any criminal conviction for violating ss. 494.001-494.0077 or the provisions of chapter 494 in effect prior to October 1, 1991.

~~(4) The office may impose upon any person who makes or brokers a loan, or any mortgage business school, a fine for violations of any provision of ss. 494.001-494.00295 or any rule or order issued under ss. 494.001-494.00295 in an amount not exceeding \$5,000 for each separate count or offense.~~

Section 7. Effective July 1, 2009, section 494.00165, Florida Statutes, is amended 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 ~~shall~~ will have unqualified access to credit without disclosing the what material limitations on the availability of such 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 on ~~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 the ~~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.

(e) Engage in unfair, deceptive, or misleading advertising regarding mortgage loans, brokering services, or lending services.

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

Section 8. Section 494.0017, Florida Statutes, is repealed.

Section 9. Section 494.00172, Florida Statutes, is created to read:

494.00172 Mortgage Guaranty Trust Fund; payment of fees and claims.—A nonrefundable fee is imposed on each application for a mortgage broker, mortgage lender, or loan originator license and on each annual

application for a renewal of such license. For a loan originator, the initial and renewal fee is \$20. For mortgage brokers and lenders, the initial and renewal fee is \$100. This fee is in addition to the regular application or renewal fee assessed and shall be deposited into the Mortgage Guaranty Trust Fund of the office for the payment of claims in accordance with this section.

(1) If the amount in the trust fund exceeds \$5 million, the additional fee shall be discontinued and may not be reimposed until the fund is reduced to below \$1 million pursuant to disbursements made in accordance with this section.

(2) A borrower in a mortgage loan transaction is eligible to seek recovery from the trust fund if all of the following conditions are met:

(a) The borrower has recorded a final judgment issued by a state court wherein the cause of action against a licensee under this chapter was based on a violation of this chapter and the damages were the result of that violation.

(b) The borrower has caused a writ of execution to be issued upon such judgment, and the officer executing the judgment has made a return showing that no personal or real property of the judgment debtor liable to be levied upon in satisfaction of the judgment can be found or that the amount realized on the sale of the judgment debtor's property pursuant to such execution is insufficient to satisfy the judgment.

(c) The borrower has made all reasonable searches and inquiries to ascertain whether the judgment debtor possesses real or personal property or other assets subject to being sold or applied in satisfaction of the judgment, and has discovered no such property or assets; or he or she has discovered property and assets and has taken all necessary action and proceedings for the application thereof to the judgment, but the amount realized is insufficient to satisfy the judgment.

(d) The borrower has applied any amounts recovered from the judgment debtor, or from any other source, to the damages awarded by the court.

(e) The borrower, at the time the action was instituted, gave notice and provided a copy of the complaint to the office by certified mail. The requirement of a timely giving of notice may be waived by the office upon a showing of good cause.

(f) The act for which recovery is sought occurred on or after January 1, 2011.

(3) The requirements of subsection (2) are not applicable if the licensee upon which the claim is sought has filed for bankruptcy or has been adjudicated bankrupt. However, the claimant must file a proof of claim in the bankruptcy proceedings and must notify the office by certified mail of the claim by enclosing a copy of the proof of claim and all supporting documents.

(4) Any person who meets all of the conditions in subsection (2) may apply to the office for payment from the trust fund equal to the unsatisfied

portion of that person's judgment or \$50,000, whichever is less, but only to the extent that the amount reflected in the judgment is for actual or compensatory damages, plus any attorney's fees and costs awarded by the trial court which have been determined by the court, and the documented costs associated with attempting to collect the judgment. Actual or compensatory damages may not include postjudgment interest. Attorney's fees may not exceed \$5,000 or 20 percent of the actual or compensatory damages, whichever is less. If actual or compensatory damages, plus attorney's fees and costs, exceed \$50,000, actual or compensatory damages must be paid first. The cumulative payment for actual or compensatory damages, plus attorney's fees and costs, may not exceed \$50,000 as described in this section.

(a) A borrower may not collect more than \$50,000 from the trust fund for any claim regardless of the number of licensees liable for the borrower's damages.

(b) Payments for claims are limited in the aggregate to \$250,000 against any one licensee under this chapter. If the total claims exceed the aggregate limit of \$250,000, the office shall prorate payments based on the ratio that a claim bears to the total claims filed.

(c) Payments shall be made to all persons meeting the requirements of subsection (2) 2 years after the date the first complete and valid notice is received by the office. Persons who give notice after 2 years and who otherwise comply with the conditions precedent to recovery may recover from any remaining portion of the \$250,000 aggregate as provided in this subsection, with claims being paid in the order notice was received until the \$250,000 aggregate has been disbursed.

(d) The claimant shall assign his or her right, title, and interest in the judgment, to the extent of his or her recovery from the fund, to the office and shall record, at his or her own expense, the assignment of judgment in every county where the judgment is recorded.

(e) If the money in the fund is insufficient to satisfy any valid claim or portion thereof, the office shall satisfy such unpaid claim or portion as soon as a sufficient amount of money has been deposited in the trust fund. If there is more than one unsatisfied claim outstanding, such claims shall be paid in the order in which the claims were filed with the office.

(f) The payment of any amount from the fund in settlement of a claim or in satisfaction of a judgment against a licensee constitutes prima facie grounds for the revocation of the license.

Section 10. Section 494.0018, Florida Statutes, is amended to read:

494.0018 Penalties.—

(1) Whoever knowingly violates any provision of s. 494.00255(1)(a), (b), or (c) ~~s. 494.0041(2)(e), (f), or (g); s. 494.0072(2)(e), (f), or (g); or s. 494.0025(1), (2), (3), (4), or (5),~~ except as provided in subsection (2) of this section, ~~commits is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. Each such violation constitutes a separate offense.

(2) Any person who ~~violates convicted of a violation of~~ any provision of ss. 494.001-494.0077, in which ~~violation~~ the total value of money and property unlawfully obtained ~~exceeds exceeded~~ \$50,000 and there ~~are were~~ five or more victims, ~~commits is guilty of~~ a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 11. Effective July 1, 2009, section 494.0019, Florida Statutes, is amended to read:

494.0019 Liability in case of unlawful transaction.—

(1) If a mortgage loan transaction is made in violation of any provision of ss. 494.001-494.0077, the person making the transaction and every licensee, director, or officer who participated in making the transaction are jointly and severally liable to every party to the transaction in an action for damages incurred by the party or parties.

(2) A person is not liable under this section upon a showing that such person's licensees, officers, and directors who participated in making the mortgage loan transaction, if any, acted in good faith and without knowledge and, with the exercise of due diligence, could not have known of the act committed in violation of ss. 494.001-494.0077.

Section 12. Effective July 1, 2009, section 494.002, Florida Statutes, is amended to read:

494.002 Statutory or common-law remedies.—~~Sections Nothing in ss. 494.001-494.0077 do not limit~~ limits any statutory or common-law right of any person to bring any action in any court for any act involved in the mortgage loan business or the right of the state to punish any person for any violation of any law.

Section 13. Section 494.0023, Florida Statutes, is amended to read:

494.0023 Conflicting interest.—

(1) If, in a mortgage transaction, a licensee has a conflicting interest as specified in subsection (2), the licensee shall, at a minimum, provide the following disclosures to the borrower in writing:

(a) The nature of the relationship, ownership, or financial interest between the provider of products or services, or business incident thereto, and the licensee making the referral; The type of conflicting interest shall be fully and fairly disclosed.

(b) An estimated charge or range of charges generally made by such a provider; The licensee shall inform the borrower in writing

(c) That a financial benefit may be received by the licensee as a result of the conflicting interest; and.

~~(d)(e) The borrower shall be informed~~ That alternative sources may be chosen by the borrower to provide the any required products or services. ~~The following language must be contained in 12-point type in any agreement~~

~~between a mortgage broker, mortgage lender, or correspondent mortgage lender and a borrower in substantially this form:~~

~~You are not required to purchase additional products or services from any person or entity suggested or recommended by (Broker/Lender/Correspondent Lender). However, the (Broker/Lender/Correspondent Lender) hereby reserves the right to approve the entity selected by the borrower, which approval may not be unreasonably withheld.~~

(2) A licensee has a conflicting interest if:

(a) The licensee or the licensee's relative provides the borrower with additional products or services;

(b) The licensee or licensee's relative, ~~either~~ directly or indirectly, owns, controls, or holds with power to vote, or holds proxies representing, ~~1~~ 10 percent or more of any class of equity securities or other beneficial interest in ~~the such~~ person providing the additional products or services;

(c) The person providing the additional products or services, ~~either~~ directly or indirectly, owns, controls, or holds the power to vote, or holds proxies representing, ~~1~~ 10 percent or more of any class of equity securities or other beneficial interest in the licensee;

(d) A holding company, ~~either~~ directly or indirectly, owns, controls, or holds with power to vote, or holds proxies representing, ~~1~~ 10 percent or more of any class of equity securities or other beneficial interest in both the licensee and the person providing the additional products or services;

(e) One or more persons, or such person's relative, sits as an officer or director, or performs similar functions as an officer or director, for both the licensee and the person providing the additional products or services; or

(f) The licensee or the licensee's relative sits as an officer or director, or performs similar functions as an officer or director, of the person providing the additional products or services.

(3) The commission may adopt rules to administer the disclosure requirements of this section. The rules must consider the disclosure requirements of the federal Real Estate Settlement Procedures Act, 12 U.S.C. ss. 2601 et seq.; the federal Truth in Lending Act, 15 U.S.C. et seq.; and related federal regulations.

~~(3) As used in this section, the term "relative" of any natural person means any of the following persons, whether by the full or half blood or by adoption:~~

~~(a) Such person's spouse, father, mother, children, brothers, and sisters.~~

~~(b) The father, mother, brothers, and sisters of such person's spouse.~~

~~(c) The spouses of children, brothers, or sisters of such person.~~

Section 14. Section 494.0025, Florida Statutes, is amended to read:

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

~~(1) To act as a mortgage lender in this state without a current, active license issued by the office pursuant to ss. 494.006-494.0077.~~

(1)(2) To act as a loan originator correspondent mortgage lender in this state without a current, active license issued by the office pursuant to part II of this chapter ss. 494.006-494.0077.

~~(2)(3) To act as a mortgage broker in this state without a current, active license issued by the office pursuant to part II of this chapter ss. 494.003-494.0043.~~

(3) To act as a mortgage lender in this state without a current, active license issued by the office pursuant to part III of this chapter.

(4) In any practice or transaction or course of business relating to the sale, purchase, negotiation, promotion, advertisement, or hypothecation of mortgage loan transactions, directly or indirectly:

(a) To knowingly or willingly employ any device, scheme, or artifice to defraud;

(b) To engage in any transaction, practice, or course of business which operates as a fraud upon any person in connection with the purchase or sale of any mortgage loan; or

(c) To obtain property by fraud, willful misrepresentation of a future act, or false promise.

(5) In any matter within the jurisdiction of the office, to knowingly and willfully falsify, conceal, or cover up by a trick, scheme, or device a material fact, make any false or fraudulent statement or representation, or make or use any false writing or document, knowing the same to contain any false or fraudulent statement or entry.

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

~~(7) Who is required to be licensed under ss. 494.006-494.0077, to fail to report to the office 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.~~

(7)(8) To pay a fee or commission in any mortgage loan transaction to any person or entity other than a licensed mortgage broker brokerage business, mortgage lender, or correspondent mortgage lender, operating under an active license, or a person exempt from licensure under this chapter.

(8)(9) To record a mortgage broker 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.

(9)(10) To use the name or logo of a financial institution, as defined in s. 655.005(1), or its affiliates or subsidiaries when marketing or soliciting existing or prospective customers if such marketing materials are used without the written consent of the financial institution and in a manner that would lead a reasonable person to believe that the material or solicitation originated from, was endorsed by, or is related to or the responsibility of the financial institution or its affiliates or subsidiaries.

(10) Subject to investigation or examination under this chapter, to knowingly alter, withhold, conceal, or destroy any books, records, computer records, or other information relating to a person's activities which subject the person to the jurisdiction of this chapter.

Section 15. Section 494.00255, Florida Statutes, is created to read:

494.00255 Administrative penalties and fines; license violations.—

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

(a) Failure to immediately place upon receipt, and maintain until authorized to disburse, any money entrusted to the licensee as a licensee in a segregated account of a federally insured financial institution in this state.

(b) Failure to account or deliver to any person any property that is not the licensee's, or that the licensee is not entitled to retain, under the circumstances and at the time that has been agreed upon or as required by law or, in the absence of a fixed time, upon demand of the person entitled to such accounting and delivery.

(c) Failure to disburse funds in accordance with agreements.

(d) Any misuse, misapplication, or misappropriation of personal property entrusted to the licensee's care to which the licensee had no current property right at the time of entrustment.

(e) Fraud, misrepresentation, deceit, negligence, or incompetence in any mortgage financing transaction.

(f) Requesting a specific valuation, orally or in writing, from an appraiser for a particular property, implying to an appraiser that a specific valuation is needed for a particular property, or in any manner conditioning the order for an appraisal on the appraisal meeting a specific valuation. The numeric value of the specific valuation sought need not be stated, but rather the mere statement that a specific valuation is sought, violates this section.

(g) Consistently and materially underestimating maximum closing costs.

(h) Disbursement, or an act which has caused or will cause disbursement, to any person in any amount from the Mortgage Guaranty Trust Fund, the Securities Guaranty Fund, or the Florida Real Estate Recovery Fund, regardless of any repayment or restitution to the disbursed fund by the licensee or any person acting on behalf of the licensee.

(i) Commission of fraud, misrepresentation, concealment, or dishonest dealing by trick, scheme, or device; culpable negligence; breach of trust in any business transaction in any state, nation, or territory; or aiding, assisting, or conspiring with any other person engaged in any such misconduct and in furtherance thereof.

(j) Being convicted of, or entering a plea of guilty or nolo contendere to, regardless of adjudication, any felony or any crime involving fraud, dishonesty, breach of trust, money laundering, or act of moral turpitude.

(k) Having a final judgment entered against the licensee in a civil action upon grounds of fraud, embezzlement, misrepresentation, or deceit.

(l) Having been the subject of any:

1. Decision, finding, injunction, suspension, prohibition, revocation, denial, judgment, or administrative order by any court, administrative law judge, state or federal agency, national securities exchange, national commodities exchange, national option exchange, national securities association, national commodities association, or national option association involving a violation of any federal or state securities or commodities law or rule or regulation adopted under such law or involving a violation of any rule or regulation of any national securities, commodities, or options exchange or association.

2. Injunction or adverse administrative order by a state or federal agency regulating banking, insurance, finance or small loan companies, real estate, mortgage brokers or lenders, money transmitters, or other related or similar industries.

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

(n) Having a loan originator, mortgage broker, or mortgage lender license, or the equivalent of such license, revoked in any jurisdiction.

(o) Having a license, or the equivalent of such license, to practice any profession or occupation revoked, suspended, or otherwise acted against, including the denial of licensure by a licensing authority of this state or another state, territory, or country.

(p) Acting as a loan originator, mortgage broker, or mortgage lender without a current license issued under part II or part III of this chapter.

(q) Operating a mortgage broker or mortgage lender branch office without a current license issued under part II or part III of this chapter.

(r) Conducting any mortgage brokering or mortgage lending activities in the absence of a properly designated principal loan originator or mortgage brokering or mortgage lending activities at any particular branch office without a properly designated branch manager.

(s) A material misstatement or omission of fact on an initial or renewal license application.

(t) Payment to the office for a license or permit with a check or electronic transmission of funds which is dishonored by the applicant's or licensee's financial institution.

(u) Failure to comply with, or violations of, any provision of ss. 494.001-494.0077, or any rule or order made or issued under ss. 494.001-494.0077.

(v) Failure to maintain, preserve, and keep available for examination all books, accounts, or other documents required by ss. 494.001-494.0077 and the rules of the commission.

(w) Refusal to permit an investigation or examination of books and records, or refusal to comply with an office subpoena or subpoena duces tecum.

(x) Failure to timely pay any fee, charge, or fine imposed or assessed pursuant to ss. 494.001-494.0077 or related rules.

(2) If the office finds a person in violation of any act specified in this section, it may enter an order imposing one or more of the following penalties:

(a) Issuance of a reprimand.

(b) Suspension of a license, subject to reinstatement upon satisfying all reasonable conditions imposed by the office.

(c) Revocation of a license.

(d) Denial of a license.

(e) Imposition of a fine in an amount up to \$25,000 for each count or separate offense.

(f) An administrative fine of up to \$1,000 per day, but not to exceed \$25,000 cumulatively, for each day that

1. A mortgage broker or mortgage lender conducts business at an unlicensed branch office.

2. An unlicensed person acts as a loan originator, a mortgage broker, or a mortgage lender.

(3) A mortgage broker or mortgage lender, as applicable, is subject to the disciplinary actions specified in subsection (2) for a violation of subsection (1) by:

(a) A control person of the mortgage broker or mortgage lender; or

(b) A loan originator employed by or contracting with the mortgage broker or mortgage lender.

(4) A principal loan originator of a mortgage broker is subject to the disciplinary actions specified in subsection (2) for violations of subsection (1) by a loan originator in the course of an association with the mortgage broker if there is a pattern of repeated violations by the loan originator or if the principal loan originator has knowledge of the violations.

(5) A principal loan originator of a mortgage lender is subject to the disciplinary actions specified in subsection (2) for violations of subsection (1) by an associate of a mortgage lender if there is a pattern of repeated violations by the associate or if the principal loan originator has knowledge of the violations.

(6) A branch manager is subject to the disciplinary actions specified in subsection (2) for violations of subsection (1) by a loan originator in the course of an association with the mortgage broker or mortgage lender if there is a pattern of repeated violations by the loan originator or if the branch manager has knowledge of the violations.

(7) An individual who is associated with a mortgage broker is subject to the disciplinary actions specified in subsection (2) for a violation of subsection (1) with respect to an action in which such person was involved.

(8) Pursuant to s. 120.60(6), the office may summarily suspend the license of a loan originator, mortgage broker, or mortgage lender if the office has reason to believe that a licensee poses an immediate, serious danger to the public's health, safety, or welfare. The arrest of the licensee, or the mortgage broker or the mortgage lender's control person, for any felony or any crime involving fraud, dishonesty, breach of trust, money laundering, or any other act of moral turpitude is deemed sufficient to constitute an immediate danger to the public's health, safety, or welfare. Any proceeding for the summary suspension of a license must be conducted by the commissioner of the office, or designee, who shall issue the final summary order.

(9) The office may deny any request to terminate or withdraw any license application or license if the office believes that an act that would be a ground for license denial, suspension, restriction, or revocation under this chapter has been committed.

Section 16. Effective July 1, 2009, section 494.0026, Florida Statutes, is amended to read:

494.0026 Disposition of insurance proceeds.—The following provisions apply to mortgage loans held by a mortgagee or assignee that is subject to part II or part III of this chapter ss. 494.003-494.0077.

(1) The mortgagee or assignee must promptly endorse a check, draft, or other negotiable instrument payable jointly to the mortgagee or assignee and the insured by the insurance company. However, the mortgagee or assignee is not required to endorse such instrument if the insured or a payee who is not subject to part II or part III of this chapter ss. 494.003-494.0077 refuses to endorse the instrument.

(2) Insurance proceeds received by a mortgagee or assignee that relate to compensation for damage to property or contents insurance coverage in

which the mortgagee or assignee has a security interest must be promptly deposited by ~~the mortgagee or assignee~~ into a segregated account of a federally insured financial institution.

(3) Insurance proceeds received by a mortgagee or assignee that relate to contents insurance coverage in which the mortgagee or assignee does not have a security interest in the contents must be promptly distributed to the insured ~~by the mortgagee or assignee~~.

(4) Insurance proceeds received by a mortgagee or assignee that relate to additional living expenses must be promptly distributed to the insured ~~by the mortgagee or assignee~~.

(5) The mortgagee or assignee is not required to remit the portion of the proceeds relating to additional living expenses and contents insurance if the mortgagee or assignee is not able to determine which part of the proceeds relates to additional living expenses and contents insurance.

~~Nothing in~~ This section may not shall be construed to prevent an insurance company from paying the insured directly for additional living expenses or paying the insured directly for contents insurance coverage if the mortgagee or assignee does not have a security interest in the contents.

Section 17. Section 494.0028, Florida Statutes, is amended to read:

494.0028 Arbitration.—

(1) This section applies to any mortgage broker brokerage agreement, servicing agreement, loan application, or purchase agreement that ~~which~~ provides for arbitration between:

(a) A noninstitutional investor and a mortgage lender servicing ~~or correspondent mortgage lender to service~~ a mortgage loan.

(b) A borrower and a mortgage broker brokerage business, ~~mortgage lender,~~ or ~~correspondent~~ mortgage lender to obtain a mortgage loan.

(c) A noninstitutional investor and a mortgage broker brokerage business, ~~mortgage lender,~~ or ~~correspondent~~ mortgage lender to fund or purchase a mortgage loan.

(2) All agreements subject to this section must shall provide that, at the voluntary election of the noninstitutional investor or borrower, disputes shall be handled by ~~either a court of competent jurisdiction~~ or by binding arbitration.

(3) All agreements subject to this section must shall provide the noninstitutional investor or borrower with the option to elect arbitration before the American Arbitration Association or other independent nonindustry arbitration forum. Any other nonindustry arbitration forum may apply to the office to allow such forum to provide arbitration services. The office shall grant the application if the applicant's fees, practices, and procedures do not materially differ from those of the American Arbitration Association.

(4) At the election of the noninstitutional investor or borrower, venue shall be in the county in which the noninstitutional investor or borrower entered into the agreement or at a business location of the mortgage broker or brokerage business, mortgage lender, or correspondent lender.

(5) Any fees or charges must be in accordance with ~~shall be made as provided in~~ the rules of the American Arbitration Association or other approved nonindustry arbitration forum and may ~~shall~~ not be set in the agreement.

(6) Any election made under this section is shall ~~be~~ irrevocable.

(7) This section does ~~shall not be construed to~~ require an agreement that ~~which~~ is subject to this section to contain an arbitration clause.

Section 18. Sections 494.0029 and 494.00295, Florida Statutes, are repealed.

Section 19. Effective January 1, 2010, section 494.00296, Florida Statutes, is created to read:

494.00296 Loan modification.—

(1) PROHIBITED ACTS.—When offering or providing loan modification services, a mortgage broker, mortgage brokerage business, mortgage lender, or correspondent mortgage lender licensed, or required to be licensed, under ss. 494.001-494.0077 may not:

(a) Engage in or initiate loan modification services without first executing a written agreement for loan modification services with the borrower;

(b) Execute a loan modification without the consent of the borrower after the borrower is made aware of each modified term; or

(c) Solicit, charge, receive, or attempt to collect or secure payment, directly or indirectly, for loan modification services before completing or performing all services included in the agreement for loan modification services. A fee may be charged only if the loan modification results in a material benefit to the borrower. The commission may adopt rules to provide guidance on what constitutes a material benefit to the borrower.

(2) LOAN MODIFICATION AGREEMENT.—

(a) The written agreement for loan modification services must be printed in at least 12-point uppercase type and signed by both parties. The agreement must include the name and address of the person providing loan modification services, the exact nature and specific detail of each service to be provided, the total amount and terms of charges to be paid by the borrower for the services, and the date of the agreement. The date of the agreement may not be earlier than the date the borrower signed the agreement. The mortgage brokerage business, mortgage lender, or correspondent mortgage lender must give the borrower a copy of the agreement to review at least 1 business day before the borrower is to sign the agreement.

(b) The borrower has the right to cancel the written agreement without any penalty or obligation if the borrower cancels the agreement within 3 business days after signing the agreement. The right to cancel may not be waived by the borrower or limited in any manner by the mortgage broker, mortgage brokerage business, mortgage lender, or correspondent mortgage lender. If the borrower cancels the agreement, any payments made must be returned to the borrower within 10 business days after receipt of the notice of cancellation.

(c) An agreement for loan modification services must contain, immediately above the signature line, a statement in at least 12-point uppercase type which substantially complies with the following:

BORROWER'S RIGHT OF CANCELLATION

YOU MAY CANCEL THIS AGREEMENT FOR LOAN MODIFICATION SERVICES WITHOUT ANY PENALTY OR OBLIGATION WITHIN 3 BUSINESS DAYS AFER THE DATE THIS AGREEMENT IS SIGNED BY YOU.

THE MORTGAGE BROKER, MORTGAGE BROKERAGE BUSINESS, MORTGAGE LENDER, OR CORRESPONDENT MORTGAGE LENDER IS PROHIBITED BY LAW FROM ACCEPTING ANY MONEY, PROPERTY, OR OTHER FORM OF PAYMENT FROM YOU UNTIL ALL PROMISED SERVICES HAVE BEEN COMPLETED. IF FOR ANY REASON YOU HAVE PAID THE CONSULTANT BEFORE CANCELLATION, YOUR PAYMENT MUST BE RETURNED TO YOU WITHIN 10 BUSINESS DAYS AFTER THE CONSULTANT RECEIVES YOUR CANCELLATION NOTICE.

TO CANCEL THIS AGREEMENT, A SIGNED AND DATED COPY OF A STATEMENT THAT YOU ARE CANCELING THE AGREEMENT SHOULD BE MAILED (POSTMARKED) OR DELIVERED TO ...(NAME)... AT ...(ADDRESS)... NO LATER THAN MIDNIGHT OF ...(DATE)...

IMPORTANT: IT IS RECOMMENDED THAT YOU CONTACT YOUR MORTGAGE LENDER OR MORTGAGE SERVICER BEFORE SIGNING THIS AGREEMENT. YOUR LENDER OR SERVICER MAY BE WILLING TO NEGOTIATE A PAYMENT PLAN OR A RESTRUCTURING WITH YOU FREE OF CHARGE.

(d) The inclusion of the statement does not prohibit a mortgage broker, mortgage brokerage business, mortgage lender, or correspondent mortgage lender from giving the homeowner more time to cancel the agreement than is set forth in the statement if all other requirements of this subsection are met.

(e) The person offering or providing the loan modification services must give the borrower a copy of the signed agreement within 3 hours after the borrower signs the agreement.

(3) REMEDIES.—

(a) Without regard to any other remedy or relief to which a person is entitled, anyone aggrieved by a violation of this section may bring an action

to obtain a declaratory judgment that an act or practice violates this section and to enjoin a person who has violated, is violating, or is otherwise likely to violate this section.

(b) In any action brought by a person who has suffered a loss as a result of a violation of this section, such person may recover actual damages, plus attorney's fees and court costs, as follows:

1. In any action brought under this section, upon motion of the party against whom such action is filed alleging that the action is frivolous, without legal or factual merit, or brought for the purpose of harassment, the court may, after hearing evidence as to the necessity therefore, require the party instituting the action to post a bond in the amount that the court finds reasonable to indemnify the defendant for any damages incurred, including reasonable attorney's fees.

2. In any civil litigation resulting from an act or practice involving a violation of this section, the prevailing party, after judgment in the trial court and exhaustion of all appeals, if any, may receive reasonable attorney's fees and costs from the nonprevailing party.

3. The attorney for the prevailing party shall submit a sworn affidavit of time spent on the case and costs incurred for all the motions, hearings, and appeals to the trial judge who presided over the civil case.

4. The trial judge may award the prevailing party the sum of reasonable costs incurred in the action plus a reasonable legal fee for the hours actually spent on the case as sworn to in an affidavit.

5. Any award of attorney's fees or costs becomes part of the judgment and is subject to execution as the law allows.

(c) The provisions of this subsection do not apply to any action initiated by the enforcing authority.

(4) DEFINITIONS.—As used in this section, the term:

(a) "Borrower" means a person who is obligated to repay a mortgage loan and includes, but is not limited to, a coborrower, cosignor, or guarantor.

(b) "Loan modification" means a modification to an existing loan. The term does not include a refinancing transaction.

Section 20. Subsections (1), (2), and (4) of section 494.00296, Florida Statutes, as created by this act, are amended to read:

494.00296 Loan modification.—

~~(1) PROHIBITED ACTS.—When offering or providing loan modification services, a loan originator, mortgage broker, mortgage brokerage business, mortgage lender, or correspondent mortgage lender licensed or required to be licensed under ss. 494.001-494.0077 may not:~~

(a) Engage in or initiate loan modification services without first executing a written agreement for loan modification services with the borrower;

(b) Execute a loan modification without the consent of the borrower after the borrower is made aware of each modified term; or

(c) Solicit, charge, receive, or attempt to collect or secure payment, directly or indirectly, for loan modification services before completing or performing all services included in the agreement for loan modification services. A fee may be charged only if the loan modification results in a material benefit to the borrower. The commission may adopt rules to provide guidance on what constitutes a material benefit to the borrower

(2) LOAN MODIFICATION AGREEMENT.—

(a) The written agreement for loan modification services must be printed in at least 12-point uppercase type and signed by both parties. The agreement must include the name and address of the person providing loan modification services, the exact nature and specific detail of each service to be provided, the total amount and terms of charges to be paid by the borrower for the services, and the date of the agreement. The date of the agreement may not be earlier than the date the borrower signed the agreement. The mortgage ~~broker or brokerage business, mortgage lender, or correspondent~~ mortgage lender must give the borrower a copy of the agreement to review at least 1 business day before the borrower is to sign the agreement.

(b) The borrower has the right to cancel the written agreement without any penalty or obligation if the borrower cancels the agreement within 3 business days after signing the agreement. The right to cancel may not be waived by the borrower or limited in any manner by the loan originator, mortgage broker, ~~mortgage brokerage business, mortgage lender, or correspondent~~ mortgage lender. If the borrower cancels the agreement, any payments made must be returned to the borrower within 10 business days after receipt of the notice of cancellation.

(c) An agreement for loan modification services must contain, immediately above the signature line, a statement in at least 12-point uppercase type which substantially complies with the following:

BORROWER'S RIGHT OF CANCELLATION

YOU MAY CANCEL THIS AGREEMENT FOR LOAN MODIFICATION SERVICES WITHOUT ANY PENALTY OR OBLIGATION WITHIN 3 BUSINESS DAYS AFTER THE DATE THIS AGREEMENT IS SIGNED BY YOU.

~~THE LOAN ORIGINATOR, MORTGAGE BROKER, MORTGAGE BROKERAGE BUSINESS, MORTGAGE LENDER, OR CORRESPONDENT~~ MORTGAGE LENDER IS PROHIBITED BY LAW FROM ACCEPTING ANY MONEY, PROPERTY, OR OTHER FORM OF PAYMENT FROM YOU UNTIL ALL PROMISED SERVICES HAVE BEEN COMPLETED. IF FOR ANY REASON YOU HAVE PAID THE CONSULTANT BEFORE CANCELLATION, YOUR PAYMENT MUST BE RETURNED TO YOU WITHIN 10 BUSINESS DAYS AFTER THE CONSULTANT RECEIVES YOUR CANCELLATION NOTICE.

TO CANCEL THIS AGREEMENT, A SIGNED AND DATED COPY OF A STATEMENT THAT YOU ARE CANCELING THE AGREEMENT SHOULD BE MAILED (POSTMARKED) OR DELIVERED TO ...(NAME)... AT ...(ADDRESS)... NO LATER THAN MIDNIGHT OF ...(DATE)...

IMPORTANT: IT IS RECOMMENDED THAT YOU CONTACT YOUR MORTGAGE LENDER OR MORTGAGE SERVICER BEFORE SIGNING THIS AGREEMENT. YOUR LENDER OR SERVICER MAY BE WILLING TO NEGOTIATE A PAYMENT PLAN OR A RESTRUCTURING WITH YOU FREE OF CHARGE.

(d) The inclusion of the statement does not prohibit a loan originator, mortgage broker, ~~mortgage brokerage business, mortgage lender, or correspondent~~ mortgage lender from giving the homeowner more time to cancel the agreement than is set forth in the statement if all other requirements of this subsection are met.

(e) The person offering or providing the loan modification services must give the borrower a copy of the signed agreement within 3 hours after the borrower signs the agreement.

~~(4) DEFINITIONS.—As used in this section, the term:~~

~~(a) “Borrower” means a person obligated to repay a mortgage loan and includes, but is not limited to, a coborrower, cosignor, or guarantor.~~

~~(b) “Loan modification” means a modification to an existing loan. The term does not include a refinancing transaction.~~

Section 21. The Division of Statutory Revision is requested to rename part II of chapter 494, Florida Statutes, consisting of ss. 494.00312-491.0043, Florida Statutes, as “Loan Originators and Mortgage Brokers.”

Section 22. Effective January 1, 2010, section 494.003, Florida Statutes, is repealed.

Section 23. Section 494.0031, Florida Statutes, is repealed.

Section 24. Section 494.00312, Florida Statutes, is created to read:

494.00312 Loan originator license.—

(1) An individual who acts as a loan originator must be licensed under this section.

(2) In order to apply for loan originator license, an applicant must:

(a) Be at least 18 years of age and have a high school diploma or its equivalent.

(b) Complete a 20-hour prelicensing class approved by the registry.

(c) Pass a written test developed by the registry and administered by a provider approved by the registry.

(d) Submit a completed license application form as prescribed by commission rule.

(e) Submit a nonrefundable application fee of \$195, and the \$20 nonrefundable fee if required by s. 494.00172. Application fees may not be prorated for partial years of licensure.

(f) Submit fingerprints in accordance with rules adopted by the commission:

1. The fingerprints may be submitted to the registry, the office, or a vendor acting on behalf of the registry or the office.

2. The office may contract with a third-party vendor to provide live-scan fingerprinting in lieu of a paper fingerprint card.

3. A state criminal history background check must be conducted through the Department of Law Enforcement and a federal criminal history background check must be conducted through the Federal Bureau of Investigation.

4. All fingerprints submitted to the Department of Law Enforcement must be submitted electronically and entered into the statewide automated fingerprint identification system established in s. 943.05(2)(b) and available for use in accordance with s. 943.05(2)(g) and (h). The office shall pay an annual fee to the department to participate in the system and inform the department of any person whose fingerprints are no longer required to be retained.

5. The costs of fingerprint processing, including the cost of retaining the fingerprints, shall be borne by the person subject to the background check.

6. The office is responsible for reviewing the results of the state and federal criminal history checks and determining whether the applicant meets licensure requirements.

(g) Authorize the registry to obtain an independent credit report on the applicant from a consumer reporting agency, and transmit or provide access to the report to the office. The cost of the credit report shall be borne by the applicant.

(h) Submit additional information or documentation requested by the office and required by rule concerning the applicant. Additional information may include documentation of pending and prior disciplinary and criminal history events, including arrest reports and certified copies of charging documents, plea agreements, judgments and sentencing documents, documents relating to pretrial intervention, orders terminating probation or supervised release, final administrative agency orders, or other comparable documents that may provide the office with the appropriate information to determine eligibility for licensure.

(i) Submit any other information required by the registry for the processing of the application.

(3) An application is considered received for the purposes of s. 120.60 upon the office's receipt of all documentation from the registry, including the completed application form, documentation of completion of the prelicensure class, test results, criminal history information, and independent credit report, as well as the license application fee, the fee required by s. 494.00172, and all applicable fingerprinting processing fees.

(4) The office shall issue a loan originator license to each person who is not otherwise ineligible and who meets the requirements of this section. However, it is a ground for denial of licensure if the applicant:

(a) Has committed any violation specified in ss. 494.001-494.0077, or is the subject of a pending felony criminal prosecution or a prosecution or an administrative enforcement action, in any jurisdiction, which involves fraud, dishonesty, breach of trust, money laundering, or any other act of moral turpitude.

(b) Has failed to demonstrate the character, general fitness, and financial responsibility necessary to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly, and efficiently.

1. If the office has information that could form the basis for license denial under this paragraph, before denying the license, the office must notify the applicant in writing of the specific items of concern and provide the applicant with an opportunity to explain the circumstances surrounding the specific items and provide any information that the applicant believes is relevant to the office's determination.

2. For purposes of evaluating adverse information found in an applicant's credit report, the information must be considered within the totality of the circumstances. Information provided by the applicant under subparagraph 1., or information obtained by the office by other means, may be used to provide a context for the adverse items. For example, the adverse items may have resulted from factors that do not necessarily reflect negatively upon the applicant's character, general fitness, or financial responsibility.

3. The office may not use a credit score or the absence or insufficiency of credit history information to determine character, general fitness, or financial responsibility.

4. If information contained in a credit report is used as the basis for denying a license, the office shall, in accordance with s. 120.60(3), provide with particularity the grounds or basis for denial. The use of the terms "poor credit history," "poor credit rating," or similar language do not meet the requirements of this paragraph.

(5) The office may not issue a license to an applicant who has had a loan originator license or its equivalent revoked in any jurisdiction.

(6) A loan originator license shall be annulled pursuant to s. 120.60 if it was issued by the office by mistake. A license must be reinstated if the applicant demonstrates that the requirements for obtaining the license under this chapter have been satisfied.

(7) All loan originator licenses must be renewed annually by December 31 pursuant to s. 494.00313. If a person holding an active loan originator license has not applied to renew the license on or before December 31, the loan originator license expires on December 31. If a person holding an active loan originator license has applied to renew the license on or before December 31, the loan originator license remains active until the renewal application is approved or denied. A loan originator is not precluded from reapplying for licensure upon expiration of a previous license.

Section 25. Section 494.00313, Florida Statutes, is created to read:

494.00313 Loan originator license renewal.—

(1) In order to renew a loan originator license, a loan originator must:

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

(b) Submit a nonrefundable renewal fee of \$150, the \$20 nonrefundable fee if required by s. 494.00172, and nonrefundable fees to cover the cost of further fingerprint processing and retention as set forth in commission rule.

(c) Provide documentation of completion of at least 8 hours of continuing education in courses reviewed and approved by the registry.

(d) Authorize the registry to obtain an independent credit report on the licensee from a consumer reporting agency, and transmit or provide access to the report to the office. The cost of the credit report shall be borne by the licensee.

(e) Submit any additional information or documentation requested by the office and required by rule concerning the licensee. Additional information may include documentation of pending and prior disciplinary and criminal history events, including arrest reports and certified copies of charging documents, plea agreements, judgments and sentencing documents, documents relating to pretrial intervention, orders terminating probation or supervised release, final administrative agency orders, or other comparable documents that may provide the office with the appropriate information to determine eligibility for renewal of licensure.

(2) The office may not renew a loan originator license unless the loan originator continues to meet the minimum requirements for initial licensure pursuant to s. 494.00312 and adopted rule.

Section 26. Section 494.0032, Florida Statutes, is repealed.

Section 27. Section 494.00321, Florida Statutes, is created to read:

494.00321 Mortgage broker license.—

(1) Each person who acts as a mortgage broker must be licensed in accordance with this section.

(2) In order to apply for a mortgage broker license an applicant must:

(a) Submit a completed license application form as prescribed by commission rule.

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

(c) Submit a nonrefundable application fee of \$425, and the \$100 nonrefundable fee if required by s. 494.00172. Application fees may not be prorated for partial years of licensure.

(d) Submit fingerprints for each of the applicant's control persons in accordance with rules adopted by the commission:

1. The fingerprints may be submitted to the registry, the office, or a vendor acting on behalf of the registry or the office.

2. The office may contract with a third-party vendor to provide live-scan fingerprinting in lieu of a paper fingerprint card.

3. A state criminal history background check must be conducted through the Department of Law Enforcement and a federal criminal history background check must be conducted through the Federal Bureau of Investigation.

4. All fingerprints submitted to the Department of Law Enforcement must be submitted electronically and entered into the statewide automated fingerprint identification system established in s. 943.05(2)(b) and available for use in accordance with s. 943.05(2)(g) and (h). The office shall pay an annual fee to the department to participate in the system and inform the department of any person whose fingerprints are no longer required to be retained.

5. The costs of fingerprint processing, including the cost of retaining the fingerprints, shall be borne by the person subject to the background check.

6. The office is responsible for reviewing the results of the state and federal criminal history checks and determining whether the applicant meets licensure requirements.

(e) Authorize the registry to obtain an independent credit report on each of the applicant's control persons from a consumer reporting agency, and transmit or provide access to the report to the office. The cost of the credit report shall be borne by the applicant.

(f) Submit additional information or documentation requested by the office and required by rule concerning the applicant or a control person of the applicant. Additional information may include documentation of pending and prior disciplinary and criminal history events, including arrest reports and certified copies of charging documents, plea agreements, judgments and sentencing documents, documents relating to pretrial intervention, orders terminating probation or supervised release, final administrative agency orders, or other comparable documents that may provide the office with the appropriate information to determine eligibility for licensure.

(g) Submit any other information required by the registry for the processing of the application.

(3) An application is considered received for the purposes of s. 120.60 upon the office's receipt of all documentation from the registry, including the completed application form, criminal history information, and independent credit report, as well as the license application fee, the fee required by s. 492.00172, and all applicable fingerprinting processing fees.

(4) The office shall issue a mortgage broker license to each person who is not otherwise ineligible and who meets the requirements of this section. However, it is a ground for denial of licensure if the applicant or one of the applicant's control persons:

(a) Has committed any violation specified in ss. 494.001-494.0077, or is the subject of a pending felony criminal prosecution or a prosecution or an administrative enforcement action, in any jurisdiction, which involves fraud, dishonesty, breach of trust, money laundering, or any other act of moral turpitude.

(b) Has failed to demonstrate the character, general fitness, and financial responsibility necessary to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly, and efficiently.

1. If the office has information that could form the basis for license denial under this paragraph, before denying the license, the office must notify the applicant in writing of the specific items of concern and provide the applicant with an opportunity to explain the circumstances surrounding the specific items and provide any information that the applicant believes is relevant to the office's determination.

2. For purposes of evaluating adverse information found in an applicant's credit report, the information must be considered within the totality of the circumstances. Information provided by the applicant under subparagraph 1., or information obtained by the office by other means, may be used to provide a context for the adverse items. For example, the adverse items may have resulted from factors that do not necessarily reflect negatively upon the applicant's character, general fitness, or financial responsibility.

3. The office may not use a credit score or the absence or insufficiency of credit history information to determine character, general fitness, or financial responsibility.

4. If information contained in a credit report is used as the basis for denying a license, the office shall, in accordance with s. 120.60(3), provide with particularity the grounds or basis for denial. The use of the terms "poor credit history," "poor credit rating," or similar language do not meet the requirements of this paragraph.

(5) The office shall deny a license if the applicant has had a mortgage broker license, or its equivalent, revoked in any jurisdiction, or if any of the applicant's control persons has had a loan originator license, or its equivalent, revoked in any jurisdiction.

(6) A mortgage broker license shall be annulled pursuant to s. 120.60 if it was issued by the office by mistake. A license must be reinstated if the applicant demonstrates that the requirements for obtaining the license under this chapter have been satisfied.

(7) All mortgage broker licenses must be renewed annually by December 31 pursuant to s. 494.00322. If a person holding an active mortgage broker license has not applied to renew the license on or before December 31, the mortgage broker license expires on December 31. If a person holding an active mortgage broker license has applied to renew the license on or before December 31, the mortgage broker license remains active until the renewal application is approved or denied. A mortgage broker is not precluded from reapplying for licensure upon expiration of a previous license.

Section 28. Section 494.00322, Florida Statutes, is created to read:

494.00322 Mortgage broker license renewal.—

(1) In order to renew a mortgage broker license, a mortgage broker must:

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

(b) Submit a nonrefundable renewal fee of \$375, the \$100 nonrefundable fee if required by s. 494.00172, and nonrefundable fees to cover the cost of further fingerprint processing and retention as set forth in commission rule.

(c) Submit fingerprints in accordance with s. 494.00321(2)(d) for any new control persons who have not been screened.

(d) Authorize the registry to obtain an independent credit report on each of the licensee's control persons from a consumer reporting agency, and transmit or provide access to the report to the office. The cost of the credit report shall be borne by the licensee.

(e) Submit any additional information or documentation requested by the office and required by rule concerning the licensee or a control person of the licensee. Additional information may include documentation of pending and prior disciplinary and criminal history events, including arrest reports and certified copies of charging documents, plea agreements, judgments and sentencing documents, documents relating to pretrial intervention, orders terminating probation or supervised release, final administrative agency orders, or other comparable documents that may provide the office with the appropriate information to determine eligibility for renewal of licensure.

(2) The office may not renew a mortgage broker license unless the licensee continues to meet the minimum requirements for initial licensure pursuant to s. 494.00321 and adopted rule.

Section 29. Section 494.0033, Florida Statutes, is repealed.

Section 30. Section 494.00331, Florida Statutes, is amended to read:

~~494.00331 Loan originator employment Mortgage broker association.— An individual may not act as a loan originator unless he or she is an employee of, or an independent contractor for, a mortgage broker or a mortgage lender, and may not be employed by or contract with more than one mortgage broker or mortgage lender, or either simultaneously. No person required to be licensed as a mortgage broker under this chapter shall be simultaneously an associate of more than one licensed mortgage brokerage business, licensed mortgage lender, or licensed correspondent mortgage lender.~~

Section 31. Section 494.0034, Florida Statutes, is repealed.

Section 32. Section 494.0035, Florida Statutes, is amended to read:

494.0035 Principal loan originator broker and branch manager for mortgage broker requirements.—

(1) Each mortgage broker brokerage business must be operated by a principal loan originator who shall have a principal broker who shall operate the business under such broker's full charge, control, and supervision of the mortgage broker business. The principal loan originator must have been licensed as a loan originator broker must have been a licensed mortgage broker pursuant to s. 494.0033 for at least 1 year before prior to being designated as the a principal loan originator broker, or must shall demonstrate to the satisfaction of the office that he or she such principal broker has been actively engaged in a mortgage broker-related mortgage-related business for at least 1 year before prior to being designated as a principal loan originator broker. Each mortgage broker must keep the office informed of the person designated as the principal loan originator as prescribed by commission rule brokerage business shall maintain a form as prescribed by the commission indicating the business's designation of principal broker and the individual's acceptance of such responsibility. If the designation is inaccurate, the business shall be deemed to be operated under form is unavailable, inaccurate, or incomplete, it is deemed that the business was operated in the full charge, control, and supervision of by each officer, director, or ultimate equitable owner of a 10-percent or greater interest in the mortgage broker brokerage business, or any other person in a similar capacity. A loan originator may not be a principal loan originator for more than one mortgage broker at any given time.

(2) Each branch office of a mortgage broker brokerage business must be operated by a have a designated branch manager broker who shall have operate the business under such broker's full charge, control, and supervision of the branch office. The designated branch manager broker must be a licensed loan originator mortgage broker pursuant to s. 494.00312 s. 494.0033. Each branch office must keep the office informed of the person designated as the branch manager as prescribed by commission rule, which includes documentation of shall maintain a form as prescribed by the commission logging the branch's designation of a branch broker and the individual's acceptance of such responsibility. If the designation is inaccurate, the branch office shall be deemed to be operated under form is unavailable, inaccurate, or incomplete, it is deemed that the branch was operated in the

full charge, control, and supervision of by each officer, director, or ultimate equitable owner of a 10-percent or greater interest in the mortgage broker brokerage business, or any other person in a similar capacity.

Section 33. Section 494.0036, Florida Statutes, is amended to read:

494.0036 Mortgage broker branch office license ~~brokerage business branch offices.~~—

(1) Each branch office of a mortgage broker must be licensed under this section. A mortgage brokerage business branch office license is required for each branch office maintained by a mortgage brokerage business.

(2) The office shall issue a mortgage broker ~~brokerage business~~ branch office license to a mortgage broker ~~brokerage business~~ licensee after the office determines that the licensee has submitted a completed application for a branch office in a form as prescribed by commission rule and payment of an initial nonrefundable branch office license fee of \$225 per branch office. Application fees may not be prorated for partial years of licensure. The branch office license shall be issued in the name of the mortgage broker ~~brokerage business~~ that maintains the branch office. An application is considered received for purposes of s. 120.60 upon receipt of a completed application form as prescribed by commission rule, and the required fees a nonrefundable application fee of \$225, and any other fee prescribed by law.

(3) A branch office license must be renewed annually at the time of renewing the mortgage broker license under s. 494.00322. A nonrefundable branch renewal fee of \$225 per branch office must be submitted at the time of renewal.

Section 34. Section 494.0038, Florida Statutes, is amended to read:

494.0038 Loan origination and mortgage broker fees and Mortgage broker disclosures.—

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

(a)2. The written mortgage broker ~~brokerage~~ agreement must describe the services to be provided by the mortgage broker ~~brokerage business~~ and specify the amount and terms of the loan origination ~~mortgage brokerage~~ fee that the mortgage broker ~~brokerage business~~ is to receive.

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

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

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

(b) ~~The written mortgage brokerage agreement must be executed within 3 business days after a mortgage loan application is accepted if the borrower is present when the mortgage loan application is accepted. If the borrower is not present when such an application is accepted, the licensee shall forward the written mortgage brokerage agreement to the borrower within 3 business days after the licensee's acceptance of the application and the licensee bears the burden of proving that the borrower received and approved the written mortgage brokerage agreement.~~

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

(a)2. ~~The exact amount of any payment of any kind by the lender to the mortgage broker brokerage business must be disclosed in writing to the borrower within 3 business days after the mortgage broker brokerage business is made aware of the exact amount of the payment from the lender but not less than 3 business days before the execution of the closing or settlement statement. The licensee bears the burden of proving such notification was provided to the borrower. Notification is waived if the exact amount of the payment is accurately disclosed in the written mortgage broker agreement.~~

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

(3)(2) ~~At the time a written mortgage broker brokerage agreement is signed executed by the borrower or forwarded to the borrower for signature execution, or at the time the mortgage broker brokerage business accepts an application fee, credit report fee, property appraisal fee, or any other third-party fee, but at least not less than 3 business days before execution of the closing or settlement statement, the mortgage broker brokerage business shall disclose in writing to any applicant for a mortgage loan the following information:~~

(a) ~~That the such mortgage broker brokerage business may not make mortgage loans or commitments. The mortgage broker brokerage business may make a commitment and may furnish a lock-in of the rate and program on behalf of the lender if when the mortgage broker 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 ~~the such~~ mortgage ~~broker~~ ~~brokerage~~ ~~business~~ cannot guarantee acceptance into any particular loan program or promise any specific loan terms or conditions.

(c) A good faith estimate, signed and dated by the borrower, which discloses the total amount of each of the fees ~~which~~ the borrower may reasonably expect to pay if the loan is closed, including, but not limited to, fees earned by the mortgage ~~broker~~ ~~brokerage~~ ~~business~~, lender fees, third-party fees, and official fees, together with 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. The good faith estimate must identify the recipient of all payments charged the borrower and, except for all fees to be received by the mortgage ~~broker~~ ~~brokerage~~ ~~business~~, may be disclosed in generic terms, such as, but not limited to, paid to lender, appraiser, officials, title company, or any other third-party service provider. This requirement does not supplant or is not a substitute for the written mortgage ~~broker~~ ~~brokerage~~ agreement described in subsection (1).

~~(4)~~⁽³⁾ The disclosures required by this subsection must be furnished in writing at the time an adjustable rate mortgage loan is offered to the borrower and whenever the terms of the adjustable rate mortgage loan offered materially change prior to closing. The mortgage broker shall furnish the disclosures relating to adjustable rate mortgages in a format prescribed by ss. 226.18 and 226.19 of Regulation Z of the Board of Governors of the Federal Reserve System, as amended; its commentary, as amended; and the federal Truth in Lending Act, 15 U.S.C. ss. 1601 et seq., as amended; together with the Consumer Handbook on Adjustable Rate Mortgages, as amended; published by the Federal Reserve Board and the Federal Home Loan Bank Board. The licensee bears the burden of proving such disclosures were provided to the borrower.

~~(5)~~⁽⁴⁾ If the mortgage ~~broker~~ ~~brokerage~~ agreement includes a nonrefundable application fee, the following requirements are applicable:

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

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

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

~~(6)~~⁽⁵⁾ A mortgage ~~broker~~ ~~brokerage~~ ~~business~~ may not accept any fee in connection with a mortgage loan other than an application fee, credit report fee, property appraisal fee, or other third-party fee before ~~prior to~~ obtaining a written commitment from a qualified lender.

~~(7)~~⁽⁶⁾ Any third-party fee entrusted to a mortgage ~~broker~~ ~~brokerage~~ ~~business~~ must ~~shall~~ immediately, upon receipt, be placed into a segregated account with a financial institution located in the state the accounts of which

are insured by the Federal Government. Such funds shall be held in trust for the payor and shall be kept in the account until disbursement. Such funds may be placed in one account if adequate accounting measures are taken to identify the source of the funds.

~~(7) All mortgage brokerage fees shall be paid to a mortgage brokerage business licensee.~~

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

~~(9)(8) This section does not prohibit a mortgage broker brokerage business from offering products and services, in addition to those offered in conjunction with the loan origination process, for a fee or commission.~~

Section 35. Section 494.0039, Florida Statutes, is amended to read:

494.0039 Principal place of business requirements.—Each mortgage broker ~~brokerage business~~ licensee shall maintain and transact business from a principal place of business.

Section 36. Section 494.004, Florida Statutes, is amended to read:

494.004 Requirements of licensees.—

(1) Each licensee under this part ss. 494.003-494.0043 shall report to the office;

(a) In writing, any conviction of, or plea of nolo contendere to, regardless of adjudication, any felony or any crime or administrative violation that involves fraud, dishonesty, breach of trust, money laundering dishonest dealing, or any other act of moral turpitude, in any jurisdiction, by the licensee or any control natural person within named in s. 494.0031(2)(d), not later than 30 days after the date of conviction, entry of a plea of nolo contendere, or final administrative action.

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

~~(c)(3) Each licensee under ss. 494.003-494.0043 shall report Any action in bankruptcy, voluntary or involuntary, within 30 to the office not later than 7 business days after the action is instituted.~~

~~(d)(4) Each licensee under ss. 494.003-494.0043 shall report On a form prescribed by rule of the commission, any change to the information contained in any initial application form or any amendment to the application within not later than 30 days after the change is effective.~~

~~(5) A license issued under ss. 494.003-494.0043 is not transferable or assignable.~~

~~(c)(6) — Each licensee under ss. 494.003–494.0043 shall report Any change in the principal loan originator broker, any addition or subtraction of a control person partners, officers, members, joint venturers, directors, control persons of any licensee, or any individual who is the ultimate equitable owner of a 10 percent or greater interest in the licensee, or any change in the form of business organization, by written amendment in the form and at the time the commission specifies by rule.~~

~~(a) — In any case in which a person or a group of persons, directly or indirectly or acting by or through one or more persons, proposes to purchase or acquire a controlling interest in a licensee, such person or group shall submit an initial application for licensure as a mortgage brokerage business before such purchase or acquisition and at the time and in the form the commission prescribes by rule.~~

~~(b) — As used in this subsection, the term “controlling interest” means possession of the power to direct or cause the direction of the management or policies of a company whether through ownership of securities, by contract, or otherwise. Any person who directly or indirectly has the right to vote 25 percent or more of the voting securities of a company or is entitled to 25 percent or more of the company’s profits is presumed to possess a controlling interest.~~

~~(f)(e) Any addition of a partner, officer, member, joint venturer, director, control person, or ultimate equitable owner of the applicant who does not have a controlling interest and who has not previously filed a Uniform Mortgage Biographical Statement & Consent Form, MU2, or has not previously complied with the fingerprinting and credit report requirements provisions of ss. 494.00321 and 494.00322, s. 494.0031(2)(e) and (d) is subject to the such provisions of these sections unless required to file an initial application in accordance with paragraph (a). If, after the addition of a control person, the office finds that the licensee does not continue to meet licensure requirements, the office may bring an administrative action in accordance with s. 494.00255 s. 494.0041 to enforce the provisions of this chapter.~~

~~(d) — The commission shall adopt rules pursuant to ss. 120.536(1) and 120.54 providing for the waiver of the application required by this subsection if the person or group of persons proposing to purchase or acquire a controlling interest in a licensee has previously complied with the provisions of s. 494.0031(2)(e) and (d) with respect to the same legal entity or is currently licensed by the office under this chapter.~~

~~(7) — 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 commission shall prescribe, by rule, the procedures for filing reports required by this subsection.

(2)(8)(a) In every mortgage loan transaction, each licensee under ~~this part must ss. 494.003-494.0043~~ shall notify a borrower of any material changes in the terms of a mortgage loan previously offered to the borrower within 3 business days after being made aware of such changes by the mortgage lender but at least not less than 3 business days before the signing of the settlement or closing statement. The licensee bears the burden of proving such notification was provided and accepted by the borrower.

(b) A borrower may waive the right to receive notice of a material change ~~that is granted under paragraph (a)~~ if the borrower determines that the extension of credit is needed to meet a bona fide personal financial emergency and the right to receive notice would delay the closing of the mortgage loan. The imminent sale of the borrower's home at foreclosure during the 3-day period before the signing of the settlement or closing statement is ~~constitutes~~ an example of a bona fide personal financial emergency. In order to waive the borrower's right to receive notice ~~not less than 3 business days before the signing of the settlement or closing statement of any such material change~~, the borrower must provide the licensee with a dated written statement that describes the personal financial emergency, waives the right to receive the notice, bears the borrower's signature, and is not on a printed form prepared by the licensee for the purpose of such a waiver.

(3) Each mortgage broker shall submit to the registry reports of condition, which must be in such form and shall contain such information as the registry may require.

(4) A license issued under this part is not transferable or assignable.

Section 37. Section 494.0041, Florida Statutes, is repealed.

Section 38. Section 494.0042, Florida Statutes, is amended to read:

494.0042 Loan origination Brokerage fees.—

(1) A loan origination mortgage brokerage fee earned by a licensee, pursuant to ~~this part ss. 494.003-494.0043~~, is not considered interest or a finance charge under chapter 687.

(2) A person may not charge or exact, directly or indirectly, from the ~~borrower mortgagor~~ a fee or commission in excess of the maximum fee or commission specified in this section. The maximum fees or commissions that may be charged for mortgage loans are as follows:

(a) On a mortgage loan of \$1,000 or less: \$250.

(b) On a mortgage loan exceeding \$1,000 and not exceeding \$2,000: \$250 for the first \$1,000 of the mortgage loan, plus \$10 for each additional \$100 of the mortgage loan.

(c) On a mortgage loan exceeding \$2,000 and not exceeding \$5,000: \$350 for the first \$2,000 of the mortgage loan, plus \$10 for each additional \$100 of the mortgage loan.

(d) On a mortgage loan exceeding \$5,000: \$250 plus 10 percent of the entire mortgage loan.

For the purpose of determining the maximum fee, the amount of the mortgage loan is based on the amount of mortgage loan actually funded exclusive of the authorized maximum fees or commissions.

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

Section 39. Section 494.00421, Florida Statutes, is amended to read:

494.00421 Fees earned upon obtaining a bona fide commitment.—Notwithstanding the provisions of ss. 494.001-494.0077, any mortgage broker ~~brokerage business~~ which contracts to receive ~~from a borrower a~~ loan origination ~~mortgage brokerage~~ fee from a borrower upon obtaining a bona fide commitment shall accurately disclose in the mortgage broker ~~brokerage~~ agreement:

- (1) The gross loan amount.
- (2) In the case of a fixed-rate mortgage, the note rate.
- (3) In the case of an adjustable rate mortgage:
 - (a) The initial note rate.
 - (b) The length of time for which the initial note rate is effective.
 - (c) The frequency of changes.
 - (d) The limitation upon such changes including adjustment to adjustment cap and life cap.
 - (e) Whether the loan has any potential for negative amortization.
 - (f) Identification of the margin-interest rate differential.
 - (g) Identification of a nationally recognized index which index must be free from control of the mortgage ~~broker, mortgage brokerage business, mortgage lender, or correspondent mortgage lender.~~

(4) The estimated net proceeds to be paid directly to the borrower. “Estimated net proceeds” means the cash to be received by the borrower after

payment of any fees, charges, debts, liens, or encumbrances to perfect the lien of the new mortgage and establish the agreed-upon priority of the new mortgage.

(5) The lien priority of the new proposed mortgage.

(6) The number of calendar days, which are mutually agreed upon, within which the mortgage ~~broker brokerage business~~ shall obtain a bona fide mortgage commitment.

(7)(a) The following statement, in ~~at least no less than~~ 12-point boldface type immediately above the signature lines for the borrowers:

“You are entering into a contract with a mortgage ~~broker brokerage business~~ to obtain a bona fide mortgage loan commitment under the same terms and conditions as stated hereinabove or in a separate executed good faith estimate form. If the mortgage ~~broker brokerage business~~ obtains a bona fide commitment under the same terms and conditions, you will be obligated to pay the loan origination mortgage brokerage business fees, including, but not limited to, a mortgage ~~brokerage~~ fee, even if you choose not to complete the loan transaction. If the provisions of s. 494.00421, Florida Statutes, are not met, the loan origination mortgage brokerage fee can only be earned upon the funding of the mortgage loan. The borrower may contact the Department of Financial Services, Tallahassee, Florida, regarding any complaints that the borrower may have against the loan originator mortgage broker or the mortgage brokerage business. The telephone number of the department is: ...({insert telephone number})...”

(b) Paragraph (a) does not apply to nonresidential mortgage loan commitments in excess of \$1 million.

(8) Any other disclosure required pursuant to s. 494.0038.

Section 40. Section 494.0043, Florida Statutes, is amended to read:

494.0043 Requirements for brokering loans to noninstitutional investors.—

(1) A loan originator mortgage broker, when arranging a mortgage loan for a noninstitutional investor, shall:

(a) Before any payment of money by the a noninstitutional investor, provide an opinion of value from an appraiser stating the value of the security property unless the opinion is waived in writing. The opinion must state the value of the property as it exists on the date of the opinion. If any relationship exists between the loan originator or mortgage broker and the appraiser, that relationship shall be disclosed to the investor.

(b) Provide to the noninstitutional investor a mortgagee’s title insurance policy or an opinion of title by an attorney licensed to practice law in the state, or a copy thereof.

1. If a title insurance policy is issued, it must insure the noninstitutional investor against the unmarketability of the mortgagee’s interest in such

title. It ~~must shall~~ also specify any superior liens that exist against the property. If an opinion of title is issued by an attorney licensed to practice law in the state, the opinion must include a statement as to the marketability of the title to the property described in the mortgage and specify the priority of the mortgage being closed.

2. If the title insurance policy or opinion of title is not available at the time of purchase, the licensee shall provide a binder of the title insurance or conditional opinion of title. This binder or opinion must include any conditions or requirements that need ~~needed~~ to be corrected before ~~prior to~~ the issuance of the final title policy or opinion of title. The binder or opinion must also include information concerning the requirements specified in subparagraph 1. Any conditions must be eliminated or waived in writing by the investor before ~~prior to~~ delivery to the noninstitutional investor. The policy or opinion, or a copy thereof, shall be delivered to the investor within a reasonable period of time, not exceeding 6 months, after closing.

3. The requirements of this paragraph may be waived in writing. If the requirements are waived by the noninstitutional investor, the waiver must include the following statement wording: "The noninstitutional investor acknowledges that the mortgage broker or mortgage lender brokering this mortgage loan is not providing a title insurance policy or opinion of title issued by an attorney who is licensed to practice law in the State of Florida. Any requirement for title insurance or for a legal opinion of title is the sole responsibility of the noninstitutional mortgage investor."

(c) Provide, if the loan is other than a first mortgage, a statement showing the balance owed by the mortgagor on any existing mortgages prior to this investment and the status of such existing mortgages.

(d) Provide a disclosure if the licensee is directly or indirectly acting as a borrower or principal in the transaction.

(2) Each original or certified copy of the mortgage, or other instrument securing a note or assignment thereof, must shall be recorded before being delivered to the noninstitutional investor. A mortgage broker shall cause the properly endorsed original note to be delivered to the noninstitutional investor.

(3) Each mortgage and assignment must shall be recorded as soon as practical, but no later than 30 business days after the date of closing.

(4) Any money from a noninstitutional investor for disbursement at a mortgage loan closing must shall be deposited with and disbursed by an attorney duly licensed in this state or by a title company duly licensed in this state. A person acting as a loan originator ~~mortgage broker~~ may not have control of any money from a noninstitutional investor. This subsection does not prohibit a licensee under this part ss. 494.003-494.0043 from receiving a loan origination ~~mortgage brokerage~~ fee upon the closing of the mortgage loan funded by the noninstitutional investor.

Section 41. Effective January 1, 2010, section 494.006, Florida Statutes, is repealed.

Section 42. Section 494.0061, Florida Statutes, is repealed.

Section 43. Section 494.00611, Florida Statutes, is created to read:

494.00611 Mortgage lender license.—

(1) Each person who acts as a mortgage lender must be licensed under this section.

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

(a) Submit a completed application form as prescribed by the commission by rule.

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

(c) Submit a nonrefundable application fee of \$500, and the \$100 nonrefundable fee if required by s. 494.00172. Application fees may not be prorated for partial years of licensure.

(d) Submit fingerprints for each of the applicant's control persons in accordance with rules adopted by the commission:

1. The fingerprints may be submitted to the registry, the office, or a vendor acting on behalf of the registry or the office.

2. The office may contract with a third-party vendor to provide live-scan fingerprinting in lieu of a paper fingerprint card.

3. A state criminal history background check must be conducted through the Department of Law Enforcement and a federal criminal history background check must be conducted through the Federal Bureau of Investigation.

4. All fingerprints submitted to the Department of Law Enforcement must be submitted electronically and entered into the statewide automated fingerprint identification system established in s. 943.05(2)(b) and available for use in accordance with s. 943.05(2)(g) and (h). The office shall pay an annual fee to the department to participate in the system and inform the department of any person whose fingerprints are no longer required to be retained.

5. The costs of fingerprint processing, including the cost of retaining the fingerprints, shall be borne by the person subject to the background check.

6. The office is responsible for reviewing the results of the state and federal criminal history checks and determining whether the applicant meets licensure requirements.

(e) Indicate whether the applicant will be seeking a servicing endorsement on the application form.

(f) Submit a copy of the applicant's financial audit report for the most recent fiscal year which, pursuant to United States generally accepted ac-

counting principles. If the applicant is a wholly owned subsidiary of another corporation, the financial audit report for the parent corporation satisfies this requirement. The commission may establish by rule the form and procedures for filing the financial audit report, including the requirement to file the report with the registry when technology is available. The financial audit report must document that the applicant has a bona fide and verifiable net worth, of at least \$63,000 if the applicant is not seeking a servicing endorsement, or at least \$250,000 if the applicant is seeking a servicing endorsement, which must be continuously maintained as a condition of licensure. However, if the applicant held an active license issued before October 1, 2010, pursuant to former s. 494.0065, and the applicant is seeking a servicing endorsement, the minimum net worth requirement:

1. Until September 30, 2011, is \$63,000.
2. Between October 1, 2011, and September 30, 2012, is \$125,000.
3. On or after October 1, 2012, is \$250,000.

(g) Authorize the registry to obtain an independent credit report on each of the applicant's control persons from a consumer reporting agency, and transmit or provide access to the report to the office. The cost of the credit report shall be borne by the applicant.

(h) Submit additional information or documentation requested by the office and required by rule concerning the applicant or a control person of the applicant. Additional information may include documentation of pending and prior disciplinary and criminal history events, including arrest reports and certified copies of charging documents, plea agreements, judgments and sentencing documents, documents relating to pretrial intervention, orders terminating probation or supervised release, final administrative agency orders, or other comparable documents that may provide the office with the appropriate information to determine eligibility for licensure.

(i) Submit any other information required by the registry for the processing of the application.

(3) An application is considered received for the purposes of s. 120.60 upon the office's receipt of all documentation from the registry, including the completed application form, criminal history information, and independent credit report, as well as the license application fee, the fee required under s. 494.00172, and all applicable fingerprinting processing fees.

(4) The office shall issue a mortgage lender license to each person who is not otherwise ineligible and who meets the requirements of this section. However, it is a ground for denial of licensure if the applicant or one of the applicant's control persons:

(a) Has committed any violation specified in ss. 494.001-494.0077, or is the subject of a pending felony criminal prosecution or a prosecution or an administrative enforcement action, in any jurisdiction, which involves fraud, dishonesty, breach of trust, money laundering, or any other act of moral turpitude.

(b) Has failed to demonstrate the character, general fitness, and financial responsibility necessary to command the confidence of the community and warrant a determination that the applicant will operate honestly, fairly, and efficiently.

1. If the office has information that could form the basis for license denial under this paragraph, before denying the license, the office must notify the applicant in writing of the specific items of concern and provide the applicant with an opportunity to explain the circumstances surrounding the specific items and provide any information that the applicant believes is relevant to the office's determination.

2. For purposes of evaluating adverse information found in an applicant's credit report, the information must be considered within the totality of the circumstances. Information provided by the applicant under subparagraph 1., or information obtained by the office by other means, may be used to provide a context for the adverse items. For example, the adverse items may have resulted from factors that do not necessarily reflect negatively upon the applicant's character, general fitness, or financial responsibility.

3. The office may not use a credit score or the absence or insufficiency of credit history information to determine character, general fitness, or financial responsibility.

4. If information contained in a credit report is used as the basis for denying a license, the office shall, in accordance with s. 120.60(3), provide with particularity the grounds or basis for denial. The use of the terms "poor credit history," "poor credit rating," or similar language do not meet the requirements of this paragraph.

(5) The office may not issue a license if the applicant has had a mortgage lender license or its equivalent revoked in any jurisdiction, or any of the applicant's control persons has ever had a loan originator license or its equivalent revoked in any jurisdiction.

(6) A person required to be licensed under this part, or an agent or employee thereof, is deemed to have consented to the venue of courts in this state regarding any matter within the authority of ss. 494.001-494.0077 regardless of where an act or violation was committed.

(7) A license issued in accordance with this part is not transferable or assignable.

(8) A mortgage lender or branch office license may be annulled pursuant to s. 120.60 if it was issued by the office by mistake. A license must be reinstated if the applicant demonstrates that the requirements for obtaining the license under this chapter have been satisfied.

(9) Each lender, regardless of the number of branches it operates, shall designate a principal loan originator representative who exercises control of the licensee's business, and a branch manager for each branch office. Each mortgage lender must keep the office informed of the persons designated as prescribed by commission rule, which includes documentation of the individual's acceptance of such responsibility. If the designation is inaccurate, the

branch shall be deemed to be operated under the full charge, control, and supervision by each officer, director, or ultimate equitable owner of a 10 percent or greater interest in the mortgage lender business, or any other person in a similar capacity during that time.

(10) All mortgage lender licenses must be renewed annually by December 31 pursuant to s. 494.00612. If a person holding an active mortgage lender license has not applied to renew the license on or before December 31, the mortgage lender license expires on December 31. If a person holding an active mortgage lender license has applied to renew the license on or before December 31, the mortgage lender license remains active until the renewal application is approved or denied. A mortgage lender is not precluded from reapplying for licensure upon expiration of a previous license.

Section 44. Section 494.00612, Florida Statutes, is created to read:

494.00612 Mortgage lender license renewal.—

(1) In order to renew a mortgage lender license, a mortgage lender must:

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

(b) Submit a nonrefundable renewal fee of \$475, the \$100 nonrefundable fee if required by s. 494.00172, and nonrefundable fees to cover the cost of further fingerprint processing and retention as set forth in commission rule.

(c) Submit fingerprints in accordance with s. 494.00611(2)(d) for any new control persons who have not been screened.

(d) Provide proof that the mortgage lender continues to meet the applicable net worth requirement in a form prescribed by commission rule.

(e) Authorize the registry to obtain an independent credit report on the mortgage lender from a consumer reporting agency, and transmit or provide access to the report to the office. The cost of the credit report shall be borne by the licensee.

(f) Submit any additional information or documentation requested by the office and required by rule concerning the licensee. Additional information may include documentation of pending and prior disciplinary and criminal history events, including arrest reports and certified copies of charging documents, plea agreements, judgments and sentencing documents, documents relating to pretrial intervention, orders terminating probation or supervised release, final administrative agency orders, or other comparable documents that may provide the office with the appropriate information to determine eligibility for renewal of licensure.

(2) The office may not renew a mortgage lender license unless the mortgage lender continues to meet the minimum requirements for initial licensure pursuant to s. 494.00611 and adopted rule.

Section 45. Section 494.0062, Florida Statutes, is repealed.

Section 46. Section 494.0063, Florida Statutes, is amended to read:

494.0063 Audited financial statements.—All audited financial statements required by ss. 494.001-494.0077 must be prepared by an independent licensed certified public accountant. A mortgage lender must obtain an annual financial audit report as of the date of the licensee's fiscal year end, as disclosed to the office on the application or a subsequent amendment to the application. The mortgage lender shall submit a copy of the report to the office within 120 days after the end of the licensee's fiscal year. If the licensee is a wholly owned subsidiary of another corporation, the financial audit report of the parent corporation's satisfies this requirement. If the licensee changes its fiscal year, the licensee must file a report within 18 months after the previously submitted report. The commission may establish by rule the procedures and form for filing a financial audit report, including the requirement to file the report with the registry when technology is available.

Section 47. Section 494.0064, Florida Statutes, is repealed.

Section 48. Section 494.0065, Florida Statutes, is repealed.

Section 49. Section 494.0066, Florida Statutes, is amended to read:

494.0066 Branch offices.—

(1) Each branch office of a mortgage lender must be licensed under this section. A branch office license is required for each branch office maintained by a licensee under ss. 494.006-494.0077.

(2) The office shall issue a branch office license to a mortgage lender licensee licensed under ss. 494.006-494.0077 after the office determines that the mortgage lender licensee has submitted a completed branch office application form as prescribed by rule by the commission, and an initial nonrefundable branch office license fee of \$225 per branch office \$325. Application fees may not be prorated for partial years of licensure. The branch office application must include the name and license number of the mortgage lender licensee under this part ss. 494.006-494.0077, the name of the branch manager licensee's employee in charge of the branch office, and the address of the branch office. The branch office license shall be issued in the name of the mortgage lender licensee under ss. 494.006-494.0077 and must be renewed in conjunction with the license renewal. An application is considered received for purposes of s. 120.60 upon receipt of a completed branch office renewal form, as prescribed by commission rule, and the required fees.

(3) A branch office license must be renewed at the time of renewing the mortgage lender license. A nonrefundable fee of \$225 per branch office must be submitted at the time of renewal.

Section 50. Section 494.00665, Florida Statutes, is created to read:

494.00665 Principal loan originator and branch manager for mortgage lender.—

(1) Each mortgage lender business must be operated by a principal loan originator who shall have full charge, control, and supervision of the mortgage lender business. The principal loan originator must be licensed as a loan originator pursuant to s. 494.00312. Each mortgage lender must keep the office informed of the person designated as the principal loan originator as prescribed by commission rule. If the designation is inaccurate, the business shall be deemed to be operated under the full charge, control, and supervision of each officer, director, or ultimate equitable owner of a 10 percent or greater interest in the mortgage lender business, or any other person in a similar capacity during that time.

(2) Each branch office of a mortgage lender must be operated by a branch manager who shall have full charge, control, and supervision of the branch office. The designated branch manager must be a licensed loan originator pursuant to s. 494.00312. Each mortgage lender must keep the office informed of the person designated as the branch manager as prescribed by commission rule, which includes documentation of the individual's acceptance of such responsibility. If the designation is inaccurate, the branch office shall be deemed to be operated under the full charge, control, and supervision of each officer, director, or ultimate equitable owner of a 10 percent or greater interest in the mortgage lender business, or any other person in a similar capacity during that time.

Section 51. Section 494.0067, Florida Statutes, is amended to read:

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

(1) A mortgage lender ~~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. Each principal place of business and each branch office shall be operated under the full charge, control, and supervision of the licensee pursuant to this part ~~under ss. 494.006-494.0077.~~

(2) A license issued under this part ~~ss. 494.006-494.0077~~ is not transferable or assignable.

(3) A mortgage lender ~~Each licensee under ss. 494.006-494.0077~~ shall report, on a form prescribed by rule of the commission, any change in the information contained in any initial application form, or any amendment thereto, within ~~not later than~~ 30 days after the change is effective.

(4) A mortgage lender ~~Each licensee under ss. 494.006-494.0077~~ shall report any changes in the principal loan originator, any addition or subtraction of a control person, partners, officers, members, joint venturers, directors, or control persons of any licensee or any change ~~changes~~ in the form of business organization by written amendment in such form and at such time that the commission specifies by rule.

(a) In any case in which a person or a group of persons, directly or indirectly or acting by or through one or more persons, proposes to purchase or acquire a controlling interest in a licensee, such person or group must

submit an initial application for licensure as a mortgage lender or ~~correspondent mortgage lender~~ before such purchase or acquisition and at the time and in the form prescribed by the commission by rule.

~~(b) As used in this subsection, the term "controlling interest" means possession of the power to direct or cause the direction of the management or policies of a company whether through ownership of securities, by contract, or otherwise. Any person who directly or indirectly has the right to vote 25 percent or more of the voting securities of a company or who is entitled to 25 percent or more of the company's profits is presumed to possess a controlling interest.~~

~~(b)(c) Any addition of a designated principal representative, partner, officer, member, joint venturer, director, or control person of the applicant who does not have a controlling interest and who has not previously filed a Uniform Mortgage Biographical Statement & Consent Form, MU2, or has not previously complied with the fingerprinting and credit report requirements of s. 494.00611 is the provisions of s. 494.0061(2)(g) and (h), s. 494.0062(2)(g) and (h), or s. 494.0065(5)(e) and (f) shall be subject to the such provisions of this section unless required to file an initial application in accordance with paragraph (a). If after the addition of a control person, the office determines that the licensee does not continue to meet licensure requirements, the office may bring administrative action in accordance with s. 494.00255 s. 494.0072 to enforce the provisions of this section.~~

~~(d) The commission shall adopt rules pursuant to ss. 120.536(1) and 120.54 providing for the waiver of the application required by this subsection if the person or group of persons proposing to purchase or acquire a controlling interest in a licensee has previously complied with the provisions of s. 494.0061(2)(g) and (h), s. 494.0062(2)(g) and (h), or s. 494.0065(5)(e) and (f) with the same legal entity or is currently licensed with the office under this chapter.~~

~~(5) Each mortgage lender licensee under ss. 494.006-494.0077 shall report in a form prescribed by rule of by the commission any indictment, information, charge, conviction, or plea of guilty or nolo contendere, regardless of adjudication, or plea of guilty to any felony or any crime or administrative violation that involves fraud, dishonesty, breach of trust, money laundering 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, within not later than 30 business days after the indictment, information, charge, conviction, or final administrative action.~~

~~(6) Each mortgage lender licensee under ss. 494.006-494.0077 shall report any action in bankruptcy, voluntary or involuntary, to the office, within 30 not later than 7 business days after the action is instituted.~~

~~(7) Each mortgage lender licensee under ss. 494.006-494.0077 shall designate a registered agent in this state for service of process.~~

~~(8) Each mortgage lender licensee under ss. 494.006-494.0077 shall provide an applicant for a mortgage loan a good faith estimate of the costs the~~

applicant can reasonably expect to pay in obtaining a mortgage loan. The good faith estimate of costs must shall be mailed or delivered to the applicant within 3 business days ~~a reasonable time~~ after the licensee receives a written loan application from the applicant. The estimate of costs may be provided to the applicant by a person other than the licensee making the loan. The good faith estimate must identify the recipient of all payments charged to the borrower and, except for all fees to be received by the mortgage ~~broker~~ brokerage business and the mortgage lender or ~~correspondent mortgage lender~~, may be disclosed in generic terms, such as, but not limited to, paid to appraiser, officials, title company, or any other third-party service provider. The licensee bears the burden of proving such disclosures were provided to the borrower. The commission may adopt rules that set forth the disclosure requirements of this section.

~~(9) 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 commission shall prescribe, by rule, the procedures for filing reports required by this subsection.~~

~~(10)(a) Each mortgage lender or correspondent mortgage lender licensee shall require the principal representative and all loan originators, not currently licensed as mortgage brokers pursuant to s. 494.0033, who perform services for the licensee to complete 14 hours of professional continuing education during each biennial license period. The education shall cover primary and subordinate mortgage financing transactions and the provisions of this chapter and the rules adopted under this chapter.~~

~~(b) The licensee shall maintain records of such training for a period of 4 years, including records of the content of and hours designated for each program and the date and location of the program.~~

~~(c) Evidence of completion of such programs shall be included with the licensee's renewal application.~~

~~(9)(11) The disclosures in this subsection must be furnished in writing at the time an adjustable rate mortgage loan is offered to the borrower and whenever the terms of the adjustable rate mortgage loan offered have a material change prior to closing. The lender shall furnish the disclosures relating to adjustable rate mortgages in a format prescribed by ss. 226.18~~

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

~~(10)~~(12)(a) In every mortgage loan transaction, each mortgage lender licensee under ss. 494.006-494.0077 shall notify a borrower of any material changes in the terms of a mortgage loan previously offered to the borrower within 3 business days after being made aware of such changes by the lender but at least not less than 3 business days before the signing of the settlement or closing statement. The licensee bears the burden of proving such notification was provided and accepted by the borrower.

(b) A borrower may waive the right to receive notice of a material change ~~that is granted under paragraph (a)~~ if the borrower determines that the extension of credit is needed to meet a bona fide personal financial emergency and the right to receive notice would delay the closing of the mortgage loan. The imminent sale of the borrower's home at foreclosure during the 3-day period before the signing of the settlement or closing statement constitutes an example of a bona fide personal financial emergency. In order to waive the borrower's right to receive notice ~~not less than 3 business days before the signing of the settlement or closing statement of any such material change~~, the borrower must provide the licensee with a dated written statement that describes the personal financial emergency, waives the right to receive the notice, bears the borrower's signature, and is not on a printed form prepared by the licensee for the purpose of such a waiver.

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

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

Section 52. Section 494.0068, Florida Statutes, is amended to read:

494.0068 Loan application process.—

(1) In addition to the requirements set forth in s. 494.0067(8), before accepting an application fee in whole or in part, a credit report fee, an appraisal fee, or a fee charged as reimbursement for third-party charges, a mortgage lender shall make a written disclosure to the borrower, which disclosure may be contained in the application, setting forth:

(a) Whether all or any part of such fees or charges is refundable.

(b) The terms and conditions for the refund, if all or any part of the fees or charges is refundable.

(c) A realistic estimate of the number of days required to issue a commitment following receipt of the application by the lender.

(d) The name or title of a person within the lender's organization to whom the borrower may address written questions, comments, or complaints and who is required to promptly respond to such inquiries.

(2) The disclosures required in subsection (1) ~~must~~ shall be acknowledged in writing by the borrower and maintained by the mortgage lender, and a copy of such acknowledgment shall be given to the borrower.

(3) The borrower may, without penalty or responsibility for paying additional fees and charges, withdraw an application at any time prior to acceptance of commitment. Upon such withdrawal, the mortgage lender is responsible for refunding to the borrower only those fees and charges to which the borrower may be entitled pursuant to the terms set forth in the written disclosure required by subsection (1), except that:

(a) If the lender failed to provide the borrower with the written disclosure required by subsection (1), the lender shall promptly refund to the borrower all funds paid to the lender; or

(b) If the lender failed to make a good faith effort to approve the loan, the lender shall promptly refund to the borrower all funds paid to the lender.

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

(5) For the purposes of this section, the term "application fee" means any moneys advanced by the borrower upon filing an application with a mortgage lender to offset the lender's expenses for determining whether the borrower is qualified for the mortgage loan or whether the mortgage loan should be funded.

Section 53. Section 494.0069, Florida Statutes, is amended to read:

494.0069 Lock-in agreement.—

(1) Each lock-in agreement must be in writing and must contain:

- (a) The expiration date of the lock-in, if any;
- (b) The interest rate locked in, if any;
- (c) The discount points locked in, if any;
- (d) The commitment fee locked in, if any;
- (e) The lock-in fee, if any; and

(f) A statement advising of the provisions of this part ~~ss. 494.006-494.0077~~ regarding lock-in agreements.

(2) The mortgage lender ~~or correspondent mortgage lender~~ shall make a good faith effort to process the mortgage loan application and stand ready to fulfill the terms of its commitment before the expiration date of the lock-in agreement or any extension thereof.

(3) Any lock-in agreement received by a mortgage lender ~~or correspondent mortgage lender~~ by mail or through a mortgage broker must be signed by the mortgage lender ~~or correspondent mortgage lender~~ in order to become effective. The borrower may rescind any lock-in agreement until a written confirmation of the agreement has been signed by the lender and mailed to the borrower or to the mortgage broker ~~brokerage business~~ pursuant to its contractual relationship with the borrower. If a borrower elects to so rescind, the mortgage lender ~~or correspondent mortgage lender~~ shall promptly refund any lock-in fee paid.

(4)(a) ~~Before Any correspondent mortgage lender or mortgage lender prior to issuing a mortgage loan rate lock-in agreement, a mortgage lender~~ must have the ability to timely advance funds on all mortgage loans for which rate lock-in agreements have been issued. As used in this section, “ability to timely advance funds” means having sufficient liquid assets or a line of credit necessary to cover all rate lock-in agreements issued with respect to which a lock-in fee is collected.

(a)(b) ~~A correspondent mortgage lender or mortgage lender that does not comply with this subsection paragraph (a) may issue mortgage rate lock-in agreements only if, prior to the issuance, the correspondent mortgage lender or mortgage lender:~~

1. Has received a written rate lock-in agreement from a ~~correspondent mortgage lender or mortgage lender~~ that complies with this subsection paragraph (a); or
2. Has received a written rate lock-in agreement from an institutional investor or an agency of the Federal Government or the state or local government that will be funding, making, or purchasing the mortgage loan.

(b)(c) ~~All rate lock-in fees collected by a mortgage lender or correspondent mortgage lender who is not in compliance with paragraph (a) must be deposited into an escrow account in a federally insured financial institution, and such fees may shall not be removed from such escrow account until:~~

1. The mortgage loan closes and is funded;
2. The applicant cancels the loan application or the loan application is rejected; or
3. The mortgage lender ~~or correspondent mortgage lender~~ is required to forward a portion of the lock-in fee to another ~~correspondent mortgage lender, mortgage lender, institutional investor, or agency that will be funding, making, or purchasing the loan.~~ The mortgage lender ~~or correspondent mortgage lender~~ may remove only the amount of the lock-in fee actually paid to another mortgage lender, ~~correspondent mortgage lender,~~ institutional investor, or agency.

(5) For purposes of this section, the term “lock-in fee” means any moneys advanced by the borrower to lock in for a specified period of time a specified interest rate or discount points.

(6) The commission may adopt by rule a form for required lock-in agreement disclosures.

Section 54. Effective July 1, 2009, section 494.007, Florida Statutes, is amended to read:

494.007 Commitment process.—

(1) If a commitment is issued, the mortgage lender shall disclose in writing:

(a) The expiration date of the commitment;

(b) The mortgage amount, meaning the face amount of credit provided to the borrower or in the borrower’s behalf;

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

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

2. The following statement, in at least 10-point bold type: “The interest rate will be the rate established by the lender in its discretion as its prevailing rate . . . days before closing.”;

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

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

(2) The provisions of a commitment cannot be changed prior to expiration of the specified period within which the borrower must accept it. If any information necessary for an accurate disclosure required by subsection (1) is unknown to the mortgage lender at the time disclosure is required, the lender shall make the disclosure based upon the best information reasonably available to it and shall state that the disclosure is an estimate.

(3) A commitment fee is refundable if:

(a) The commitment is contingent upon approval by parties to whom the mortgage lender seeks to sell the loan.

(b) The loan purchaser’s requirements are not met due to circumstances beyond the borrower’s control.

(c) The borrower is willing but unable to comply with the loan purchaser's requirements.

Section 55. Section 494.0071, Florida Statutes, is amended to read:

494.0071 Expiration of lock-in agreement or commitment.—If a lock-in agreement has been executed and the loan does not close before the expiration date of either the lock-in agreement or any commitment issued consistent therewith through no substantial fault of the borrower, the borrower may withdraw the application or reject or terminate any commitment, whereupon the mortgage lender ~~or correspondent mortgage lender~~ shall promptly refund to the borrower any lock-in fee and any commitment fee paid by the borrower.

Section 56. Section 494.0072, Florida Statutes, is repealed.

Section 57. Section 494.00721, Florida Statutes, is amended to read:

494.00721 Net worth.—

(1) The net worth requirements required in ~~s. 494.00611 ss. 494.0061, 494.0062, and 494.0065~~ shall be continually maintained as a condition of licensure.

(2) If a mortgage lender ~~or correspondent mortgage lender~~ fails to satisfy the net worth requirements, the mortgage lender ~~or correspondent mortgage lender~~ shall immediately cease taking any new mortgage loan applications. Thereafter, the mortgage lender ~~or correspondent mortgage lender~~ shall have up to 60 days within which to satisfy the net worth requirements. If the licensee makes the office aware, prior to an examination, that the licensee no longer meets the net worth requirements, the mortgage lender ~~or correspondent mortgage lender~~ shall have 120 days within which to satisfy the net worth requirements. A mortgage lender may ~~or correspondent mortgage lender~~ shall not resume acting as a mortgage lender ~~or correspondent mortgage lender~~ without written authorization from the office, which authorization shall be granted if the mortgage lender ~~or correspondent mortgage lender~~ provides the office with documentation which satisfies the requirements of ~~s. 494.00611 s. 494.0061(2)(e), s. 494.0062(2)(e), or s. 494.0065(2),~~ whichever is applicable.

(3) If the mortgage lender ~~or correspondent mortgage lender~~ does not satisfy the net worth requirements within ~~120 days the 120-day period,~~ the license of the mortgage lender ~~or correspondent mortgage lender~~ shall be deemed to be relinquished and canceled and all servicing contracts shall be disposed of in a timely manner by the mortgage lender ~~or correspondent mortgage lender~~.

Section 58. Section 494.0073, Florida Statutes, is amended to read:

494.0073 Mortgage lender ~~or correspondent mortgage lender~~ when acting as a mortgage broker ~~brokerage business.~~—The provisions of this part ~~Sections 494.006–494.0077~~ do not prohibit a mortgage lender ~~or correspondent mortgage lender~~ from acting as a mortgage broker ~~brokerage business.~~

However, in mortgage transactions in which a mortgage lender or ~~correspondent mortgage lender~~ acts as a mortgage broker brokerage business, the provisions of ss. 494.0038, 494.004(2) ~~494.004(8)~~, 494.0042, and 494.0043(1), (2), and (3) apply.

Section 59. Effective July 1, 2009, section 494.0075, Florida Statutes, is amended to read:

494.0075 Requirements for selling loans to noninstitutional investors.—

(1) A mortgage lender, when selling a mortgage loan to a noninstitutional investor, shall:

(a) Before any payment of money by a noninstitutional investor, provide an opinion of value from an appraiser stating the value of the security property unless the opinion is waived in writing. The opinion must state the value of the property as it exists on the date of the opinion. If any relationship exists between the lender and the appraiser, that relationship must ~~shall~~ be disclosed.;

(b) Provide to the noninstitutional investor a mortgagee's title insurance policy or an opinion of title by an attorney licensed to practice law in this state, or a copy thereof:

1. If a title insurance policy is issued, it must insure the noninstitutional investor against the unmarketability of the mortgagee's interest in such title. It must also specify any superior liens that exist against the property. If an opinion of title is issued by an attorney ~~licensed to practice law in this state~~, the opinion must include a statement as to the marketability of the title to the property described in the mortgage and specify the priority of the mortgage being purchased.

2. If the title insurance policy or opinion of title is not available at the time of purchase, the licensee shall provide a binder of the title insurance or conditional opinion of title. This binder or opinion must include any conditions or requirements needed to be corrected before ~~prior to~~ the issuance of the final title policy or opinion of title. The binder or opinion must also include information concerning the requirements specified in subparagraph 1. Any conditions must be eliminated or waived in writing by the investor before ~~prior to~~ delivery to the noninstitutional investor. The policy or opinion, or a copy thereof, shall be delivered to the investor within a reasonable period of time, not exceeding 6 months, after purchase.

3. The requirements of this paragraph may be waived in writing. If the requirements are waived by the noninstitutional investor, the waiver must include the following wording: "The noninstitutional investor acknowledges that the mortgage lender selling this mortgage loan is not providing a title insurance policy or opinion of title issued by an attorney who is licensed to practice law in the State of Florida. Any requirement for title insurance or for a legal opinion of title is the sole responsibility of the noninstitutional mortgage purchaser."

(c) Provide, if the loan is other than a first mortgage, a statement showing the balance owed by the mortgagor on any existing mortgages prior to this investment and the status of such existing mortgages.

(d) Provide a disclosure if the licensee is directly or indirectly acting as a borrower or principal in the transaction.

(2) Each mortgage, or other instrument securing a note or assignment thereof, must ~~shall~~ be recorded before being delivered to the noninstitutional investor.

(3) Each mortgage and assignment shall be recorded as soon as practical, but within ~~no later than~~ 30 business days after the date of purchase.

(4) If the loan is to be serviced by a licensee under this part ss. 494.006-494.0077 for a noninstitutional investor, there shall be a written servicing agreement.

(5) The mortgage lender shall cause the original note to be properly endorsed showing the assignment of the note to the noninstitutional investor.

Section 60. Effective July 1, 2009, paragraph (a) of subsection (1) of section 494.0076, Florida Statutes, is amended to read:

494.0076 Servicing audits.—

(1)(a) Each licensee under part III of chapter who ss. 494.006-494.0077 ~~which~~ services mortgage loans shall:

1. Maintain a segregated set of records for accounts that are serviced by the licensee.

2. Have a separate, segregated depository account for all receipts relating to servicing.

Section 61. Effective July 1, 2009, section 494.0077, Florida Statutes, is amended to read:

494.0077 Other products and services.—This part does ~~Sections 494.006-494.0077 do not~~ prohibit a mortgage lender from offering, for a fee or commission, products and services in addition to those offered in conjunction with making a mortgage loan.

Section 62. Effective July 1, 2009, subsection (2) of section 501.1377, Florida Statutes, is amended to read:

501.1377 Violations involving homeowners during the course of residential foreclosure proceedings.—

(2) DEFINITIONS.—As used in this section, the term:

(a) “Equity purchaser” means a ~~any~~ person who acquires a legal, equitable, or beneficial ownership interest in any residential real property as a

result of a foreclosure-rescue transaction. The term does not apply to a person who acquires the legal, equitable, or beneficial interest in such property:

1. By a certificate of title from a foreclosure sale conducted under chapter 45;
2. At a sale of property authorized by statute;
3. By order or judgment of any court;
4. From a spouse, parent, grandparent, child, grandchild, or sibling of the person or the person's spouse; or
5. As a deed in lieu of foreclosure, a workout agreement, a bankruptcy plan, or any other agreement between a foreclosing lender and a homeowner.

(b) "Foreclosure-rescue consultant" means a person who directly or indirectly makes a solicitation, representation, or offer to a homeowner to provide or perform, in return for payment of money or other valuable consideration, foreclosure-related rescue services. The term does not apply to:

1. A person excluded under s. 501.212.
2. A person acting under the express authority or written approval of the United States Department of Housing and Urban Development or other department or agency of the United States or this state to provide foreclosure-related rescue services.
3. A charitable, not-for-profit agency or organization, as determined by the United States Internal Revenue Service under s. 501(c)(3) of the Internal Revenue Code, which offers counseling or advice to an owner of residential real property in foreclosure or loan default if the agency or organization does not contract for foreclosure-related rescue services with a for-profit lender or person facilitating or engaging in foreclosure-rescue transactions.
4. A person who holds or is owed an obligation secured by a lien on any residential real property in foreclosure if the person performs foreclosure-related rescue services in connection with this obligation or lien and the obligation or lien was not the result of or part of a proposed foreclosure reconveyance or foreclosure-rescue transaction.
5. A financial institution as defined in s. 655.005 and any parent or subsidiary of the financial institution or of the parent or subsidiary.
6. A licensed mortgage broker, mortgage lender, or correspondent mortgage lender that provides mortgage counseling or advice regarding residential real property in foreclosure, which counseling or advice is within the scope of services set forth in chapter 494 and is provided without payment of money or other consideration other than a loan origination mortgage brokerage fee as defined in s. 494.001.

7. An attorney licensed to practice law in this state who provides foreclosure rescue-related services as an ancillary matter to the attorney's representation of a homeowner as a client.

(c) "Foreclosure-related rescue services" means any good or service related to, or promising assistance in connection with:

1. Stopping, avoiding, or delaying foreclosure proceedings concerning residential real property; or

2. Curing or otherwise addressing a default or failure to timely pay with respect to a residential mortgage loan obligation.

(d) "Foreclosure-rescue transaction" means a transaction:

1. By which residential real property in foreclosure is conveyed to an equity purchaser and the homeowner maintains a legal or equitable interest in the residential real property conveyed, including, without limitation, a lease option interest, an option to acquire the property, an interest as beneficiary or trustee to a land trust, or other interest in the property conveyed; and

2. That is designed or intended by the parties to stop, avoid, or delay foreclosure proceedings against a homeowner's residential real property.

(e) "Homeowner" means the any record title owner of residential real property ~~that is the subject of foreclosure proceedings.~~

(f) "Residential real property" means real property consisting of one-family to four-family dwelling units, ~~one of which is occupied by the owner as his or her principal place of residence.~~

(g) "Residential real property in foreclosure" means residential real property against which there is an outstanding notice of the pendency of foreclosure proceedings recorded pursuant to s. 48.23.

Section 63. Paragraph (b) of subsection (2) of section 501.1377, Florida Statutes, as amended by this act, is amended to read:

501.1377 Violations involving homeowners during the course of residential foreclosure proceedings.—

(2) DEFINITIONS.—As used in this section, the term:

(b) "Foreclosure-rescue consultant" means a person who directly or indirectly makes a solicitation, representation, or offer to a homeowner to provide or perform, in return for payment of money or other valuable consideration, foreclosure-related rescue services. The term does not apply to:

1. A person excluded under s. 501.212.

2. A person acting under the express authority or written approval of the United States Department of Housing and Urban Development or other department or agency of the United States or this state to provide foreclosure-related rescue services.

3. A charitable, not-for-profit agency or organization, as determined by the United States Internal Revenue Service under s. 501(c)(3) of the Internal Revenue Code, which offers counseling or advice to an owner of residential real property in foreclosure or loan default if the agency or organization does not contract for foreclosure-related rescue services with a for-profit lender or person facilitating or engaging in foreclosure-rescue transactions.

4. A person who holds or is owed an obligation secured by a lien on any residential real property in foreclosure if the person performs foreclosure-related rescue services in connection with this obligation or lien and the obligation or lien was not the result of or part of a proposed foreclosure reconveyance or foreclosure-rescue transaction.

5. A financial institution as defined in s. 655.005 and any parent or subsidiary of the financial institution or of the parent or subsidiary.

6. A licensed mortgage broker, ~~mortgage lender~~, or ~~correspondent mortgage lender~~ that provides mortgage counseling or advice regarding residential real property in foreclosure, which counseling or advice is within the scope of services set forth in chapter 494 and is provided without payment of money or other consideration other than a loan origination mortgage brokerage fee as defined in s. 494.001.

7. An attorney licensed to practice law in this state who provides foreclosure rescue-related services as an ancillary matter to the attorney's representation of a homeowner as a client.

Section 64. Effective July 1, 2009, paragraph (c) of subsection (1) of section 201.23, Florida Statutes, is amended to read:

201.23 Foreign notes and other written obligations exempt.—

(1) There shall be exempt from all excise taxes imposed by this chapter:

(c) Any promissory note, nonnegotiable note, or other written obligation to pay money if ~~the said~~ note or obligation is executed and delivered outside this state and at the time of its making is secured only by a mortgage, deed of trust, or similar security agreement encumbering real estate located outside this state and if such promissory note, nonnegotiable note, or other written obligation for payment of money is brought into this state for deposit as collateral security under a wholesale warehouse mortgage agreement or for inclusion in a pool of mortgages deposited with a custodian as security for obligations issued by an agency of the United States Government or for inclusion in a pool of mortgages to be serviced for the account of a customer by a mortgage lender licensed or exempt from licensing under part III of chapter 494 ss. 494.006-494.0077.

Section 65. Effective July 1, 2009, paragraph (a) of subsection (21) of section 420.507, Florida Statutes, is amended to read:

420.507 Powers of the corporation.—The corporation shall have all the powers necessary or convenient to carry out and effectuate the purposes and provisions of this part, including the following powers which are in addition to all other powers granted by other provisions of this part:

(21) Review all reverse mortgage provisions proposed to be used by an individual lender or a consortium to determine that such provisions are consistent with the purposes and intent of this act. If the corporation finds that the provisions are consistent, it shall approve those provisions. If the corporation finds that the provisions are inconsistent, it shall state its objections and give the parties an opportunity to amend the provisions to overcome such objections. In approving these provisions, the corporation must determine:

(a) That the mortgagee is ~~either licensed pursuant to part II of chapter 494 ss. 494.006-494.0077 or specifically exempt from part III of chapter 494 ss. 494.006-494.0077.~~

Section 66. Effective July 1, 2009, subsection (1) of section 520.52, Florida Statutes, is amended to read:

520.52 Licensees.—

(1) A person may not engage in the business of a sales finance company or operate a branch of such business without a license as provided in this section; however, a bank, trust company, savings and loan association, or credit union authorized to do business in this state is not required to obtain a license under this part. Any person authorized as a licensee or registrant pursuant to part III of chapter 494 ss. 494.006-494.0077 is not required to obtain a license under this part in order to become an assignee of a home improvement finance seller.

Section 67. Effective July 1, 2009, subsection (1) of section 520.63, Florida Statutes, is amended to read:

520.63 Licensees.—

(1) A person may not engage in or transact any business as a home improvement finance seller or operate a branch without first obtaining a license from the office, except that a banking institution, trust company, savings and loan association, credit union authorized to do business in this state, or licensee under part III of chapter 494 ss. 494.006-494.0077 is not required to obtain a license to engage in home improvement financing.

Section 68. Effective July 1, 2009, paragraph (b) of subsection (11) of section 607.0505, Florida Statutes, is amended to read:

607.0505 Registered agent; duties.—

(11) As used in this section, the term:

(b) “Financial institution” means:

1. A bank, banking organization, or savings association, as defined in s. 220.62;

2. An insurance company, trust company, credit union, or industrial savings bank, any of which is licensed or regulated by an agency of the United States or any state of the United States; or

3. Any person licensed under part III of chapter 494 ~~the provisions of ss. 494.006-494.0077.~~

Section 69. Effective July 1, 2009, subsection (1) of section 687.12, Florida Statutes, is amended to read:

687.12 Interest rates; parity among licensed lenders or creditors.—

(1) Any lender or creditor licensed or chartered under ~~the provisions of~~ chapter 516, chapter 520, chapter 657, chapter 658 or former chapter 659, former chapter 664 or former chapter 656, chapter 665, or part XV of chapter 627; any lender or creditor located in ~~this state the State of Florida~~ and licensed or chartered under the laws of the United States and authorized to conduct a lending business; or any lender or creditor lending through a licensee under ~~part III of chapter 494, is ss. 494.006-494.0077,~~ shall be authorized to charge interest on loans or extensions of credit to any person as defined in s. 1.01(3), or to any firm or corporation, at the maximum rate of interest permitted by law to be charged on similar loans or extensions of credit made by any lender or creditor in ~~this state the State of Florida~~, except that the statutes governing the maximum permissible interest rate on any loan or extension of credit, and other statutory restrictions relating thereto, ~~shall~~ also govern the amount, term, permissible charges, rebate requirements, and restrictions for a similar loan or extension of credit made by any lender or creditor.

Section 70. Effective September 1, 2010:

(1) All mortgage business school permits issued pursuant to s. 494.0029, Florida Statutes, expire on September 30, 2010.

(2) All mortgage brokerage business licenses issued before October 1, 2010, pursuant to s. 494.0031 or s. 494.0032, Florida Statutes, expire on December 31, 2010. However, if a person holding an active mortgage brokerage business license issued before October 1, 2010, applies for a mortgage broker license through the Nationwide Mortgage Licensing System and Registry between October 1, 2010, and December 31, 2010, the mortgage brokerage business license does not expire until the Office of Financial Regulation approves or denies the mortgage broker license application. A mortgage broker license approved on or after October 1, 2010, is effective until December 31, 2011. Application fees may not be prorated for partial years of licensure.

(3) All mortgage broker licenses issued before October 1, 2010, pursuant to s. 494.0033 or s. 494.0034, Florida Statutes, expire on December 31, 2010. However, if a person holding an active mortgage broker license issued before October 1, 2010, applies for a loan originator license through the Nationwide Mortgage Licensing System and Registry between October 1, 2010, and December 31, 2010, the mortgage broker license does not expire until the Office of Financial Regulation approves or denies the loan originator license application. Notwithstanding s. 120.60, Florida Statutes, for mortgage broker applications submitted between July 1, 2009, and December 31, 2009, or loan originator applications submitted between October 1, 2010, and December 31, 2010, the office has 60 days to notify the applicant of any

apparent errors or omissions in an application and to request any additional information that the office may require, and the office has 180 days to approve or deny a completed application. Application fees may not be prorated for partial years of licensure.

(4) All mortgage lender licenses issued before October 1, 2010, pursuant to s. 494.0061 or s. 494.0064, Florida Statutes, expire on December 31, 2010. However, if a person holding an active mortgage lender license applies for a mortgage broker license or mortgage lender license through the Nationwide Mortgage Licensing System and Registry between October 1, 2010, and December 31, 2010, the mortgage lender license does not expire until the Office of Financial Regulation approves or denies the mortgage broker license or mortgage lender license application. Application fees may not be prorated for partial years of licensure.

(5) All mortgage lender licenses issued before October 1, 2010, pursuant to s. 494.0065 or s. 494.0064, Florida Statutes, expire on December 31, 2010. However, if a person holding such license applies for a mortgage broker license or mortgage lender license through the Nationwide Mortgage Licensing System and Registry between October 1, 2010, and December 31, 2010, the mortgage lender license does not expire until the Office of Financial Regulation approves or denies the mortgage broker license or mortgage lender license application. Application fees may not be prorated for partial years of licensure.

(6) All correspondent mortgage lender licenses issued before October 1, 2010, pursuant to s. 494.0062 or s. 494.0064, Florida Statutes, expire on December 31, 2010. However, if a person holding an active correspondent mortgage lender license issued before October 1, 2010, applies for a mortgage broker or mortgage lender license through the Nationwide Mortgage Licensing System and Registry between October 1, 2010, and December 31, 2010, the correspondent mortgage lender license does not expire until the Office of Financial Regulation approves or denies the mortgage broker or mortgage lender license application. Application fees may not be prorated for partial years of licensure.

Section 71. Except as otherwise expressly provided in this act and except for this section, which shall take effect July 1, 2009, this act shall take effect October 1, 2010.

Approved by the Governor June 29, 2009.

Filed in Office Secretary of State June 29, 2009.