



The Lending Industry Update

Florida Financial Services Commission
Office of Financial Regulation, Bureau of Finance Regulation
(800) 848-3792

Vol. 12 No. 2 (revised 08/2007)

SUMMER 2007

JUNE 19, 2007 GOVERNOR SIGNS CONSUMER PROTECTION BILL, WHICH MAKES SIGNIFICANT CHANGES TO CHAPTER 494.

The Bill strengthens mortgage broker disclosure requirements, requires the licensed business to have a signed mortgage broker contract to receive any broker fee, provides that any material change in loan terms must be provided to and accepted by borrower within 3 days of terms changes, but not less than 3 days prior to closing, makes a violation of the federal Real Estate Settlement Procedures Act or the federal Truth in Lending Act a violation of Chapter 494.

See page 3 for more bill info.

DIVISION OF FINANCE NEW DIRECTOR

OFR Commissioner Don Saxon has announced that effective July 2, **Bob Tedcastle** will assume the responsibilities as Director of the Division of Finance. Bob has been a mainstay of the Office for some 20 years. He brings to the Office a wealth of knowledge and experience, having worked both in the public and private sector. Bob is recognized by industry as an expert in the field of financial services and has held leadership roles with our regulatory associations which include being past President of the American Association of Residential Mortgage Regulators and the National Association of Consumer Credit Administrators.

In addition, Commissioner Saxon previously appointed two Bureau Chiefs within the Division of Finance. **Greg Oaks** will serve as the Bureau Chief of the Bureau of Regulatory Review. Greg has 13 years of extensive experience in the agency.

Mike Ramsden will serve as the Bureau Chief of the new Bureau of Money Transmitter Regulation. Mike Ramsden has headed the Money Transmitter Regulatory Unit since its creation in October 2004.

FREQUENTLY ASKED QUESTIONS Does the Office of Financial Regulation have a list of disclosures, which must be made by brokers and lenders?

Section 494.0038 lists the disclosures, required to be made by brokers and lenders when brokering a mortgage loan. Sections 494.0067 & 494.0068 list the disclosures, required to be made by lenders when closing the loan in your name.

What documents must be maintained in the loan file?

Rule 69V-40.175 Mortgage Brokerage Files lists the requirements of files for mortgage brokerage businesses. Please note the 69V-40.175(8) requires that all documents originated or received must be maintained in the file.

Rule 69V-40.260 Mortgage Lender Files lists the requirements of files for lenders. Please note 69V-260(7) requires that all documents originated or received must be maintained in the file.

May I pay by 1099 or must I pay by W-2?

Chapter 494 requires a natural person to be licensed as a mortgage broker to work for a mortgage brokerage business soliciting mortgage loans regardless of whether they are paid by 1099 or W-2. An unlicensed person working for a licensed lender must be paid as a W-2 employee. A person licensed as a mortgage broker who is working, as an associate of a licensed lender would be paid by 1099.

You may wish to contact the Florida Department of Revenue and also the Internal Revenue Service concerning any regulations they may have which may apply.

Must I have a license to do a loan on commercial property?

Chapter 494 applies to mortgage loans, which fall under the definition of a mortgage loan in 494.001(20). If the loan does not fall under this definition, no license would be required to broker or make the loan.

FILING QUARTERLY REPORT

Chapter 494 F.S. requires each business entity to file an initial quarterly report within 30 days of the end of the calendar quarter in which the original license is issued, and thereafter to file a quarterly report if a change occurs in which a person became or ceased to be an associate or loan originator of the business during the immediately preceding quarter.

Although you may have submitted contact information online, you may have not added any Associate(s), including the Principal Broker. All licensed Mortgage Brokers must be reported on the Quarterly Report - **even if** this is the owner, sole proprietor, or only Mortgage Broker/ Principal Broker.

If a new person is hired you would add the new data for that person on the quarterly report and when a person ceases to be an associate or loan originator you would put the termination date in on the data for that person, which indicates they have been terminated not 'deleted' when a person no longer works at a business.

STORAGE OF BUSINESS RECORDS

Recently, many licensees have inquired if they are permitted to store files at an off-site location or use electronic storage for books and records that are required to be maintained. Chapter 494 allows you to store files at a location other than the licensed location by notifying the Office prior to the records being re-located.

The office understands that the main reason for storing documents by electronic means is to conserve physical storage space while ensuring the safe storage of documents, easy examination, and retrieval and copying as needed. At this time, Chapter 494, Florida Statutes does not address the issue directly. However, the requirement is satisfied by retaining an electronic record of the information so long as it accurately reflects the information in the record after first generated in final form and without the ability to alter the record.

In general, the electronic storage on media such as CD-ROM disks may be permitted as long as the integrity of the original records are maintained by insuring that electronic copies are adequate substitutes for the original records, with no ability to alter the documents once scanned, and that they serve the purpose for which the original records were created or maintained. Refer further to Administrative Rule 69V-40.175 (8) when brokering mortgage loans or

Rule 69V-40.260(7) for lenders. Copies of your electronic records should be made and stored in a safe and secure location.

Notification of your intent to store records electronically or at an off-site location should be directed to: Office of Financial Regulation, Bureau of Finance Regulation, Attn: Compliance Section, 200 E. Gaines Street, Tallahassee, FL 32399-0373, or email: ofr@fldfs.com. Should you have any questions, you may contact the Finance Compliance Section at (850) 410-9805 or Fax 850-410-9914. A response letter acknowledging receipt will be sent.

AUTO LOANS SHOULD BE SATISFIED WITHIN TEN WORKING DAYS

Julie W. Comer, Deputy Chief, Bureau of Field Operations, DMV

The Department of Highway Safety and Motor Vehicles (DHSMV) has successfully worked with the Department of Financial Services (DFS) on many cases involving auto dealers. This working relationship has helped protect citizens of this state. Auto lenders can also help the Department with an important issue that affects both Florida dealers and consumers, which is the timely submission of lien satisfactions and certificates of titles to auto dealers.

The Division of Motor Vehicles, Bureau of Field Operations investigates consumer complaints against dealers and takes appropriate corrective action when necessary. Such action may result in the dealer being fined for violation of laws governing dealerships or may result in the dealer's license being suspended or revoked. The most common complaint against motor vehicle dealers is failure to apply for title and registration for the purchaser within 30 days of the date of delivery as required in section 319.23(6), Florida Statutes.

Through investigation, we have found that many of these titles are not applied for within the 30-day period because the dealer is waiting for the lien holder to send them the title. Section 319.24(5)(a), F.S., requires a lien holder receiving final payment to mail or deliver a lien satisfaction and the certificate of title within 10 working days to the person satisfying the Lien. This then allows the dealer to comply with the 30-day period to apply for title and registration.

We encourage the satisfaction of liens and cooperation from both the dealers and the lien holders. This will protect consumers by enabling the vehicle to be titled and registered with the DHSMV for law enforcement recognition in a timelier manner.

CHAPTER 494 LEGISLATION – 2007

Senate Bill 1824 –

Senator Mike Fasano & Representative Garrett Richter

- Clarifies that account executives (wholesale representatives) of lenders are considered loan originators and are required to be included in Quarterly Reports and complete continuing education.
- Defines loan application as a submission of borrower's financial information in anticipation of a credit decision regarding a specific property.
- Clarifies that the mortgage brokerage fee is to include all compensation received by the mortgage brokerage business for the transaction.
- The Office is authorized to take administrative action against mortgage business school similar to other license types.
- Strengthening of requirements for continuing education courses offered electronically or through distance learning (correspondence) courses.
 - Electronically offered training requires verification of individual taking training and how long spent on training.
 - Correspondence courses require passing test to complete training.
- Strengthening of mortgage broker disclosures (includes correspondent mortgage/mortgage lenders acting as mortgage brokers) to include:
 - On face-to-face interviews the mortgage brokerage agreement must be completed, signed, and dated within 3 business days of receipt of an application. On mail away applications the broker is responsible for proving that the agreement was sent within 3 business days of receipt of an application and that the borrower received and accepted the terms.
 - A mortgage brokerage business can only receive a broker fee pursuant to a signed mortgage brokerage contract.
 - Mortgage brokerage agreement must include the maximum dollar amount of any fees to be received by the lender (no more percentage range).
 - The exact amount of any mortgage brokerage fee to be received from the lender must be disclosed in writing to the borrower at least 3 business days prior to closing. All material changes in the loan terms must be provided to and accepted by the borrower within 3 business days of the terms changes, but not less than 3 business days prior to closing.

CHAPTER 494 LEGISLATION – 2007 (cont.)

- A signed and dated good faith estimate, covering all fees that the borrower is expected to pay, must be given within 3 business days of receipt of the application. Broker and/or lender is responsible for proving that the borrower received and accepted the terms on mail away applications.
- The good faith estimate must identify the recipient of all payments charged the borrower. The identity can be disclosed in generic terms, except in regard to fees received by the mortgage brokerage business and the correspondent mortgage/mortgage lender.
- Complete written disclosures of all particular terms on all applications where the loan product being offered is not a fixed rate loan. These disclosures must be given within 3 business days of receipt of the application by the broker and lender. Required plan disclosures and the Charm Booklet currently required under Regulation Z of the Federal Reserve Board will now also be required under this act.
- All material changes in the loan terms must be provided to and accepted by the borrower within 3 business days of the terms changes, but not less than 3 business days prior to closing. A waiver of this requirement can be granted by the borrower to meet a bona fide personal financial emergency.
- Any violation of the federal Real Estate Settlement Procedures Act or the federal Truth In Lending Act will also be a violation of Chapter 494, Florida Statutes.
- Lenders must certify that they currently meet the minimum net worth requirements and that all of their loan originators have completed the continuing education requirements in order to renew their license.
- Principal representatives of correspondent mortgage/mortgage lenders are subject to disciplinary actions of the chapter for violations of the company employees and/or associates.

Changes become effective as of October 1, 2007.

LICENSING STATISTICS

CHAPTERS 494, 516, 520, & 559, FLORIDA STATUTES

NUMBER OF ACTIVE LICENSEES

<u>6/30/05</u>	<u>6/30/06</u>	<u>6/30/07</u>	<u>INCLUDING BRANCHES</u>
59,441	67,266	81,695	Mortgage Brokers (494)
7,326	9,801	10,300	Mortgage Brokerage Businesses (494)
9,942	12,334	11,851	Correspondent Mortgage Lenders & Mortgage Lenders (494)
532	584	626	Consumer Finance Companies (516)
3,984	4,758	4,274	Motor Vehicle Retail Installment Sellers (520 – PART I)
5,910	7,136	6,095	Retail Installment Sellers (520 – PART II)
1,032	1,143	1,070	Sales Finance Companies (520 – PART III)
138	168	135	Home Improvement Retail Installment Sellers (520–PART VI)
111	126	135	Commercial Collection Agencies (559 – Part V)
1,017	1,045	1,102	Consumer Collection Agencies (559 – Part VI)
<u>89,433</u>	<u>104,361</u>	<u>117,283</u>	TOTAL ACTIVE CHAPTER 494, 516, 520, & 559 LICENSEES

NEW LICENSES ISSUED

<u>FISCAL YEAR</u>			<u>INCLUDING BRANCHES</u>
<u>2004/05</u>	<u>2005/06</u>	<u>2006/07</u>	
13,228	16,785	13,571	Mortgage Brokers (494)
2,265	2,829	2,565	Mortgage Brokerage Businesses (494)
3,623	3,993	3,877	Correspondent Mortgage Lenders & Mortgage Lenders (494)
43	66	95	Consumer Finance Companies (516)
703	758	828	Motor Vehicle Retail Installment Sellers (520 – PART I)
1,023	1,061	912	Retail Installment Sellers (520 – PART II)
138	145	138	Sales Finance Companies (520– PART III)
25	30	26	Home Improvement Retail Installment Sellers (520 –PART IV)
20	32	30	Commercial Collection Agencies (559 – Part V)
276	291	317	Consumer Collection Agencies (559 – Part VI)
<u>21,344</u>	<u>25,990</u>	<u>22,359</u>	TOTAL NEW CHAPTER 494, 516, 520, & 559 LICENSEES

FOR YOUR INFORMATION

CHAPTERS 494, 516, 520 & 559, FLORIDA STATUTES

EXAMINATIONS & COMPLIANCE REVIEWS

The Bureau of Finance Regulation conducted examinations and compliance reviews of the following types of companies during the prior three fiscal years:

<u>2004/05</u>	<u>2005/06</u>	<u>2006/07</u>	INCLUDING BRANCHES
121	91	100	Mortgage Brokerage Businesses (494)
148	87	101	Correspondent Mortgage Lenders & Mortgage Lenders (494)
736	841	625	Compliance Reviews (494)
10	2	1	Consumer Finance Companies (516)
172	205	97	Retail Installment Sales (520 - ALL PARTS)
<u>1,187</u>	<u>1,226</u>	<u>924</u>	TOTAL EXAMINATIONS & COMPLIANCE REVIEWS

COMPLAINTS

The Bureau of Finance Regulation has received complaints against the following types of companies during the prior three fiscal years:

<u>2004/05</u>	<u>2005/06</u>	<u>2006/07</u>	INCLUDING BRANCHES
267	233	318	Mortgage Brokerage Businesses (494)
1,750	1,287	1,527	Correspondent Mortgage Lenders & Mortgage Lenders (494)
62	48	62	Consumer Finance Companies (516)
269	261	280	Retail Installment Sales (520 – ALL PARTS)
562	490	663	Consumer & Commercial Collection Agencies (559 Part V & IV)
<u>2,910</u>	<u>2,319</u>	<u>2,850</u>	TOTAL COMPLAINTS

CHAPTERS 494, 516, 520 - LEGAL ACTIONS (JULY 2006-JUNE 2007)

NAME OF COMPANY / INDIVIDUAL	LOCATION CITY & STATE	TYPE OF LICENSE	ACTION TAKEN	DATE OF ACTION
Jonny Antonio Rodriguez	Lehigh Acres	MB	Denial	07/17/06
East Coast Lending, LLC	Dumfries, VA	MBB	Revocation	08/04/06
Mary Jo Karczewski	Kissimmee, FL	MB	Revocation	08/04/06
VIP Executive Services	Kissimmee, FL	MBB	Revocation	09/26/06
Michael Angel Feliciano	Kissimmee, FL	MB	Revocation	09/26/06
Integrity Mortgage of Lakeland, Inc.	Lakeland, FL	MBB	Revocation	10/09/06
Kathleen Lovella Jenkins	Lakeland, FL	MB	Revocation	10/09/06
Stuart Michael Blum	Boca Raton, FL	MB	Revocation	10/27/06
Mark L. Rhodes	Stratford, FL	MB	Revocation	10/27/06
U.S. Motors LLC d/b/a Good Deals – Good Wheels	West Palm Beach, FL	MV	Revocation	10/27/06
Evelyne Bysinith	West Palm Beach, FL	MB	Denial	11/13/06
Jordan Scott Fenster	Boca Raton, FL	MB	Denial	11/13/07
Carlos Felipe Mendez	Miami, FL	MB	Revocation	11/13/06
Money Tree Mortgage Funding Corp	Port Charlotte, FL	CL	Denial	11/13/06
Madeline G. Pass d/b/a/ Pass & Associates	Pomona Park, FL	MBB	Revocation	11/13/06
Madeline G. Pass	Pomona Park, FL	MB	Revocation	11/13/06
Pacific Home Funding Corp.	Corona, CA	MBB	Revocation	11/13/06
Best Cars & Trucks, Inc.	Miami, FL	SF	Denial	11/13/06
Fernando Ahumada	Treasure Island, FL	MB	Revocation	11/20/06
Marta M. Comas	Miami, FL	MB	Denied	12/18/06
Ameristar Home Loans, LLC	St Petersburg, FL	MBB	Revocation	12/21/06
The Sayeed International Corp, Inc. d/b/a/ 1 st Mortgage Company	Jacksonville, FL	CL	Revocation	01/03/07
Armando Garcia	Miami, FL	MB	Denial	01/23/07

CHAPTERS 494, 516, 520 - LEGAL ACTIONS (JULY 2006-JUNE 2007)

(cont)

NAME OF COMPANY / INDIVIDUAL	LOCATION CITY & STATE	TYPE OF LICENSE	ACTION TAKEN	DATE OF ACTION
Tony Tate (Antonia Lemont Tate)	Jacksonville, FL	MB	Revocation	02/07/07
Anon Mortgage Solutions, Inc.	Jacksonville, FL	MBB	Revocation	02/07/07
Indiana Mortgage Funding d/b/a Florida Mortgage Funding	Jacksonville, FL	CL	Revocation	02/15/07
American Atlantic Mortgage Corp.	Miami, FL	MBB	Revocation	02/22/07
Jason E. Madow	Highland Beach, FL	MB	Revocation	02/23/07
Boris Cox	Orlando, FL	MB	Revocation	03/16/07
Charles B. Croft	St. Petersburg, FL	MB	Revocation	03/16/07
Eduardo Lazaro Lopez	Cape Coral, FL	MB	Denial	03/27/07
Sherley Investments & Loans, Inc.	Miami, FL	CL	Denial	04/13/07
Reginald S. Chrispin	Miami, FL	MB	Denial	04/13/07
Edwin Alexis Gonzalez	Kissimmee, FL	MB	Denial	04/17/07
American Mortgage Group of Alabama Inc.	Dothan, AL	CL	Surrender	04/17/07
Global Automotive Group, LLC d/b/a/ Kendall Mazda	Miami, FL	MV	Revocation	04/23/07
Sharon Wheat	Riverwoods, IL	MB	Surrender	05/02/07
Hester International, Inc.	Riverwoods, IL	MBB	Surrender	05/02/07
Christopher P. O'Leary	Austin, TX	MB	Surrender	05/02/07
S. Craig Wakefield	Kissimmee, FL	MB	Revocation	05/02/07

VISIT OUR WEBSITE

www.flofr.com/finance**REGIONAL OFFICE LOCATIONS**

The Office of Financial Regulation, in an effort to provide current information, would like to provide the following names and addresses of our regional offices, the counties they serve, and the individuals responsible for finance regulation. (The 800, 877, and 888 numbers listed below are toll-free in Florida.)

Bureau of Finance Regulation

Mr. Andy Grosmaire, Bureau Chief
200 East Gaines Street
Tallahassee, Florida 32399-0373

Phone Numbers

(850) 410-9805
(800) 848-3792

Regional Offices

Mr. Ronn Hoover, Area Financial Manager
Pensacola Regional Office
4900 Bayou Boulevard, Suite 103
Pensacola, Florida 32503-2530

Counties

Bay, Calhoun, Escambia, Franklin,
Gadsden, Gulf, Holmes, Jackson, Leon,
Liberty, Okaloosa, Santa Rosa, Wakulla,
Walton, and Washington

Ms. Elizabeth Peters, Area Financial Manager
Jacksonville Regional Office
921 N. Davis Street, Building B - Suite 225
Jacksonville, Florida 32209

Alachua, Baker, Bradford, Clay, Columbia,
Dixie, Duval, Flagler, Gilchrist, Hamilton,
Jefferson, Lafayette, Levy, Madison,
Nassau, Putnam, St. Johns, Suwannee,
Taylor, and Union

Ms. Laura Royal, Area Financial Manager
Tampa Regional Office
1313 Tampa Street, Suite 615
Tampa, Florida 33602-3394

Citrus, Hernando, Hillsborough,
Manatee, Pasco, Pinellas, Polk,
and Sarasota

Mr. Richard Roll, Area Financial Manager
Orlando Regional Office
400 West Robinson Street,
Hurstons South Tower, Suite 225
Orlando, Florida 32801-1799

Brevard, Lake, Marion, Orange,
Osceola, Seminole, Sumter,
and Volusia

Mr. John Kneissel, Area Financial Manager
Miami Regional Office
401 NW Second Avenue, Suite North 708
Miami, Florida 33128-1796

Dade and Monroe (305) 536-0308

Mr. John Harper, Financial Administrator
Mr. Hank Nagel, Area Financial Manager
Southeast Florida Regional Office
3111 South Dixie Highway, Suite 302
West Palm Beach, FL 33405

Glades, Henry, Highlands,
Indian River, Martin, Okeechobee,
Palm Beach, and St. Lucie (561) 837-5203
(800) 837-7946

Mr. Hank Nagel, Area Financial Manager
Southwest Florida Regional Office
2295 Victoria Avenue, Suite 170
Fort Myers, Florida 33901

Charlotte, Collier, DeSoto
Hardee, and Lee (239) 461-4008
(877) 336-2445

Ms. Sharon Dawes, Area Financial Manager
Ft. Lauderdale Regional Office
1400 West Commercial Blvd., Suite 135
Fort Lauderdale, Florida 33309

Broward (954) 958-5508
(800) 298-0485



State of Florida
Office of Financial Regulation
Bureau of Finance Regulation
200 East Gaines Street
Tallahassee, FL 32399-0373

PRSR.T.STD
U.S. Postage
PAID
Tallahassee, FL
Permit #54