



# The Lending Industry Update

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

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## DIVISION OF FINANCE NEW DIRECTOR

In February, 2008, Commissioner Don Saxon appointed Terry Straub as Director of the Division of Finance. Terry has worked in numerous State government positions including 23 years with the Division of Banking in the Department of Banking and Finance, predecessor to OFR. His career began as an entry level examiner in the Tallahassee Region, and continued in the Tampa and West Palm Beach Regions. In 1981, Terry returned to Tallahassee and served as the Assistant Director and was later appointed as the Director of Banking. After leaving the Division of Banking, Terry worked for the Department of Revenue and the Department of Financial Services, Division of Treasury where he was in charge of the state's income. He is a graduate of the University of Mississippi, and is a long time youth soccer coach.

## MORTGAGE BROKERAGE BUSINESSES AND LENDERS LICENSE RENEWAL FOR 2008-2010

**Deadline:** September 2, 2008

All Businesses, Lenders and their associated branch offices must renew electronically through the REAL system and can be paid by MasterCard, Visa, or ACH/Electronic Check.

To renew your license(s), access the REAL System at [www.flofr.com/real](http://www.flofr.com/real) and select the link to log in. Once you are logged into the REAL System, look for the RENEWAL NOTICE message on your workspace page.

**Deadline:** September 2, 2008. The deadline for the Office to receive your non-refundable

renewal fee online is midnight, Eastern Time, September 2, 2008. All licenses not renewed by the deadline will be assessed a \$100 late renewal fee and the license will become inactive. A license not reactivated by midnight, Eastern Time, March 2, 2009 will automatically expire. The online renewal process will begin assessing a late fee at 12:00 midnight Eastern Time, on September 2, 2008.

You can instantly print your new renewal license through the REAL System. From the workspace, click on **View Licenses & Manage Details**. To the right of your license summary, click on **View / Manage License**. You can now print your license by clicking on **Printer Friendly License**. The Office will **NOT** be mailing you a new license. For assistance with using the REAL System you may contact us at: 850-410-9895.

## REAL System - Authorization Codes

In order to utilize the REAL System, you will be required to create an online account using the REAL System Online Services. Once your account has been established, you must associate your license or application to your REAL System Online account. Your authorization code was mailed to you on or about March 26, 2008 at the mailing address currently on file for your license or application. This is a new authorization code generated by the REAL system; your current authorization code will not work. If you did not receive your authorization code, contact the Office of Financial Regulation at 1-800-848-3792. Select option 1 for Finance and you will be transferred to the next available agent. **You will be required to provide identifying information in order to obtain an authorization code over the phone.**

Once you have obtained the authorization code, log on to the REAL system website at **[www.flofr.com/REAL](http://www.flofr.com/REAL)** and select the link "Associate an Application or License to a User Account". Enter the information required on the

screen and then select “Submit”. You will be prompted to verify that the license you have selected is your license and that you wish to associate the license to your user account. Upon associating a license to your user account return to the Workspace page and select the link “View License(s) & Manage Details”. From here you can manage your license(s). You may click the “Return to Workspace” button or the “My Workspace” link on the side panel to return to the workspace screen.

## REAL System - Help

The REAL System Online Services guides provide a step-by-step walkthrough for applicants and licensees to: manage their account, apply for a license, amend a license, renew a license, withdraw a filing for a license, terminate an existing license, file a quarterly report, file an online complaint, search for public license records, and download licensing data. These guides are available at [www.flofr.com/REAL](http://www.flofr.com/REAL).

## FREQUENTLY ASKED QUESTIONS

### **Is a mortgage broker license required to receive a fee to do a loan modification?**

**YES.** A loan modification is considered negotiating the terms of a mortgage loan and falls under the definition of acting as a mortgage broker, which requires a license.

You must also comply with the requirements of Chapter 494 as to disclosures, contract requirements, etc.

### **Is a licensed lender required to have an audited financial completed each fiscal year end?**

**YES.** Rule 69V-40.250, F.A.C. requires that each business licensed as a lender under Sections 494.0061, (ML), 494.0062, (CL) and 494.0065, F.S. (MLS & MLST), shall document and verify the required net worth with audited financial statements, prepared in accordance with Generally

Accepted Accounting Principles, by an independent licensed certified public accountant.

Each licensee identified above shall have completed, **annually**, the required audited financial statement within 120 days of the fiscal year end date of said licensee. All audited financial statements shall be maintained in the licensee’s principal place of business in this state and made available to Office of Financial Regulation examiners upon request.

### **May the licensed Mortgage Brokerage Business or Lender I work for pay commissions to my Limited Liability Company (LLC) or other corporation?**

Section 494.0025(8), F.S., prohibits payment of a fee or commission in any mortgage loan transaction to any person or entity other than a mortgage brokerage business, mortgage lender, or correspondent mortgage lender, unless otherwise exempt. If the LLC or corporation is licensed by OFR and has met the requirements of Section 494.0038, F.S., a commission may be paid to this entity but the commission must be shown on the HUD-1 Settlement Statement.

### **What documents must be maintained in the loan file?**

Rule 69V-40.175, F.A.C., lists specific documentation that must be maintained in a mortgage brokerage file. In addition, Rule 69V-40.175(8), F.A.C. requires that all documents originated, received, or related to the mortgage loan from the application through the final disposition must be maintained in the file.

Rule 69V-40.260, F.A.C. lists specific documentation that must be maintained in a mortgage lender or correspondent mortgage lender file. In addition, Rule 69V-260(7), F.A.C. requires that all documentation originated or received by a mortgage lender or correspondent mortgage lender must be maintained in the file.

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

Chapter 494, F.S. 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 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?**

Section 494.001(20) defines a “mortgage loan” as

- (a) Residential mortgage loan;
- (b) Loan on commercial real property if the borrower is a natural person or the lender is a noninstitutional investor; or
- (c) Loan on improved real property consisting of five or more dwelling units if the borrower is a natural person or the lender is a noninstitutional investor.

If the loan does not fall under this definition, no license would be required to broker or make the loan.

### **What physical requirements apply to the licensed Business location?**

Chapter 494, F.S. requires each business to operate from a principal place of business. The statute does not prohibit the business being located in your home.

Chapter 494, F.S. does not require a sign at the business location, nor does it require that the licenses of the business or licensed mortgage brokers be displayed at the business location.

However, there may be specific requirements of City, County Government and/or Restrictive Covenants for a Homeowner Association which may be applicable to your situation.

## **NET BRANCH REQUIREMENTS**

Numerous questions have been received concerning the requirements of “NET BRANCHES”.

Two of the most common questions are:

### **Is a net branch /satellite office required to have a license?**

**YES.** A net branch/satellite office is a branch office as defined in sections 494.001(7), 494.0036, and 494.0066, Florida Statutes.

### **How may compensation be paid?**

All mortgage brokerage fees must be paid to the name of the licensed business/branch. The licensed business entity is then responsible to pay individuals (a) in the name of the natural person working for the licensed branch as an associate (Florida licensed mortgage broker); or (b) in the name of the natural person working for a licensed lender as a loan originator (W-2 employee).

Through examination and complaint investigations, the Office has found numerous instances where a main licensed office has submitted an application and has been approved for a branch location in the same name. After being approved, the “branch manager” then establishes an unlicensed entity (CORP, LP, LLC, etc.) where revenue is being paid or distributed in the name of the unlicensed entity.

This type of arrangement **is prohibited** under section 494.0025(8), Florida Statutes, as referenced below.

494.0025 Prohibited practices.

It is unlawful for any person:

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

# **RULE AND FORM CHANGES TO CHAPTER 69V-40, FLORIDA ADMINISTRATIVE CODE - ADOPTED ON MARCH 23, 2008**

All required forms have been renumbered using the Statute number as the form number. See below:

- OFR-494-01 (*Business and Lender Application*)
- OFR-494-02 (*Branch Office Application*)
- OFR-494-03 (*Mortgage Broker Application*)
- OFR-494-04 (*Mortgage Business School Application*)
- OFR-494-05 (*Surety Bond Form*)
- OFR-494-06 (*Lender Renewal/Reactivation Form*)
- OFR-494-07 (*Mortgage Broker Renewal/Reactivation Form*)
- OFR-494-08 (*Quarterly Report Form*)
- OFR-494-09 (*Mortgage Brokerage Deposit Account Form*)
- OFR-494-10 (*Transaction and Lender Journal*)
- OFR-494-11 (*Calculation of Aggregate Value*)
- OFR-494-12 (*Non-institutional Investor's Funds Account Form*)

Instructions have been incorporated into the promulgated form (where applicable). The Principal Representative and Principal Broker Designation Form, Biographical Form, and Mortgage Brokerage Business Application Form have all been integrated into the new Business and Lender Application. Forms are now multipurpose – used to apply for, amend, and terminate a license.

There have been changes to the Disciplinary Questions on the applications as described below:

- Required disclosure of any criminal event.
- A new question for actions that are securities related has been added.
- A new question for injunctions or adverse actions for other financial services industries has been added.
- A new question for civil judgments has been added.

If any “yes” answers are indicated to any disciplinary questions, there is an additional form called Added Disclosure Reporting Pages to solicit additional information.

The following filings are mandated be submitted online at [www.flofr.com/real](http://www.flofr.com/real):

- Quarterly Reports
- Completion of 24-hour Pre-license course
- Completion of CE course for mortgage brokers licensees
- Mortgage Broker Application
- Mortgage Broker Renewal
- Mortgage Brokerage Business Renewal
- Correspondent Mortgage Lender Renewal
- Mortgage Lender Renewal (including Savings Clause)
- All Branch Office License Renewals

**All filing fees are non-refundable.**

The rules provides that each ultimate equitable owner of 10% or greater interest, each chief executive officer, each chief financial officer, chief operations officer, chief legal officer, chief compliance officer the chief executive officer, control person, member, partner, joint venturer, and each director of an entity applying for licensure must complete the biographical section of the application and submit a fingerprint card (unless exempt).

Changes to license information contained within the application form now require the licensee to file amendments with the Office of Financial Regulation using the application form. The time frame to file amendments depends upon the information that is changing. Amendments to any individuals (officers, directors, owners, etc.) listed on the application must be filed at least 30 days prior to the change or within 2 business days after the licensee first becomes aware of the changes. All other changes to the application information (i.e. – change of licensee name, form of business organization, or other application information) must be filed no later than 30 days after the change. If there is a change in “controlling interest” of a licensee, the licensee must file a new application and fees no later than 30 days prior to the effective date of the change.

Provides a waiver to the change of control application if:

- The acquirer is currently licensed with the Office or;
- The persons or group of person proposing to acquire a controlling interest in a licensee are currently affiliated with an entity that has an active license under that statute.

# LICENSING STATISTICS

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

### NUMBER OF ACTIVE LICENSEES

<u>6/30/06</u>	<u>6/30/07</u>	<u>6/30/08</u>	<u>INCLUDING BRANCHES</u>
67,266	81,695	63,993	Mortgage Brokers (494)
9,801	10,300	10,630	Mortgage Brokerage Businesses (494)
12,334	11,851	10,546	Correspondent Mortgage Lenders & Mortgage Lenders (494)
584	626	600	Consumer Finance Companies (516)
4,758	4,274	5,127	Motor Vehicle Retail Installment Sellers (520 – PART I)
7,136	6,095	6,790	Retail Installment Sellers (520 – PART II)
1,143	1,070	1,140	Sales Finance Companies (520 – PART III)
168	135	167	Home Improvement Retail Installment Sellers (520–PART VI)
126	135	135	Commercial Collection Agencies (559 – Part V)
1,045	1,102	1,160	Consumer Collection Agencies (559 – Part VI)
<b><u>104,361</u></b>	<b><u>117,283</u></b>	<b><u>100,288</u></b>	<b>TOTAL ACTIVE CHAPTER 494, 516, 520, &amp; 559 LICENSEES</b>

### NEW LICENSES ISSUED

<u>FISCAL YEAR</u>			<u>INCLUDING BRANCHES</u>
<u>2005/06</u>	<u>2006/07</u>	<u>2007/08</u>	
16,785	12,678	5,301	Mortgage Brokers (494)
2,829	2,399	1,137	Mortgage Brokerage Businesses (494)
3,933	3,746	2,214	Correspondent Mortgage Lenders & Mortgage Lenders (494)
66	90	29	Consumer Finance Companies (516)
758	750	874	Motor Vehicle Retail Installment Sellers (520 – PART I)
1,061	833	696	Retail Installment Sellers (520 – PART II)
145	133	139	Sales Finance Companies (520– PART III)
30	24	33	Home Improvement Retail Installment Sellers (520 –PART IV)
32	27	23	Commercial Collection Agencies (559 – Part V)
291	296	333	Consumer Collection Agencies (559 – Part VI)
<b><u>25,990</u></b>	<b><u>20,976</u></b>	<b><u>10,779</u></b>	<b>TOTAL NEW CHAPTER 494, 516, 520, &amp; 559 LICENSEES</b>

# 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>2005/06</u>	<u>2006/07</u>	<u>2007/08</u>	<b>INCLUDING BRANCHES</b>
178	187	185	Mortgage Brokerage and Lending Businesses ( 494 All Types)
841	841	209	Compliance Reviews (494)
2	1	6	Consumer Finance Companies (516)
205	90	85	Retail Installment Sales (520 - ALL PARTS)
<b><u>1,226</u></b>	<b><u>1,119</u></b>	<b><u>485</u></b>	<b>TOTAL EXAMINATIONS &amp; COMPLIANCE REVIEWS</b>

### COMPLAINTS

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

<u>2005/06</u>	<u>2006/07</u>	<u>2007/08</u>	<b>INCLUDING BRANCHES</b>
1,520	1,336	1,812	Mortgage Brokerage and Lending Businesses ( 494 All Types)
48	27	93	Consumer Finance Companies (516)
261	206	314	Retail Installment Sales (520 – ALL PARTS)
490	509	500	Consumer & Commercial Collection Agencies (559 Part V & IV)
<b><u>2,319</u></b>	<b><u>2,078</u></b>	<b><u>2,719</u></b>	<b>TOTAL COMPLAINTS</b>

**CHAPTERS 494 - LEGAL ACTIONS (JULY 2007 - JUNE 2008)**

<b>NAME OF COMPANY / INDIVIDUAL</b>	<b>LOCATION CITY &amp; STATE</b>	<b>TYPE OF LICENSE</b>	<b>ACTION TAKEN</b>	<b>DATE OF ACTION</b>
Sun Bay Financial Service Inc	Tampa, FL	MBB	Revocation	07/03/07
Linda K. Cameron	Orlando, FL	MB	Revocation	07/03/07
VIP Lending Solutions, Inc	Coral Springs, FL	MBB	Revocation	07/18/07
Susan Rhamanohar	Coral Springs, FL	MB	Revocation	07/18/07
Jennifer Profenno	Orlando, FL	MB	Surrender	07/27/07
Stonybrook Financial Services., Inc.	Parma, OH	MBB	Revocation	09/04/07
Allied Home Equities, Inc.	Tallahassee, FL	MBB	Surrender	09/20/07
People's Management Mortgage, Inc.	N. Miami Beach, FL	MB	Revocation	10/04/07
A Mortgage Solution USA, Inc.	Miami, FL	CL	Surrender	12/06/07
Accounts Receivables Professionals Of Florida, Inc.	Delray Beach, FL	MBB	Revocation	12/06/07
Thrity Malhotra	Delray Beach, FL	MB	Revocation	12/06/07
Linda Karen Corra	Florida City, FL	MB	Revocation	12/06/07
Allied Mortgage and Trust, Inc.	Ft. Myers, FL	CL	Surrender	12/06/07
Emortgageden, Inc.	Hollywood, FL	CL	Revocation	12/14/07
Flex Florida Funding, Inc.	Orlando, FL	MBB	Revocation	12/26/07
Ismael Morales	Jasper, FL	MB	Revocation	01/09/08
Lynch Mortgage Financing and Funding, Inc.	Orlando, FL	MBB	Revocation	01/23/08
Bravo Real Estate Group, Inc.	South Miami, FL	MBB	Revocation	01/28/08
Statewide Financial Mortgage Corp	Kissimmee, FL	MBB	Revocation	02/12/08
Bibi Latiff	Kissimmee, FL	MB	Revocation	02/12/08
Anthony J Benedict	Coral Springs, FL	MB	Revocation	02/24/08
Leighton Kimani Brown	Miami, FL	MB	Revocation	02/14/08
CBB, Inc. d/b/a Bretlin Home Mortgage	East Lansing, MI	CL	Revocation	03/04/08
NLC of FL. Inc.	Sunrise, FL	ML	Revocation	03/10/08
Silverstone Lending LLC	Tampa, FL	ML	Revocation	03/11/08
Roberto Manuel Ramirez	Miami, FL	MB	Revocation	03/18/08

**CHAPTERS 494 - LEGAL ACTIONS (JULY 2007-JUNE 2008)**

(cont)

<b>NAME OF COMPANY / INDIVIDUAL</b>	<b>LOCATION CITY &amp; STATE</b>	<b>TYPE OF LICENSE</b>	<b>ACTION TAKEN</b>	<b>DATE OF ACTION</b>
Cash Money Mortgage, LLC	Hollywood Bch, FL	MBB	Revocation	04/17/08
Lorenzo Howard	Hollywood Bch, FL	MB	Revocation	04/17/08
Rapid Loan, Inc.	Kissimmee, FL	MBB	Surrender	04/17/08
Amanda Mejia	Kissimmee, FL	MB	Surrender	04/17/08
Madeline Melendez	Orlando, FL	MB	Revocation	04/17/08
American Mortgage & Title LLC	Orange Park, FL	MBB	Surrender	04/17/08
Jason Blodgett	Orange Park, FL	MB	Surrender	04/17/08
Bronze Mortgage Inc.	Boca Raton, FL	CL	Revocation	04/23/08
Jorge Luis Roque, Jr.	Hialeah, FL	MB	Revocation	04/23/08
Paramount Lending Group	Weston, FL	CL	Revocation	05/08/08
Alexis Mortgage Enterprises Group, Inc.	Sunrise, FL	MBB	Revocation	05/08/08
Brahms Alexis	Sunrise, FL	MB	Revocation	05/08/08
Benn Joseph Willcox	Riviera Beach, FL	MB	Revocation	05/08/08
Cape Area Property Enterprises Inc d/b/a Lee Coast Mortgage	Cape Coral, FL	MBB	Surrender	05/08/08
James L. Exline	West Palm Beach, FL	MB	Revocation	05/14/08
Daren Adam Schwartz	Miami, FL	MB	Revocation	06/17/08
Larry Michael Provencal	Jacksonville, FL	MB	Surrender	06/17/08
Jacksonville Mortgage Group Inc.	Jacksonville, FL	MBB	Surrender	06/17/08

VISIT OUR WEBSITE

[www.flofr.com/finance](http://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.)

**Regional Offices****Counties**

Mr. Ronn Hoover, Area Financial Manager Pensacola Regional Office 4900 Bayou Boulevard, Suite 103 Pensacola, Florida 32503-2530	Bay, Calhoun, Escambia, Franklin, Gadsden, Gulf, Holmes, Jackson, Leon, Liberty, Okaloosa, Santa Rosa, Wakulla, Walton, and Washington	(850) 453-7908 (888) 494-7380
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	(904) 798-5808 (888) 434-3910
Mr. Jim Sutherin, Area Financial Manager Tampa Regional Office 1313 Tampa Street, Suite 615 Tampa, Florida 33602-3394	Citrus, Hernando, Hillsborough, Manatee, Pasco, Pinellas, Polk, and Sarasota	(813) 218-5308 (800) 258-8403
Mr. Richard Roll, Area Financial Manager Orlando Regional Office 400 West Robinson Street, Hurst South Tower, Suite 225 Orlando, Florida 32801-1799	Brevard, Lake, Marion, Orange, Osceola, Seminole, Sumter, and Volusia	(407) 245-0608 (800) 342-2247
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. 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



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