

By Senator Bennett

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A bill to be entitled

An act relating to mortgage lenders; amending s. 494.006, F.S.; exempting from licensure requirements certain persons who are under exclusive contract with a licensed mortgage lender; establishing requirements for such persons, including obtaining an undertaking of responsibility and a surety bond; providing an effective date.

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

Section 1. Subsection (2) of section 494.006, Florida Statutes, is amended to read:

494.006 Exemptions.--

(2)(a) A natural person employed by a mortgage lender or correspondent mortgage lender licensed under ss. 494.001-494.0077 is exempt from the licensure requirements of ss. 494.001-494.0077 when acting within the scope of employment with the licensee.

(b) A corporation that is in existence on October 1, 1991, and that is a wholly owned subsidiary of a consumer finance company licensed pursuant to chapter 516 on October 1, 1991, is not required to be licensed under ss. 494.006-494.0077 in order to act as a mortgage lender or a correspondent mortgage lender.

(c) A natural person who is under exclusive contract with a licensee under ss. 494.006-494.0077 to perform services that require licensure pursuant to this chapter is exempt from the licensure requirements of ss. 494.003-494.0043 when acting within the scope of the exclusive contract, if the licensee:

1 the licensee based on the mortgage brokerage or lending
2 activities conducted by any person exempted by this section.

3 a. The surety bond must be in a form satisfactory to
4 the office and shall run to the state for the benefit of any
5 claimant in this state against the licensee or any person
6 exempted by this section. A claimant may bring suit directly
7 on the surety bond, or the office may bring suit on behalf of
8 the claimant, in one action or successive actions, after the
9 claimant has secured a judgment against the licensee which the
10 licensee has not satisfied.

11 b. A corporate surety bond filed with the office to
12 comply with this paragraph may not be cancelled by the
13 licensee or the corporate surety except upon written notice to
14 the office by registered or certified mail with return receipt
15 requested. A cancellation may not take effect less than 30
16 days after the office receives such written notice.

17 c. The corporate surety shall, within 10 days after it
18 pays a claim to any claimant, give written notice of such
19 payment to the office by registered or certified mail, along
20 with details that are sufficient to identify the claimant and
21 the claim or judgment paid.

22 d. If the principal sum of the bond is reduced by any
23 recoveries or payments, the licensee must furnish a new or
24 additional bond so that the total or aggregate principal sum
25 of the bond equals the amount required by this paragraph.
26 Alternatively, a licensee may furnish an endorsement executed
27 by the corporate surety reinstating the bond to the required
28 principal sum.

29 e. A licensee shall maintain the bond in the amount
30 prescribed by this paragraph. If the office reasonably
31 determines that the bond is deficient in amount, or exhausted

1 in whole or in part, the office may, by written order, require
2 the filing of a new or supplemental bond.

3 f. The bond shall remain in place for 5 years after
4 the licensee ceases operations in this state;

5 4. Has implemented a business plan providing for the
6 education of the persons exempted by this section which is
7 commensurate with their duties and responsibilities, the
8 handling of consumer complaints related to such persons, and
9 the supervision of the mortgage-related activities of such
10 persons. The business plan shall be designed to prevent and
11 detect violations of this chapter; and

12 5. Has conducted a national background check for each
13 person exempted by this section and, based on such background
14 check, the subsidiary or affiliate may not, without the prior
15 written consent of the office, contract with any person to act
16 as an exclusive agent who has been subject to an action
17 specified in s. 494.0041(2)(a), (t), and (u).

18 Section 2. This act shall take effect July 1, 2007.

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21 SENATE SUMMARY

22 Exempts from licensure requirements certain persons who
23 are under contract with licensed mortgage lenders.
24 Provides requirements therefor.