



# Bankers Advisory

## COMPLIANCE MONITOR

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### *Florida Amends Provisions Regarding Mortgage Brokerage and Lending Law*

**By Lee Greenberg, J.D.**

The state of Florida recently amended several provisions of FS 494, Florida's Mortgage Brokerage and Lending Law, through the enactment of Senate Bill No. 1012. The new legislation becomes effective on July 1, 2014.

#### ***Changed Definition of Loan Origination Fee***

The new law changed the definition of "loan origination fee." Under the law, loan origination fee means the total compensation from any source received by a mortgage broker acting as a loan originator. The definition no longer includes the language that "any payment for processing mortgage loan applications must be included in the fee and must be paid to the mortgage broker."

#### ***Repealed Disclosure Requirements of Mortgage Brokers***

The new law repealed the requirement for mortgage brokers to provide a written and signed mortgage broker agreement prior to the payment of a loan origination fee.

In addition, mortgage brokers are no longer required to provide the following information to applicants for mortgage loans:

- Not required to disclose the exact amount of any payment of any kind by the lender to the mortgage broker;
- Not required to disclose in writing that the mortgage broker may not make mortgage loans or commitments;
- Not required to disclose that the mortgage broker cannot guarantee acceptance into any particular loan program or promise any specific loan terms or conditions;
- Not required to provide a good faith estimate that discloses settlement charges and loan terms;
- Not required to provide an itemized list that provides the recipient of all payments charged to the borrower; and
- Not required to provide the above disclosures 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.

#### ***Repealed Disclosure Requirements of Licensees***

The new law repealed the requirement of licensees to notify a borrower of any material changes in the terms of a mortgage loan previously offered to the borrower.

### ***Repealed Disclosure Requirements of Mortgage Lenders***

The new law repealed the requirement for mortgage lenders to provide applicants for a mortgage loan a good faith estimate of the costs the applicant can reasonably expect to pay in obtaining a mortgage loan.

In addition, mortgage lenders are not required to provide disclosures 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, and following any material change in the terms of a mortgage loan previously offered to the borrower.

### ***Repealed Disclosure Requirements of Commitments***

If a commitment is issued, the mortgage lender is no longer required to disclose in writing the amount of the commitment fee, if any, and whether and under what circumstances the commitment fee is refundable.

### ***Loan Originator License Renewal***

If a licensed loan originator fails to meet the requirements for annual license renewal on or before December 31 but meets such requirements before March 1, the loan originator's license status shall be changed to "failed to renew" pending review and renewal by the office. A nonrefundable reinstatement fee of \$150 will be charged in addition to registry fees. The license status will not be changed until all licensing requirements are met and all fees are paid. If the licensee fails to meet the licensing requirements and pay all required fees before March 1, such license is expired and such loan originator must apply for a new loan originator license.

### ***Mortgage Broker License Renewal***

If a licensed mortgage broker fails to meet the requirements for annual license renewal on or before December 31 but meets such requirements before March 1, the mortgage broker's license status shall be changed to "failed to renew" pending review and renewal by the office. A nonrefundable reinstatement fee of \$250 shall be charged in addition to registry fees. The license status will not be changed until all licensing requirements are met and all fees are paid. If the licensee fails to meet the licensing requirements and pay all required fees before March 1, such license is expired and such mortgage broker must apply for a new mortgage broker license.

### ***Mortgage Lender License Renewal***

If a licensed mortgage lender fails to meet the requirements for annual license renewal on or before December 31 but meets such requirements before March 1, the mortgage lender's license status shall be changed to "failed to renew" pending review and renewal by the office. A nonrefundable reinstatement fee of \$475 shall be charged in addition to registry fees. The license status shall not be changed until the licensing requirements are met and all fees are paid. If the licensee fails to meet the requirements of this section and pay all required fees before March 1, such license is expired and such mortgage lender must apply for a new mortgage license.

### ***Renewal of Mortgage Broker or Mortgage Lender Branch Office License***

To renew a branch office license, a mortgage broker or lender must:

- Submit a completed license renewal form as prescribed by commission rule;
- Submit a nonrefundable renewal fee; and
- Submit any additional information or documentation requested by the office and required by rule concerning the licensee. Additional information may include documents that may provide the office with the appropriate information to determine eligibility for license renewal.

The office may not renew a branch office license unless the branch office continues to meet the minimum requirements for initial licensure.

If a licensed branch office fails to meet the requirements for annual license renewal on or before December 31 but meets such requirements before March 1, the branch office's license status shall be changed to "failed to renew" pending review and renewal by the office. A nonrefundable reinstatement fee of \$225 shall be charged in addition to registry fees. The license status will not be changed until all licensing requirements are met and all fees are paid. If the licensee fails to meet the licensing requirements and pay all required fees before March 1, such license is expired and such branch office must apply for a new mortgage broker branch office license.



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