

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 COMMITTEE SUBSTITUTE  
4 FOR ENGROSSED

5 SENATE BILL NO. 1062

By: Myers of the Senate

and

Dewitt of the House

7  
8 COMMITTEE SUBSTITUTE

9  
10 An Act relating to professions and occupations;  
11 amending 14A O.S. 2001, Sections 6-502 and 6-503,  
12 which relate to the Uniform Consumer Credit Code;  
13 modifying provisions related to membership of  
14 Commission on Consumer Credit; imposing qualification  
15 requirements for membership for certain position;  
16 providing for appointment by Governor; providing for  
17 advice and consent of State Senate based on certain  
18 recommendation; prescribing initial appointment date;  
19 creating the Oklahoma Secure and Fair Enforcement for  
20 Mortgage Licensing Act; providing short title;  
21 stating legislative findings; stating purpose;  
22 defining terms; providing certain exemptions;  
23 requiring certain unique identifiers to be shown on  
24 certain documents or websites; requiring licensure  
for mortgage brokers or mortgage loan originators to  
do certain business; requiring certain licensees to  
register with and maintain certain identifier issued  
by the Nationwide Mortgage Licensing System and  
Registry; providing for effective date for certain  
licensing; requiring licensure for certain loan  
processors or underwriters; authorizing the  
Administrator of Consumer Credit to promulgate  
certain rules; authorizing the Administrator to  
establish certain expedited procedures; providing for  
application; authorizing the Administrator to  
establish certain relationships for certain purposes;  
providing requirements for application for licensing  
as a mortgage loan originator and as a mortgage  
broker; authorizing the Administrator to use the

1 Nationwide Mortgage Licensing System and Registry for  
2 certain purposes; making certain licenses valid for  
3 one year; authorizing Administrator to issue certain  
4 licenses; prohibiting reapplication for license after  
5 denial for certain time; providing for renewal of  
6 license, fee and expiration of license; providing  
7 requirements for licensee to be placed on inactive  
8 status; providing requirements for an inactive  
9 licensee to return to active status; requiring  
10 licensee to display license in certain offices;  
11 providing for fees; providing certain requirements  
12 for licensure as a mortgage loan originator;  
13 providing certain prelicensing education  
14 requirements; authorizing certain review of certain  
15 education courses and course provider; prohibiting  
16 the preclusion of certain prelicensing education  
17 courses; providing for where certain courses may be  
18 offered; providing for certain reciprocity; requiring  
19 proof of completion of certain continuing education  
20 requirements by certain individuals; requiring  
21 applicants to pass certain written test; providing  
22 requirements for such test; authorizing certain test  
23 providers to provide certain tests at certain  
24 locations; providing for score to pass certain test,  
retaking the test and failing the test a certain  
number of times; requiring a licensed mortgage loan  
originator to retake the test under certain  
circumstances; setting certain minimum standards for  
license renewal for mortgage loan originators;  
providing for expiration of certain license under  
certain circumstances; providing for reinstatement of  
certain expired licenses; providing certain  
requirements for licensure as a mortgage broker;  
requiring mortgage broker applicants to designate and  
maintain a principal place of business and a mortgage  
loan originator to oversee such business; providing  
for certain multiple locations to transact business;  
providing for certain fees for branch locations;  
providing for branch office licenses; providing for  
certain changes of address; providing for minimum  
standards for license renewal for mortgage brokers;  
providing for expiration of certain license under  
certain circumstances; providing for reinstatement of  
certain expired licenses; requiring mortgage brokers  
and mortgage loan originators to be licensed and  
registered through the Nationwide Mortgage Licensing  
System and Registry; authorizing Administrator to

1 participate in Registry; authorizing certain  
2 requirements to be set by rule; providing for  
3 challenges to information entered into the Registry;  
4 requiring certain agreements with a lender; requiring  
5 certain disclosures be given to a borrower; requiring  
6 a mortgage broker or mortgage loan originator to  
7 provide copies of certain documents under certain  
8 circumstances; prohibiting a mortgage broker or  
9 mortgage loan originator from receiving certain  
10 compensation unless certain conditions are met;  
11 providing for compensation for certain third-party  
12 goods and services; authorizing Commission on  
13 Consumer Credit to adopt rules relating to certain  
14 disclosures; requiring a mortgage broker or mortgage  
15 loan originator to deposit certain monies in a trust  
16 account; setting requirements for maintenance of  
17 funds in such accounts; providing for withdrawals for  
18 such trust accounts; providing for certain interest;  
19 providing refund for monies remaining in such  
20 accounts; providing for payment to third-party  
21 providers; requiring certain records of the trust  
22 accounts; making records subject to certain audit;  
23 providing for the imposition of certain penalties  
24 after certain notice and hearing; providing for  
violations; providing certain penalties for  
violations; creating the Oklahoma Mortgage Brokers  
and Mortgage Loan Originator Recovery Fund; providing  
for monies, appropriation, budgeting, purpose and  
expenditures of fund; providing for certain  
reimbursements from fund; limiting certain payments  
of claims; providing time frame for certain claims;  
providing for continuing education requirements for  
mortgage loan originators, approved courses, employer  
and affiliate courses, venue, calculation of certain  
credits, instructor credit, certain reciprocity,  
lapse of license and makeup of such courses;  
providing for certain privacy and confidentiality  
protections; authorizing the Administrator to enter  
into certain agreements or sharing arrangements with  
certain entities; modifying confidentiality of  
certain information; requiring certain laws of this  
state to be superseded by this act; making certain  
exceptions for accessing certain information;  
authorizing the Administrator to conduct certain  
investigations and examinations of certain  
information; authorizing the Administrator to  
investigate certain violations or complaints;

1 providing for certain investigative actions; making  
2 certain reports or information not subject to the  
3 Oklahoma Open Records Act; making certain reports or  
4 information subject to certain disclosure; providing  
5 for certain examination fees; requiring certain books  
6 and records be made available to the Administrator;  
7 requiring certain books and records be maintained;  
8 requiring the compilation of certain books and  
9 records; making certain documents and records  
10 accessible to the Administrator; authorizing the  
11 Administrator to take possession of certain documents  
12 or records; prohibiting the removal of certain  
13 documents or records; providing exceptions to the  
14 removal; providing for access to certain documents or  
15 records for business purposes; providing certain  
16 powers and duties of the Administrator; providing for  
17 certain authority of law; prohibiting certain actions  
18 by certain licensees, entities or individuals;  
19 requiring licensee to submit certain reports;  
20 requiring the Administrator to make certain reports;  
21 creating the Oklahoma Mortgage Broker and Mortgage  
22 Loan Originator Revolving Fund; providing for  
23 appropriation, budgeting and expenditure of fund;  
24 providing for certain payments from fund; repealing  
59 O.S. 2001, Sections 2081, 2082, as last amended by  
Section 41, Chapter 16, O.S.L. 2006, 2083, as last  
amended by Section 2, Chapter 131, O.S.L. 2005, 2084,  
2085, as last amended by Section 1, Chapter 214,  
O.S.L. 2008, 2086, as last amended by Section 1,  
Chapter 172, O.S.L. 2006, 2087, 2088, as last amended  
by Section 3, Chapter 330, O.S.L. 2003, 2089, as last  
amended by Section 4, Chapter 330, O.S.L. 2003, 2090,  
as last amended by Section 1, Chapter 213, O.S.L.  
2008, 2091, Section 8, Chapter 469, O.S.L. 2002, as  
amended by Section 5, Chapter 330, O.S.L. 2003 and  
Section 9, Chapter 469, O.S.L. 2002, as last amended  
by Section 1, Chapter 215, O.S.L. 2008 (59 O.S. Supp.  
2008, Sections 2082, 2083, 2085, 2086, 2088, 2089,  
2090, 2092 and 2093), which relate to the Mortgage  
Broker Licensure Act; providing for codification;  
providing an effective date; and declaring an  
emergency.

1 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

2 SECTION 1. AMENDATORY 14A O.S. 2001, Section 6-502, is  
3 amended to read as follows:

4 Section 6-502. ~~(a)~~ A. The Commission on Consumer Credit shall  
5 consist of ~~eight (8)~~ nine (9) members to be appointed by the  
6 Governor by and with the advice and consent of the Senate. The  
7 State Banking Commissioner shall be an ex officio nonvoting ~~ninth~~  
8 tenth member of the Commission.

9 ~~(b)~~ B. It is unlawful for any member of the Commission, the  
10 Administrator of Consumer Credit, or any other officer or employee  
11 of the Department to use for personal benefit any information which  
12 is filed with or obtained by the Administrator and which is not made  
13 public. No provision of the Uniform Consumer Credit Code authorizes  
14 any member of the Commission, the Administrator, or any other  
15 officer or employee of the Department to disclose any information  
16 except among themselves or when necessary or appropriate in a  
17 proceeding or investigation according to the provisions of the  
18 Uniform Consumer Credit Code. The provisions of the Uniform  
19 Consumer Credit Code shall not be construed to create or derogate  
20 any privilege that exists at common law or otherwise when  
21 documentary or other evidence is sought under a subpoena directed to  
22 any member of the Commission, the Administrator, or any other  
23 officer or employee of the Department.

24

1       ~~(c)~~ C. Except upon proof of corruption, no member of the  
2 Commission shall be civilly liable to any applicant or other person  
3 for any acts or omissions.

4       ~~(d)~~ D. No member of the Commission shall participate in any  
5 proceeding before the Commission involving any corporation,  
6 partnership, or unincorporated association for which the member is  
7 or was at any time in the preceding twelve (12) months a director,  
8 officer, partner, employee, member, or stockholder. A member of the  
9 Commission may disqualify himself from participation in any  
10 proceeding before the Commission for any cause deemed by him to be  
11 sufficient.

12       SECTION 2.       AMENDATORY       14A O.S. 2001, Section 6-503, is  
13 amended to read as follows:

14       Section 6-503. The Governor annually shall appoint one  
15 Commission member to serve at large for a term of five (5) years,  
16 expiring on January 1. However, for the initial appointments, the  
17 Governor shall appoint five at-large members, and designate one  
18 member to serve for a term of one (1) year; one member to serve for  
19 a term of two (2) years; one member to serve for a term of three (3)  
20 years; one member to serve for a term of four (4) years; and one  
21 member to serve for a term of five (5) years, from their respective  
22 dates of appointment and qualification. Upon the expiration of  
23 these initial terms, the term of each member shall be five (5) years  
24 from the date of his appointment and qualification, and until his

1 successor shall qualify. No more than three at-large members of the  
2 Commission shall be members of the same political party. The  
3 Commission shall include ~~three~~ four additional members, one who  
4 shall be actively engaged in the business of making supervised loans  
5 ~~primarily~~ pursuant to the provisions of Section 3-508A of this  
6 title, one who shall be actively engaged in the business of making  
7 supervised loans ~~primarily~~ pursuant to the provisions of Section 3-  
8 508B of this title, ~~and~~ one who shall be actively engaged in the  
9 business of making pawn loans pursuant to the provisions of the  
10 Oklahoma Pawnshop Act and one who shall be a mortgage loan  
11 originator licensed pursuant to Section 8 of this act and has worked  
12 in this state for a minimum of three (3) years. These additional  
13 members shall be appointed in the following manner: ~~One~~ one  
14 appointed by the Governor with the advice and consent of the Senate  
15 upon recommendation of the Oklahoma Consumer Finance Association,  
16 Inc., one appointed by the Governor with the advice and consent of  
17 the Senate upon recommendation of the Independent Finance Institute,  
18 Inc., one appointed by the Governor with the advice and consent of  
19 the Senate upon the recommendation of the Oklahoma Pawnbrokers  
20 Association, Inc., and one appointed by the Governor with the advice  
21 and consent of the Senate upon recommendation of the Oklahoma  
22 Association of Mortgage Professionals, or its successor, and whose  
23 initial appointment shall be made January 1, 2010. The appointments  
24 shall be made only from a list of twelve names submitted to the

1 Governor by each recommending entity. If any recommending entity  
2 fails to submit a list within thirty (30) days after a vacancy  
3 occurs, the Governor, with the advice and consent of the Senate,  
4 shall fill the vacancy with a person qualified pursuant to the  
5 provisions of this section pertaining to additional members. For  
6 the initial appointments of these additional members, the Governor  
7 shall designate one member to serve for a term of three (3) years;  
8 one member to serve for a term of four (4) years; and one member to  
9 serve for a term of five (5) years, from the respective dates of  
10 appointment and qualification. No more than two of these additional  
11 members shall be members of the same political party. Vacancies for  
12 any unexpired term of any member of the Commission shall be filled  
13 by the Governor in the same manner as the initial appointments were  
14 made. All members of the Commission shall be eligible for  
15 reappointment.

16 SECTION 3. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 2095 of Title 59, unless there  
18 is created a duplication in numbering, reads as follows:

19 Sections 3 through 29 of this act shall be known and may be  
20 cited as the "Oklahoma Secure and Fair Enforcement for Mortgage  
21 Licensing Act".

22 SECTION 4. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 2095.1 of Title 59, unless there  
24 is created a duplication in numbering, reads as follows:

1       The activities of mortgage brokers and mortgage loan originators  
2 and the origination or offering or modification of financing for  
3 residential real property have a direct, valuable and immediate  
4 impact upon Oklahoma's consumers, the Oklahoma economy, the  
5 neighborhoods and communities of Oklahoma and the housing and real  
6 estate industry. Therefore, the Legislature finds that  
7 accessibility to mortgage credit is vital to the state's citizens.  
8 The Legislature also finds that it is essential for the protection  
9 of the citizens of Oklahoma and the stability of the Oklahoma  
10 economy that reasonable standards for licensing and regulation of  
11 the business practices of mortgage brokers and mortgage loan  
12 originators be imposed. The Legislature further finds that the  
13 obligations of mortgage brokers and mortgage loan originators to  
14 consumers in connection with originating or making or modifying  
15 residential mortgage loans are such as to warrant the regulation of  
16 the mortgage lending process. The purpose of this act is to protect  
17 consumers seeking mortgage loans and to ensure that the mortgage  
18 lending industry is operating without unfair, deceptive and  
19 fraudulent practices on the part of mortgage brokers and mortgage  
20 loan originators. Therefore, the Legislature establishes within  
21 this act:

22       1. An effective system of supervision and enforcement of the  
23 mortgage lending industry, including:

24

- 1 a. the authority to issue licenses to conduct business  
2 under this act, including the authority to write rules  
3 or regulations or adopt procedures necessary to the  
4 licensing of entities or individuals covered under  
5 this act,
- 6 b. the authority to censure, deny, place on probation,  
7 suspend or revoke licenses issued under this act, and
- 8 c. the authority to examine, investigate and conduct  
9 enforcement actions as necessary to carry out the  
10 intended purposes of this act, including the authority  
11 to subpoena witnesses and documents, enter orders,  
12 including cease and desist orders, order restitution  
13 and monetary penalties and order the removal and ban  
14 of individuals from office or employment; and

15 2. Broad administrative authority for the Administrator of  
16 Consumer Credit to administer, interpret and enforce this act and  
17 promulgate rules, subject to approval of the Commission on Consumer  
18 Credit, in order to carry out the intentions of the Legislature.

19 SECTION 5. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 2095.2 of Title 59, unless there  
21 is created a duplication in numbering, reads as follows:

22 As used in the Oklahoma Secure and Fair Enforcement for Mortgage  
23 Licensing Act:

- 24 1. "Administrator" means the Administrator of Consumer Credit;

1           2. "Affiliate" means an entity which directly or indirectly,  
2 through one or more intermediaries, controls, is controlled by or is  
3 under common control with the entity specified;

4           3. "Borrower" means any individual who consults with or retains  
5 a mortgage broker or mortgage loan originator in an effort to obtain  
6 or seek advice or information on obtaining or applying to obtain or  
7 modify a residential mortgage loan for himself, herself, or  
8 individuals including himself or herself, regardless of whether the  
9 individual actually obtains or modifies such a loan;

10          4. "Commission" means the Commission on Consumer Credit;

11          5. "Compensation" means anything of value or any benefit  
12 including points, commissions, bonuses, referral fees and loan  
13 origination fees;

14          6. "Depository Institution" has the same meaning as in Section  
15 3 of the Federal Deposit Insurance Act and includes any credit  
16 union;

17          7. "Entity" means a corporation, company, limited liability  
18 company, partnership or association;

19          8. "Federal Banking Agencies" means the Board of Governors of  
20 the Federal Reserve System, the Comptroller of the currency, the  
21 Director of the Office of Thrift Supervision, the National Credit  
22 Union Administration and the Federal Deposit Insurance Corporation;

23

24

1 9. "Immediate family member" means a spouse, child, sibling,  
2 parent, grandparent or grandchild and includes stepparents,  
3 stepchildren, stepsiblings and adoptive relationships;

4 10. "Individual" means a natural person and also includes a  
5 sole proprietorship;

6 11. a. "Loan processor or underwriter" means an entity or  
7 individual who performs support duties as an employee  
8 at the direction of and subject to the supervision and  
9 instruction of an entity or individual licensed or  
10 exempt from licensing as provided in Section 6 of this  
11 act.

12 b. For purposes of this paragraph, the term "clerical or  
13 support duties" may include subsequent to the receipt  
14 of an application, the receipt collection,  
15 distribution and analysis of information necessary for  
16 the processing or underwriting or modification of a  
17 loan, to the extent that such communication does not  
18 include offering or negotiating or modifying loan  
19 rates or terms, or counseling consumers about  
20 residential mortgage loan rates or terms.

21 c. An entity or individual engaging solely in loan  
22 processor or underwriter activities shall not  
23 represent to the public through advertising or other  
24 means of communicating or providing information,

1 including the use of business cards, stationery,  
2 brochures, signs, rate lists or other promotional  
3 items, that such entity or individual can or will  
4 perform any of the activities of a mortgage broker or  
5 mortgage loan originator;

6 12. a. "Mortgage broker" means an entity who for compensation  
7 or gain or in the expectation of compensation or gain:

- 8 (1) takes a residential mortgage loan application, or  
9 (2) offers, negotiates or modifies the terms of a  
10 residential mortgage loan.

11 b. Mortgage broker does not include:

12 (1) an entity engaged solely as a loan processor or  
13 underwriter except as otherwise provided in  
14 Section 8 of this act,

15 (2) an entity that only performs real estate  
16 brokerage activities and is licensed or  
17 registered in accordance with Oklahoma law,  
18 unless the entity is compensated by a lender, a  
19 mortgage broker, or other mortgage loan  
20 originator or by any agent of such lender,  
21 mortgage broker or other mortgage loan  
22 originator, and

23 (3) an entity solely involved in extensions of credit  
24 relating to timeshare plans, as that term is

1 defined in 11 U.S.C., Section 101 (53D) United  
2 States Code;

3 13. a. "Mortgage loan originator" means an individual who for  
4 compensation or gain or in the expectation of  
5 compensation or gain:

6 (1) takes a residential mortgage loan application, or

7 (2) offers or negotiates or modifies the terms of a  
8 residential mortgage loan.

9 b. Mortgage loan originator does not include:

10 (1) an individual engaged solely as a loan processor  
11 or underwriter except as otherwise provided in  
12 Section 8 of this act,

13 (2) an individual that only performs real estate  
14 brokerage activities and is licensed or  
15 registered in accordance with Oklahoma law,  
16 unless the individual is compensated by a lender,  
17 a mortgage broker, or other mortgage loan  
18 originator or by any agent of such lender,  
19 mortgage broker, or other mortgage loan  
20 originator, and

21 (3) an individual solely involved in extensions of  
22 credit relating to timeshare plans, as that term  
23 is defined in 11 U.S.C., Section 101(53D);  
24

1 14. "Nationwide Mortgage Licensing System and Registry" means a  
2 mortgage licensing system developed and maintained by the Conference  
3 of State Bank Supervisors and the American Association of  
4 Residential Mortgage Regulators for the licensing and registration  
5 of licensed mortgage brokers and mortgage loan originators;

6 15. "Nontraditional mortgage product" means any mortgage  
7 product other than a thirty-year fixed rate mortgage;

8 16. "Real estate brokerage activity" means any activity that  
9 involves offering or providing real estate brokerage services to the  
10 public, including:

- 11 a. acting as a real estate agent or real estate broker  
12 for a buyer, seller, lessor or lessee of real  
13 property,
- 14 b. bringing together parties interested in the sale,  
15 purchase, lease, rental or exchange of real property,
- 16 c. negotiating, on behalf of any party, any portion of a  
17 contract relating to the sale, purchase, lease, rental  
18 or exchange of real property, other than in connection  
19 with providing financing with respect to any such  
20 transaction,
- 21 d. engaging in any activity for which an entity engaged  
22 in the activity is required to be registered or  
23 licensed as a real estate agent or real estate broker  
24 under any applicable law, and

1 e. offering to engage in any activity or act in any  
2 capacity, described in this paragraph;

3 17. "Registered mortgage loan originator" means any individual  
4 who:

5 a. meets the definition of mortgage loan originator and  
6 is an employee of:

7 (1) a depository institution,

8 (2) a subsidiary that:

9 (a) is owned and controlled by a depository  
10 institution, and

11 (b) is regulated by a federal banking agency, or

12 (3) an institution regulated by the Farm Credit  
13 Administration, and

14 b. is registered with and maintains a unique identifier  
15 through, the Nationwide Mortgage Licensing System and  
16 Registry;

17 18. "Residential mortgage loan" means any loan primarily for  
18 personal, family or household use that is secured by a mortgage,  
19 deed of trust, or other equivalent consensual security interest on a  
20 dwelling as defined in Section 103(v) of the Truth in Lending Act or  
21 residential real estate upon which is constructed or intended to be  
22 constructed such a dwelling;

23 19. "Residential Real Estate" means any real property located  
24 in this state upon which is constructed or intended to be

1 constructed a dwelling as defined in paragraph 18 of this section;  
2 and

3 20. "Unique Identifier" means a number or other identifier  
4 assigned by protocols established by the Nationwide Mortgage  
5 Licensing System and Registry.

6 SECTION 6. NEW LAW A new section of law to be codified  
7 in the Oklahoma Statutes as Section 2095.3 of Title 59, unless there  
8 is created a duplication in numbering, reads as follows:

9 The following are exempt from all provisions of the Oklahoma  
10 Secure and Fair Enforcement for Mortgage Licensing Act:

11 1. Registered mortgage loan originators, when acting for an  
12 entity described in divisions (1), (2) and (3) of subparagraph a of  
13 paragraph 17 of Section 5 of this act;

14 2. An individual who offers or negotiates or modifies terms of  
15 a residential mortgage loan with or on behalf of an immediate family  
16 member of the individual;

17 3. An individual who offers or negotiates or modifies terms of  
18 a residential mortgage loan secured by a dwelling that served as the  
19 individual's residence; or

20 4. A licensed attorney who negotiates or modifies the terms of  
21 a residential mortgage loan on behalf of a client as an ancillary  
22 matter to the attorney's representation of the client, unless the  
23 attorney is compensated by a lender, a mortgage broker or other  
24

1 mortgage loan originator or by any agent of such lender, mortgage  
2 broker, or other mortgage loan originator.

3 SECTION 7. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 2095.4 of Title 59, unless there  
5 is created a duplication in numbering, reads as follows:

6 The unique identifier of any licensed mortgage broker or  
7 licensed mortgage loan originator shall be clearly shown on all  
8 residential mortgage loan application forms, solicitations or  
9 advertisements, including business cards or websites, and any other  
10 documents as established by rule.

11 SECTION 8. NEW LAW A new section of law to be codified  
12 in the Oklahoma Statutes as Section 2095.5 of Title 59, unless there  
13 is created a duplication in numbering, reads as follows:

14 A. 1. An entity or individual, unless specifically exempted  
15 from the Oklahoma Secure and Fair Enforcement for Mortgage Licensing  
16 Act, as provided in Section 6 of this act shall not engage in the  
17 business of a mortgage broker or mortgage loan originator with  
18 respect to any dwelling located in this state without first  
19 obtaining and maintaining annually a license under this act. Each  
20 licensed mortgage broker or mortgage loan originator must register  
21 with and maintain a valid unique identifier issued by the Nationwide  
22 Mortgage Licensing System and Registry.

23 2. In order to facilitate an orderly transition to licensing  
24 and minimize disruption in the mortgage marketplace, the effective

1 date for licensing all entities and individuals as provided in this  
2 subsection, including those currently licensed as mortgage brokers  
3 or mortgage loan originators, shall be July 31, 2010, or such later  
4 date approved by the Secretary of the U.S. Department of Housing and  
5 Urban Development, pursuant to the authority granted under 12  
6 U.S.C., Section 5107.

7 B. A loan processor or underwriter who is an independent  
8 contractor may not engage in the activities of a loan processor or  
9 underwriter unless such independent contractor loan processor or  
10 underwriter obtains and maintains a license as required by this act.  
11 Each independent contractor loan processor or underwriter licensed  
12 as a mortgage broker or mortgage loan originator must have and  
13 maintain a valid unique identifier issued by the Nationwide Mortgage  
14 Licensing System and Registry.

15 C. For the purposes of implementing an orderly and efficient  
16 licensing process, the Administrator of Consumer Credit may  
17 establish licensing rules, upon approval by the Commission, and the  
18 Administrator may establish interim procedures for licensing and  
19 acceptance of applications. For previously registered or licensed  
20 entities or individuals, the Administrator may establish expedited  
21 review and licensing procedures.

22 SECTION 9. NEW LAW A new section of law to be codified  
23 in the Oklahoma Statutes as Section 2095.6 of Title 59, unless there  
24 is created a duplication in numbering, reads as follows:

1       A. Applicants for a license shall apply on a form as prescribed  
2 by the Administrator of Consumer Credit.

3       B. In order to fulfill the purposes of this act, the  
4 Administrator is authorized to establish relationships or contracts  
5 with the Nationwide Mortgage Licensing System and Registry or other  
6 entities designated by the Nationwide Mortgage Licensing System and  
7 Registry to collect and maintain records and process transaction  
8 fees or other fees related to licensees or other entities or  
9 individuals subject to this act.

10       C. In connection with an application for licensing as a  
11 mortgage loan originator, the applicant shall, at a minimum, furnish  
12 to the Nationwide Mortgage Licensing System and Registry information  
13 concerning the applicant's identity including:

14       1. Fingerprints for submission to the Federal Bureau of  
15 Investigation and any governmental agency or entity authorized to  
16 receive such information for a state, national and international  
17 criminal history background check; and

18       2. Personal history and experience in a form prescribed by the  
19 Nationwide Mortgage Licensing System and Registry and the  
20 Administrator to obtain:

21           a. an independent credit report obtained from a consumer  
22 reporting agency defined in 15 U.S.C., Section  
23 1681a(p), and  
24

1           b.    information related to any administrative, civil or  
2                    criminal findings by any governmental jurisdiction.

3           D.    In connection with an application for licensing as a  
4 mortgage broker, the applicant shall, at a minimum, furnish to the  
5 Nationwide Mortgage Licensing System and Registry information  
6 concerning each owner, officer, director or partner, as applicable  
7 including:

8           1.    Fingerprints for submission to the Federal Bureau of  
9 Investigation and any governmental agency or entity authorized to  
10 receive such information for a state, national and international  
11 criminal history background check; and

12           2.    Personal history and experience in a form prescribed by the  
13 Nationwide Mortgage Licensing System and Registry and the  
14 Administrator to obtain:

15           a.    an independent credit report obtained from a consumer  
16                    reporting agency described in 15 U.S.C., Section  
17                    1681a(p), and

18           b.    information related to any administrative, civil or  
19                    criminal findings by any governmental jurisdiction.

20           E.    For purposes of this section and, in order to reduce points  
21 of contact which the Federal Bureau of Investigation may have to  
22 maintain for purposes of paragraph 1 and subparagraph b of paragraph  
23 2 of subsection D of this section, the Administrator may use the  
24 Nationwide Mortgage Licensing System and Registry as a channeling

1 agent for requesting information from and distributing information  
2 to the Department of Justice or any governmental agency.

3 F. For the purposes of this section and in order to reduce the  
4 points of contact which the Administrator may have to maintain for  
5 purposes of subparagraphs a and b of paragraph 2 of subsection D of  
6 this section, the Administrator may use the Nationwide Mortgage  
7 Licensing System and Registry as a channeling agent for requesting  
8 and distributing information to and from any source so directed by  
9 the Administrator.

10 G. A license issued under this act shall be valid for a period  
11 of one (1) year, unless otherwise revoked or suspended by the  
12 Administrator as provided in this act.

13 H. The Administrator, on determining that the applicant is  
14 qualified and upon payment of the fees by the applicant, shall issue  
15 a license to the applicant. An applicant who has been denied a  
16 license may not reapply for the license for sixty (60) days from the  
17 date of the previous application.

18 I. A licensee shall pay the renewal fee on or before December  
19 1. If the license is not renewed by December 1, the licensee shall  
20 pay a renewal fee that is double the amount of the license.  
21 Licenses not renewed by December 31 shall expire and the licensee  
22 shall not act as a mortgage broker or mortgage loan originator until  
23 a new license is issued pursuant to this act. A license shall not  
24

1 be granted to the holder of an expired license except as provided in  
2 this act for the issuance of an original license.

3 J. On or before December 31, a licensee may request inactive  
4 status for the following license year and the license shall be  
5 placed on inactive status after payment to the Administrator of the  
6 inactive status renewal fee prescribed in this section and the  
7 surrender of the license to the Administrator. During inactive  
8 status, an inactive license shall not act as a mortgage broker or  
9 mortgage loan originator. A licensee may not be on inactive status  
10 for more than two (2) consecutive years, nor for more than four (4)  
11 years in any ten-year period. The license is deemed expired for  
12 violation of any of the limitations of this subsection.

13 K. An inactive licensee may return to active status  
14 notwithstanding the requirements of this section by making a request  
15 in writing to the Administrator for reactivation and paying the  
16 prorated portion of the annual fee that would have been charged to  
17 the licensee to maintain normal active status. The licensee shall  
18 also provide the Administrator with proof that the licensee meets  
19 all of the other requirements for acting as a mortgage broker or  
20 mortgage loan originator, including any applicable education and  
21 testing requirements.

22 L. A licensee shall prominently display the mortgage broker or  
23 mortgage loan originator license in the office of the mortgage  
24

1 broker or mortgage loan originator and any branch office of the  
2 mortgage broker.

3 M. 1. Initial and renewal license fees shall be One Hundred  
4 Dollars (\$100.00) for each year;

5 2. A late renewal fee shall be Two Hundred Dollars (\$200.00);

6 3. Branch office fees shall be Fifty Dollars (\$50.00) for each  
7 year;

8 4. Inactive status fees shall be Fifty Dollars (\$50.00) for  
9 each year;

10 5. A fee of Twenty-five Dollars (\$25.00) shall be charged for  
11 each license change, duplicate license or returned check;

12 6. A fee of Fifty Dollars (\$50.00) shall be paid by applicants  
13 and licensees into the Oklahoma Mortgage Broker and Mortgage Loan  
14 Originator Recovery Fund as provided for in Section 23 of this act  
15 for each initial application and each renewal application; and

16 7. An examination fee shall be Three Hundred Dollars (\$300.00)  
17 unless an additional fee is required in accordance with subsection C  
18 of Section 26 of this act.

19 SECTION 10. NEW LAW A new section of law to be codified  
20 in the Oklahoma Statutes as Section 2095.7 of Title 59, unless there  
21 is created a duplication in numbering, reads as follows:

22 The Administrator of Consumer Credit shall not issue a mortgage  
23 loan originator license unless the Administrator makes at a minimum  
24 the following findings:

1        1. The applicant has never had a mortgage loan originator  
2 license revoked in any governmental jurisdiction, except that a  
3 subsequent formal vacation of such revocation shall not be deemed a  
4 revocation;

5        2. The applicant has not been convicted of, or pled guilty or  
6 nolo contendere to a felony in a domestic, foreign or military  
7 court:

- 8            a. during the seven-year period preceding the date of the  
9                    application for licensing and registration, or
- 10           b. at any time preceding such date of application, if  
11                    such felony involved an act of fraud, dishonesty, a  
12                    breach of trust or money laundering.

13        Provided, that any pardon of a conviction shall not be a  
14 conviction for purposes of this paragraph;

15        3. The applicant has demonstrated financial responsibility,  
16 character and general fitness such as to command the confidence of  
17 the community and to warrant a determination that the mortgage loan  
18 originator will operate honestly, fairly and efficiently within the  
19 purposes of this act. For purposes of this paragraph, an individual  
20 has shown that he or she is not financially responsible when he or  
21 she has shown a disregard in the management of his or her own  
22 financial condition. A determination that an individual has not  
23 shown financial responsibility may include, but not be limited to:

24

- a. current outstanding judgments, except judgments solely as a result of medical expenses,
- b. current outstanding tax liens or other government liens and filings,
- c. foreclosures within the past three (3) years, or
- d. pattern of seriously delinquent accounts within the past three (3) years;

4. The applicant has completed the prelicensing education requirement described in Section 11 of this act;

5. The applicant has passed a written test that meets the test requirement described in Section 12 of this act; and

6. The applicant has paid into the Oklahoma Mortgage Broker and Mortgage Loan Originator Recovery Fund as required by paragraph 6 of subsection M of Section 9 of this act.

SECTION 11. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2095.8 of Title 59, unless there is created a duplication in numbering, reads as follows:

A. In order to meet the prelicensing education requirement referred to in Section 10 of this act, an individual shall complete at least twenty (20) hours of education approved in accordance with subsection B of this section, which shall include at least:

1. Three (3) hours of federal law and regulations;
2. Three (3) hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues; and

1           3. Two (2) hours of training related to lending standards for  
2 the nontraditional mortgage product marketplace.

3           B. For purposes of subsection A of this section, prelicensing  
4 education courses shall be reviewed and approved by the Nationwide  
5 Mortgage Licensing System and Registry based upon reasonable  
6 standards. Review and approval of a prelicensing education course  
7 shall include review and approval of the course provider.

8           C. Nothing in this section shall preclude any prelicensing  
9 education course as approved by the Nationwide Mortgage Licensing  
10 System and Registry that is provided by the employer of the  
11 applicant or an entity which is affiliated with the applicant by an  
12 agency contract or any subsidiary or affiliate of such employer or  
13 entity.

14           D. Prelicensing education may be offered either in a classroom,  
15 online or by any other means approved by the Nationwide Mortgage  
16 Licensing System and Registry.

17           E. The prelicensing education requirements approved by the  
18 Nationwide Mortgage Licensing System and Registry in paragraph 1 of  
19 subsection A and subsections B and C of this section for any state  
20 shall be accepted as credit towards completion of prelicensing  
21 education requirements in this state.

22           F. An individual previously licensed under this act, subsequent  
23 to the effective date of this act and applying to be licensed again,  
24

1 must prove they have completed all of the continuing education  
2 requirements for the year in which the license was last held.

3 SECTION 12. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 2095.9 of Title 59, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. In order to meet the written test requirement referred to in  
7 Section 10 of this act, an individual shall pass, in accordance with  
8 standards established under this section, a qualified written test  
9 developed by the Nationwide Mortgage Licensing System and Registry  
10 and administered by a test provider approved by the Nationwide  
11 Mortgage Licensing System and Registry based upon reasonable  
12 standards.

13 B. A written test shall not be treated as a qualified written  
14 test for purposes of subsection A of this section unless the test  
15 adequately measures the applicant's knowledge and comprehension in  
16 appropriate subject areas, including:

17 1. Ethics;

18 2. Federal law and regulations pertaining to mortgage  
19 origination;

20 3. State law and regulation pertaining to mortgage origination;  
21 and

22 4. Federal and state law and regulation, including instruction  
23 on fraud, consumer protection, the nontraditional mortgage  
24 marketplace and fair lending issues.

1 C. Nothing in this section shall prohibit a test provider  
2 approved by the Nationwide Mortgage Licensing System and Registry  
3 from providing a test at the location of the employer of the  
4 applicant or the location of any subsidiary or affiliate of the  
5 employer of the applicant or the location of any entity with which  
6 the applicant holds an exclusive arrangement to conduct the business  
7 of a mortgage loan originator.

8 D. 1. An individual shall not be considered to have passed a  
9 qualified written test unless the individual achieves a test score  
10 of not less than seventy-five percent (75%) correct answers to  
11 questions.

12 2. An individual may retake a test three consecutive times with  
13 each consecutive taking occurring at least thirty (30) days after  
14 the preceding test.

15 3. After failing three consecutive tests, an individual shall  
16 wait at least six (6) months before taking the test again.

17 4. A licensed mortgage loan originator who fails to maintain an  
18 active and valid license for a period of five (5) years or longer  
19 shall retake the test, not taking into account any time during which  
20 such individual is a registered mortgage loan originator.

21 SECTION 13. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 2095.10 of Title 59, unless  
23 there is created a duplication in numbering, reads as follows:

24

1 A. The minimum standards for license renewal for mortgage loan  
2 originators shall include the following:

3 1. The mortgage loan originator continues to meet the minimum  
4 standards for license issuance under Section 10 of this act;

5 2. The mortgage loan originator has satisfied the annual  
6 continuing education requirements described in Section 24 of this  
7 act; and

8 3. The mortgage loan originator has paid all required fees for  
9 renewal of the license.

10 B. The license of a mortgage loan originator failing to satisfy  
11 the minimum standards for license renewal shall expire. The  
12 Administrator of Consumer Credit may adopt procedures in addition to  
13 the requirements of Section 9 of this act for the reinstatement of  
14 expired licenses consistent with the standards established by the  
15 Nationwide Mortgage Licensing System and Registry.

16 SECTION 14. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 2095.11 of Title 59, unless  
18 there is created a duplication in numbering, reads as follows:

19 A. The Administrator of Consumer Credit shall not issue a  
20 mortgage broker license unless the Administrator makes at a minimum  
21 the following findings:

22 1. The applicant or any owner, officer, director or partner has  
23 never had a mortgage broker or mortgage loan originator license  
24

1 revoked in any governmental jurisdiction, except that a subsequent  
2 formal vacation of such revocation shall not be deemed a revocation;

3 2. Any owner, officer, director or partner of the applicant has  
4 not been convicted of, or pled guilty or nolo contendere to a felony  
5 in a domestic, foreign or military court:

6 a. during the seven-year period preceding the date of the  
7 application for licensing and registration, or

8 b. at any time preceding such date of application, if  
9 such felony involved an act of fraud, dishonesty, a  
10 breach of trust or money laundering.

11 Provided, that any pardon of a conviction shall not be a  
12 conviction for purposes of this paragraph;

13 3. The applicant's owners, officers, directors or partners have  
14 demonstrated financial responsibility, character and general fitness  
15 such as to command the confidence of the community and to warrant a  
16 determination that the mortgage broker will operate honestly, fairly  
17 and efficiently within the purposes of this act. For purposes of  
18 this paragraph, an applicant's owners, officers, directors or  
19 partners have shown they are not financially responsible when they  
20 have shown a disregard in the management of their own financial  
21 condition. A determination that an owner, officer, director or  
22 partner has not shown financial responsibility may include, but not  
23 be limited to:

24

- a. current outstanding judgments, except judgments solely as a result of medical expenses,
- b. current outstanding tax liens or other government liens and filings,
- c. foreclosures within the past three (3) years, or
- d. a pattern of seriously delinquent accounts within the past three (3) years;

4. The applicant has paid into the Oklahoma Mortgage Broker and Mortgage Loan Originator Recovery Fund as required by paragraph 6 of subsection M of Section 9 of this act; and

5. The applicant has paid all required fees for issuance of the license.

B. Each mortgage broker applicant shall designate and maintain a principal place of business for the transaction of business. The applicant shall specify the address of the principal place of business and designate a licensed mortgage loan originator to oversee the operations of the principal place of business. If an applicant wishes to maintain one or more locations for the transaction of business in addition to a principal place of business, the applicant shall first obtain a branch office license from the Administrator and designate a licensed mortgage loan originator for each branch office to oversee the operations of that branch office. The applicant shall submit a fee as set forth in paragraph 3 of subsection M of Section 9 of this act for each branch

1 office license issued. If the Administrator of Consumer Credit  
2 determines that the applicant is qualified, the Administrator shall  
3 issue a branch office license indicating the address of the branch  
4 office. If the address of the principal place of business or of any  
5 branch office is changed, the licensee shall immediately notify the  
6 Administrator of the change and the Administrator shall endorse the  
7 change of address on the license for a fee as prescribed in  
8 paragraph 5 of subsection M of Section 9 of this act.

9 SECTION 15. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 2095.12 of Title 59, unless  
11 there is created a duplication in numbering, reads as follows:

12 A. The minimum standards for license renewal for mortgage  
13 brokers shall include the following:

14 1. The mortgage broker continues to meet the minimum standards  
15 for license issuance under Section 14 of this act; and

16 2. The mortgage broker has paid all required fees for renewal  
17 of the license.

18 B. The license of a mortgage broker failing to satisfy the  
19 minimum standards for license renewal shall expire. The  
20 Administrator of Consumer Credit may adopt procedures in addition to  
21 the requirements of Section 9 of this act for the reinstatement of  
22 expired licenses consistent with the standards established by the  
23 Nationwide Mortgage Licensing System and Registry.

24

1 SECTION 16. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 2095.13 of Title 59, unless  
3 there is created a duplication in numbering, reads as follows:

4 In addition to any other duties imposed upon the Administrator  
5 of Consumer Credit by law, the Administrator shall require mortgage  
6 brokers and mortgage loan originators to be licensed and registered  
7 through the Nationwide Mortgage Licensing System and Registry. In  
8 order to carry out this requirement, the Administrator is authorized  
9 to participate in the Nationwide Mortgage Licensing System and  
10 Registry. For this purpose, the Administrator, upon approval of the  
11 Commission, may establish requirements by rule as necessary and  
12 consistent with this act, including but not limited to:

- 13 1. Background checks for:
  - 14 a. criminal history through fingerprint or other
  - 15 databases,
  - 16 b. civil or administrative records,
  - 17 c. credit history, or
  - 18 d. any other information as deemed necessary by the
  - 19 Nationwide Mortgage Licensing System and Registry;
- 20 2. The payment of fees to apply for or renew licenses through
- 21 the Nationwide Mortgage Licensing System and Registry;
- 22 3. The setting or resetting as necessary of renewal or
- 23 reporting dates; and

24

1 4. Requirements for amending or surrendering a license or any  
2 other such activities as the Administrator deems necessary for  
3 participation in the Nationwide Mortgage Licensing System and  
4 Registry.

5 SECTION 17. NEW LAW A new section of law to be codified  
6 in the Oklahoma Statutes as Section 2095.14 of Title 59, unless  
7 there is created a duplication in numbering, reads as follows:

8 The Administrator of Consumer Credit shall, upon approval by the  
9 Commission on Consumer Credit, establish by rule a process whereby  
10 mortgage brokers and mortgage loan originators may challenge  
11 information entered into the Nationwide Mortgage Licensing System  
12 and Registry by the Administrator.

13 SECTION 18. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 2095.15 of Title 59, unless  
15 there is created a duplication in numbering, reads as follows:

16 A. A mortgage broker or mortgage loan originator shall have a  
17 written correspondent or loan brokerage agreement with a lender  
18 before any solicitation of, or contracting with, the public.

19 B. Upon receipt of a loan application and before the receipt of  
20 any monies from a borrower, a mortgage broker or mortgage loan  
21 originator shall provide to a borrower the disclosures required by  
22 the Real Estate Settlement Procedures Act, 12 U.S.C., Section 2601  
23 et seq. (RESPA) and Regulation X, 24 C.F.R., Section 3500.1 et seq.,  
24 as promulgated by HUD. Compliance with the disclosure requirements

1 mandated by RESPA and HUD's Regulation X constitutes compliance with  
2 this act.

3 C. If a borrower is unable to obtain or modify a loan for any  
4 reason and the borrower has paid for an appraisal, title report, or  
5 credit report, the mortgage broker or mortgage loan originator shall  
6 give a copy of the appraisal, title report, or credit report to the  
7 borrower and transmit the originals to any other mortgage broker or  
8 lender to whom the borrower directs that the documents be  
9 transmitted. The mortgage broker or mortgage loan originator must  
10 provide the copies or transmit the documents within five (5)  
11 business days after the borrower has made the request in writing.

12 D. 1. Except as otherwise permitted by this subsection, no  
13 mortgage broker or mortgage loan originator shall receive a fee,  
14 commission, or compensation of any kind in connection with the  
15 preparation, negotiation, and brokering or modification of a  
16 residential mortgage loan unless a borrower actually obtains a loan  
17 or has a loan modified from or by a lender on the terms and  
18 conditions agreed upon by the borrower and mortgage broker or  
19 mortgage loan originator.

20 2. If a mortgage broker, banker or mortgage loan originator has  
21 assisted a borrower in obtaining a residential mortgage loan and the  
22 borrower decides to refinance or sell the property in question, the  
23 lender shall be prohibited from charging back any fee income paid by  
24 the lender to the mortgage broker, banker or loan originator unless

1 the mortgage broker, banker or loan originator is involved in such  
2 refinance.

3 3. A mortgage broker or mortgage loan originator may solicit or  
4 receive fees for third-party provider goods or services in advance  
5 and may solicit and receive a reasonable administrative fee to  
6 recoup administrative costs, provided such a fee shall be disclosed  
7 in advance and shall be consistent across all borrowers. The  
8 mortgage broker or mortgage loan originator may not charge more for  
9 the goods and services than the actual costs of the goods or  
10 services charged by the third-party provider.

11 E. The Commission on Consumer Credit, in accordance with the  
12 Administrative Procedures Act shall have the authority to adopt  
13 rules not inconsistent with disclosures mandated by RESPA and HUD's  
14 Regulation X and which are within, but not beyond, the statutory  
15 scope and other provisions of this act to facilitate compliance with  
16 the disclosure and other requirements of this act.

17 F. The provisions of subsections B and C of this section shall  
18 not apply to a depository institution as defined in Section 5 of  
19 this act, its subsidiaries and affiliates or any employee or  
20 exclusive agent thereof.

21 SECTION 19. NEW LAW A new section of law to be codified  
22 in the Oklahoma Statutes as Section 2095.16 of Title 59, unless  
23 there is created a duplication in numbering, reads as follows:

24

1       A. A mortgage broker or mortgage loan originator shall deposit,  
2 prior to the end of the next business day, all monies received from  
3 borrowers for third-party provider services in a trust account of a  
4 federally insured financial institution located in this state. The  
5 trust account shall be designated and maintained for the benefit of  
6 borrowers. Monies maintained in the trust account shall be exempt  
7 from execution, attachment, or garnishment. A mortgage broker or  
8 mortgage loan originator shall not in any way encumber the corpus of  
9 the trust account or commingle any other operating funds with trust  
10 account funds.

11       B. Withdrawals from the trust account shall be only for the  
12 payment of bona fide services rendered by a third-party provider or  
13 for refunds to borrowers. Any interest earned on the trust account  
14 shall be refunded or credited to the borrowers at closing. Any  
15 monies remaining in the trust account after payment to third-party  
16 providers shall be refunded to the borrower.

17       C. The mortgage broker or mortgage loan originator shall pay  
18 third-party providers no later than thirty (30) days after  
19 completion of the third-party service.

20       D. A mortgage broker or mortgage loan originator shall maintain  
21 accurate, current, and readily available records of the trust  
22 account until at least three (3) years have elapsed following the  
23 effective period to which the records relate. The records shall be  
24

1 subject to audit by the Administrator of Consumer Credit pursuant to  
2 an examination or investigation.

3 E. The provisions of this section shall not apply to a  
4 depository institution as defined in Section 5 of this act, its  
5 subsidiaries and affiliates or any employee or exclusive agent  
6 thereof.

7 SECTION 20. NEW LAW A new section of law to be codified  
8 in the Oklahoma Statutes as Section 2095.17 of Title 59, unless  
9 there is created a duplication in numbering, reads as follows:

10 A. In order to ensure the effective supervision and enforcement  
11 of this act, the Administrator of Consumer Credit or an independent  
12 hearing examiner may, after notice and hearing pursuant to Article  
13 II of the Administrative Procedures Act, impose any or any  
14 combination of the following penalties:

15 1. Deny, suspend, revoke, censure, place on probation or  
16 decline to renew a license for a violation of this act, any rules  
17 promulgated pursuant to this act and any order of the Administrator  
18 or an independent hearing examiner issued pursuant to this act;

19 2. Deny, suspend, revoke, censure, place on probation or  
20 decline to renew a license if an applicant or licensee fails at any  
21 time to meet the requirements of this act or withholds information  
22 or makes a material misstatement in an application for a license or  
23 renewal of a license;

24

1 3. Order restitution against entities or individuals subject to  
2 this act for violations of this act; or

3 4. Issue orders or directives under this act as follows:

4 a. order or direct entities or individuals subject to  
5 this act to cease and desist from conducting business,  
6 including immediate temporary orders to cease and  
7 desist,

8 b. order or direct entities or individuals subject to  
9 this act to cease any harmful activities or violations  
10 of this act, including immediate temporary orders to  
11 cease and desist,

12 c. enter immediate temporary orders to cease business  
13 under a license issued pursuant to the authority of  
14 this act if the Administrator or an independent  
15 hearing examiner determines that such license was  
16 erroneously granted or the licensee is currently in  
17 violation of this act,

18 d. order or direct such other affirmative action as the  
19 Administrator or an independent hearing examiner deems  
20 necessary, or

21 e. impose a civil penalty of not less than One Hundred  
22 Dollars (\$100.00) nor more than Two Thousand Five  
23 Hundred Dollars (\$2,500.00) for each violation of this  
24 act against a licensee or any other entity or

1 individual subject to this act, not to exceed Five  
2 Thousand Dollars (\$5,000.00) for all violations  
3 resulting from a single incident or transaction.

4 B. Any immediate temporary order to cease and desist issued  
5 pursuant to this act shall comply with the requirements for  
6 emergency orders under Article II of the Administrative Procedures  
7 Act.

8 SECTION 21. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 2095.18 of Title 59, unless  
10 there is created a duplication in numbering, reads as follows:

11 It is a violation of this act for an entity or individual  
12 subject to this act to:

13 1. Directly or indirectly employ any scheme, device, or  
14 artifice to defraud or mislead borrowers or lenders or to defraud  
15 any entity or individual;

16 2. Engage in any unfair or deceptive practice toward any entity  
17 or individual;

18 3. Obtain property by fraud or misrepresentation;

19 4. Solicit or enter into a contract with a borrower that  
20 provides in substance that the entity or individual subject to this  
21 act may earn a fee or commission through "best efforts" to obtain or  
22 modify a loan even though a loan is not actually obtained or  
23 modified for the borrower;

1           5. Solicit, advertise or enter into a contract for specific  
2 interest rates, points or other financing terms unless the terms are  
3 actually available at the time of soliciting, advertising or  
4 contracting;

5           6. Conduct any business covered by this act without holding a  
6 valid license as required under this act or assist or aide and abet  
7 any entity or individual in the conduct of business under this act  
8 without a valid license as required under this act;

9           7. Fail to make disclosures as required by this act and any  
10 other applicable state or federal law including regulations  
11 thereunder;

12           8. Fail to comply with this act or rules promulgated under this  
13 act or fail to comply with any other state or federal law, including  
14 any rules thereunder, applicable to any business authorized or  
15 conducted under this act;

16           9. Make, in any manner, any false or deceptive statement or  
17 representation, including, with regard to the rates, points, or  
18 other financing terms or conditions for a residential mortgage loan  
19 or engage in bait and switch advertising;

20           10. Negligently make any false statement or knowingly and  
21 willfully make any omission of material fact in connection with any  
22 information or reports filed with a governmental agency or the  
23 Nationwide Mortgage Licensing System and Registry or in connection  
24

1 with any investigation conducted by the Administrator of Consumer  
2 Credit or another governmental agency;

3 11. Make any payment, threat or promise, directly or  
4 indirectly, to any entity or individual for the purposes of  
5 influencing the independent judgment of the entity or individual in  
6 connection with a residential mortgage loan or make any payment,  
7 threat or promise, directly or indirectly, to any appraiser of a  
8 property, for the purposes of influencing the independent judgment  
9 of the appraiser with respect to the value of the property;

10 12. Collect, charge, attempt to collect or charge or use or  
11 propose any agreement purporting to collect or charge any fee  
12 prohibited by this act;

13 13. Cause or require a borrower to obtain property insurance  
14 coverage in an amount that exceeds the replacement cost of the  
15 improvements as established by the property insurer; or

16 14. Fail to truthfully account for monies belonging to a party  
17 to a residential mortgage loan transaction.

18 SECTION 22. NEW LAW A new section of law to be codified  
19 in the Oklahoma Statutes as Section 2095.19 of Title 59, unless  
20 there is created a duplication in numbering, reads as follows:

21 A. In addition to any other penalties provided by law, any  
22 entity or individual without a license as required by the Oklahoma  
23 Secure and Fair Enforcement for Mortgage Licensing Act who engages  
24 in the business of a mortgage broker or mortgage loan originator or

1 who willingly and knowingly violates any provision of the Oklahoma  
2 Secure and Fair Enforcement for Mortgage Licensing Act, upon  
3 conviction, shall be guilty of a misdemeanor which shall be  
4 punishable by a fine of not more than One Thousand Dollars  
5 (\$1,000.00) for each violation. Each violation shall be a separate  
6 offense under this section.

7 B. In addition to any civil or criminal actions authorized by  
8 law, the Administrator of Consumer Credit, the Attorney General, or  
9 the district attorney may apply to the district court in the county  
10 in which a violation of the Oklahoma Secure and Fair Enforcement for  
11 Mortgage Licensing Act has allegedly occurred for an order enjoining  
12 or restraining the entity of individual from continuing the acts  
13 specified in the complaint. The court may grant any temporary or  
14 permanent injunction or restraining order, without bond, as it deems  
15 just and proper.

16 SECTION 23. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 2095.20 of Title 59, unless  
18 there is created a duplication in numbering, reads as follows:

19 A. 1. There is hereby created in the State Treasury a  
20 revolving fund for the Commission on Consumer Credit to be  
21 designated the "Oklahoma Mortgage Brokers and Mortgage Loan  
22 Originator Recovery Fund". The fund shall consist of fees received  
23 by the Administrator of Consumer Credit as required by paragraph 6  
24 of subsection M of Section 9 of this act to be paid into the fund.

1           2. The revolving fund shall be a continuing fund not subject to  
2 fiscal year limitations and shall be under the administrative  
3 direction of the Administrator. Monies accruing to the credit of  
4 this fund are hereby appropriated and may be budgeted and expended  
5 by the Commission, pursuant to rules promulgated by the Commission,  
6 for the purposes specified in subsection B of this section. The  
7 provisions of this paragraph shall have retroactive and prospective  
8 application.

9           3. Expenditures from the fund shall be made upon warrants  
10 issued by the State Treasurer against claims filed as prescribed by  
11 law with the Director of State Finance for approval and payment.

12           B. 1. Subject to the limitations of this subsection, monies in  
13 the fund shall be used to reimburse any entity or individual in an  
14 amount not to exceed Five Thousand Dollars (\$5,000.00) who has been  
15 adjudged by a court of competent jurisdiction to have suffered  
16 monetary damages by an entity or individual required to have a  
17 license under the Oklahoma Secure and Fair Enforcement for Mortgage  
18 Licensing Act in any transaction or series of transactions for which  
19 a license is required under the Oklahoma Secure and Fair Enforcement  
20 for Mortgage Licensing Act because of the acquisition of money or  
21 property by fraud, misrepresentation, deceit, false pretenses,  
22 artifice, trickery, or by any other act which would constitute a  
23 violation of the Oklahoma Secure and Fair Enforcement for Mortgage  
24 Licensing Act.

1           2.   Payments for claims based on judgments against any one  
2 person required to have a license under this act shall not exceed in  
3 the aggregate Thirty Thousand Dollars (\$30,000.00).

4           3.   Payments for claims may only be made for a cause of action  
5 which has accrued on or after November 1, 1997, and which has  
6 accrued not more than two (2) years prior to filing the action in  
7 district court.

8           SECTION 24.       NEW LAW       A new section of law to be codified  
9 in the Oklahoma Statutes as Section 2095.21 of Title 59, unless  
10 there is created a duplication in numbering, reads as follows:

11           A.   In order to meet the annual continuing education  
12 requirements as provided in subsection A of Section 13 of this act,  
13 a licensed mortgage loan originator shall complete at least eight  
14 (8) hours of education approved as provided in subsection B of this  
15 section, which shall include at least:

16           1.   Three (3) hours of federal law and regulations;

17           2.   Two (2) hours of ethics, which shall include instruction on  
18 fraud, consumer protection and fair lending issues; and

19           3.   Two (2) hours of training related to lending standards for  
20 the nontraditional mortgage product marketplace.

21           B.   For purposes of subsection A of this section, continuing  
22 education courses shall be reviewed and approved by the Nationwide  
23 Mortgage Licensing System and Registry based upon reasonable

24

1 standards. Review and approval of a continuing education course  
2 shall include review and approval of the course provider.

3 C. Nothing in this section shall preclude any education course  
4 as approved by the Nationwide Mortgage Licensing System and Registry  
5 that is provided by the employer of the mortgage loan originator or  
6 an entity which is affiliated with the mortgage loan originator by  
7 an agency contract or any subsidiary or affiliate of such employer  
8 or entity.

9 D. Continuing education may be offered either in a classroom,  
10 online or by any other means approved by the Nationwide Mortgage  
11 Licensing System and Registry.

12 E. A licensed mortgage loan originator, except as provided in  
13 subsection B of Section 13 of this act and subsection I of this  
14 section:

15 1. May only receive credit for a continuing education course in  
16 the year in which the course is taken; and

17 2. May not take the same approved course in the same or  
18 successive years to meet the annual requirements for continuing  
19 education.

20 F. A licensed mortgage loan originator who is an approved  
21 instructor of an approved continuing education course may receive  
22 credit for the licensed mortgage loan originator's own annual  
23 continuing education requirement at the rate of two (2) hours credit  
24 for every one (1) hour taught.

1 G. An individual having successfully completed the education  
2 requirements approved by the Nationwide Mortgage Licensing System  
3 and Registry in paragraph 1 of subsection A and subsections B and C  
4 of this section for any state shall be accepted as credit towards  
5 completion of continuing education requirements in this state.

6 H. A licensed mortgage loan originator who subsequently becomes  
7 unlicensed must complete the continuing education requirements for  
8 the last year in which the license was held prior to issuance of a  
9 new or renewed license.

10 I. An individual meeting the requirements of paragraphs 1 and 2  
11 of subsection A of Section 13 of this act may make up any deficiency  
12 in continuing education as established by rule.

13 SECTION 25. NEW LAW A new section of law to be codified  
14 in the Oklahoma Statutes as Section 2095.22 of Title 59, unless  
15 there is created a duplication in numbering, reads as follows:

16 In order to promote more effective regulation and reduce  
17 regulatory burden through supervisory information sharing:

18 1. Except as otherwise provided in 12 U.S.C., Section 5111, the  
19 requirements under federal or Oklahoma law, regarding the privacy or  
20 confidentiality of any information or material provided to the  
21 Nationwide Mortgage Licensing System and Registry and any privilege  
22 arising under federal or state law, including the rules of any  
23 federal or state court, with respect to such information or  
24 material, shall continue to apply to such information or material

1 after the information or material has been disclosed to the  
2 Nationwide Mortgage Licensing System and Registry. Such information  
3 and material may be shared with all state and federal regulatory  
4 officials with mortgage industry oversight authority without the  
5 loss of privilege or the loss of confidentiality protections  
6 provided by federal or Oklahoma law.

7 2. For these purposes, the Administrator of Consumer Credit is  
8 authorized to enter into agreements or sharing arrangements with  
9 other governmental agencies, the Conference of State Bank  
10 Supervisors, the American Association of Residential Mortgage  
11 Regulators or other associations representing governmental agencies.

12 3. Information or material that is subject to a privilege or  
13 confidentiality under paragraph 1 of this section shall not be  
14 subject to:

- 15 a. disclosure under any federal or state law governing  
16 the disclosure to the public of information held by an  
17 officer or an agency of the federal government or the  
18 respective state, or
- 19 b. subpoena or discovery, or admission into evidence, in  
20 any private civil action or administrative process,  
21 unless with respect to any privilege held by the  
22 Nationwide Mortgage Licensing System and Registry with  
23 respect to such information or material, the entity or  
24 individual to whom such information or material

1           pertains waives, in whole or in part, in the  
2           discretion of such entity or individual, that  
3           privilege.

4           4. Any provision of Oklahoma law relating to the disclosure of  
5 confidential supervisory information or any information or material  
6 described in paragraph 1 of this section that is inconsistent with  
7 paragraph 1 of this section shall be superseded by the requirements  
8 of this section.

9           5. This section shall not apply with respect to the information  
10 or material relating to the employment history of and publicly  
11 adjudicated disciplinary and enforcement actions against, mortgage  
12 brokers and mortgage loan originators that is included in the  
13 Nationwide Mortgage Licensing System and Registry for access by the  
14 public.

15           SECTION 26.       NEW LAW       A new section of law to be codified  
16 in the Oklahoma Statutes as Section 2095.23 of Title 59, unless  
17 there is created a duplication in numbering, reads as follows:

18           A. In addition to any authority allowed under this act, the  
19 Administrator of Consumer Credit shall have the authority to conduct  
20 investigations and examinations of the following:

21           1. Criminal, civil and administrative history information,  
22 including nonconviction data;

1           2. Personal history and experience information including  
2 independent credit reports obtained from a consumer reporting agency  
3 described in 15 U.S.C., Section 1681a(p); and

4           3. Any other documents, information or evidence the  
5 Administrator deems relevant to the inquiry or investigation  
6 regardless of the location, possession, control or custody of such  
7 documents, information or evidence.

8           B. For the purposes of investigating violations or complaints  
9 arising under this act or for the purposes of examination, the  
10 Administrator may review, investigate or examine any licensee or  
11 entity or individual subject to this act, as often as necessary in  
12 order to carry out the purposes of this act. The Administrator may  
13 direct, subpoena or order the attendance of and examine under oath  
14 all individuals whose testimony may be required about the loans or  
15 the business or subject matter of any such examination or  
16 investigation and may direct, subpoena or order such individual to  
17 produce books, accounts, records, files and any other documents the  
18 Administrator deems relevant to the inquiry. Any examination or  
19 investigation report and any information obtained during an  
20 examination or investigation shall not be subject to disclosure  
21 under the Oklahoma Open Records Act. However, any examination or  
22 investigation report and any information obtained during an  
23 examination or investigation shall be subject to disclosure pursuant  
24

1 to a court order and may also be disclosed in an individual  
2 proceeding and any order issued pursuant to this act.

3 C. The Administrator may require payment of an examination fee  
4 either at the time of initial application, renewal of the license or  
5 after an examination has been conducted. The examination fee shall  
6 be in accordance with the provisions of paragraph 7 of subsection M  
7 of Section 9 of this act. If a licensee has more than one location,  
8 the examination fee shall be Three Hundred Dollars (\$300.00) for  
9 each location. If an examination exceeds eight (8) hours, the  
10 Administrator shall charge the licensee an additional Fifty (\$50.00)  
11 per hour for each examiner required to complete the examination;  
12 provided, further, that the Administrator may waive the examination  
13 fee for any examination which takes one (1) hour or less. If an  
14 examination fee is due and is not paid on completion of an  
15 examination, the Administrator shall bill the licensee, and there  
16 shall be a late fee of Fifty Dollars (\$50.00) if the amount due is  
17 not received within thirty (30) days of the invoice date.

18 D. Each licensee or entities or individuals subject to this act  
19 shall make available to the Administrator, upon request, any books  
20 and records relating to the requirements of this act. The  
21 Administrator shall have access to such books and records and  
22 interview the officers, principals, mortgage loan originators,  
23 employees, independent contractors, agents and customers of the  
24 licensee, entity or individual subject to this act concerning the

1 requirements of this act. Books and records shall be maintained for  
2 a period of time required by rule of the Administrator.

3 E. Each licensee or entity or individual subject to this act  
4 shall make or compile reports or prepare other information as  
5 directed by the Administrator in order to carry out the purposes of  
6 this section including, but not limited to:

7 1. Accounting compilations;

8 2. Information lists and data concerning loan transactions in a  
9 format prescribed by the Administrator; or

10 3. Such other information deemed necessary to carry out the  
11 purposes of this section.

12 F. In making any examination or investigation authorized by  
13 this act, the Administrator may control access to any documents and  
14 records of the licensee or entity or individual under examination or  
15 investigation. The Administrator may take possession of the  
16 documents and records or place an entity or individual in exclusive  
17 charge of the documents and records in the place where they are  
18 usually kept. During the period of control, no entity or individual  
19 shall remove or attempt to remove any of the documents and records  
20 except pursuant to a court order or with the consent of the  
21 Administrator. Unless the Administrator has reasonable grounds to  
22 believe the documents or records of the licensee have been, or are  
23 at risk of being altered or destroyed for purposes of concealing a  
24 violation of this act, the licensee or owner of the documents and

1 records shall have access to the documents or records as necessary  
2 to conduct its ordinary business affairs.

3 G. In order to carry out the purposes of this section, the  
4 Administrator may:

5 1. Retain attorneys, accountants, or other professionals and  
6 specialists as examiners, auditors or investigators to conduct or  
7 assist in the conduct of examinations or investigations;

8 2. Enter into agreements or relationships with other government  
9 officials or regulatory associations in order to improve  
10 efficiencies and reduce regulatory burden by sharing resources,  
11 standardized or uniform methods or procedures and documents,  
12 records, information or evidence obtained under this section;

13 3. Use, hire, contract or employ public or privately available  
14 analytical systems, methods or software to examine or investigate  
15 the licensee, entity or individual subject to this act;

16 4. Accept and rely on examination or investigation reports made  
17 by other government officials, within or without this state; or

18 5. Accept audit reports made by an independent certified public  
19 accountant for the licensee or entity or individual subject to this  
20 act in the course of that part of the examination covering the same  
21 general subject matter as the audit and may incorporate the audit  
22 report in the report of the examination, report of investigation or  
23 other writing of the Administrator.

24

1 H. The authority of this section shall remain in effect,  
2 whether such a licensee or entity or individual subject to this act  
3 acts or claims to act under any licensing or registration law of  
4 this state or claims to act without such authority.

5 I. No licensee or entity or individual subject to investigation  
6 or examination under this section may knowingly withhold, abstract,  
7 remove, mutilate, destroy or secrete any books, records, computer  
8 records or other information.

9 SECTION 27. NEW LAW A new section of law to be codified  
10 in the Oklahoma Statutes as Section 2095.24 of Title 59, unless  
11 there is created a duplication in numbering, reads as follows:

12 Each licensee shall submit to the Nationwide Mortgage Licensing  
13 System and Registry reports of condition, which shall be in such  
14 form and shall contain such information as the Nationwide Mortgage  
15 Licensing System and Registry may require.

16 SECTION 28. NEW LAW A new section of law to be codified  
17 in the Oklahoma Statutes as Section 2095.25 of Title 59, unless  
18 there is created a duplication in numbering, reads as follows:

19 Notwithstanding or subject to state privacy law, the  
20 Administrator of Consumer Credit is required to regularly report  
21 violations of this act as well as enforcement actions and other  
22 relevant information to the Nationwide Mortgage Licensing System and  
23 Registry subject to the provisions contained in Section 25 of this  
24 act.

1 SECTION 29. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 2095.26 of Title 59, unless  
3 there is created a duplication in numbering, reads as follows:

4 There is hereby created in the State Treasury a revolving fund  
5 for the Commission on Consumer Credit to be designated the "Oklahoma  
6 Mortgage Broker and Mortgage Loan Originator Revolving Fund". The  
7 fund shall consist of fees and fines received, except for the fee to  
8 be paid into the Oklahoma Mortgage Broker and Mortgage Loan  
9 Originator Recovery Fund required by paragraph 6 of subsection M of  
10 Section 9 of this act, by the Administrator of Consumer Credit  
11 pursuant to the Oklahoma Secure and Fair Enforcement for Mortgage  
12 Licensing Act. The revolving fund shall be a continuing fund not  
13 subject to fiscal year limitations and shall be under the  
14 administrative direction of the Administrator. Monies accruing to  
15 the credit of this fund are hereby appropriated and may be budgeted  
16 and expended by the Administrator for the administration and  
17 enforcement of this act upon warrants issued by the State Treasurer  
18 against claims filed as prescribed by law with the Director of State  
19 Finance for approval and payment.

20 SECTION 30. REPEALER 59 O.S. 2001, Sections 2081, 2082,  
21 as last amended by Section 41, Chapter 16, O.S.L. 2006, 2083, as  
22 last amended by Section 2, Chapter 131, O.S.L. 2005, 2084, 2085, as  
23 last amended by Section 1, Chapter 214, O.S.L. 2008, 2086, as last  
24 amended by Section 1, Chapter 172, O.S.L. 2006, 2087, 2088, as last

1 amended by Section 3, Chapter 330, O.S.L. 2003, 2089, as last  
2 amended by Section 4, Chapter 330, O.S.L. 2003, 2090, as last  
3 amended by Section 1, Chapter 213, O.S.L. 2008, 2091, Section 8,  
4 Chapter 469, O.S.L. 2002, as amended by Section 5, Chapter 330,  
5 O.S.L. 2003 and Section 9, Chapter 469, O.S.L. 2002, as last amended  
6 by Section 1, Chapter 215, O.S.L. 2008 (59 O.S. Supp. 2008, Sections  
7 2082, 2083, 2085, 2086, 2088, 2089, 2090, 2092 and 2093), are hereby  
8 repealed.

9 SECTION 31. This act shall become effective July 1, 2009.

10 SECTION 32. It being immediately necessary for the preservation  
11 of the public peace, health and safety, an emergency is hereby  
12 declared to exist, by reason whereof this act shall take effect and  
13 be in full force from and after its passage and approval.

14

15 52-1-7612 MAH 04/06/09

16

17

18

19

20

21

22

23

24