ENGROSSED SENATE
BILL NO. 1062 By: Myers of the Senate

and

Dewitt of the House

[professions and occupations - creating the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act - effective date - emergency]

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

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

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

~~(b)~~ B. It is unlawful for any member of the Commission, the Administrator of Consumer Credit, or any other officer or employee of the Department to use for personal benefit any information which is filed with or obtained by the Administrator and which is not made public. No provision of the Uniform Consumer Credit Code authorizes

any member of the Commission, the Administrator, or any other officer or employee of the Department to disclose any information except among themselves or when necessary or appropriate in a proceeding or investigation according to the provisions of the Uniform Consumer Credit Code. The provisions of the Uniform Consumer Credit Code shall not be construed to create or derogate any privilege that exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to any member of the Commission, the Administrator, or any other officer or employee of the Department.

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

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

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

Section 6-503. The Governor annually shall appoint one Commission member to serve at large for a term of five (5) years, expiring on January 1. However, for the initial appointments, the Governor shall appoint five at-large members, and designate one member to serve for a term of one (1) year; one member to serve for a term of two (2) years; one member to serve for a term of three (3) years; one member to serve for a term of four (4) years; and one member to serve for a term of five (5) years, from their respective dates of appointment and qualification. Upon the expiration of these initial terms, the term of each member shall be five (5) years from the date of his appointment and qualification, and until his successor shall qualify. No more than three at-large members of the Commission shall be members of the same political party. The Commission shall include ~~three~~ four additional members, one who shall be actively engaged in the business of making supervised loans ~~primarily~~ pursuant to the provisions of Section 3-508A of this title, one who shall be actively engaged in the business of making supervised loans ~~primarily~~ pursuant to the provisions of Section 3-508B of this title, ~~and~~ one who shall be actively engaged in the business of making pawn loans pursuant to the provisions of the Oklahoma Pawnshop Act and one who shall be a mortgage loan originator licensed pursuant to Section 8 of this act and has worked in this state for a minimum of three (3) years. These additional members shall be appointed in the following manner: ~~One~~ one

appointed by the Governor with the advice and consent of the Senate upon recommendation of the Oklahoma Consumer Finance Association, Inc., one appointed by the Governor with the advice and consent of the Senate upon recommendation of the Independent Finance Institute, Inc., one appointed by the Governor with the advice and consent of the Senate upon the recommendation of the Oklahoma Pawnbrokers Association, Inc, and one appointed by the Governor with the advice and consent of the Senate upon recommendation of the Oklahoma Association of Mortgage Professionals, or its successor, and whose initial appointment shall be made January 1, 2010. The appointments shall be made only from a list of twelve names submitted to the Governor by each recommending entity. If any recommending entity fails to submit a list within thirty (30) days after a vacancy occurs, the Governor, with the advice and consent of the Senate, shall fill the vacancy with a person qualified pursuant to the provisions of this section pertaining to additional members. For the initial appointments of these additional members, the Governor shall designate one member to serve for a term of three (3) years; one member to serve for a term of four (4) years; and one member to serve for a term of five (5) years, from the respective dates of appointment and qualification. No more than two of these additional members shall be members of the same political party. Vacancies for any unexpired term of any member of the Commission shall be filled by the Governor in the same manner as the initial appointments were

made. All members of the Commission shall be eligible for reappointment.

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

This act shall be known and may be cited as the "Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act".

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

The activities of mortgage brokers and mortgage loan originators and the origination or offering or modification of financing for residential real property have a direct, valuable and immediate impact upon Oklahoma's consumers, the Oklahoma economy, the neighborhoods and communities of Oklahoma and the housing and real estate industry. Therefore, the Legislature finds that accessibility to mortgage credit is vital to the state's citizens. The Legislature also finds that it is essential for the protection of the citizens of Oklahoma and the stability of the Oklahoma economy that reasonable standards for licensing and regulation of the business practices of mortgage brokers and mortgage loan originators be imposed. The Legislature further finds that the obligations of mortgage brokers and mortgage loan originators to consumers in connection with originating or making or modifying

residential mortgage loans are such as to warrant the regulation of the mortgage lending process. The purpose of this act is to protect consumers seeking mortgage loans and to ensure that the mortgage lending industry is operating without unfair, deceptive and fraudulent practices on the part of mortgage brokers and mortgage loan originators. Therefore, the Legislature establishes within this act:

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

a. the authority to issue licenses to conduct business under this act, including the authority to write rules or regulations or adopt procedures necessary to the licensing of entities or individuals covered under this act,

b. the authority to censure, deny, place on probation, suspend or revoke licenses issued under this act, and

c. the authority to examine, investigate and conduct enforcement actions as necessary to carry out the intended purposes of this act, including the authority to subpoena witnesses and documents, enter orders, including cease and desist orders, order restitution and monetary penalties and order the removal and ban of individuals from office or employment; and

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

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

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

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

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

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

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

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

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

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

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

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

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

11. a. "Loan processor or underwriter" means an entity or individual who performs support duties as an employee at the direction of and subject to the supervision and instruction of an entity or individual licensed or exempt from licensing as provided in Section 4 of this act.

b. For purposes of this paragraph, the term "clerical or support duties" may include subsequent to the receipt of an application, the receipt collection, distribution and analysis of information necessary for

the processing or underwriting or modification of a loan, to the extent that such communication does not include offering or negotiating or modifying loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

c. An entity or individual engaging solely in loan processor or underwriter activities shall not represent to the public through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists or other promotional items, that such entity or individual can or will perform any of the activities of a mortgage broker or mortgage loan originator;

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

(1) takes a residential mortgage loan application, or

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

b. Mortgage broker does not include:

(1) an entity engaged solely as a loan processor or underwriter except as otherwise provided in Section 6 of this act,

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

(3) an entity solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. Section 101 (53D) United States Code;

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

(1) takes a residential mortgage loan application, or

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

b. Mortgage loan originator does not include:

(1) an individual engaged solely as a loan processor or underwriter except as otherwise provided in Section 6 of this act,

(2) an individual that only performs real estate brokerage activities and is licensed or

registered in accordance with Oklahoma law, unless the individual is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator, and

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

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

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

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

a. acting as a real estate agent or real estate broker for a buyer, seller, lessor or lessee of real property,

b. bringing together parties interested in the sale, purchase, lease, rental or exchange of real property,

c. negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property, other than in connection with providing financing with respect to any such transaction,

d. engaging in any activity for which an entity engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law, and

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

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

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

(1) a depository institution,

(2) a subsidiary that:

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

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

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

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

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

19. "Residential Real Estate" means any real property located in this state upon which is constructed or intended to be constructed a dwelling as defined in paragraph 18 of this section; and

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

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

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

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

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

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

4. A licensed attorney who negotiates or modifies the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator.

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

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

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

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

2. In order to facilitate an orderly transition to licensing and minimize disruption in the mortgage marketplace, the effective date for licensing all entities and individuals as provided in this subsection, including those currently licensed as mortgage brokers or mortgage loan originators, shall be July 31, 2010, or such later date approved by the Secretary of the U.S. Department of Housing and Urban Development, pursuant to the authority granted under 12 U.S.C. Section 5107.

B. A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless such independent contractor loan processor or underwriter obtains and maintains a license as required by this act. Each independent contractor loan processor or underwriter licensed as a mortgage broker or mortgage loan originator must have and

maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and Registry.

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

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

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

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

C. In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish

to the Nationwide Mortgage Licensing System and Registry information concerning the applicant's identity including:

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

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

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

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

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

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

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

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

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

E. For purposes of this section and, in order to reduce points of contact which the Federal Bureau of Investigation may have to maintain for purposes of paragraph 1 and subparagraph b of paragraph 2 of subsection D of this section, the Administrator may use the Nationwide Mortgage Licensing System and Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

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

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

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

I. A licensee shall pay the renewal fee on or before December 1. If the license is not renewed by December 1, the licensee shall pay a renewal fee that is double the amount of the license. Licenses not renewed by December 31 shall expire and the licensee shall not act as a mortgage broker or mortgage loan originator until a new license is issued pursuant to this act. A license shall not be granted to the holder of an expired license except as provided in this act for the issuance of an original license.

J. On or before December 31, a licensee may request inactive status for the following license year and the license shall be placed on inactive status after payment to the Administrator of the inactive status renewal fee prescribed in this section and the surrender of the license to the Administrator. During inactive status, an inactive license shall not act as a mortgage broker or mortgage loan originator. A licensee may not be on inactive status for more than two (2) consecutive years, nor for more than four (4)

years in any ten-year period. The license is deemed expired for violation of any of the limitations of this subsection.

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

L. A licensee shall prominently display the mortgage broker or mortgage loan originator license in the office of the mortgage broker or mortgage loan originator and any branch office of the mortgage broker.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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 pre-licensing 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 pre-licensing 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

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

B. For purposes of subsection A of this section, pre-licensing education courses shall be reviewed and approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable standards. Review and approval of a pre-licensing education course shall include review and approval of the course provider.

C. Nothing in this section shall preclude any pre-licensing education course as approved by the Nationwide Mortgage Licensing

System and Registry that is provided by the employer of the applicant or an entity which is affiliated with the applicant by an agency contract or any subsidiary or affiliate of such employer or entity.

D. Pre-licensing education may be offered either in a classroom, online or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

E. The pre-licensing education requirements approved by the Nationwide Mortgage Licensing System and Registry in paragraph 1 of subsection A and subsections B and C of this section for any state shall be accepted as credit towards completion of pre-licensing education requirements in this state.

F. An individual previously licensed under this act, subsequent to the effective date of this act and applying to be licensed again, must prove they have completed all of the continuing education requirements for the year in which the license was last held.

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

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

Mortgage Licensing System and Registry based upon reasonable standards.

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

1. Ethics;

2. Federal law and regulations pertaining to mortgage origination;

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

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

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

D. 1. An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score

of not less than seventy-five percent (75%) correct answers to questions.

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

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

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

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

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

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

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

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

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

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

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

1. The applicant or any owner, officer, director or partner has never had a mortgage broker or mortgage loan originator license revoked in any governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not be deemed a revocation;

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

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

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

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

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

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

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

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

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

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

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

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

In addition to any other duties imposed upon the Administrator of Consumer Credit by law, the Administrator shall require mortgage brokers and mortgage loan originators to be licensed and registered through the Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement, the Administrator is authorized to participate in the Nationwide Mortgage Licensing System and

Registry. For this purpose, the Administrator, upon approval of the Commission, may establish requirements by rule as necessary and consistent with this act, including but not limited to:

1. Background checks for:

a. criminal history through fingerprint or other databases,

b. civil or administrative records,

c. credit history, or

d. any other information as deemed necessary by the Nationwide Mortgage Licensing System and Registry;

2. The payment of fees to apply for or renew licenses through the Nationwide Mortgage Licensing System and Registry;

3. The setting or resetting as necessary of renewal or reporting dates; and

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

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

The Administrator of Consumer Credit shall, upon approval by the Commission on Consumer Credit, establish by rule a process whereby mortgage brokers and mortgage loan originators may challenge

information entered into the Nationwide Mortgage Licensing System and Registry by the Administrator.

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

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

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

C. If a borrower is unable to obtain or modify a loan for any reason and the borrower has paid for an appraisal, title report, or credit report, the mortgage broker or mortgage loan originator shall give a copy of the appraisal, title report, or credit report to the borrower and transmit the originals to any other mortgage broker or lender to whom the borrower directs that the documents be transmitted. The mortgage broker or mortgage loan originator must

provide the copies or transmit the documents within five (5) business days after the borrower has made the request in writing.

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

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

3. A mortgage broker or mortgage loan originator may solicit or receive fees for third-party provider goods or services in advance and may solicit and receive a reasonable administrative fee to recoup administrative costs, provided such a fee shall be disclosed in advance and shall be consistent across all borrowers. The mortgage broker or mortgage loan originator may not charge more for

the goods and services than the actual costs of the goods or services charged by the third-party provider.

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

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

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

B. Withdrawals from the trust account shall be only for the payment of bona fide services rendered by a third-party provider or for refunds to borrowers. Any interest earned on the trust account

shall be refunded or credited to the borrowers at closing. Any monies remaining in the trust account after payment to third-party providers shall be refunded to the borrower.

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

D. A mortgage broker or mortgage loan originator shall maintain accurate, current, and readily available records of the trust account until at least three (3) years have elapsed following the effective period to which the records relate. The records shall be subject to audit by the Administrator of Consumer Credit pursuant to an examination or investigation.

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

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

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

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

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

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

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

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

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

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

e. impose a civil penalty of not less than One Hundred Dollars ($100.00) nor more than Two Thousand Five Hundred Dollars ($2,500.00) for each violation of this act against a licensee or any other entity or individual subject to this act, not to exceed Five Thousand Dollars ($5,000.00) for all violations resulting from a single incident or transaction.

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

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

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

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

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

3. Obtain property by fraud or misrepresentation;

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

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

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

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

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

9. Make, in any manner, any false or deceptive statement or representation, including, with regard to the rates, points, or

other financing terms or conditions for a residential mortgage loan or engage in bait and switch advertising;

10. Negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the Nationwide Mortgage Licensing System and Registry or in connection with any investigation conducted by the Administrator of Consumer Credit or another governmental agency;

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

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

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

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

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

A. In addition to any other penalties provided by law, any entity or individual without a license as required by the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act who engages in the business of a mortgage broker or mortgage loan originator or who willingly and knowingly violates any provision of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, upon conviction, shall be guilty of a misdemeanor which shall be punishable by a fine of not more than One Thousand Dollars ($1,000.00) for each violation. Each violation shall be a separate offense under this section.

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

SECTION 23. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2095.21 of Title 59, unless there is created a duplication in numbering, reads as follows:

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

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

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

B. 1. Subject to the limitations of this subsection, monies in the fund shall be used to reimburse any entity or individual in an amount not to exceed Five Thousand Dollars ($5,000.00) who has been adjudged by a court of competent jurisdiction to have suffered

monetary damages by an entity or individual required to have a license under the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act in any transaction or series of transactions for which a license is required under the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act because of the acquisition of money or property by fraud, misrepresentation, deceit, false pretenses, artifice, trickery, or by any other act which would constitute a violation of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act.

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

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

SECTION 24. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2095.22 of Title 59, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 25. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2095.23 of Title 59, unless there is created a duplication in numbering, reads as follows:

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

1. Except as otherwise provided in 12 U.S.C. Section 5111, the requirements under federal or Oklahoma law, regarding the privacy or confidentiality of any information or material provided to the Nationwide Mortgage Licensing System and Registry and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the Nationwide Mortgage Licensing System and Registry. Such information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or Oklahoma law.

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

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

a. disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the respective state, or

b. subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Nationwide Mortgage Licensing System and Registry with respect to such information or material, the entity or individual to whom such information or material pertains waives, in whole or in part, in the discretion of such entity or individual, that privilege.

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

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

SECTION 26. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2095.24 of Title 59, unless there is created a duplication in numbering, reads as follows:

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

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

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

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

B. For the purposes of investigating violations or complaints arising under this act or for the purposes of examination, the Administrator may review, investigate or examine any licensee or entity or individual subject to this act, as often as necessary in order to carry out the purposes of this act. The Administrator may direct, subpoena or order the attendance of and examine under oath all individuals whose testimony may be required about the loans or the business or subject matter of any such examination or investigation and may direct, subpoena or order such individual to

produce books, accounts, records, files and any other documents the Administrator deems relevant to the inquiry. Any examination or investigation report and any information obtained during an examination or investigation shall not be subject to disclosure under the Oklahoma Open Records Act. However, any examination or investigation report and any information obtained during an examination or investigation shall be subject to disclosure pursuant to a court order and may also be disclosed in an individual proceeding and any order issued pursuant to this act.

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

D. Each licensee or entities or individuals subject to this act shall make available to the Administrator, upon request, any books and records relating to the requirements of this act. The Administrator shall have access to such books and records and interview the officers, principals, mortgage loan originators, employees, independent contractors, agents and customers of the licensee, entity or individual subject to this act concerning the requirements of this act. Books and records shall be maintained for a period of time required by rule of the Administrator.

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

1. Accounting compilations;

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

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

F. In making any examination or investigation authorized by this act, the Administrator may control access to any documents and records of the licensee or entity or individual under examination or investigation. The Administrator may take possession of the documents and records or place an entity or individual in exclusive charge of the documents and records in the place where they are

usually kept. During the period of control, no entity or individual shall remove or attempt to remove any of the documents and records except pursuant to a court order or with the consent of the Administrator. Unless the Administrator has reasonable grounds to believe the documents or records of the licensee have been, or are at risk of being altered or destroyed for purposes of concealing a violation of this act, the licensee or owner of the documents and records shall have access to the documents or records as necessary to conduct its ordinary business affairs.

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

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

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

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

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

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

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

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

SECTION 27. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2095.25 of Title 59, unless there is created a duplication in numbering, reads as follows:

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

SECTION 28. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2095.26 of Title 59, unless there is created a duplication in numbering, reads as follows:

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

SECTION 29. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 2095.27 of Title 59, unless there is created a duplication in numbering, reads as follows:

There is hereby created in the State Treasury a revolving fund for the Commission on Consumer Credit to be designated the "Oklahoma Mortgage Broker and Mortgage Loan Originator Revolving Fund." The fund shall consist of fees and fines received, except for the fee to be paid into the Oklahoma Mortgage Broker and Mortgage Loan Originator Recovery Fund required by paragraph 6 of subsection M of Section 9 of this act, by the Administrator of Consumer Credit pursuant to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act. The revolving fund shall be a continuing fund not subject to fiscal year limitations and shall be under the administrative direction of the Administrator. Monies accruing to the credit of this fund are hereby appropriated and may be budgeted and expended by the Administrator for the administration and enforcement of this act upon warrants issued by the State Treasurer

against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 30. REPEALER 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, 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), are hereby repealed.

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

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

Passed the Senate the 3rd day of March, 2009.

_____
Presiding Officer of the Senate

Passed the House of Representatives the ____ day of _____, 2009.

_____
Presiding Officer of the House of Representatives