

SB 1062

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THE STATE SENATE
Monday, February 23, 2009

Senate Bill No. 1062
As Amended

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 - codification - effective date - emergency]

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

SECTION 1. 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 2. 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

1 accessibility to mortgage credit is vital to the state's citizens.
2 The Legislature also finds that it is essential for the protection
3 of the citizens of Oklahoma and the stability of the Oklahoma
4 economy that reasonable standards for licensing and regulation of
5 the business practices of mortgage brokers and mortgage loan
6 originators be imposed. The Legislature further finds that the
7 obligations of mortgage brokers and mortgage loan originators to
8 consumers in connection with originating or making or modifying
9 residential mortgage loans are such as to warrant the regulation of
10 the mortgage lending process. The purpose of this act is to protect
11 consumers seeking mortgage loans and to ensure that the mortgage
12 lending industry is operating without unfair, deceptive and
13 fraudulent practices on the part of mortgage brokers and mortgage
14 loan originators. Therefore, the Legislature establishes within
15 this act:

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

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

1 b. the authority to censure, deny, place on probation,
2 suspend or revoke licenses issued under this act, and
3 c. the authority to examine, investigate and conduct
4 enforcement actions as necessary to carry out the
5 intended purposes of this act, including the authority
6 to subpoena witnesses and documents, enter orders,
7 including cease and desist orders, order restitution
8 and monetary penalties and order the removal and ban
9 of individuals from office or employment; and

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

14 SECTION 3. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2095.2 of Title 59, unless there
16 is created a duplication in numbering, reads as follows:

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

- 19 1. "Administrator" means the Administrator of Consumer Credit;
20 2. "Affiliate" means an entity which directly or indirectly,
21 through one or more intermediaries, controls, is controlled by or is
22 under common control with the entity specified;

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

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

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

11 6. "Depository Institution" has the same meaning as in Section
12 3 of the Federal Deposit Insurance Act and includes any credit
13 union;

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

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

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

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

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

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

18 c. An entity or individual engaging solely in loan
19 processor or underwriter activities shall not
20 represent to the public through advertising or other
21 means of communicating or providing information,
22 including the use of business cards, stationery,
23 brochures, signs, rate lists or other promotional

1 items, that such entity or individual can or will
2 perform any of the activities of a mortgage broker or
3 mortgage loan originator;

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

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

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

9 b. Mortgage broker does not include:

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

13 (2) an entity that only performs real estate
14 brokerage activities and is licensed or
15 registered in accordance with Oklahoma law,
16 unless the entity is compensated by a lender, a
17 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 entity solely involved in extensions of credit
22 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 6 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);

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

1 licensed as a real estate agent or real estate broker
2 under any applicable law, and
3 e. offering to engage in any activity or act in any
4 capacity, described in this paragraph;

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

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

9 (1) a depository institution,

10 (2) a subsidiary that:

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

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

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

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

19 18. "Residential mortgage loan" means any loan primarily for
20 personal, family or household use that is secured by a mortgage,
21 deed of trust, or other equivalent consensual security interest on a
22 dwelling as defined in section 103(v) of the Truth in Lending Act or

1 residential real estate upon which is constructed or intended to be
2 constructed such a dwelling;

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

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

10 SECTION 4. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2095.3 of Title 59, unless there
12 is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

15 SECTION 6. NEW LAW A new section of law to be codified
16 in the Oklahoma Statutes as Section 2095.5 of Title 59, unless there
17 is created a duplication in numbering, reads as follows:

18 A. 1. An entity or individual, unless specifically exempted
19 from the Oklahoma Secure and Fair Enforcement for Mortgage Licensing
20 Act, as provided in Section 4 of this act shall not engage in the
21 business of a mortgage broker or mortgage loan originator with
22 respect to any dwelling located in this state without first
23 obtaining and maintaining annually a license under this act. Each

1 licensed mortgage broker or mortgage loan originator must register
2 with and maintain a valid unique identifier issued by the Nationwide
3 Mortgage Licensing System and Registry.

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

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

20 C. For the purposes of implementing an orderly and efficient
21 licensing process, the Administrator of Consumer Credit may
22 establish licensing rules, upon approval by the Commission, and the
23 Administrator may establish interim procedures for licensing and

1 acceptance of applications. For previously registered or licensed
2 entities or individuals, the Administrator may establish expedited
3 review and licensing procedures.

4 SECTION 7. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2095.6 of Title 59, unless there
6 is created a duplication in numbering, reads as follows:

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

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

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

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

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

4 a. an independent credit report obtained from a consumer
5 reporting agency defined in 15 U.S.C. Section
6 1681a(p), and

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

9 D. In connection with an application for licensing as a
10 mortgage broker, the applicant shall, at a minimum, furnish to the
11 Nationwide Mortgage Licensing System and Registry information
12 concerning each owner, officer, director or partner, as applicable
13 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 described in 15 U.S.C. Section
23 1681a(p), and

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

3 E. For purposes of this section and, in order to reduce points
4 of contact which the Federal Bureau of Investigation may have to
5 maintain for purposes of paragraph 1 and subparagraph b of paragraph
6 2 of subsection D of this section, the Administrator may use the
7 Nationwide Mortgage Licensing System and Registry as a channeling
8 agent for requesting information from and distributing information
9 to the Department of Justice or any governmental agency.

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

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

20 H. The Administrator, on determining that the applicant is
21 qualified and upon payment of the fees by the applicant, shall issue
22 a license to the applicant. An applicant who has been denied a

1 license may not reapply for the license for sixty (60) days from the
2 date of the previous application.

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

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

21 K. An inactive licensee may return to active status
22 notwithstanding the requirements of this section by making a request
23 in writing to the Administrator for reactivation and paying the

1 prorated portion of the annual fee that would have been charged to
2 the licensee to maintain normal active status. The licensee shall
3 also provide the Administrator with proof that the licensee meets
4 all of the other requirements for acting as a mortgage broker or
5 mortgage loan originator, including any applicable education and
6 testing requirements.

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

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

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

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

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

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

20 6. A fee of Fifty Dollars (\$50.00) shall be paid by applicants
21 and licensees into the Oklahoma Mortgage Broker and Mortgage Loan
22 Originator Recovery Fund as provided for in Section 22 of this act
23 for each initial application and each renewal application; and

1 7. An examination fee shall be Three Hundred Dollars (\$300.00)
2 unless an additional fee is required in accordance with subsection C
3 of Section 25 of this act.

4 SECTION 8. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2095.7 of Title 59, unless there
6 is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

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

17 4. The applicant has completed the pre-licensing education
18 requirement described in Section 9 of this act;

19 5. The applicant has passed a written test that meets the test
20 requirement described in Section 10 of this act; and

21 6. The applicant has paid into the Oklahoma Mortgage Broker and
22 Mortgage Loan Originator Recovery Fund as required by paragraph 6 of
23 subsection M of Section 7 of this act.

1 SECTION 9. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2095.8 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

4 A. In order to meet the pre-licensing education requirement
5 referred to in Section 8 of this act, an individual shall complete
6 at least twenty (20) hours of education approved in accordance with
7 subsection B of this section, which shall include at least:

- 8 1. Three (3) hours of federal law and regulations;
- 9 2. Three (3) hours of ethics, which shall include instruction
10 on fraud, consumer protection and fair lending issues; and
- 11 3. Two (2) hours of training related to lending standards for
12 the nontraditional mortgage product marketplace.

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

18 C. Nothing in this section shall preclude any pre-licensing
19 education course as approved by the Nationwide Mortgage Licensing
20 System and Registry that is provided by the employer of the
21 applicant or an entity which is affiliated with the applicant by an
22 agency contract or any subsidiary or affiliate of such employer or
23 entity.

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

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

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

13 SECTION 10. NEW LAW A new section of law to be codified
14 in the Oklahoma Statutes as Section 2095.9 of Title 59, unless there
15 is created a duplication in numbering, reads as follows:

16 A. In order to meet the written test requirement referred to in
17 Section 8 of this act, an individual shall pass, in accordance with
18 standards established under this section, a qualified written test
19 developed by the Nationwide Mortgage Licensing System and Registry
20 and administered by a test provider approved by the Nationwide
21 Mortgage Licensing System and Registry based upon reasonable
22 standards.

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

5 1. Ethics;

6 2. Federal law and regulations pertaining to mortgage
7 origination;

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

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

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

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

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

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

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

10 SECTION 11. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2095.10 of Title 59, unless
12 there is created a duplication in numbering, reads as follows:

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

15 1. The mortgage loan originator continues to meet the minimum
16 standards for license issuance under Section 8 of this act;

17 2. The mortgage loan originator has satisfied the annual
18 continuing education requirements described in Section 23 of this
19 act; and

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

22 B. The license of a mortgage loan originator failing to satisfy
23 the minimum standards for license renewal shall expire. The

1 Administrator of Consumer Credit may adopt procedures in addition to
2 the requirements of Section 7 of this act for the reinstatement of
3 expired licenses consistent with the standards established by the
4 Nationwide Mortgage Licensing System and Registry.

5 SECTION 12. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2095.11 of Title 59, unless
7 there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

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

21 4. The applicant has paid into the Oklahoma Mortgage Broker and
22 Mortgage Loan Originator Recovery Fund as required by paragraph 6 of
23 subsection M of Section 7 of this act; and

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

3 B. Each mortgage broker applicant shall designate and maintain
4 a principal place of business for the transaction of business. The
5 applicant shall specify the address of the principal place of
6 business and designate a licensed mortgage loan originator to
7 oversee the operations of the principal place of business. If an
8 applicant wishes to maintain one or more locations for the
9 transaction of business in addition to a principal place of
10 business, the applicant shall first obtain a branch office license
11 from the Administrator and designate a licensed mortgage loan
12 originator for each branch office to oversee the operations of that
13 branch office. The applicant shall submit a fee as set forth in
14 paragraph 3 of subsection M of Section 7 of this act for each branch
15 office license issued. If the Administrator of Consumer Credit
16 determines that the applicant is qualified, the Administrator shall
17 issue a branch office license indicating the address of the branch
18 office. If the address of the principal place of business or of any
19 branch office is changed, the licensee shall immediately notify the
20 Administrator of the change and the Administrator shall endorse the
21 change of address on the license for a fee as prescribed in
22 paragraph 5 of subsection M of Section 7 of this act.

1 SECTION 13. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2095.12 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

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

6 1. The mortgage broker continues to meet the minimum standards
7 for license issuance under Section 12 of this act; and

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

10 B. The license of a mortgage broker failing to satisfy the
11 minimum standards for license renewal shall expire. The
12 Administrator of Consumer Credit may adopt procedures in addition to
13 the requirements of Section 7 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 2095.13 of Title 59, unless
18 there is created a duplication in numbering, reads as follows:

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

1 to participate in the Nationwide Mortgage Licensing System and
2 Registry. For this purpose, the Administrator, upon approval of the
3 Commission, may establish requirements by rule as necessary and
4 consistent with this act, including but not limited to:

- 5 1. Background checks for:
 - 6 a. criminal history through fingerprint or other
7 databases,
 - 8 b. civil or administrative records,
 - 9 c. credit history, or
 - 10 d. any other information as deemed necessary by the
11 Nationwide Mortgage Licensing System and Registry;
- 12 2. The payment of fees to apply for or renew licenses through
13 the Nationwide Mortgage Licensing System and Registry;
- 14 3. The setting or resetting as necessary of renewal or
15 reporting dates; and
- 16 4. Requirements for amending or surrendering a license or any
17 other such activities as the Administrator deems necessary for
18 participation in the Nationwide Mortgage Licensing System and
19 Registry.

20 SECTION 15. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2095.14 of Title 59, unless
22 there is created a duplication in numbering, reads as follows:

1 The Administrator of Consumer Credit shall, upon approval by the
2 Commission on Consumer Credit, establish by rule a process whereby
3 mortgage brokers and mortgage loan originators may challenge
4 information entered into the Nationwide Mortgage Licensing System
5 and Registry by the Administrator.

6 SECTION 16. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2095.15 of Title 59, unless
8 there is created a duplication in numbering, reads as follows:

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

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

20 C. If a borrower is unable to obtain or modify a loan for any
21 reason and the borrower has paid for an appraisal, title report, or
22 credit report, the mortgage broker or mortgage loan originator shall
23 give a copy of the appraisal, title report, or credit report to the

1 borrower and transmit the originals to any other mortgage broker or
2 lender to whom the borrower directs that the documents be
3 transmitted. The mortgage broker or mortgage loan originator must
4 provide the copies or transmit the documents within five (5)
5 business days after the borrower has made the request in writing.

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

14 2. A mortgage broker or mortgage loan originator may solicit or
15 receive fees for third-party provider goods or services in advance.
16 The mortgage broker or mortgage loan originator may not charge more
17 for the goods and services than the actual costs of the goods or
18 services charged by the third-party provider.

19 E. The Commission on Consumer Credit, in accordance with the
20 Administrative Procedures Act shall have the authority to adopt
21 rules not inconsistent with disclosures mandated by RESPA and HUD's
22 Regulation X and which are within, but not beyond, the statutory

1 scope and other provisions of this act to facilitate compliance with
2 the disclosure and other requirements of this act.

3 SECTION 17. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 2095.16 of Title 59, unless
5 there is created a duplication in numbering, reads as follows:

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

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

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

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

10 SECTION 18. NEW LAW A new section of law to be codified
11 in the Oklahoma Statutes as Section 2095.17 of Title 59, unless
12 there is created a duplication in numbering, reads as follows:

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

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

21 2. Deny, suspend, revoke, censure, place on probation or
22 decline to renew a license if an applicant or licensee fails at any
23 time to meet the requirements of this act or withholds information

1 or makes a material misstatement in an application for a license or
2 renewal of a license;

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

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

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

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

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

19 d. order or direct such other affirmative action as the
20 Administrator deems 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) per occurrence of a

1 violation of this act against a licensee or any other
2 entity or individual subject to this act.

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

7 SECTION 19. NEW LAW A new section of law to be codified
8 in the Oklahoma Statutes as Section 2095.18 of Title 59, unless
9 there is created a duplication in numbering, reads as follows:

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

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

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

17 3. Obtain property by fraud or misrepresentation;

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

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

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 20. 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

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

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

17 SECTION 21. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2095.20 of Title 59, unless
19 there is created a duplication in numbering, reads as follows:

20 A. There is hereby created the "Mortgage Broker and Loan
21 Originator Advisory Committee" which shall advise the Commission on
22 Consumer Credit on matters pertaining to the licensure, regulation,
23 and discipline of mortgage brokers and mortgage loan originators

1 required to be licensed under the provisions of the Oklahoma Secure
2 and Fair Enforcement for Mortgage Licensing Act. Any
3 recommendations made by the Mortgage Broker and Mortgage Loan
4 Originator Advisory Committee to the Commission on Consumer Credit
5 pertaining to the licensure, regulation and discipline of mortgage
6 brokers and mortgage loan originators may be cause for promulgation
7 of administrative rules as prescribed by subsection A of Section
8 308.2 of Title 75 of the Oklahoma Statutes, upon a vote of the
9 Commission on Consumer Credit.

10 B. 1. Except as provided in paragraph 2 of this subsection,
11 the Committee shall be comprised of either four licensed mortgage
12 brokers through July 31, 2010, or licensed mortgage loan originators
13 and one individual with experience in the title industry. Three
14 members of the Committee shall be appointed by the Governor, either
15 two licensed mortgage brokers through July 31, 2010, or licensed
16 loan originators and one individual with experience in the title
17 industry. The remaining two members of the Committee shall be
18 appointed by the Oklahoma Association of Mortgage Professionals.
19 Each member shall serve a term of three (3) years and until a
20 successor is appointed and qualified. Members may be removed for
21 misconduct, incompetency, or neglect of duty.

22 2. Members initially appointed to the Committee shall have been
23 active in the mortgage broker business in this state for at least

1 two (2) years prior to appointment and shall complete licensure
2 requirements within one (1) year of appointment. Initial members
3 shall serve staggered terms as follows: two members shall be
4 appointed for a term of one (1) year each, two members shall be
5 appointed for a term of two (2) years each, and one member shall be
6 appointed for a term of three (3) years. Thereafter, these members
7 may be appointed for three-year terms of office. All terms of
8 office shall expire on October 31.

9 C. The Committee shall elect a chair from among its membership.
10 Meetings shall be held at least quarterly. Special meetings may be
11 called by request of the Commission. A majority of the Committee
12 shall constitute a quorum for the transaction of business. Each
13 member shall receive reimbursement for travel expenses in accordance
14 with the provisions of the State Travel Reimbursement Act. The
15 Committee shall be subject to the provisions of the Oklahoma Open
16 Meeting Act and the Oklahoma Open Records Act.

17 SECTION 22. NEW LAW A new section of law to be codified
18 in the Oklahoma Statutes as Section 2095.21 of Title 59, unless
19 there is created a duplication in numbering, reads as follows:

20 A. 1. There is hereby created in the State Treasury a
21 revolving fund for the Commission on Consumer Credit to be
22 designated the "Oklahoma Mortgage Brokers and Mortgage Loan
23 Originator Recovery Fund". The fund shall consist of fees received

1 by the Administrator of Consumer Credit as required by paragraph 6
2 of subsection M of Section 7 of this act to be paid into the fund.

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

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

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

1 artifice, trickery, or by any other act which would constitute a
2 violation of the Oklahoma Secure and Fair Enforcement for Mortgage
3 Licensing Act.

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

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

11 SECTION 23. NEW LAW A new section of law to be codified
12 in the Oklahoma Statutes as Section 2095.22 of Title 59, unless
13 there is created a duplication in numbering, reads as follows:

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

- 19 1. Three (3) hours of federal law and regulations;
- 20 2. Two (2) hours of ethics, which shall include instruction on
21 fraud, consumer protection and fair lending issues; and
- 22 3. Two (2) hours of training related to lending standards for
23 the nontraditional mortgage product marketplace.

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

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

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

15 E. A licensed mortgage loan originator, except as provided in
16 subsection B of Section 11 of this act and subsection I of this
17 section:

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

20 2. May not take the same approved course in the same or
21 following year to meet the annual requirements for continuing
22 education.

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

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

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

15 I. An individual meeting the requirements of paragraphs a and c
16 of subsection A of Section 11 of this act may make up any deficiency
17 in continuing education as established by rule.

18 SECTION 24. NEW LAW A new section of law to be codified
19 in the Oklahoma Statutes as Section 2095.23 of Title 59, unless
20 there is created a duplication in numbering, reads as follows:

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

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

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

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

22 a. disclosure under any federal or state law governing
23 the disclosure to the public of information held by an

1 officer or an agency of the federal government or the
2 respective state, or
3 b. subpoena or discovery, or admission into evidence, in
4 any private civil action or administrative process,
5 unless with respect to any privilege held by the
6 Nationwide Mortgage Licensing System and Registry with
7 respect to such information or material, the entity or
8 individual to whom such information or material
9 pertains waives, in whole or in part, in the
10 discretion of such entity or individual, that
11 privilege.

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

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

1 SECTION 25. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2095.24 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

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

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

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

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

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

1 investigation and may direct, subpoena or order such individual to
2 produce books, accounts, records, files and any other documents the
3 Administrator deems relevant to the inquiry. Any examination or
4 investigation report and any information obtained during an
5 examination or investigation shall not be subject to disclosure
6 under the Oklahoma Open Records Act. However, any examination or
7 investigation report and any information obtained during an
8 examination or investigation shall be subject to disclosure pursuant
9 to a court order and may also be disclosed in an individual
10 proceeding and any order issued pursuant to this act.

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

1 shall be a late fee of Fifty Dollars (\$50.00) if the amount due is
2 not received within thirty (30) days of the invoice date.

3 D. Each licensee or entities or individuals subject to this act
4 shall make available to the Administrator, upon request, the books
5 and records relating to the operations of such licensee, entity or
6 individual subject to this act. The Administrator shall have access
7 to such books and records and interview the officers, principals,
8 mortgage loan originators, employees, independent contractors,
9 agents and customers of the licensee, entity or individual subject
10 to this act concerning their business. Books and records shall be
11 maintained for a period of time required by rule of the
12 Administrator.

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

- 17 1. Accounting compilations;
- 18 2. Information lists and data concerning loan transactions in a
19 format prescribed by the Administrator; or
- 20 3. Such other information deemed necessary to carry out the
21 purposes of this section.

22 F. In making any examination or investigation authorized by
23 this act, the Administrator may control access to any documents and

1 records of the licensee or entity or individual under examination or
2 investigation. The Administrator may take possession of the
3 documents and records or place an entity or individual in exclusive
4 charge of the documents and records in the place where they are
5 usually kept. During the period of control, no entity or individual
6 shall remove or attempt to remove any of the documents and records
7 except pursuant to a court order or with the consent of the
8 Administrator. Unless the Administrator has reasonable grounds to
9 believe the documents or records of the licensee have been, or are
10 at risk of being altered or destroyed for purposes of concealing a
11 violation of this act, the licensee or owner of the documents and
12 records shall have access to the documents or records as necessary
13 to conduct its ordinary business affairs.

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

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

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

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

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

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

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

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

20 SECTION 26. NEW LAW A new section of law to be codified
21 in the Oklahoma Statutes as Section 2095.25 of Title 59, unless
22 there is created a duplication in numbering, reads as follows:

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

5 SECTION 27. NEW LAW A new section of law to be codified
6 in the Oklahoma Statutes as Section 2095.26 of Title 59, unless
7 there is created a duplication in numbering, reads as follows:

8 Notwithstanding or subject to state privacy law, the
9 Administrator of Consumer Credit is required to regularly report
10 violations of this act as well as enforcement actions and other
11 relevant information to the Nationwide Mortgage Licensing System and
12 Registry subject to the provisions contained in Section 24 of this
13 act.

14 SECTION 28. NEW LAW A new section of law to be codified
15 in the Oklahoma Statutes as Section 2095.27 of Title 59, unless
16 there is created a duplication in numbering, reads as follows:

17 There is hereby created in the State Treasury a revolving fund
18 for the Commission on Consumer Credit to be designated the "Oklahoma
19 Mortgage Broker and Mortgage Loan Originator Revolving Fund." The
20 fund shall consist of fees and fines received, except for the fee to
21 be paid into the Oklahoma Mortgage Broker and Mortgage Loan
22 Originator Recovery Fund required by paragraph 6 of subsection M of
23 Section 7 of this act, by the Administrator of Consumer Credit

1 pursuant to the Oklahoma Secure and Fair Enforcement for Mortgage
2 Licensing Act. The revolving fund shall be a continuing fund not
3 subject to fiscal year limitations and shall be under the
4 administrative direction of the Administrator. Monies accruing to
5 the credit of this fund are hereby appropriated and may be budgeted
6 and expended by the Administrator for the administration and
7 enforcement of this act upon warrants issued by the State Treasurer
8 against claims filed as prescribed by law with the Director of State
9 Finance for approval and payment.

10 SECTION 29. REPEALER 59 O.S. 2001, Sections 2081, 2082,
11 as last amended by Section 41, Chapter 16, O.S.L. 2006, 2083, as
12 last amended by Section 2, Chapter 131, O.S.L. 2005, 2084, 2085, as
13 last amended by Section 1, Chapter 214, O.S.L. 2008, 2086, as last
14 amended by Section 1, Chapter 172, O.S.L. 2006, 2087, 2088, as last
15 amended by Section 3, Chapter 330, O.S.L. 2003, 2089, as last
16 amended by Section 4, Chapter 330, O.S.L. 2003, 2090, as last
17 amended by Section 1, Chapter 213, O.S.L. 2008, 2091, Section 8,
18 Chapter 469, O.S.L. 2002, as amended by Section 5, Chapter 330,
19 O.S.L. 2003, Section 9, Chapter 469, O.S.L. 2002, as last amended by
20 Section 2, Chapter 213, O.S.L. 2008 and Section 9, Chapter 469,
21 O.S.L. 2002, as last amended by Section 1, Chapter 215, O.S.L. 2008
22 (59 O.S. Supp. 2008, Sections 2082, 2083, 2085, 2086, 2088, 2089,
23 2090, 2092 and 2093), are hereby repealed.

1 SECTION 30. This act shall become effective July 1, 2009.

2 SECTION 31. It being immediately necessary for the preservation
3 of the public peace, health and safety, an emergency is hereby
4 declared to exist, by reason whereof this act shall take effect and
5 be in full force from and after its passage and approval.

6 COMMITTEE REPORT BY: COMMITTEE ON FINANCE, dated 2-17-09 - DO PASS,
7 As Amended and Coauthored.