

1 STATE OF OKLAHOMA

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

3 SENATE BILL 1062

By: Myers

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5
6 AS INTRODUCED

7 An Act relating to professions and occupations;
8 creating the Oklahoma Secure and Fair Enforcement for
9 Mortgage Licensing Act; providing short title;
10 stating legislative findings; stating purpose;
11 defining terms; providing certain exemptions;
12 requiring certain unique identifiers to be shown on
13 certain documents or websites; requiring licensure
14 for mortgage brokers or mortgage loan originators to
15 do certain business; requiring certain licensees to
16 register with and maintain certain identifier issued
17 by the Nationwide Mortgage Licensing System and
18 Registry; providing for effective date for certain
19 licensing; requiring licensure for certain loan
20 processors or underwriters; authorizing the
21 Administrator of Consumer Credit to promulgate
22 certain rules; authorizing the Administrator to
23 establish certain expedited procedures; providing for
24 application; authorizing the Administrator to
establish certain relationships for certain purposes;
providing requirements for application for licensing
as a mortgage loan originator and as a mortgage
broker; authorizing the Administrator to use the
Nationwide Mortgage Licensing System and Registry for
certain purposes; making certain licenses valid for
one year; authorizing Administrator to issue certain
licenses; prohibiting reapplication for license after
denial for certain time; providing for renewal of
license, fee and expiration of license; providing
requirements for licensee to be placed on inactive
status; providing requirements for an inactive
licensee to return to active status; requiring
licensee to display license in certain offices;
providing for fees; providing certain requirements
for licensure as a mortgage loan originator;
providing certain pre-licensing education

1 requirements; authorizing certain review of certain
2 education courses and course provider; prohibiting
3 the preclusion of certain pre-licensing education
4 courses; providing for where certain courses may be
5 offered; providing for certain reciprocity; requiring
6 proof of completion of certain continuing education
7 requirements by certain individuals; requiring
8 applicants to pass certain written test; providing
9 requirements for such test; authorizing certain test
10 providers to provide certain tests at certain
11 locations; providing for score to pass certain test,
12 retaking the test and failing the test a certain
13 number of times; requiring a licensed mortgage loan
14 originator to retake the test under certain
15 circumstances; setting certain minimum standards for
16 license renewal for mortgage loan originators;
17 providing for expiration of certain license under
18 certain circumstances; providing for reinstatement of
19 certain expired licenses; providing certain
20 requirements for licensure as a mortgage broker;
21 requiring mortgage broker applicants to designate and
22 maintain a principal place of business and a mortgage
23 loan originator to oversee such business; providing
24 for certain multiple locations to transact business;
providing for certain fees for branch locations;
providing for branch office licenses; providing for
certain changes of address; providing for minimum
standards for license renewal for mortgage brokers;
providing for expiration of certain license under
certain circumstances; providing for reinstatement of
certain expired licenses; requiring mortgage brokers
and mortgage loan originators to be licensed and
registered through the Nationwide Mortgage Licensing
System and Registry; authorizing Administrator to
participate in Registry; authorizing certain
requirements to be set by rule; providing for
challenges to information entered into the Registry;
requiring certain agreements with a lender; requiring
certain disclosures be given to a borrower; requiring
a mortgage broker or mortgage loan originator to
provide copies of certain documents under certain
circumstances; prohibiting a mortgage broker or
mortgage loan originator from receiving certain
compensation unless certain conditions are met;
providing for compensation for certain third-party
goods and services; authorizing Administrator to
adopt rules relating to certain disclosures;

1 requiring a mortgage broker or mortgage loan
2 originator to deposit certain monies in a trust
3 account; setting requirements for maintenance of
4 funds in such accounts; providing for withdrawals for
5 such trust accounts; providing for certain interest;
6 providing refund for monies remaining in such
7 accounts; providing for payment to third-party
8 providers; requiring certain records of the trust
9 accounts; making records subject to certain audit;
10 providing for the imposition of certain penalties
11 after certain notice and hearing; providing for
12 violations; providing certain penalties for
13 violations; creating the Mortgage Broker and Mortgage
14 Loan Originator Advisory Committee; providing for
15 duties of the Committee; making certain
16 recommendations of the Committee cause for
17 promulgation of certain administrative rules;
18 providing for membership, appointment, membership
19 requirements, term, successor, removal, officers,
20 meetings, quorum and reimbursement of Committee;
21 making Committee subject to certain acts; creating
22 the Oklahoma Mortgage Brokers and Mortgage Loan
23 Originator Recovery Fund; providing for monies,
24 appropriation, budgeting, purpose and expenditures of
fund; providing for certain reimbursements from fund;
limiting certain payments of claims; providing time
frame for certain claims; providing for continuing
education requirements for mortgage loan originators,
approved courses, employer and affiliate courses,
venue, calculation of certain credits, instructor
credit, certain reciprocity, lapse of license and
makeup of such courses; providing for certain privacy
and confidentiality protections; authorizing the
Administrator to enter into certain agreements or
sharing arrangements with certain entities; stating
what certain information or materials shall not be
subject to; requiring certain laws of this state to
be superseded by this act; making certain exceptions
for accessing certain information; authorizing the
Administrator to conduct certain investigations and
examinations of certain information; authorizing the
Administrator to investigate certain violations or
complaints; providing for certain investigative
actions; making certain reports or information not
subject to the Oklahoma Open Records Act; making
certain reports or information subject to certain
disclosure; providing for certain examination fees;

1 requiring certain books and records be made available
2 to the Administrator; requiring certain books and
3 records be maintained; requiring the compilation of
4 certain books and records; making certain documents
5 and records accessible to the Administrator;
6 authorizing the Administrator to take possession of
7 certain documents or records; prohibiting the removal
8 of certain documents or records; providing exceptions
9 to the removal; providing for access to certain
10 documents or records for business purposes; providing
11 certain powers and duties of the Administrator;
12 providing for certain authority of law; prohibiting
13 certain actions by certain licensees, entities or
14 individuals; requiring licensee to submit certain
15 reports; requiring the Administrator to make certain
16 reports; creating the Oklahoma Mortgage Broker and
17 Mortgage Loan Originator Revolving Fund; providing
18 for appropriation, budgeting and expenditure of fund;
19 providing for certain payments from fund; repealing
20 59 O.S. 2001, Sections 2081, 2082, as last amended by
21 Section 41, Chapter 16, O.S.L. 2006, 2083, as last
22 amended by Section 2, Chapter 131, O.S.L. 2005, 2084,
23 2085, as last amended by Section 1, Chapter 214,
24 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 9, Chapter 469, O.S.L. 2002, as last amended
by Section 2, Chapter 213, O.S.L. 2008 and Section 9,
Chapter 469, O.S.L. 2002, as last amended by Section
1, Chapter 215, O.S.L. 2008 (59 O.S. Supp. 2008,
Sections 2082, 2083, 2085, 2086, 2088, 2089, 2090,
2092 and 2093), which relate to the Mortgage Broker
Licensure Act; providing for codification; providing
an effective date; and declaring an emergency.

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

1 SECTION 1. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2095 of Title 59, unless there
3 is created a duplication in numbering, reads as follows:

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

6 SECTION 2. NEW LAW A new section of law to be codified
7 in the Oklahoma Statutes as Section 2095.1 of Title 59, unless there
8 is created a duplication in numbering, reads as follows:

9 The activities of mortgage brokers and mortgage loan originators
10 and the origination or offering or modification of financing for
11 residential real property have a direct, valuable and immediate
12 impact upon Oklahoma's consumers, the Oklahoma economy, the
13 neighborhoods and communities of Oklahoma and the housing and real
14 estate industry. Therefore, the Legislature finds that
15 accessibility to mortgage credit is vital to the state's citizens.
16 The Legislature also finds that it is essential for the protection
17 of the citizens of Oklahoma and the stability of the Oklahoma
18 economy that reasonable standards for licensing and regulation of
19 the business practices of mortgage brokers and mortgage loan
20 originators be imposed. The Legislature further finds that the
21 obligations of mortgage brokers and mortgage loan originators to
22 consumers in connection with originating or making or modifying
23 residential mortgage loans are such as to warrant the regulation of
24 the mortgage lending process. The purpose of this act is to protect

1 consumers seeking mortgage loans and to ensure that the mortgage
2 lending industry is operating without unfair, deceptive and
3 fraudulent practices on the part of mortgage brokers and mortgage
4 loan originators. Therefore, the Legislature establishes within
5 this act:

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

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

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

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

22 2. Broad administrative authority for the Administrator of
23 Consumer Credit to administer, interpret and enforce this act and
24

1 promulgate rules, subject to approval of the Commission on Consumer
2 Credit, in order to carry out the intentions of the Legislature.

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

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

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

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

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

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

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

22 6. "Depository Institution" has the same meaning as in Section
23 3 of the Federal Deposit Insurance Act and includes any credit
24 union;

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

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

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

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

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

18 b. For purposes of this paragraph, the term "clerical or
19 support duties" may include subsequent to the receipt
20 of an application, the receipt collection,
21 distribution and analysis of information necessary for
22 the processing or underwriting or modification of a
23 loan, to the extent that such communication does not
24 include offering or negotiating or modifying loan

1 rates or terms, or counseling consumers about
2 residential mortgage loan rates or terms.

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

12 12. a. "Mortgage broker" means an entity who for compensation
13 or gain or in the expectation of compensation or gain:
14 (1) takes a residential mortgage loan application, or
15 (2) offers, negotiates or modifies the terms of a
16 residential mortgage loan.

17 b. Mortgage broker does not include:

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

21 (2) an entity that only performs real estate
22 brokerage activities and is licensed or
23 registered in accordance with Oklahoma law,
24 unless the entity is compensated by a lender, a

1 mortgage broker, or other mortgage loan
2 originator or by any agent of such lender,
3 mortgage broker or other mortgage loan
4 originator, and

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

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

12 (1) takes a residential mortgage loan application, or
13 (2) offers or negotiates or modifies the terms of a
14 residential mortgage loan.

15 b. Mortgage loan originator does not include:

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

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

1 mortgage broker, or other mortgage loan
2 originator, and

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

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

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

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

- 16 a. acting as a real estate agent or real estate broker
17 for a buyer, seller, lessor or lessee of real
18 property,
- 19 b. bringing together parties interested in the sale,
20 purchase, lease, rental or exchange of real property,
- 21 c. negotiating, on behalf of any party, any portion of a
22 contract relating to the sale, purchase, lease, rental
23 or exchange of real property, other than in connection
24

1 with providing financing with respect to any such
2 transaction,

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

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

9 17. "Registered mortgage loan originator" means any individual

10 who:

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

13 (1) a depository institution,

14 (2) a subsidiary that:

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

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

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

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

23 18. "Residential mortgage loan" means any loan primarily for
24 personal, family or household use that is secured by a mortgage,

1 deed of trust, or other equivalent consensual security interest on a
2 dwelling as defined in section 103(v) of the Truth in Lending Act or
3 residential real estate upon which is constructed or intended to be
4 constructed such a dwelling;

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

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

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

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

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

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

23

24

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

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

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

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

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

21 A. 1. An entity or individual, unless specifically exempted
22 from the Oklahoma Secure and Fair Enforcement for Mortgage Licensing
23 Act, as provided in Section 4 of this act shall not engage in the
24 business of a mortgage broker or mortgage loan originator with

1 respect to any dwelling located in this state without first
2 obtaining and maintaining annually a license under this act. Each
3 licensed mortgage broker or mortgage loan originator must register
4 with and maintain a valid unique identifier issued by the Nationwide
5 Mortgage Licensing System and Registry.

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

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

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

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

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

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

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

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

21 1. Fingerprints for submission to the Federal Bureau of
22 Investigation and any governmental agency or entity authorized to
23 receive such information for a state, national and international
24 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
24

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

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

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

19 K. An inactive licensee may return to active status
20 notwithstanding the requirements of this section by making a request
21 in writing to the Administrator for reactivation and paying the
22 prorated portion of the annual fee that would have been charged to
23 the licensee to maintain normal active status. The licensee shall
24 also provide the Administrator with proof that the licensee meets

1 all of the other requirements for acting as a mortgage broker or
2 mortgage loan originator, including any applicable education and
3 testing requirements.

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

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

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

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

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

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

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

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

24

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

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

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

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

- 14 a. during the seven-year period preceding the date of the
15 application for licensing and registration, or
16 b. at any time preceding such date of application, if
17 such felony involved an act of fraud, dishonesty, a
18 breach of trust or money laundering,

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

21 3. The applicant has demonstrated financial responsibility,
22 character and general fitness such as to command the confidence of
23 the community and to warrant a determination that the mortgage loan
24 originator will operate honestly, fairly and efficiently within the

1 purposes of this act. For purposes of this paragraph, an individual
2 has shown that he or she is not financially responsible when he or
3 she has shown a disregard in the management of his or her own
4 financial condition. A determination that an individual has not
5 shown financial responsibility may include, but not be limited to:

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

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

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

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

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

23 A. In order to meet the pre-licensing education requirement
24 referred to in Section 8 of this act, an individual shall complete

1 at least twenty (20) hours of education approved in accordance with
2 subsection B of this section, which shall include at least:

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

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

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

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

22 E. The pre-licensing education requirements approved by the
23 Nationwide Mortgage Licensing System and Registry in paragraph 1 of
24 subsection A and subsections B and C of this section for any state

1 shall be accepted as credit towards completion of pre-licensing
2 education requirements in this state.

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

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

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

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

21 1. Ethics;

22 2. Federal law and regulations pertaining to mortgage
23 origination;

24

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

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

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

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

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

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

22 4. A licensed mortgage loan originator who fails to maintain an
23 active and valid license for a period of five (5) years or longer
24

1 shall retake the test, not taking into account any time during which
2 such individual is a registered mortgage loan originator.

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

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

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

10 2. The mortgage loan originator has satisfied the annual
11 continuing education requirements described in Section 23 of this
12 act; and

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

15 B. The license of a mortgage loan originator failing to satisfy
16 the minimum standards for license renewal shall expire. The
17 Administrator of Consumer Credit may adopt procedures in addition to
18 the requirements of Section 7 of this act for the reinstatement of
19 expired licenses consistent with the standards established by the
20 Nationwide Mortgage Licensing System and Registry.

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

24

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

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

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

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

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

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

18 3. The applicant's owners, officers, directors or partners have
19 demonstrated financial responsibility, character and general fitness
20 such as to command the confidence of the community and to warrant a
21 determination that the mortgage loan originator will operate
22 honestly, fairly and efficiently within the purposes of this act.
23 For purposes of this paragraph, an applicant's owners, officers,
24 directors or partners have shown they are not financially

1 responsible when they have shown a disregard in the management of
2 their own financial condition. A determination that an owner,
3 officer, director or partner has not shown financial responsibility
4 may include, but not be limited to:

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

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

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

17 B. Each mortgage broker applicant shall designate and maintain
18 a principal place of business for the transaction of business. The
19 applicant shall specify the address of the principal place of
20 business and designate a licensed mortgage loan originator to
21 oversee the operations of the principal place of business. If an
22 applicant wishes to maintain one or more locations for the
23 transaction of business in addition to a principal place of
24 business, the applicant shall first obtain a branch office license

1 from the Administrator and designate a licensed mortgage loan
2 originator for each branch office to oversee the operations of that
3 branch office. The applicant shall submit a fee as set forth in
4 paragraph 3 of subsection M of Section 7 of this act for each branch
5 office license issued. If the Administrator of Consumer Credit
6 determines that the applicant is qualified, the Administrator shall
7 issue a branch office license indicating the address of the branch
8 office. If the address of the principal place of business or of any
9 branch office is changed, the licensee shall immediately notify the
10 Administrator of the change and the Administrator shall endorse the
11 change of address on the license for a fee as prescribed in
12 paragraph 5 of subsection M of Section 7 of this act.

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

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

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

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

22 B. The license of a mortgage broker failing to satisfy the
23 minimum standards for license renewal shall expire. The
24 Administrator of Consumer Credit may adopt procedures in addition to

1 the requirements of Section 7 of this act for the reinstatement of
2 expired licenses consistent with the standards established by the
3 Nationwide Mortgage Licensing System and Registry.

4 SECTION 14. NEW LAW A new section of law to be codified
5 in the Oklahoma Statutes as Section 2095.13 of Title 59, unless
6 there is created a duplication in numbering, reads as follows:

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

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

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

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

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

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

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

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

21 B. Upon receipt of a loan application and before the receipt of
22 any monies from a borrower, a mortgage broker or mortgage loan
23 originator shall provide to a borrower the disclosures required by
24 the Real Estate Settlement Procedures Act, 12 U.S.C., Section 2601

1 et seq. (RESPA) and Regulation X, 24 C.F.R., Section 3500.1 et seq.,
2 as promulgated by HUD. Compliance with the disclosure requirements
3 mandated by RESPA and HUD's Regulation X constitutes compliance with
4 this act.

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

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

22 2. A mortgage broker or mortgage loan originator may solicit or
23 receive fees for third-party provider goods or services in advance.
24 The mortgage broker or mortgage loan originator may not charge more

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

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

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

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

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

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

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

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

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

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

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

24

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

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

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

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

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

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

22 d. order or direct such other affirmative action as the
23 Administrator deems necessary, or
24

1 e. impose a civil penalty of not less than One Hundred
2 Dollars (\$100.00) nor more than Two Thousand Five
3 Hundred Dollars (\$2,500.00) per occurrence of a
4 violation of this act against a licensee or any other
5 entity or individual subject to this act.

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

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

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

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

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

20 3. Obtain property by fraud or misrepresentation;

21 4. Solicit or enter into a contract with a borrower that
22 provides in substance that the entity or individual subject to this
23 act may earn a fee or commission through "best efforts" to obtain or
24

1 modify a loan even though a loan is not actually obtained or
2 modified for the borrower;

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

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

11 7. Fail to make disclosures as required by this act and any
12 other applicable state or federal law including regulations there
13 under;

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

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

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

1 Nationwide Mortgage Licensing System and Registry or in connection
2 with any investigation conducted by the Administrator of Consumer
3 Credit or another governmental agency;

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

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

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

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

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

22 A. In addition to any other penalties provided by law, any
23 entity or individual without a license as required by the Oklahoma
24 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
24 required to be licensed under the provisions of the Oklahoma Secure

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

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

21 2. Members initially appointed to the Committee shall have been
22 active in the mortgage broker business in this state for at least
23 two (2) years prior to appointment and shall complete licensure
24 requirements within one (1) year of appointment. Initial members

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

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

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

18 A. 1. There is hereby created in the State Treasury a
19 revolving fund for the Commission on Consumer Credit to be
20 designated the "Oklahoma Mortgage Brokers and Mortgage Loan
21 Originator Recovery Fund". The fund shall consist of fees received
22 by the Administrator of Consumer Credit as required by paragraph 6
23 of subsection M of Section 7 of this act to be paid into the fund.

24

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

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

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

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

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

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

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

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

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

24

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

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

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

12 E. A licensed mortgage loan originator, except as provided in
13 subsection B of Section 11 of this act and subsection I of this
14 section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 to this act concerning their business. Books and records shall be
2 maintained for a period of time required by rule of the
3 Administrator.

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

8 1. Accounting compilations;

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

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

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

1 violation of this act, the licensee or owner of the documents and
2 records shall have access to the documents or records as necessary
3 to conduct its ordinary business affairs.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

20 SECTION 29. REPEALER 59 O.S. 2001, Sections 2081, 2082,
21 as last amended by Section 41, Chapter 16, O.S.L. 2006, 2083, as
22 last amended by Section 2, Chapter 131, O.S.L. 2005, 2084, 2085, as
23 last amended by Section 1, Chapter 214, O.S.L. 2008, 2086, as last
24 amended by Section 1, Chapter 172, O.S.L. 2006, 2087, 2088, as last

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

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

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

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