

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1828

By: Armes

6
7 COMMITTEE SUBSTITUTE

8 An Act relating to professions and occupations;
9 amending 59 O.S. 2011, Sections 2095.2, 2095.4,
10 2095.5, 2095.6, 2095.7, 2095.13, 2095.14, 2095.17,
11 2095.19, 2095.21 and 2095.23, which relate to the
12 Oklahoma Secure and Fair Enforcement for Mortgage
13 Licensing Act; modifying definition; modifying
14 identifier of certain licensee; modifying license
15 requirement; modifying duration of certain license;
16 modifying certain findings for issuance of license;
17 providing for additional findings for issuance of
18 license; providing for minimum standards for license
19 renewal; authorizing Administrator of Consumer Credit
20 to adopt certain procedures; modifying penalties;
21 providing for venue of certain action; modifying
22 continuing education requirements; modifying
23 authority to conduct investigations; requiring travel
24 costs; authorizing participation in certain
examinations; providing for codification; and
providing an effective date.

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

SECTION 1. AMENDATORY 59 O.S. 2011, Section 2095.2, is
amended to read as follows:

Section 2095.2 As used in the Oklahoma Secure and Fair
Enforcement for Mortgage Licensing Act:

- 1 1. "Administrator" means the Administrator of Consumer Credit;
- 2 2. "Affiliate" means an entity which directly or indirectly,
3 through one or more intermediaries, controls, is controlled by or is
4 under common control with the entity specified;
- 5 3. "Borrower" means any individual who consults with or retains
6 a mortgage broker or mortgage loan originator in an effort to obtain
7 or seek advice or information on obtaining or applying to obtain or
8 modify a residential mortgage loan for himself, herself, or
9 individuals including himself or herself, regardless of whether the
10 individual actually obtains or modifies such a loan;
- 11 4. "Commission" means the Commission on Consumer Credit;
- 12 5. "Compensation" means anything of value or any benefit
13 including points, commissions, bonuses, referral fees and loan
14 origination fees;
- 15 6. "Depository institution" has the same meaning as in Section
16 3 of the Federal Deposit Insurance Act and includes any credit
17 union;
- 18 7. "Entity" means a corporation, company, limited liability
19 company, partnership or association;
- 20 8. "Federal banking agencies" means the Board of Governors of
21 the Federal Reserve System, the Comptroller of the currency, the
22 Director of the Office of Thrift Supervision, the National Credit
23 Union Administration and the Federal Deposit Insurance Corporation;
- 24

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

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

6 11. a. "Loan processor or underwriter" means an entity or
7 individual who performs support duties as an employee
8 at the direction of and subject to the supervision and
9 instruction of an entity or individual licensed or
10 exempt from licensing as provided in Section ~~6~~ 2095.3
11 of this ~~act~~ title.

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

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

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

6 12. a. "Mortgage broker" means an entity who for compensation
7 or gain or in the expectation of compensation or gain:
8 (1) takes a residential mortgage loan application, or
9 (2) offers, negotiates or modifies the terms of a
10 residential mortgage loan.

11 b. Mortgage broker does not include:

12 (1) an entity engaged solely as a loan processor or
13 underwriter except as otherwise provided in
14 Section § 2095.5 of this ~~act~~ title,

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

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

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

3 13. "Mortgage lender" means an entity that takes an application
4 for a residential mortgage loan, makes a residential mortgage loan
5 or services a residential mortgage loan and is an approved or
6 authorized:

7 a. mortgagee with direct endorsement underwriting
8 authority granted by the United States Department of
9 Housing and Urban Development,

10 b. seller or servicer of the Federal National Mortgage
11 Association or the Federal Home Loan Mortgage
12 Corporation, or

13 c. issuer for the Government National Mortgage
14 Association;

15 14. a. "Mortgage loan originator" means an individual who for
16 compensation or gain or in the expectation of
17 compensation or gain:

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

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

21 b. Mortgage loan originator does not include:

22 (1) an individual engaged solely as a loan processor
23 or underwriter except as otherwise provided in
24 Section § 2095.5 of this ~~act~~ title,

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

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

12 ~~14.~~ 15. "Nationwide Mortgage Licensing System and Registry"

13 means a mortgage licensing system developed and maintained by the
14 Conference of State Bank Supervisors and the American Association of
15 Residential Mortgage Regulators for the licensing and registration
16 of licensed mortgage brokers and mortgage loan originators;

17 ~~15.~~ 16. "Nontraditional mortgage product" means any mortgage

18 product other than a thirty-year fixed rate mortgage;

19 ~~16.~~ 17. "Real estate brokerage activity" means any activity

20 that involves offering or providing real estate brokerage services
21 to the public, including:

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

- 1 b. bringing together parties interested in the sale,
2 purchase, lease, rental or exchange of real property,
3 c. negotiating, on behalf of any party, any portion of a
4 contract relating to the sale, purchase, lease, rental
5 or exchange of real property, other than in connection
6 with providing financing with respect to any such
7 transaction,
8 d. engaging in any activity for which an entity engaged
9 in the activity is required to be registered or
10 licensed as a real estate agent or real estate broker
11 under any applicable law, and
12 e. offering to engage in any activity or act in any
13 capacity, described in this paragraph;

14 ~~17.~~ 18. "Registered mortgage loan originator" means any
15 individual who:

- 16 a. meets the definition of mortgage loan originator and
17 is an employee of:
18 (1) a depository institution,
19 (2) a subsidiary that:
20 (a) is owned and controlled by a depository
21 institution, and
22 (b) is regulated by a federal banking agency, or
23 (3) an institution regulated by the Farm Credit
24 Administration, and

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

4 ~~18.~~ 19. "Residential mortgage loan" means any loan primarily
5 for personal, family or household use that is secured by a mortgage,
6 deed of trust, or other equivalent consensual security interest on a
7 dwelling as defined in Section 103(v) of the Truth in Lending Act or
8 residential real estate upon which is constructed or intended to be
9 constructed such a dwelling;

10 ~~19.~~ 20. "Residential real estate" means any real property
11 located in this state upon which is constructed or intended to be
12 constructed a dwelling as defined in paragraph ~~18~~ 19 of this
13 section; and

14 ~~20.~~ 21. "Unique identifier" means a number or other identifier
15 assigned by protocols established by the Nationwide Mortgage
16 Licensing System and Registry.

17 SECTION 2. AMENDATORY 59 O.S. 2011, Section 2095.4, is
18 amended to read as follows:

19 Section 2095.4 The unique identifier of any licensed mortgage
20 broker, mortgage lender or licensed mortgage loan originator shall
21 be clearly shown on all residential mortgage loan application forms,
22 solicitations or advertisements, including business cards or
23 websites, and any other documents as established by rule.

1 SECTION 3. AMENDATORY 59 O.S. 2011, Section 2095.5, is
2 amended to read as follows:

3 Section 2095.5 A. 1. An entity or individual, unless
4 specifically exempted from the Oklahoma Secure and Fair Enforcement
5 for Mortgage Licensing Act, as provided in Section 2095.3 of this
6 title, shall not engage in the business of a mortgage broker,
7 mortgage lender or mortgage loan originator with respect to any
8 dwelling located in this state without first obtaining and
9 maintaining annually a license under the Oklahoma Secure and Fair
10 Enforcement for Mortgage Licensing Act. Each licensed mortgage
11 broker, mortgage lender and mortgage loan originator must register
12 with and maintain a valid unique identifier issued by the Nationwide
13 Mortgage Licensing System and Registry.

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

22 B. A loan processor or underwriter who is an independent
23 contractor may not engage in the activities of a loan processor or
24 underwriter unless such independent contractor loan processor or

1 underwriter obtains and maintains a license as required by the
2 Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act.
3 Each independent contractor loan processor or underwriter licensed
4 as a mortgage broker or mortgage loan originator must have and
5 maintain a valid unique identifier issued by the Nationwide Mortgage
6 Licensing System and Registry.

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

14 SECTION 4. AMENDATORY 59 O.S. 2011, Section 2095.6, is
15 amended to read as follows:

16 Section 2095.6 A. Applicants for a license shall apply on a
17 form as prescribed by the Administrator of Consumer Credit.

18 B. In order to fulfill the purposes of the Oklahoma Secure and
19 Fair Enforcement for Mortgage Licensing Act, the Administrator is
20 authorized to establish relationships or contracts with the
21 Nationwide Mortgage Licensing System and Registry or other entities
22 designated by the Nationwide Mortgage Licensing System and Registry
23 to collect and maintain records and process transaction fees or
24 other fees related to licensees or other entities or individuals

1 subject to the Oklahoma Secure and Fair Enforcement for Mortgage
2 Licensing Act.

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

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

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

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

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

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

24

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

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

- 8 a. an independent credit report obtained from a consumer
9 reporting agency described in 15 U.S.C., Section
10 1681a(p), and
11 b. information related to any administrative, civil or
12 criminal findings by any governmental jurisdiction.

13 E. For purposes of this section and ~~7~~ in order to reduce points
14 of contact which the Federal Bureau of Investigation may have to
15 maintain for purposes of paragraph 1 and subparagraph b of paragraph
16 2 of subsection D of this section, the Administrator may use the
17 Nationwide Mortgage Licensing System and Registry as a channeling
18 agent for requesting information from and distributing information
19 to the Department of Justice or any governmental agency.

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

1 and distributing information to and from any source so directed by
2 the Administrator.

3 G. A license issued under the Oklahoma Secure and Fair
4 Enforcement for Mortgage Licensing Act shall be valid for a period
5 of one (1) year, unless otherwise revoked or suspended by the
6 Administrator as provided in the Oklahoma Secure and Fair
7 Enforcement for Mortgage Licensing Act.

8 H. The Administrator, on determining that the applicant is
9 qualified and upon payment of the fees by the applicant, shall issue
10 a license to the applicant. An applicant who has been denied a
11 license may not reapply for the license for sixty (60) days from the
12 date of the previous application. A new license issued on or after
13 November 1 shall be effective through December 31 of the following
14 calendar year.

15 I. A licensee shall pay the renewal fee on or before December
16 1. If the license is not renewed by December 1, the licensee shall
17 pay a late renewal fee ~~that is double the amount of the license as~~
18 prescribed by rule of the Commission on Consumer Credit. Licenses
19 not renewed by December 31 shall expire and the licensee shall not
20 act as a mortgage broker, mortgage lender or mortgage loan
21 originator until a new license is issued pursuant to the Oklahoma
22 Secure and Fair Enforcement for Mortgage Licensing Act. A license
23 shall not be granted to the holder of an expired license except as
24

1 provided in the Oklahoma Secure and Fair Enforcement for Mortgage
2 Licensing Act for the issuance of an original license.

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

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

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

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

3 M. 1. Initial and renewal license fees shall be as prescribed
4 by rule of the Commission on Consumer Credit;

5 2. A late renewal fee shall be as prescribed by rule of the
6 Commission on Consumer Credit;

7 3. Branch office fees shall be as prescribed by rule of the
8 Commission on Consumer Credit for each year;

9 4. Inactive status fees shall be as prescribed by rule of the
10 Commission on Consumer Credit for each year;

11 5. A fee as prescribed by rule of the Commission on Consumer
12 Credit shall be charged for each license change, duplicate license
13 or returned check;

14 6. A fee as prescribed by rule of the Commission on Consumer
15 Credit shall be paid by applicants and licensees into the Oklahoma
16 Mortgage Broker and Mortgage Loan Originator Recovery Fund as
17 provided for in Section 2095.20 of this title for each initial
18 application and each renewal application;

19 7. An examination fee shall be as prescribed by rule of the
20 Commission on Consumer Credit; and

21 8. An application fee shall be as prescribed by rule of the
22 Commission on Consumer Credit.

23 SECTION 5. AMENDATORY 59 O.S. 2011, Section 2095.7, is
24 amended to read as follows:

1 Section 2095.7 The Administrator of Consumer Credit shall not
2 issue a mortgage loan originator license unless the Administrator
3 makes at a minimum the following findings:

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

8 2. The applicant has not been convicted of, or pled guilty or
9 nolo contendere to a felony in a domestic, foreign or military
10 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 has demonstrated financial responsibility,
19 character and general fitness such as to command the confidence of
20 the community and to warrant a determination that the mortgage loan
21 originator will operate honestly, fairly and efficiently within the
22 purposes of the Oklahoma Secure and Fair Enforcement for Mortgage
23 Licensing Act. For purposes of this paragraph, an individual has
24 shown that he or she is not financially responsible when he or she

1 has shown a disregard in the management of his or her own financial
2 condition. A determination that an individual has not shown
3 financial responsibility may include, but not be limited to:

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

11 4. The applicant has completed the prelicensing education
12 requirement described in Section 2095.8 of this title;

13 5. The applicant has passed a written test that meets the test
14 requirement described in Section 2095.9 of this title;

15 6. The applicant has paid into the Oklahoma Mortgage Broker and
16 Mortgage Loan Originator Recovery Fund as required by paragraph 6 of
17 subsection M of Section 2095.6 of this title; and

18 7. The applicant is sponsored by a licensed mortgage broker or
19 mortgage lender. The Administrator of Consumer Credit may authorize
20 an entity exempt from the requirements of this act to sponsor an
21 applicant that is an independent contractor of the exempt entity.

22 The Administrator of Consumer Credit may promulgate administrative
23 rules, subject to approval of the Commission on Consumer Credit, to
24 implement sponsorship procedures and requirements.

1 SECTION 6. NEW LAW A new section of law to be codified
2 in the Oklahoma Statutes as Section 2095.11.1 of Title 59, unless
3 there is created a duplication in numbering, reads as follows:

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

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

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

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

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

22 3. The applicant and the applicant's owners, officers,
23 directors or partners have demonstrated financial responsibility,
24 character and general fitness such as to command the confidence of

1 the community and to warrant a determination that the mortgage
2 lender will operate honestly, fairly and efficiently within the
3 purposes of this act. For purposes of this paragraph, an
4 applicant's owners, officers, directors or partners have shown they
5 are not financially responsible when they have shown a disregard in
6 the management of their own financial condition. A determination
7 that an owner, officer, director or partner has not shown financial
8 responsibility may include, but not be limited to:

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

16 4. The applicant has filed a bond in the amount of One Hundred
17 Thousand Dollars (\$100,000.00) securing the applicant's or
18 licensee's faithful performance of all duties and obligations of a
19 licensee. The bond shall meet the following requirements:

- 20 a. the bond shall be in a form acceptable to the
21 Administrator,
- 22 b. the bond shall be issued by an insurance company
23 authorized to conduct business in the State of
24 Oklahoma,

- 1 c. the bond shall be payable to the Oklahoma Department
2 of Consumer Credit,
- 3 d. the bond is continuous in nature and shall be
4 maintained at all times as a condition of licensure,
- 5 e. the bond may not be terminated without thirty (30)
6 days prior written notice to the Administrator and
7 approval of the Administrator,
- 8 f. the bond shall be available for the recovery of
9 expenses, civil penalties and fees assessed pursuant
10 to the Oklahoma Secure and Fair Enforcement for
11 Mortgage Licensing Act and for losses or damages which
12 are determined by the Administrator to have been
13 incurred by any borrower or consumer as a result of
14 the applicant's or licensee's failure to comply with
15 the requirements of the Oklahoma Secure and Fair
16 Enforcement for Mortgage Licensing Act,
- 17 g. when an action is commenced on a licensee's bond, the
18 Administrator may require the filing of a new bond,
19 and
- 20 h. whenever the principal sum of the bond is reduced by
21 one or more recoveries or payments thereon, the
22 licensee shall furnish a new or additional bond so
23 that the total or aggregate principal sum of such bond
24 or such bonds shall equal One Hundred Thousand Dollars

1 (\$100,000.00) or shall furnish an endorsement duly
2 executed by the corporate surety reinstating the bond
3 to the required principal sum;

4 5. The applicant has a net worth of at least Twenty-five
5 Thousand Dollars (\$25,000.00) as reflected by an audited financial
6 statement prepared by a certified public accountant in accordance
7 with generally accepted accounting principles that is accompanied by
8 an opinion acceptable to the Administrator and is dated within
9 fifteen (15) months of the date of application;

10 6. The applicant has paid all required fees for issuance of the
11 license. The license fees for a mortgage lender shall be in the same
12 amount as license fees applicable to a mortgage broker;

13 7. Each mortgage lender applicant shall designate and maintain
14 a principal place of business for the transaction of business. If
15 the mortgage lender applicant engages in activity that satisfies the
16 definition of a mortgage broker, the mortgage lender shall designate
17 a licensed mortgage loan originator to oversee the mortgage loan
18 origination operations of the principal place of business and any
19 branch office location where the mortgage lender applicant engages
20 in activity that satisfies the definition of a mortgage broker. If
21 an applicant wishes to maintain one or more locations for the
22 transaction of business in addition to a principal place of
23 business, the applicant shall first obtain a branch office license
24 from the Administrator. The applicant shall submit a fee as set

1 | forth in paragraph 3 of subsection M of Section 2095.6 of Title 59
2 | of the Oklahoma Statutes for each branch office license issued. If
3 | the Administrator of Consumer Credit determines that the applicant
4 | is qualified, the Administrator shall issue a branch office license
5 | indicating the address of the branch office. If the address of the
6 | principal place of business or of any branch office is changed, the
7 | licensee shall immediately notify the Administrator of the change
8 | and the Administrator shall endorse the change of address on the
9 | license for a fee as prescribed in paragraph 5 of subsection M of
10 | Section 2095.6 of Title 59 of the Oklahoma Statutes; and

11 | 8. A separate mortgage broker license is not required for a
12 | mortgage lender that engages in activity that satisfies the
13 | definition of a mortgage broker as provided in the Oklahoma Secure
14 | and Fair Enforcement for Mortgage Licensing Act. A mortgage lender
15 | that engages in activity that satisfies the definition of a mortgage
16 | broker shall comply with all requirements of the Oklahoma Secure and
17 | Fair Enforcement for Mortgage Licensing Act regarding mortgage
18 | brokers.

19 | SECTION 7. NEW LAW A new section of law to be codified
20 | in the Oklahoma Statutes as Section 2095.12.1 of Title 59, unless
21 | there is created a duplication in numbering, reads as follows:

22 | A. The minimum standards for license renewal for mortgage
23 | lenders shall include the following:

24 |

1 1. The mortgage lender continues to meet the minimum standards
2 for license issuance under this act; and

3 2. The mortgage lender has paid all required fees for renewal
4 of the license.

5 B. The license of a mortgage lender failing to satisfy the
6 minimum standards for license renewal shall expire. The
7 Administrator of Consumer Credit may adopt procedures for the
8 reinstatement of expired licenses consistent with the standards
9 established by the Nationwide Mortgage Licensing System and
10 Registry.

11 SECTION 8. AMENDATORY 59 O.S. 2011, Section 2095.13, is
12 amended to read as follows:

13 Section 2095.13 In addition to any other duties imposed upon
14 the Administrator of Consumer Credit by law, the Administrator shall
15 require mortgage brokers, mortgage lenders and mortgage loan
16 originators to be licensed and registered through the Nationwide
17 Mortgage Licensing System and Registry. In order to carry out this
18 requirement, the Administrator is authorized to participate in the
19 Nationwide Mortgage Licensing System and Registry. For this
20 purpose, the Administrator, upon approval of the Commission, may
21 establish requirements by rule as necessary and consistent with this
22 act, including but not limited to:

23 1. Background checks for:
24

- a. criminal history through fingerprint or other databases,
- b. civil or administrative records,
- c. credit history, or
- d. any other information as deemed necessary by the Nationwide Mortgage Licensing System and Registry;

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

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

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

SECTION 9. AMENDATORY 59 O.S. 2011, Section 2095.14, is amended to read as follows:

Section 2095.14 The Administrator of Consumer Credit shall, upon approval by the Commission on Consumer Credit, establish by rule a process whereby mortgage brokers, mortgage lenders and mortgage loan originators may challenge information entered into the Nationwide Mortgage Licensing System and Registry by the Administrator.

SECTION 10. AMENDATORY 59 O.S. 2011, Section 2095.17, is amended to read as follows:

1 Section 2095.17 A. In order to ensure the effective
2 supervision and enforcement of the Oklahoma Secure and Fair
3 Enforcement for Mortgage Licensing Act, the Administrator of
4 Consumer Credit may, after notice and hearing pursuant to Article II
5 of the Administrative Procedures Act, impose any or any combination
6 of the following penalties:

7 1. Deny, suspend, revoke, censure, place on probation or
8 decline to renew a license for a violation of the Oklahoma Secure
9 and Fair Enforcement for Mortgage Licensing Act, any rules
10 promulgated pursuant to the Oklahoma Secure and Fair Enforcement for
11 Mortgage Licensing Act and any order of the Administrator or an
12 independent hearing examiner issued pursuant to the Oklahoma Secure
13 and Fair Enforcement for Mortgage Licensing Act;

14 2. Deny, suspend, revoke, censure, place on probation or
15 decline to renew a license if an applicant or licensee fails at any
16 time to meet the requirements of the Oklahoma Secure and Fair
17 Enforcement for Mortgage Licensing Act or withholds information or
18 makes a material misstatement in an application for a license or
19 renewal of a license;

20 3. Order restitution against entities or individuals subject to
21 the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act
22 for violations of the Oklahoma Secure and Fair Enforcement for
23 Mortgage Licensing Act; or
24

1 4. Issue orders or directives under the Oklahoma Secure and
2 Fair Enforcement for Mortgage Licensing Act as follows:

3 a. order or direct entities or individuals subject to the
4 Oklahoma Secure and Fair Enforcement for Mortgage
5 Licensing Act to cease and desist from conducting
6 business, including immediate temporary orders to
7 cease and desist,

8 b. order or direct entities or individuals subject to the
9 Oklahoma Secure and Fair Enforcement for Mortgage
10 Licensing Act to cease any harmful activities or
11 violations of the Oklahoma Secure and Fair Enforcement
12 for Mortgage Licensing Act, including immediate
13 temporary orders to cease and desist,

14 c. enter immediate temporary orders to cease business
15 under a license issued pursuant to the authority of
16 the Oklahoma Secure and Fair Enforcement for Mortgage
17 Licensing Act if the Administrator or an independent
18 hearing examiner determines that such license was
19 erroneously granted or the licensee is currently in
20 violation of the Oklahoma Secure and Fair Enforcement
21 for Mortgage Licensing Act,

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

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) for each violation of the
4 Oklahoma Secure and Fair Enforcement for Mortgage
5 Licensing Act against a licensee or any other entity
6 or individual subject to the Oklahoma Secure and Fair
7 Enforcement for Mortgage Licensing Act, not to exceed
8 Five Thousand Dollars (\$5,000.00) for all violations
9 resulting from a single incident or transaction.

10 B. Any immediate temporary order to cease and desist issued
11 pursuant to the Oklahoma Secure and Fair Enforcement for Mortgage
12 Licensing Act shall comply with the requirements for emergency
13 orders under Article II of the Administrative Procedures Act.

14 C. Any administrative order or settlement agreement imposing a
15 civil penalty pursuant to this section may be enforced in the same
16 manner as civil judgments in this state. The Administrator may file
17 an application to enforce an administrative order or settlement
18 agreement ~~imposing a civil penalty~~ in the district court of Oklahoma
19 County.

20 D. The Administrator shall appoint an independent hearing
21 examiner to conduct all administrative hearings involving alleged
22 violations of the Oklahoma Secure and Fair Enforcement for Mortgage
23 Licensing Act. The independent hearing examiner shall have
24 authority to exercise all powers granted by Article II of the

1 Administrative Procedures Act in conducting hearings. The
2 independent hearing examiner shall have authority to recommend
3 penalties authorized by the Oklahoma Secure and Fair Enforcement for
4 Mortgage Licensing Act and issue proposed orders, with proposed
5 findings of fact and proposed conclusions of law, to the
6 Administrator pursuant to Article II of the Administrative
7 Procedures Act. The Administrator shall review the proposed order
8 and issue a final agency order in accordance with Article II of the
9 Administrative Procedures Act. ~~A Any person aggrieved by a final~~
10 ~~agency order issued by of the Administrator shall be appealable by~~
11 ~~all parties to an Oklahoma district court as provided in Article II~~
12 ~~of the may obtain judicial review in accordance with the Oklahoma~~
13 ~~Administrative Procedures Act. The venue of any such action shall~~
14 ~~be in the district court of Oklahoma County.~~ The costs of the
15 hearing examiner may be assessed ~~by the hearing examiner~~ against the
16 respondent, unless the respondent is the prevailing party.

17 SECTION 11. AMENDATORY 59 O.S. 2011, Section 2095.19, is
18 amended to read as follows:

19 Section 2095.19 A. In addition to any other penalties provided
20 by law, any entity or individual without a license as required by
21 the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act
22 who engages in the business of a mortgage broker, mortgage lender or
23 mortgage loan originator or who willingly and knowingly violates any
24 provision of the Oklahoma Secure and Fair Enforcement for Mortgage

1 Licensing Act, upon conviction, shall be guilty of a misdemeanor
2 which shall be punishable by a fine of not more than One Thousand
3 Dollars (\$1,000.00) for each violation. Each violation shall be a
4 separate offense under this section.

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

14 SECTION 12. AMENDATORY 59 O.S. 2011, Section 2095.21, is
15 amended to read as follows:

16 Section 2095.21 A. In order to meet the annual continuing
17 education requirements as provided in subsection A of Section ~~13~~
18 2095.10 of this ~~act~~ title, a licensed mortgage loan originator shall
19 complete at least eight (8) hours of education approved as provided
20 in subsection B of this section, which shall include at least:

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

24

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

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

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

14 D. Continuing education may be offered either in a classroom,
15 online or by any other means approved by the Nationwide Mortgage
16 Licensing System and Registry. A licensed mortgage loan originator
17 shall complete annual continuing education requirements in a
18 classroom setting at least every two (2) years.

19 E. A licensed mortgage loan originator, except as provided in
20 subsection B of Section ~~13~~ 2095.10 of this ~~act~~ title and subsection
21 I of this section:

22 1. May only receive credit for a continuing education course in
23 the year in which the course is taken; and
24

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

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

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

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

18 I. An individual meeting the requirements of paragraphs 1 and 2
19 of subsection A of Section ~~13~~ 2095.10 of this ~~act~~ title may make up
20 any deficiency in continuing education as established by rule.

21 SECTION 13. AMENDATORY 59 O.S. 2011, Section 2095.23, is
22 amended to read as follows:

23 Section 2095.23 A. In addition to any authority allowed under
24 the Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act,

1 the Administrator of Consumer Credit shall have the authority to
2 conduct investigations and examinations of the following:

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

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

8 3. The financial condition and internal management policies and
9 procedures of any entity licensed or required to be licensed as a
10 mortgage lender for purposes of determining that the entity is
11 operating honestly, fairly and efficiently within the purposes of
12 this act; and

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

17 B. For the purposes of investigating violations or complaints
18 arising under the Oklahoma Secure and Fair Enforcement for Mortgage
19 Licensing Act or for the purposes of examination, the Administrator
20 may review, investigate or examine any licensee or entity or
21 individual subject to the Oklahoma Secure and Fair Enforcement for
22 Mortgage Licensing Act, as often as necessary in order to carry out
23 the purposes of the Oklahoma Secure and Fair Enforcement for
24 Mortgage Licensing Act. The Administrator may direct, subpoena or

1 order the attendance of and examine under oath all individuals whose
2 testimony may be required about the loans or the business or subject
3 matter of any such examination or investigation and may direct,
4 subpoena or order such individual to produce books, accounts,
5 records, files and any other documents the Administrator deems
6 relevant to the inquiry. Any examination or investigation report
7 and any information obtained during an examination or investigation
8 shall not be subject to disclosure under the Oklahoma Open Records
9 Act. However, any examination or investigation report and any
10 information obtained during an examination or investigation shall be
11 subject to disclosure pursuant to a court order and may also be
12 disclosed in an individual proceeding and any order issued pursuant
13 to the Oklahoma Secure and Fair Enforcement for Mortgage Licensing
14 Act.

15 C. The Administrator may require payment of an examination fee
16 either at the time of initial application, renewal of the license or
17 after an examination has been conducted. The examination fee shall
18 be prescribed by rule of the Commission on Consumer Credit. The
19 Administrator shall require a licensee or an entity or individual
20 subject to the requirements of this act to pay travel costs for
21 conducting examinations or investigations outside of the State of
22 Oklahoma.

23 D. Each licensee or entities or individuals subject to the
24 Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act

1 shall make available to the Administrator, upon request, any books
2 and records relating to the requirements of the Oklahoma Secure and
3 Fair Enforcement for Mortgage Licensing Act. The Administrator
4 shall have access to such books and records and interview the
5 officers, principals, mortgage loan originators, employees,
6 independent contractors, agents and customers of the licensee,
7 entity or individual subject to the Oklahoma Secure and Fair
8 Enforcement for Mortgage Licensing Act concerning the requirements
9 of the Oklahoma Secure and Fair Enforcement for Mortgage Licensing
10 Act. Books and records shall be maintained for a period of time
11 required by rule of the Administrator.

12 E. Each licensee or entity or individual subject to the
13 Oklahoma Secure and Fair Enforcement for Mortgage Licensing 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 the
23 Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act, the
24 Administrator may control access to any documents and records of the

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

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

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

20 2. Enter into agreements or relationships with other government
21 officials or regulatory associations in order to improve
22 efficiencies and reduce regulatory burden by sharing resources,
23 standardized or uniform methods or procedures and documents,
24 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 the Oklahoma Secure
4 and Fair Enforcement for Mortgage Licensing Act;

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

7 5. Accept audit reports made by an independent certified public
8 accountant for the licensee or entity or individual subject to the
9 Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act in
10 the course of that part of the examination covering the same general
11 subject matter as the audit and may incorporate the audit report in
12 the report of the examination, report of investigation or other
13 writing of the Administrator; or

14 6. Participate in multistate mortgage examinations as scheduled
15 by the Multi-State Mortgage Committee established by the Conference
16 of State Bank Supervisors and the American Association of
17 Residential Mortgage Regulators.

18 H. The authority of this section shall remain in effect,
19 whether such a licensee or entity or individual subject to the
20 Oklahoma Secure and Fair Enforcement for Mortgage Licensing Act acts
21 or claims to act under any licensing or registration law of this
22 state or claims to act without such authority.

23 I. No licensee or entity or individual subject to investigation
24 or examination under this section may knowingly withhold, abstract,

1 remove, mutilate, destroy or secrete any books, records, computer
2 records or other information.

3 SECTION 14. This act shall become effective November 1, 2013.

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