

# State of Wisconsin



2013 Senate Bill 534

Date of enactment: April 23, 2014  
Date of publication\*: April 24, 2014

## 2013 WISCONSIN ACT 360

**AN ACT** *to repeal* 224.71 (3) (b) (intro.) and 7., 224.71 (6) (b) (intro.) and 4., 224.72 (4n), 224.725 (2) (d), 224.726 (intro.), (1) (intro.), (2) and (3), 224.73 (4) (title) and (a) and 224.83; *to renumber* 224.71 (3) (b) 8., 224.71 (3) (b) 9., 224.71 (3) (b) 10., 224.71 (3) (b) 11., 224.71 (3) (b) 12., 224.71 (6) (b) 2., 224.71 (6) (b) 3., 224.72 (2m) and 224.726 (1) (a) and (b); *to renumber and amend* 224.71 (3) (a) (intro.), 1., 2. and 3., 224.71 (6) (a) (intro.), 1. and 2., 224.71 (6) (b) 1., 224.726 (4) and 224.73 (4) (b); *to amend* 224.71 (1c), 224.71 (1f), 224.71 (1h), 224.71 (2) (intro.), 224.71 (7), 224.71 (13) (c), 224.72 (1m), 224.72 (2) (c) 2., 224.72 (4) (a) 2., 224.725 (1), 224.725 (3) (b), 224.725 (4) (a), 224.73 (title), 224.73 (1), 224.73 (2), 224.73 (3), 224.74 (title), 224.74 (1) (title), 224.74 (1) (a), 224.74 (1) (b), 224.75 (2), 224.755 (4) (d), 224.755 (4) (e), 224.77 (title), 224.77 (1) (intro.), 224.77 (1) (f), 224.77 (1) (fg), 224.77 (1) (g), 224.77 (1) (gd), 224.77 (1) (gh), 224.77 (2m) (a) 1. (intro.), a. and b. and 943.80 (2); *to repeal and recreate* 224.71 (4); and *to create* 224.71 (1br), 224.71 (1g), 224.71 (1gh), 224.71 (1r), 224.71 (13c), 224.71 (13g) (intro.), 224.71 (13m), 224.72 (1r) (intro.), (c), (e) and (f), 224.72 (2m) (b) and (c), 224.722, 224.725 (1m) (intro.), (a), (b), (f) and (g) 1., 2. and 3., 224.73 (5), 224.74 (1) (bm) and 224.77 (1) (sm) and (sq) of the statutes; **relating to:** the regulation of mortgage loan originators, mortgage brokers, and mortgage bankers.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

**SECTION 1.** 224.71 (1br) of the statutes is created to read:

224.71 (1br) “Bona fide nonprofit organization” means an organization that is described in section 501 (c) (3) of the Internal Revenue Code and exempt from federal income tax under section 501 (a) of the Internal Revenue Code, that is certified by the federal department of housing and urban development or the Wisconsin Housing and Economic Development Authority, and that does all of the following:

(a) Promotes affordable housing or provides home ownership education or similar services.

(b) Conducts its activities in a manner that serves public or charitable purposes.

(c) Receives funding and revenue and charges fees in a manner that does not create an incentive for itself or its employees to act other than in the best interests of its clients.

(d) Compensates its employees in a manner that does not create an incentive for its employees to act other than in the best interests of its clients.

(e) Provides to, or identifies for, the borrower residential mortgage loans with terms favorable to the borrower and comparable to residential mortgage loans and housing assistance provided under government housing assistance programs.

**SECTION 2.** 224.71 (1c) of the statutes is amended to read:

224.71 (1c) “Branch office” means an office or place of business, other than the principal office, located in this state or another state, where a mortgage loan originator,

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication.”

mortgage banker, or mortgage broker ~~conducts business with residents of this state~~ engages in the mortgage loan business subject to this subchapter.

**SECTION 3.** 224.71 (1f) of the statutes is amended to read:

224.71 (1f) “Dwelling” has the meaning given in [15 USC 1602 \(v\) \(w\)](#).

**SECTION 4.** 224.71 (1g) of the statutes is created to read:

224.71 (1g) “Employee” means an individual whose manner and means of performance of work are subject to the right of control of, or are controlled by, a person, and whose compensation for federal income tax purposes is reported, or required to be reported, on a W-2 form issued by the controlling person.

**SECTION 5.** 224.71 (1gh) of the statutes is created to read:

224.71 (1gh) (a) Except as provided in par. (b), “expungement” means to have stricken or obliterated from a record of criminal conviction all references to the defendant’s name and identity.

(b) For a criminal conviction entered in another state, “expungement” has the meaning given under the laws of the state where the criminal conviction is entered.

**SECTION 6.** 224.71 (1h) of the statutes is amended to read:

224.71 (1h) “Federal banking agency” means the board of governors of the federal reserve system, the U.S. office of the comptroller of the currency, ~~the U.S. office of thrift supervision,~~ the national credit union administration, or the federal deposit insurance corporation.

**SECTION 7.** 224.71 (1r) of the statutes is created to read:

224.71 (1r) “Housing finance agency” means any authority that is all of the following:

(a) Chartered by a state to help meet the affordable housing needs of the residents of the state.

(b) Supervised directly or indirectly by the state government.

(c) Subject to audit and review by the state in which it operates.

**SECTION 8.** 224.71 (2) (intro.) of the statutes is amended to read:

224.71 (2) (intro.) “Loan processor or underwriter” means an individual who, as an employee, performs clerical or support duties at the direction of and subject to the supervision and instruction of a mortgage loan originator licensed under s. 224.725 or exempt from licensing under s. ~~224.726 (4)~~ [224.725 \(1m\)](#), which clerical or support duties may include any of the following occurring subsequent to the receipt of a residential mortgage loan application:

**SECTION 9.** 224.71 (3) (a) (intro.), 1., 2. and 3. of the statutes are renumbered 224.71 (3) (intro.), (c), (d) and (e), and 224.71 (3) (intro.), as renumbered, is amended to read:

224.71 (3) (intro.) “Mortgage banker” means a person who is ~~not excluded by par. (b) and~~ who does any of the following:

**SECTION 10.** 224.71 (3) (b) (intro.) and 7. of the statutes are repealed.

**SECTION 11.** 224.71 (3) (b) 8. of the statutes is renumbered 224.72 (1r) (a).

**SECTION 12.** 224.71 (3) (b) 9. of the statutes is renumbered 224.72 (1r) (b).

**SECTION 13.** 224.71 (3) (b) 10. of the statutes is renumbered 224.72 (1r) (d).

**SECTION 14.** 224.71 (3) (b) 11. of the statutes is renumbered 224.72 (1r) (g).

**SECTION 15.** 224.71 (3) (b) 12. of the statutes is renumbered 224.72 (1r) (h).

**SECTION 16.** 224.71 (4) of the statutes is repealed and recreated to read:

224.71 (4) “Mortgage broker” means a person who, for compensation or gain or in the expectation of compensation or gain, does any of the following but does not make an underwriting decision or close a residential mortgage loan:

(a) Assists a person in obtaining or applying to obtain a residential mortgage loan.

(b) Holds himself, herself, or itself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan.

(c) Engages in table funding.

**SECTION 17.** 224.71 (6) (a) (intro.), 1. and 2. of the statutes are renumbered 224.71 (6) (intro.), (c) and (d), and 224.71 (6) (intro.), as renumbered, is amended to read:

224.71 (6) (intro.) “Mortgage loan originator” means an individual ~~who is not excluded by par. (b) and~~ who, for compensation or gain or in the expectation of compensation or gain, does any of the following:

**SECTION 18.** 224.71 (6) (b) (intro.) and 4. of the statutes are repealed.

**SECTION 19.** 224.71 (6) (b) 1. of the statutes is renumbered 224.725 (1m) (c) and amended to read:

224.725 (1m) (c) An individual engaged solely as a loan processor or underwriter, unless the individual is an independent contractor or represents to the public, through advertising or another means of communication such as the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

**SECTION 20.** 224.71 (6) (b) 2. of the statutes is renumbered 224.725 (1m) (d).

**SECTION 21.** 224.71 (6) (b) 3. of the statutes is renumbered 224.725 (1m) (e).

**SECTION 23.** 224.71 (7) of the statutes is amended to read:

224.71 (7) “Nationwide mortgage licensing system and registry” means the licensing and registration system

developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for licensed mortgage loan originators and mortgage loan originators exempt from licensing under s. ~~224.726(4)~~ 224.725(1m) or, if this system is no longer maintained, any system established by the secretary of the federal department of housing and urban development under P.L. 110-289, Title V, section 1509.

**SECTION 25.** 224.71 (13) (c) of the statutes is amended to read:

224.71 (13) (c) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental, or exchange of real property, other than in connection with providing financing for the transaction. For purposes of this paragraph, providing financing for the transaction does not include use by a licensee under s. 452.03 of forms approved under s. REEB 16.03, Wis. Adm. Code.

**SECTION 26.** 224.71 (13c) of the statutes is created to read:

224.71 (13c) "Registered entity" means a depository institution that voluntarily registers with the division for the purpose of sponsoring licensed mortgage loan originators that are under the depository institution's direct supervision and control.

**SECTION 27.** 224.71 (13g) (intro.) of the statutes is created to read:

224.71 (13g) "Registered mortgage loan originator" means any individual who is all of the following:

**SECTION 28.** 224.71 (13m) of the statutes is created to read:

224.71 (13m) "Regularly engage," with respect to an individual, means that any of the following applies:

(a) The individual engaged in the business of a mortgage loan originator on more than 5 residential mortgage loans, in this state or another state, in the previous calendar year or expects to engage in the business of a mortgage loan originator on more than 5 residential mortgage loans, in this state or another state, in the current calendar year.

(b) The individual is acting on behalf of a person who is, or is required to be, licensed as a mortgage lender, mortgage banker, or mortgage broker in this state or another state.

(c) The individual is acting on behalf of a registered entity.

**SECTION 29.** 224.72 (1m) of the statutes is amended to read:

224.72 (1m) LICENSE REQUIRED. ~~A~~ Except as provided in sub. (1r), a person may not conduct business or act as a mortgage banker or mortgage broker, use the title "mortgage banker" or "mortgage broker," or advertise or otherwise portray himself, herself, or itself as a mortgage banker or mortgage broker, unless the person has been

issued a mortgage banker or mortgage broker license by the division.

**SECTION 30.** 224.72 (1r) (intro.), (c), (e) and (f) of the statutes are created to read:

224.72 (1r) LICENSE EXEMPTIONS. (intro.) The following persons shall not be required to be licensed under this section or comply with the other provisions of this subchapter:

(c) A federal, state, or local government agency or housing finance agency.

(e) A bona fide nonprofit organization that does not operate in a commercial context and that is exempt under this paragraph. To qualify for an exemption under this paragraph, an organization shall certify, on a form prescribed by the division, that it is a bona fide nonprofit organization and shall provide documentation as required by the division. To maintain this exemption, the organization shall file the prescribed certification and accompanying documentation with the division by December 31 of each year.

(f) A mortgage banker that meets all of the following criteria:

1. The mortgage banker engaged in the business of a mortgage banker on 5 or fewer residential mortgage loans during the previous calendar year.

2. The mortgage banker expects to serve as the prospective source of financing, or to perform other phases of origination or servicing, on 5 or fewer residential mortgage loans in the current calendar year.

3. The mortgage banker does not advertise or otherwise hold himself, herself, or itself out as a "mortgage banker."

**SECTION 31.** 224.72 (2) (c) 2. of the statutes, as affected by 2013 Wisconsin Act 36, is amended to read:

224.72 (2) (c) 2. The ~~department~~ division may not disclose any information received under subd. 1. to any person except as follows:

a. The ~~department~~ division may disclose information under subd. 1. to the department of revenue for the sole purpose of requesting certifications under s. 73.0301 and to the department of workforce development for the sole purpose of requesting certifications under s. 108.227.

b. The ~~department~~ division may disclose information under subd. 1. a. to the department of children and families in accordance with a memorandum of understanding under s. 49.857.

**SECTION 32.** 224.72 (2m) of the statutes is renumbered 224.72 (2m) (a).

**SECTION 33.** 224.72 (2m) (b) and (c) of the statutes are created to read:

224.72 (2m) (b) 1. A principal office of a mortgage banker or mortgage broker shall be located in either this state or another state. Except as provided in subd. 2., a principal office may not be located in a residence.

2. A principal office of a mortgage banker or mortgage broker located in a residence on the effective date of this subdivision ... [LRB inserts date], may continue to be located in that residence after this date but may not thereafter be relocated to any residence with a different address.

(c) A branch office of a mortgage banker or mortgage broker shall be located in either this state or another state. A branch office may be located in a residence.

**SECTION 34.** 224.72 (4) (a) 2. of the statutes is amended to read:

224.72 (4) (a) 2. File with the division a commercial surety bond which is in the amount of \$300,000 for a mortgage banker or \$120,000 for a mortgage broker, is issued by a surety company authorized to do business in this state, secures the applicant's faithful performance of all duties and obligations of a mortgage banker or mortgage broker, is payable to the division for the benefit of persons to whom the mortgage banker or mortgage broker provided services as a mortgage banker or mortgage broker, is issued on a form that is acceptable to the division and provides that the bond may not be terminated without at least ~~30~~ 60 days' written notice to the division.

**SECTION 35.** 224.72 (4n) of the statutes is repealed.

**SECTION 36.** 224.722 of the statutes is created to read:

**224.722 Registered entities. (1)** A depository institution may apply for registered entity status with the division. The application shall be on forms and in the manner prescribed by the division and the applicant shall pay the same fee as that established by rule under s. 224.72 (8) for mortgage bankers. The application shall be accompanied by a commercial surety bond in the amount of \$300,000 that is issued by a surety company authorized to do business in this state and is written on a form that is acceptable to the division.

(2) Upon the filing of an application for registered entity status and the payment of the required fee, the division shall make an investigation of the applicant. If the application is complete, and the division has no concerns regarding the applicant's character, general fitness, or financial responsibility, the division shall register the applicant as a registered entity.

(3) Each registered entity shall register with the division each branch office where a mortgage loan originator sponsored by the registered entity engages in business as a mortgage loan originator. Applications for branch office registration shall be made on forms and in the manner prescribed by the division and shall be accompanied by the same fee as that established by rule for branch offices of mortgage bankers.

(5) A depository institution's registered entity status, and the registration of all of its registered branch offices, expires on December 31 of each year.

(6) A registered entity may apply to renew its registered entity status, and the registration of all of its regis-

tered branch offices, by timely submitting, on forms and in the manner prescribed by the division, a completed renewal application for the registered entity and for each branch office, along with the applicable fee under sub. (1) or (3). The division may not renew registered entity status under this section unless the division finds that the registered entity continues to meet the minimum standards for registration under this section.

(7) If a registered entity fails to satisfy the minimum standards for renewal of its registration, its registration shall expire. If a registered entity fails to satisfy any requirement under sub. (6) for renewing its registration of a branch office, the registration for that branch office shall expire.

(8) A registered entity shall cooperate with, and provide access to records and documents required by, the division to carry out examinations in accordance with s. 224.74 (2) of mortgage loan originators that are sponsored by the registered entity.

**SECTION 37.** 224.725 (1) of the statutes is amended to read:

224.725 (1) **LICENSE REQUIRED.** Except as provided in ~~s. 224.726 sub. (1m)~~, an individual may not regularly engage in the business of a mortgage loan originator with respect to a residential mortgage loan, or use the title "mortgage loan originator," advertise, or otherwise portray himself or herself as a mortgage loan originator in this state, unless the individual has been issued by the division, and thereafter maintains, a license under this section. Each licensed mortgage loan originator shall register with, and maintain a valid unique identifier issued by, the nationwide mortgage licensing system and registry.

**SECTION 38.** 224.725 (1m) (intro.), (a), (b), (f) and (g) 1., 2. and 3. of the statutes are created to read:

224.725 (1m) **LICENSE EXEMPTIONS.** (intro.) The following individuals are not required to be licensed under this section:

(a) A registered mortgage loan originator.

(b) An employee of a federal, state, or local government agency or housing finance agency who acts as a mortgage loan originator only pursuant to his or her official duties as an employee of the federal, state, or local government agency or housing finance agency.

(f) An employee of a bona fide nonprofit organization who acts as a mortgage loan originator only in connection with his or her work duties to the bona fide nonprofit organization and only with respect to residential mortgage loans with terms that are favorable to the borrower.

(g) 1. These activities are considered by the Wisconsin Supreme Court to be part of the authorized practice of law within Wisconsin.

2. These activities are carried out within an attorney-client relationship.

3. The attorney carries out the activities in compliance with all applicable laws, rules, and ethics standards.

**SECTION 39.** 224.725 (2) (d) of the statutes is repealed.

**SECTION 40.** 224.725 (3) (b) of the statutes is amended to read:

224.725 (3) (b) The applicant has not been convicted of, or pled guilty or no contest to, a felony in a domestic, foreign, or military court during the 7-year period preceding the date of the application or, for a felony involving an act of fraud, dishonesty, breach of trust, or money laundering, at any time preceding the date of the application. ~~This paragraph does not apply with~~ With respect to any conviction for which the applicant has received a pardon or expungement of the conviction, the pardoned or expunged conviction shall not result in an automatic denial or revocation of a mortgage loan originator license. The division may consider the underlying crime, facts, or circumstances of a pardoned or expunged felony conviction when determining the eligibility of an applicant for licensure under this paragraph and par. (c).

**SECTION 41.** 224.725 (4) (a) of the statutes is amended to read:

224.725 (4) (a) Each mortgage loan originator shall be covered by a surety bond in accordance with this subsection. A surety bond of a mortgage banker ~~or~~ or mortgage broker, or registered entity meeting the requirements of par. (b) and s. 224.72 (4) (a) 2. or 224.722 (1) may satisfy the requirement under this paragraph for a mortgage loan originator who, ~~under sub. (2) (d), identifies himself or herself as employed is sponsored~~ by the mortgage banker ~~or~~ or mortgage broker, or registered entity.

**SECTION 42.** 224.726 (intro.), (1) (intro.), (2) and (3) of the statutes are repealed.

**SECTION 43.** 224.726 (1) (a) and (b) of the statutes are renumbered 224.71 (13g) (a) and (b).

**SECTION 44.** 224.726 (4) of the statutes is renumbered 224.725 (1m) (g) (intro.) and amended to read:

224.725 (1m) (g) (intro.) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, mortgage broker, or mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage loan originator, undertakes activities described in s. 224.71 (6) if all of the following apply:

**SECTION 45.** 224.73 (title) of the statutes is amended to read:

**224.73 (title) Relationship between mortgage loan originator and either a mortgage banker or a mortgage broker, or registered entity; branch offices.**

**SECTION 46.** 224.73 (1) of the statutes is amended to read:

224.73 (1) **RESPONSIBILITY FOR MORTGAGE LOAN ORIGINATOR.** A mortgage banker ~~or~~ or mortgage broker, or

registered entity is responsible for, and shall supervise the acts of, a mortgage loan originator or any other person who otherwise acts on behalf of the mortgage banker ~~or~~ or mortgage broker, or registered entity.

**SECTION 47.** 224.73 (2) of the statutes is amended to read:

224.73 (2) **RESTRICTION ON MORTGAGE LOAN ORIGINATOR.** (a) If the division suspends or revokes a mortgage banker's or mortgage broker's license or a registered entity's registration, a mortgage loan originator may not act on behalf of that mortgage banker ~~or~~ or mortgage broker, or registered entity during the period of suspension or revocation.

(b) A mortgage loan originator may act on behalf of only the mortgage banker ~~or~~ or mortgage broker, or registered entity with which that mortgage loan originator's license is associated in the records of the division, ~~as designated under s. 224.725 (2) (d).~~ A mortgage loan originator's license may only be associated with one mortgage banker ~~or~~ or mortgage broker, or registered entity at a time.

**SECTION 48.** 224.73 (3) of the statutes is amended to read:

224.73 (3) **TRANSFER BY MORTGAGE LOAN ORIGINATOR.** (a) A licensed mortgage loan originator may apply, on forms and in the manner prescribed by the division, to transfer association to another licensed mortgage banker or mortgage broker or a registered entity. The division shall promulgate rules establishing a fee for a transfer application under this subsection.

(b) A mortgage loan originator may not act on behalf of a mortgage banker ~~or~~ or mortgage broker, or registered entity until the mortgage loan originator's license association has been transferred to that mortgage banker ~~or~~ or mortgage broker, or registered entity in the records of the division.

**SECTION 49.** 224.73 (4) (title) and (a) of the statutes are repealed.

**SECTION 50.** 224.73 (4) (b) of the statutes is renumbered 224.77 (1) (sn) and amended to read:

224.77 (1) (sn) ~~Any person originating a residential mortgage loan shall~~ As a mortgage banker, mortgage broker, or mortgage loan originator, fail to clearly place the person's his, her, or its unique identifier on all residential mortgage loan application forms, solicitations, and advertisements, including business cards ~~or~~ Web, Internet sites, email signature blocks, and on all other documents specified by rule of the division.

**SECTION 51.** 224.73 (5) of the statutes is created to read:

224.73 (5) **MORTGAGE LOAN ORIGINATORS AND BRANCH OFFICES.** (a) A mortgage loan originator shall be assigned to and work out of a licensed or registered office or branch office of the sponsoring mortgage banker, mortgage broker, or registered entity. This office shall either be the mortgage loan originator's residence or be

within 100 miles of the mortgage loan originator's residence.

(b) At each branch office of a mortgage banker or registered entity at which residential mortgage loans are originated for the mortgage banker or registered entity or for another person, and at each branch office of a mortgage broker, there shall be at least one licensed mortgage loan originator assigned to and working out of the office. If an individual is identified as a branch manager for the office, either in the records of the division or in the records of the mortgage banker, mortgage broker, or registered entity, the individual must be licensed as a mortgage loan originator.

**SECTION 52.** 224.74 (title) of the statutes is amended to read:

**224.74 (title) Division's review of the operations of a mortgage loan originator, mortgage broker, or mortgage banker, or registered entity.**

**SECTION 53.** 224.74 (1) (title) of the statutes is amended to read:

224.74 (1) (title) ~~ANNUAL CALL~~ CALL REPORTS; AUDITS.

**SECTION 54.** 224.74 (1) (a) of the statutes is amended to read:

224.74 (1) (a) *Annual Mortgage call report.* Each year, ~~by the date and in the form required by the nationwide mortgage licensing system and registry, each mortgage banker, mortgage broker, and mortgage loan originator licensed under this subchapter, and each registered entity,~~ shall submit to the nationwide mortgage licensing system and registry ~~an annual report reports~~ of condition, which shall be in such form and contain such information as the nationwide mortgage licensing system and registry may require.

**SECTION 55.** 224.74 (1) (b) of the statutes is amended to read:

224.74 (1) (b) *Audit requirement for mortgage bankers.* Each year, no later than 6 months following the end of its most recently completed fiscal year, each mortgage banker ~~or mortgage broker~~ shall submit a copy of an audit of the mortgage banker's ~~or mortgage broker's~~ operations during that fiscal year. An audit under this paragraph shall be conducted by an independent certified public accountant in accordance with generally accepted auditing standards. The financial statements in the audit report shall be prepared in accordance with generally accepted accounting principles.

**SECTION 56.** 224.74 (1) (bm) of the statutes is created to read:

224.74 (1) (bm) *Reviewed financial statements for mortgage brokers.* Each year, no later than 6 months following the end of its most recently completed fiscal year, each mortgage broker shall submit a copy of the mortgage broker's reviewed financial statements for the mortgage broker's operations during that fiscal year. The reviewed financial statements shall include a balance

sheet, an income statement, and a written statement by an independent certified public accountant attesting that he or she has conducted his or her review in accordance with generally accepted accounting principles and professional standards of the American Institute of CPAs.

**SECTION 57.** 224.75 (2) of the statutes is amended to read:

224.75 (2) **PERIOD OF RECORD RETENTION.** A mortgage banker or mortgage broker shall keep for at least 36 months, in an office of the mortgage banker or mortgage broker licensed under this subchapter but one that is not located in a residence unless the residence is authorized as a principal office under s. 224.72 (2m) (b) 2., all books and records that, in the opinion of the division, will enable the division to determine whether the mortgage banker or mortgage broker is in compliance with the provisions of this subchapter. These books and records include copies of all deposit receipts, canceled checks, trust account records, the records which a mortgage banker or mortgage broker maintains under sub. (1) (c) or (d), and other relevant documents or correspondence received or prepared by the mortgage banker or mortgage broker in connection with a residential mortgage loan or residential mortgage loan application. The retention period begins on the date the residential mortgage loan is closed or, if the loan is not closed, the date of loan application. If the residential mortgage loan is serviced by a mortgage banker, the retention period commences on the date that the loan is paid in full.

**SECTION 58.** 224.755 (4) (d) of the statutes is amended to read:

224.755 (4) (d) An individual may ~~retake~~ take a test 3 consecutive times, with each ~~test retaken~~ no less than retest occurring at least 30 days after the preceding test. If the individual fails 3 consecutive tests, the individual may not retake a test again for at least 6 months.

**SECTION 59.** 224.755 (4) (e) of the statutes is amended to read:

224.755 (4) (e) If an individual previously licensed as a mortgage loan originator fails to maintain a valid license for a period of 5 years or longer, not taking into account any time during which the individual is a registered loan originator, the individual shall retake the test under par. (a). ~~For purposes of determining the 5-year period, the division shall not consider any period during which the individual is exempt from licensing under s. 224.726 (1).~~

**SECTION 60.** 224.77 (title) of the statutes is amended to read:

**224.77 (title) Prohibited acts and practices, and discipline, of mortgage bankers, mortgage loan originators, and mortgage brokers, and registered entities.**

**SECTION 61.** 224.77 (1) (intro.) of the statutes is amended to read:

224.77 (1) **PROHIBITED ACTS AND PRACTICES.** (intro.) No mortgage banker, mortgage loan originator, or mort-

gage broker, or, with respect to pars. (f), (fg), (g), (gd), and (gh), registered entity, and no member, officer, director, principal, partner, trustee, or other agent of a mortgage banker ~~or~~ mortgage broker, or registered entity may do any of the following:

**SECTION 62.** 224.77 (1) (f) of the statutes is amended to read:

224.77 (1) (f) Accept a commission, money, or other thing of value for performing an act as a mortgage loan originator unless the payment is from ~~a~~ the mortgage banker ~~or~~ mortgage broker, or registered entity with whom the mortgage loan originator's license is associated, as identified in the records of the division at the time the act is performed.

**SECTION 63.** 224.77 (1) (fg) of the statutes is amended to read:

224.77 (1) (fg) As a mortgage banker ~~or~~ mortgage broker, or registered entity, pay a commission, money, or other thing of value to any person for performing an act as a mortgage loan originator unless the mortgage loan originator's license is associated with the mortgage banker ~~or~~ mortgage broker, or registered entity in the records of the division at the time the act is performed.

**SECTION 64.** 224.77 (1) (g) of the statutes is amended to read:

224.77 (1) (g) As a mortgage loan originator, represent or attempt to represent a mortgage banker ~~or~~ mortgage broker, or registered entity other than the mortgage banker ~~or~~ mortgage broker, or registered entity with whom the mortgage loan originator's license was associated, as identified in the records of the division at the time the representation or attempted representation occurs.

**SECTION 65.** 224.77 (1) (gd) of the statutes is amended to read:

224.77 (1) (gd) As a mortgage banker ~~or~~ mortgage broker, or registered entity, permit a person who is not licensed under this subchapter to act as a mortgage loan originator on behalf of the mortgage banker ~~or~~ mortgage broker, or registered entity.

**SECTION 66.** 224.77 (1) (gh) of the statutes is amended to read:

224.77 (1) (gh) As a mortgage banker ~~or~~ mortgage broker, or registered entity, permit a person whose mortgage loan originator license is not associated in the records of the division with the mortgage banker ~~or~~ mortgage broker, or registered entity to act as a mortgage loan originator on behalf of the mortgage banker ~~or~~ mortgage broker, or registered entity.

**SECTION 67.** 224.77 (1) (sm) and (sq) of the statutes are created to read:

224.77 (1) (sm) As a mortgage loan originator, fail to identify his or her name and sign the mortgage loan application for a loan originated by him or her.

(sq) As a mortgage banker, mortgage broker, or mortgage loan originator, use any solicitation or advertisement to which any of the following applies:

1. The solicitation or advertisement misrepresents that the provider is, or is affiliated with, any governmental entity or other organization.

2. The solicitation or advertisement misrepresents that the product is or relates to a government benefit, or is endorsed, sponsored by, or affiliated with any government or government-related program, including through the use of formats, symbols, or logos that resemble those of such entity, organization, or program.

3. The solicitation or advertisement does not clearly and conspicuously identify the name of the mortgage broker or mortgage banker or, if a mortgage loan originator is sponsored by a registered entity, the registered entity.

**SECTION 68.** 224.77 (2m) (a) 1. (intro.), a. and b. of the statutes are amended to read:

224.77 (2m) (a) 1. (intro.) In addition to any other authority provided to the division under this subchapter, if the division finds that a mortgage banker, mortgage loan originator, or mortgage broker has violated any provision of this subchapter or any rule promulgated by the division under this subchapter, or a registered entity has violated any applicable provision of this subchapter, the division may do any of the following:

a. Deny any application for initial issuance or renewal of a license or registration.

b. Revoke, suspend, limit, or condition any license of the mortgage banker, mortgage loan originator, or mortgage broker or registration of the registered entity.

**SECTION 69.** 224.83 of the statutes is repealed.

**SECTION 70.** 943.80 (2) of the statutes is amended to read:

943.80 (2) "Financial institution" means a bank, as defined in s. 214.01 (1) (c), a savings bank, as defined in s. 214.01 (1) (t), a savings and loan association, a trust company, a credit union, as defined in s. 186.01 (2), a mortgage banker, as defined in s. 224.71 (3) (a), or a mortgage broker, as defined in s. 224.71 (4) (a), whether chartered under the laws of this state, another state or territory, or under the laws of the United States; a company that controls, is controlled by, or is under common control with a bank, a savings bank, a savings and loan association, a trust company, a credit union, a mortgage banker, or a mortgage broker; or a person licensed under s. 138.09, other than a person who agrees for a fee to hold a check for a period of time before negotiating or presenting the check for payment and other than a pawnbroker, as defined in s. 138.10 (1) (a).