

**2009 DRAFTING REQUEST**

**Bill**

Received: **01/30/2009**

Received By: **agary**

Wanted: **As time permits**

Identical to LRB:

For: **Administration-Budget**

By/Representing: **Dombrowski**

This file may be shown to any legislator: **NO**

Drafter: **agary**

May Contact:

Addl. Drafters:

Subject: **Fin. Inst. - banking inst.**  
**Fin. Inst. - int. rates/loans**

Extra Copies:

Submit via email: **NO**

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**Pre Topic:**

DOA:.....Dombrowski, BAB0025 -

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**Topic:**

SAFE Act; regulation of mortgage loan originators, mortgage brokers, and mortgage bankers

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**Instructions:**

See attached

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**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 01/30/2009	wjackson 01/31/2009		_____			State
/1			rschluet 01/31/2009	_____	sbasford 02/02/2009		State
/2	agary 02/05/2009	wjackson 02/06/2009	phenry 02/06/2009	_____	mbarman 02/06/2009		State
/3	agary 02/10/2009	wjackson 02/10/2009	jfrantze 02/11/2009	_____	cduerst 02/11/2009		

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<END>

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/1		1/2 wlj 2/6	rschluet 01/31/2009		sbasford 02/02/2009		

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Handwritten signatures and initials: 2/6 ph, rschluet, sbasford, ph/jk, and <END>

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/?	agary	1 wj 1/31		_____			
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FE Sent For:

<END>

## 2009 Budget Adjustment Bill Statutory Language Drafting Request

- Topic: SAFE Act
- Tracking Code: BAB0025
- SBO team: GGED
- SBO analyst: Cindy Dombrowski (C)
- Phone: 266-5878
- Email: cynthia.dombrowski@wisconsin.gov
- Agency acronym: DFI
- Agency number: 144
- Priority (Low, Medium, High): High

Intent:

Consider the following draft as a Budget Adjustment Bill draft.

LRB-1126/P1 - relating to the regulation of mortgage loan originators, mortgage brokers, and mortgage bankers; providing an exemption from emergency rule procedures; granting rule-making authority; and providing a penalty.

- Please make sure this draft does not contain any fee changes
- Also, ensure the draft has 8 hours of continuing education per year

in 4/30

stays

RTNR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

NOTE: Underlying draft was edited just last week

LPS: Please check auto-ref

Do Not Gen

1 AN ACT *to repeal* 15.187 (1) (d), 224.71 (1ag), 224.71 (1b), 224.71 (1d), 224.71  
2 (1u), 224.71 (3) (b) 1. to 7., 224.71 (4) (b) 1. to 3., 224.72 (1) (intro.), 224.72 (1)  
3 (b), 224.72 (2) (a) and (b), 224.72 (2) (c) (title), 224.72 (3) (title), 224.72 (3) (b) and  
4 (c), 224.72 (4) (a) 1., 224.72 (4) (a) 3., 224.72 (4) (d), 224.72 (4m), 224.72 (4r),  
5 224.72 (7) (b), 224.72 (7) (c), (d) and (e), 224.72 (7m) (am), 224.72 (7p), 224.74  
6 (2) (a) (title), 224.77 (1) (r), 224.77 (2) (title), 224.77 (6) (title), 224.77 (7) (title)  
7 and 224.78 (title); *to renumber* 224.77 (1m) (c); *to renumber and amend*  
8 224.71 (1g), 224.71 (1r), 224.71 (5), 224.72 (1) (a), 224.72 (2) (intro.), 224.72 (3)  
9 (a), 224.72 (5) (title), 224.72 (5) (a), 224.72 (5) (b), 224.72 (7) (a), 224.73 (2),  
10 224.73 (3), 224.73 (4), 224.74 (2) (a), 224.75 (1) (d), 224.755, 224.77 (2), 224.77  
11 (6), 224.77 (7), 224.78 and 428.202 (6); *to consolidate, renumber and amend*  
12 224.77 (3) (a) and (b); *to amend* 15.09 (6), 15.187 (1) (intro.), (a), (b) and (c),  
13 49.857 (1) (d) 12., 73.0301 (1) (d) 6., 100.55 (1) (d) 3., 220.02 (2) (g), 220.02 (3),  
14 220.06 (1), 220.285 (1), 221.0402 (2) (b), 224.71 (3) (a) 1. to 3., 224.71 (4) (a),  
15 224.72 (title), 224.72 (1m), 224.72 (2) (d), 224.72 (4) (title), 224.72 (4) (a) (intro.),

1 224.72 (4) (a) 2., 224.72 (4) (a) 4., 224.72 (4n) (intro.), 224.72 (4n) (a) 2., 224.72  
2 (7m) (intro.), 224.72 (7m) (b), 224.72 (7m) (c), 224.72 (8), 224.73 (title), 224.73  
3 (1), 224.73 (2) (title), 224.73 (3) (title), 224.73 (4) (title), 224.74 (title), 224.74 (1),  
4 224.74 (2) (title), 224.74 (2) (b), 224.75 (title), 224.75 (1) (a), 224.75 (1) (b)  
5 (intro.), 224.75 (1) (c) (intro.), 224.75 (1) (c) 1., 224.75 (2), 224.75 (3), 224.75 (4),  
6 224.76, 224.77 (title), 224.77 (1) (intro.), 224.77 (1) (a), 224.77 (1) (c) and (d),  
7 224.77 (1) (e) and (f), 224.77 (1) (g), 224.77 (1) (h) to (L), 224.77 (1) (m) to (q),  
8 224.77 (1m) (a), 224.77 (1m) (b), 224.77 (1m) (d), 224.77 (3m), 224.77 (4), 224.77  
9 (5) (a), 224.77 (8), 224.79, 224.80 (1), 224.80 (2) (intro.), 224.80 (2) (a) 1., 224.81,  
10 224.82, 234.01 (5k), 234.49 (2) (a) 4., 234.59 (1) (h), 321.60 (1) (a) 12., 422.501  
11 (2) (b) 8., 428.203 (9) (title), 428.204, 428.206, 452.01 (3) (g) and 943.62 (2m);  
12 **to repeal and recreate** 224.72 (2) (title), 224.72 (7) (title), 224.755 (title) and  
13 224.77 (1) (b); and **to create** 224.71 (1am), 224.71 (1bm), 224.71 (1c), 224.71  
14 (1dm), 224.71 (1f), 224.71 (1h), 224.71 (1m), 224.71 (2), 224.71 (3) (b) 8., 9., 10.,  
15 11. and 12., 224.71 (4) (b) 4., 5., 6., 7. and 8., 224.71 (6) (a) 1. and 2. and (b),  
16 224.71 (7), 224.71 (8), 224.71 (10), 224.71 (11), 224.71 (12), 224.71 (13), 224.71  
17 (15), 224.71 (16), 224.71 (18), 224.72 (2m), 224.72 (6), 224.72 (7) (bm), 224.725,  
18 224.726, 224.728, 224.73 (2) (b), 224.73 (3) (b), 224.73 (4) (b), 224.74 (2) (ag) 3.  
19 and 4., 224.74 (2) (ar), 224.74 (2) (c), 224.74 (3), 224.75 (1) (b) 6. and 7., 224.75  
20 (1) (c) 10., 224.75 (1) (d) 2., 3., 4. and 5., 224.75 (6), 224.755 (1), (2), (3) and (4),  
21 224.77 (1) (dm), 224.77 (1) (fg) and (fr), 224.77 (1) (gd), (gh), (gp) and (gt), 224.77  
22 (1) (Le), (Lm) and (Ls), 224.77 (1) (s), (t), (tm), (u), (um), (v), (w), (x), (y) and (z),  
23 224.77 (1m) (c) 2., 224.77 (2m), 224.77 (3) (a) 3. and 4., 224.77 (9), 224.785,  
24 224.83, 224.84 and 227.01 (13) (zy) of the statutes; **relating to:** the regulation<sup>1</sup> of mortgage loan originators, mortgage brokers, and mortgage bankers;



1  
2

providing an exemption from emergency rule procedures; granting rule-making authority; and providing a penalty.

**Analysis by the Legislative Reference Bureau**

The federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (SAFE Act) establishes certain nationwide standards for mortgage loan originators. Under the SAFE Act, a mortgage loan originator is, with specified exceptions, an individual who takes a residential mortgage loan application and offers or negotiates terms of a residential mortgage loan for compensation or gain. If a state does not meet a certain level of compliance with the federal standards established under the SAFE Act, the federal Department of Housing and Urban Development must undertake the licensing and registration of mortgage loan originators operating within that state. One required component under the SAFE Act is that states must license and register mortgage loan originators through the Nationwide Mortgage Licensing System and Registry (NMLSR) developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators.

This bill makes numerous changes, both substantive and stylistic, in the statutes relating to the regulation of mortgage loan originators, mortgage brokers, and mortgage bankers (mortgage regulatory provisions). Among these changes, "loan originators" under current law are referred to as "mortgage loan originators" under the bill and, under the bill, mortgage loan originators, mortgage brokers, and mortgage bankers are licensed by the division of banking in ~~the Department of~~ Financial Institutions (division) instead of being registered as under current law. The bill requires the division to participate in NMLSR and authorizes the division to process and maintain mortgage loan originator licenses through, and register mortgage loan originators with, NMLSR.

DFI

The bill modifies various definitions applicable to all mortgage regulatory provisions, thereby changing the scope of regulation. The bill slightly modifies the types of loans to which these mortgage regulatory provisions apply by redefining "loan" as "residential mortgage loan." Under the bill, a "residential mortgage loan" is any loan primarily for personal, family, or household use that is secured by a lien or mortgage, or equivalent security interest, on a dwelling or residential real property located in this state. With certain exceptions, a "mortgage loan originator" under the bill is an individual who, for compensation or gain, takes a residential mortgage loan application and offers or negotiates terms of a residential mortgage loan. However, certain persons are exempt from all mortgage regulatory provisions, including a mortgage loan originator who is an employee of a depository institution or its regulated subsidiary and who is registered with NMLSR. A "depository institution" is a federally chartered or state-chartered bank, savings association, or credit union. The bill essentially maintains the current law definitions of "mortgage banker" and "mortgage broker," but eliminates the exceptions under current law to these definitions and replaces them with new exceptions. Under the bill, a "mortgage

banker” is a person who does any of the following: originates residential mortgage loans for itself or for another person; sells residential mortgage loans or interests in residential mortgage loans to another person; or services residential mortgage loans or provides escrow services. Under the bill, a “mortgage broker” is a person who, on behalf of a residential mortgage loan applicant or an investor and for commission or fee, finds a residential mortgage loan, negotiates a residential mortgage loan or loan commitment, or engages in table funding. Among the exceptions under the bill to the definitions of “mortgage banker” and “mortgage broker” are depository institutions and regulated subsidiaries of depository institutions.

The bill includes a number of changes to current law with respect to the regulation of mortgage loan originators, including the following:

1. The bill requires that the division’s licensing of mortgage loan originators be processed through NMLSR and that all mortgage loan originator licensees be registered with NMLSR.

2. The bill requires each applicant for a mortgage loan originator license to furnish to NMLSR specified information concerning the applicant’s identity, including the applicant’s fingerprints, personal history, and authorization for credit and criminal history checks.

3. The bill specifies certain disqualifying factors preventing the issuance of a mortgage loan originator license, including that the applicant has had a mortgage loan originator license revoked or has been convicted of a felony within a specified period. As derived from the SAFE Act, an applicant may be issued a mortgage loan originator license only if the applicant has demonstrated financial responsibility, character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently under applicable law.

4. The bill modifies current law requirements related to professional education and testing for mortgage loan originators. The bill modifies education and testing requirements, requires each education course to be reviewed and approved by NMLSR, and requires each test to be developed by NMLSR and administered by a test provider approved by NMLSR.

5. The bill requires each mortgage loan originator to be covered by a surety bond in an amount, as determined by the division, reflecting the dollar amount of residential mortgage loans originated by the mortgage loan originator.

6. The bill requires each mortgage loan originator, after submitting an application for initial issuance or renewal of a license, to provide notice to the division within ten days of the occurrence of certain events, including the following: any material change in information included in the application; the applicant’s filing for bankruptcy; the applicant’s conviction of a felony or other crime related to dishonesty; or the applicant’s receipt of notice of a disciplinary action against the applicant as a mortgage loan originator in another state.

7. The bill requires each mortgage loan originator to submit to NMLSR an annual report of condition.

8. Under the bill, each mortgage loan originator must be issued a unique number or other identifier (unique identifier). The bill requires any person

originating a residential mortgage loan to place the person's unique identifier on all residential mortgage loan application forms, solicitations, and advertisements.

9. The bill contains provisions relating to confidentiality of information provided by the division to NMLSR, but allows NMLSR to provide public access to information relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators. The division must regularly report to NMLSR violations and enforcement actions involving mortgage loan originators.

The bill also includes changes to current law relating to the regulation of mortgage bankers and mortgage brokers, including the following:

1. The bill modifies current law requirements relating to surety bonds covering, and net worth of, mortgage bankers and mortgage brokers. The bill requires that mortgage bankers and mortgage brokers maintain surety bonds in the amount of \$250,000 or \$100,000, respectively, and maintain a minimum net worth of \$100,000 or \$50,000, respectively.

2. The bill requires mortgage bankers and mortgage brokers to submit to NMLSR annual reports of condition and to submit to the division audits of their operations. The bill also expands record-keeping requirements for mortgage bankers and mortgage brokers and requires them to retain records for a longer period.

3. The bill requires each mortgage banker and mortgage broker, after submitting an application for initial issuance or renewal of a license, to provide notice to the division within ten days of the occurrence of certain events, including the following: any material change in information included in the application; the applicant's filing for bankruptcy or the filing for bankruptcy of an officer or director of a corporate applicant; the applicant's conviction of a felony or other crime related to dishonesty, or such a conviction of an officer or director of a corporate applicant; the applicant's receipt of notice of a disciplinary action against the applicant as a mortgage banker or mortgage broker in another state; the suspension or termination of the applicant's status as an approved seller or servicer by certain mortgage-related-government-sponsored enterprises or government corporations; or any material change in control in the ownership of a corporate applicant or among its officers, directors, members, or partners.

4. The bill prohibits mortgage bankers and mortgage brokers from charging a nonrefundable fee prior to the closing of a residential mortgage loan unless there is a written agreement for the nonrefundable fee and the written agreement meets certain requirements.

5. The bill requires each mortgage banker to adopt and maintain a residential mortgage loan policy relating to subprime mortgage loans and nontraditional mortgage loans. This policy must be consistent with certain guidelines, and the mortgage banker must implement internal controls reasonably designed to ensure compliance with this policy.

The bill creates a number of violations, and modifies certain current-law violations, relating to prohibited acts and practices of mortgage bankers, mortgage

brokers, mortgage loan originators, and officers and directors of corporate mortgage bankers and mortgage brokers, including the following:

1. The bill modifies and expands current law provisions to prohibit materially false or deceptive statements or representations or knowing omissions of material facts.

2. The bill prohibits the use of documents known to contain erroneous or false information concerning a person's eligibility for a loan.

3. The bill prohibits mortgage bankers and mortgage brokers from paying commissions to unassociated or unlicensed mortgage loan originators.

4. The bill prohibits mortgage brokers from entering into agreements under which a person pays the mortgage broker a fee in order for the person to be able to prepay the principal of a residential mortgage loan.

5. The bill prohibits mortgage bankers and mortgage brokers from conducting business at an unlicensed office or under any trade name not designated in a license application.

6. The bill prohibits mortgage brokers from failing to do any of the following: use reasonable care, skill, and diligence in performing their duties; act in good faith; make reasonable good faith efforts to secure a mortgage that is in the reasonable interests of the borrower; or ensure that the cost of credit is reasonably appropriate for the borrower.

7. The bill prohibits mortgage brokers from advertising residential mortgage loans unless the advertisement includes the phrase "MORTGAGE BROKER ONLY, NOT A MORTGAGE LENDER."

8. The bill prohibits mortgage brokers from doing any of the following in connection with an advertisement: using a simulated check; comparing loan payments under a residential mortgage loan being offered with loan payments under a hypothetical loan unless certain information is included in the advertisement; using certain representations such as "preapproved" or "prequalified" unless certain disclosures are included in the advertisement; or giving the appearance in a mailed advertisement that the mailing was sent by a governmental agency.

9. The bill prohibits the impeding of an investigation or examination or the denial of access to or destruction of books, records, or other information that the division is authorized to obtain.

10. The bill prohibits contracts with borrowers that provide in substance that the mortgage banker, mortgage broker, or mortgage loan originator may earn a fee through "best efforts" to obtain a residential mortgage loan even if no loan is actually obtained for the borrower.

11. The bill prohibits the solicitation or advertisement of interest rates, points, or other financing terms unless the terms are actually available at the time of the solicitation or advertisement.

12. The bill prohibits assisting, aiding, or abetting any person in unlawfully conducting mortgage-related business without a valid license.

13. The bill prohibits withholding payments or making payments, threats, or promises for the purpose of influencing a person's independent judgment in connection with a residential mortgage loan or withholding payments or making

payments, threats, or promises to a property appraiser for the purpose of influencing the appraiser's independent judgment with respect to the value of the property.

14. The bill prohibits requiring a borrower to obtain property insurance coverage in an amount exceeding the replacement cost of improvements on the property.

15. The bill prohibits mortgage bankers that service residential mortgage loans from failing to do any of the following: promptly deliver to the mortgagor a release of the mortgage upon repayment of the outstanding balance of the loan secured by the mortgage; or identify for the borrower, upon request by the borrower, the amount of the outstanding balance of the loan secured by the mortgage within two business days of the request.

The bill increases the penalty for violations from a maximum of \$2,000 to a maximum of \$25,000. This increase applies both to civil forfeitures imposed by the division as administrative assessments and to criminal fines imposed by a court. The bill does not change any term of incarceration for a violation. The bill expands the number of violations for which these penalties are applicable. Under current law, these penalties apply only to specified violations. Under the bill, these penalties may be applied to any violation of a mortgage regulatory provision or of any rule promulgated by the division under a mortgage regulatory provision. The bill allows the division to order restitution in connection with a violation in the same manner in which the division may impose an administrative assessment for the violation. The bill expands the number of violations for which a civil cause of action may be brought to correspond to the expansion of violations for which penalties are applicable. The bill increases the maximum limit for recovery of certain damages in civil actions from \$2,000 to \$25,000.

The bill requires the division to promulgate emergency rules for the orderly and efficient transition from the registration system under current law to the licensing system required under the bill.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 15.09 (6) of the statutes is amended to read:

2           15.09 (6) REIMBURSEMENT FOR EXPENSES. Members of a council shall not be  
3 compensated for their services, but, except as otherwise provided in this subsection,  
4 members of councils created by statute shall be reimbursed for their actual and  
5 necessary expenses incurred in the performance of their duties, such reimbursement  
6 in the case of an elective or appointive officer or employee of this state who represents

1 an agency as a member of a council to be paid by the agency which pays his or her  
2 salary. Members of the mortgage loan originator council under s. 15.187 (1) may not  
3 be reimbursed for their actual and necessary expenses incurred in the performance  
4 of their duties. Members of the agricultural education and workforce development  
5 council may not be reimbursed for their actual and necessary expenses incurred in  
6 the performance of their duties.

7 **SECTION 2.** 15.187 (1) (intro.), (a), (b) and (c) of the statutes are amended to  
8 read:

9 15.187 (1) LOAN MORTGAGE LOAN ORIGINATOR REVIEW COUNCIL. (intro.) There is  
10 created in the department of financial institutions a mortgage loan originator  
11 council. The council shall consist of the following members, appointed by the  
12 secretary of financial institutions for 4-year terms:

13 (a) ~~Three~~ Four persons who are mortgage loan originators ~~registered~~ licensed  
14 under s. ~~224.72 (1m)~~ 224.725.

15 (b) One person who is an agent of a mortgage broker ~~registered~~ licensed under  
16 s. 224.72 (1m).

17 (c) One person who is an agent of a mortgage banker ~~registered~~ licensed under  
18 s. 224.72 (1m).

19 **SECTION 3.** 15.187 (1) (d) of the statutes is repealed.

20 **SECTION 4.** 49.857 (1) (d) 12. of the statutes is amended to read:

21 49.857 (1) (d) 12. A license or certificate of registration issued under ss. 138.09,  
22 138.12, 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, 224.725,  
23 224.93 or subch. IV of ch. 551.

24 **SECTION 5.** 73.0301 (1) (d) 6. of the statutes is amended to read:

1           73.0301 (1) (d) 6. A license or certificate of registration issued by the  
2 department of financial institutions, or a division of it, under ss. 138.09, 138.12,  
3 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, 224.725, 224.93 or  
4 under subch. IV of ch. 551.

5           **SECTION 6.** 100.55 (1) (d) 3. of the statutes is amended to read:

6           100.55 (1) (d) 3. A mortgage banker, ~~loan originator~~, or mortgage broker  
7 registered licensed under s. 224.72 or a mortgage loan originator licensed under s.  
8 224.725.

9           **SECTION 7.** 220.02 (2) (g) of the statutes is amended to read:

10           220.02 (2) (g) Mortgage bankers, mortgage loan originators, and mortgage  
11 brokers under subch. III of ch. 224.

12           **SECTION 8.** 220.02 (3) of the statutes is amended to read:

13           220.02 (3) It is the intent of sub. (2) to give the division jurisdiction to enforce  
14 and carry out all laws relating to banks or banking in this state, including those  
15 relating to state banks, savings banks, savings and loan associations, and trust  
16 company banks, and also all laws relating to small loan companies or other loan  
17 companies or agencies, finance companies, insurance premium finance companies,  
18 motor vehicle dealers, adjustment service companies, community currency  
19 exchanges, mortgage bankers, mortgage loan originators, mortgage brokers, and  
20 collection agencies and those relating to sellers of checks under ch. 217, whether  
21 doing business as corporations, individuals, or otherwise, but to exclude laws  
22 relating to credit unions.

23           **SECTION 9.** 220.06 (1) of the statutes is amended to read:

1           220.06 (1) In this section, "licensee" means a person licensed by the division  
2 under ch. 138, 217 or 218 or under s. 224.72, 224.725, or 224.92 ~~or registered by the~~  
3 ~~division under s. 224.72.~~

4           **SECTION 10.** 220.285 (1) of the statutes is amended to read:

5           220.285 (1) Any state bank, trust company bank, licensee under ss. 138.09,  
6 138.12, 218.0101 to 218.0163, 218.02, 218.04 ~~or~~, 218.05, 224.72, or 224.725 or ch. 217,  
7 ~~or person registered under s. 224.72~~ may cause any or all records kept by such bank,  
8 licensee, or registered person to be recorded, copied or reproduced by any photostatic,  
9 photographic or miniature photographic process or by optical imaging if the process  
10 employed correctly, accurately and permanently copies, reproduces or forms a  
11 medium for copying, reproducing or recording the original record on a film or other  
12 durable material. A bank, licensee, or registered person may thereafter dispose of  
13 the original record after first obtaining the written consent of the division. This  
14 section, excepting that part of it which requires written consent of the division, is  
15 applicable to national banking associations insofar as it does not contravene federal  
16 law.

17           **SECTION 11.** 221.0402 (2) (b) of the statutes is amended to read:

18           221.0402 (2) (b) Mortgage bankers ~~registered~~ licensed under s. 224.72 may use  
19 the designation "mortgage banker".

20           **SECTION 12.** 224.71 (1ag) of the statutes is repealed.

21           **SECTION 13.** 224.71 (1am) of the statutes is created to read:

22           224.71 (1am) "Advertisement" or "advertise" means any, or to make any,  
23 announcement, statement, assertion, or representation that is placed before the  
24 public in a newspaper, magazine, or other publication, in the form of a notice,  
25 circular, pamphlet, letter, or poster, through any radio, television, cable, or satellite



1 broadcast, by means of the Internet or other electronic means of distributing  
2 information, by personal contact, or in any other way.

3 **SECTION 14.** 224.71 (1b) of the statutes is repealed.

4 **SECTION 15.** 224.71 (1bm) of the statutes is created to read:

5 224.71 (1bm) "Another state" means any state of the United States other than  
6 Wisconsin; the District of Columbia; any territory of the United States; Puerto Rico;  
7 Guam; American Samoa; the Trust Territory of the Pacific Islands; the Virgin  
8 Islands; or the Northern Mariana Islands.

9 **SECTION 16.** 224.71 (1c) of the statutes is created to read:

10 224.71 (1c) "Branch office" means an office or place of business, other than the  
11 principal office, located in this state or another state, where a mortgage banker or  
12 mortgage broker conducts business with residents of this state.

13 **SECTION 17.** 224.71 (1d) of the statutes is repealed.

14 **SECTION 18.** 224.71 (1dm) of the statutes is created to read:

15 224.71 (1dm) "Depository institution" has the meaning given in 12 USC 1813  
16 (c) (1), but also includes any state or federal credit union.

17 **SECTION 19.** 224.71 (1f) of the statutes is created to read:

18 224.71 (1f) "Dwelling" has the meaning given in 15 USC 1602 (v).

19 **SECTION 20.** 224.71 (1g) of the statutes is renumbered 224.71 (14) and amended  
20 to read:

21 224.71 (14) "Loan Residential mortgage loan" means ~~a~~ any loan primarily for  
22 personal, family, or household purposes use that is secured by a lien or mortgage, or  
23 equivalent security interest, on a dwelling or residential real property located in this  
24 state. ~~For purposes of this subsection, a loan secured by real property consisting of~~  
25 ~~1 to 4 dwelling units, including individual condominium units, is a loan for household~~

1 purposes, but a loan made by a landlord to a tenant as described in sub. (3) (b) 4. is  
2 not a loan for household purposes.

3 **SECTION 21.** 224.71 (1h) of the statutes is created to read:

4 224.71 (1h) "Federal banking agency" means the board of governors of the  
5 federal reserve system, the U.S. office of the comptroller of the currency, the U.S.  
6 office of thrift supervision, the national credit union administration, or the federal  
7 deposit insurance corporation.

8 **SECTION 22.** 224.71 (1m) of the statutes is created to read:

9 224.71 (1m) "Finds," with respect to a residential mortgage loan, means to  
10 assist a residential mortgage loan applicant in locating a lender for the purpose of  
11 obtaining a residential mortgage loan and to make arrangements for a residential  
12 mortgage loan applicant to obtain a residential mortgage loan, including collecting  
13 information on behalf of an applicant and preparing a loan package.

14 **SECTION 23.** 224.71 (1r) of the statutes is renumbered 224.71 (6) (a) (intro.) and  
15 amended to read:

16 224.71 (6) (a) (intro.) "~~Loan~~ Mortgage loan originator" means ~~a person who, on~~  
17 ~~behalf of a mortgage banker or mortgage broker, finds a loan or negotiates a land~~  
18 ~~contract, loan or commitment for a loan.~~ an individual who is not excluded by par.  
19 (b) and who, for compensation or gain or in the expectation of compensation or gain,  
20 does all of the following:

21 **SECTION 24.** 224.71 (1u) of the statutes is repealed.

22 **SECTION 25.** 224.71 (2) of the statutes is created to read:

23 224.71 (2) "Loan processor or underwriter" means an individual who, as an  
24 employee, performs clerical or support duties at the direction of and subject to the  
25 supervision and instruction of a mortgage loan originator licensed under s. 224.725

1 or exempt from licensing under s. 224.726 (1), which clerical or support duties may  
2 include any of the following occurring subsequent to the receipt of a residential  
3 mortgage loan application:

4 (a) The receipt, collection, distribution, and analysis of information common for  
5 the processing or underwriting of a residential mortgage loan.

6 (b) Communicating with a residential mortgage loan applicant to obtain the  
7 information necessary for the processing or underwriting of a residential mortgage  
8 loan, to the extent that the communication does not include offering or negotiating  
9 loan rates or terms or providing counseling related to loan rates or terms.

10 **SECTION 26.** 224.71 (3) (a) 1. to 3. of the statutes are amended to read:

11 224.71 (3) (a) 1. Originates residential mortgage loans for itself, as payee on  
12 the note evidencing the residential mortgage loan, or for another person.

13 2. Sells residential mortgage loans or interests in residential mortgage loans  
14 to another person.

15 3. Services residential mortgage loans ~~or land contracts~~ or provides escrow  
16 services.

17 **SECTION 27.** 224.71 (3) (b) 1. to 7. of the statutes are repealed.

18 **SECTION 28.** 224.71 (3) (b) 8., 9., 10., 11. and 12. of the statutes are created to  
19 read:

20 224.71 (3) (b) 8. A depository institution.

21 9. A subsidiary that is owned and controlled by a depository institution and  
22 regulated by a federal banking agency.

23 10. An institution regulated by the farm credit administration.

24 11. A person that only performs real estate brokerage activities and is licensed  
25 under s. 452.03, unless the person is compensated by a lender, mortgage broker, or

1 mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage  
2 loan originator.

3 12. A person solely involved in extensions of credit relating to time-share  
4 plans, as defined in 11 USC 101 (53D).

5 **SECTION 29.** 224.71 (4) (a) of the statutes is amended to read:

6 224.71 (4) (a) "Mortgage broker" means a person who is not excluded by par.  
7 (b) and who, on behalf of a residential mortgage loan applicant or an investor and for  
8 commission, money, or other thing of value, finds a residential mortgage loan or  
9 negotiates a ~~land contract~~, residential mortgage loan or commitment for a  
10 residential mortgage loan or engages in table funding.

11 **SECTION 30.** 224.71 (4) (b) 1. to 3. of the statutes are repealed.

12 **SECTION 31.** 224.71 (4) (b) 4., 5., 6., 7. and 8. of the statutes are created to read:

13 224.71 (4) (b) 4. A depository institution.

14 5. A subsidiary that is owned and controlled by a depository institution and  
15 regulated by a federal banking agency.

16 6. An institution regulated by the farm credit administration.

17 7. A person that performs real estate brokerage activities only and is licensed  
18 under s. 452.03, unless the person is compensated by a lender, mortgage broker, or  
19 mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage  
20 loan originator.

21 8. A person solely involved in extensions of credit relating to time-share plans,  
22 as defined in 11 USC 101 (53D).

23 **SECTION 32.** 224.71 (5) of the statutes is renumbered 224.71 (17) and amended  
24 to read:

1           224.71 (17) “Table funding” means a transaction in which a person conducts  
2 a residential mortgage loan closing in the person’s name with funds provided by a 3rd  
3 party and the person assigns the residential mortgage loan to the 3rd party within  
4 24 hours of the residential mortgage loan closing.

5           **SECTION 33.** 224.71 (6) (a) 1. and 2. and (b) of the statutes are created to read:

6           224.71 (6) (a) 1. Takes a residential mortgage loan application.

7           2. Offers or negotiates terms of a residential mortgage loan.

8           (b) “Mortgage loan originator” does not include any of the following:

9           1. An individual engaged solely as a loan processor or underwriter, unless the  
10 individual represents to the public, through advertising or another means of  
11 communication such as the use of business cards, stationery, brochures, signs, rate  
12 lists, or other promotional items, that the individual can or will perform any of the  
13 activities of a mortgage loan originator.

14           2. An individual who performs real estate brokerage activities only and is  
15 licensed under s. 452.03, unless the individual is compensated by a lender, mortgage  
16 broker, or another mortgage loan originator or by any agent of a lender, mortgage  
17 broker, or another mortgage loan originator.

18           3. An individual solely involved in extensions of credit relating to time-share  
19 plans, as defined in 11 USC 101 (53D).

20           **SECTION 34.** 224.71 (7) of the statutes is created to read:

21           224.71 (7) “Nationwide mortgage licensing system and registry” means the  
22 licensing and registration system developed and maintained by the Conference of  
23 State Bank Supervisors and the American Association of Residential Mortgage  
24 Regulators for licensed mortgage loan originators and mortgage loan originators  
25 exempt from licensing under s. 224.726 (1) or, if this system is no longer maintained,

1 any system established by the secretary of the federal department of housing and  
2 urban development under P.L. 110-289, Title V, section 1509.

3 **SECTION 35.** 224.71 (8) of the statutes is created to read:

4 224.71 (8) "Negotiate," with respect to a residential mortgage loan, means to  
5 discuss, explain, or present the terms and conditions, including rates, fees, and other  
6 costs, of a residential mortgage loan with or to a residential mortgage loan applicant,  
7 but does not include making an underwriting decision on a residential mortgage loan  
8 or closing a residential mortgage loan.

9 **SECTION 36.** 224.71 (10) of the statutes is created to read:

10 224.71 (10) "Nontraditional mortgage product" means any mortgage product  
11 other than a 30-year fixed rate mortgage.

12 **SECTION 37.** 224.71 (11) of the statutes is created to read:

13 224.71 (11) "Originate," with respect to a residential mortgage loan, means to  
14 make an underwriting decision on the residential mortgage loan and close the loan.

15 **SECTION 38.** 224.71 (12) of the statutes is created to read:

16 224.71 (12) "Principal office," with respect to a mortgage banker or mortgage  
17 broker, means the place of business designated by the mortgage banker or mortgage  
18 broker as its principal place of business, as identified in the records of the division.

19 **SECTION 39.** 224.71 (13) of the statutes is created to read:

20 224.71 (13) "Real estate brokerage activity" means any activity that involves  
21 offering or providing to the public real estate brokerage services involving  
22 residential real property in this state, including all of the following:

23 (a) Acting as a real estate agent or real estate broker for a buyer, seller, lessor,  
24 or lessee of real property.

1 (b) Bringing together parties interested in the sale, purchase, lease, rental, or  
2 exchange of real property.

3 (c) Negotiating, on behalf of any party, any portion of a contract relating to the  
4 sale, purchase, lease, rental, or exchange of real property, other than in connection  
5 with providing financing for the transaction.

6 (d) Engaging in any activity for which a person engaged in the activity is  
7 required to be licensed under s. 452.03.

8 (e) Offering to engage in any activity, or act in any capacity, described in pars.  
9 (a) to (d).

10 **SECTION 40.** 224.71 (15) of the statutes is created to read:

11 224.71 (15) “Residential real property” means real property on which a  
12 dwelling is constructed or intended to be constructed.

13 **SECTION 41.** 224.71 (16) of the statutes is created to read:

14 224.71 (16) “Services,” with respect to a residential mortgage loan, means to  
15 receive payments on a note from the borrower and distribute these payments in  
16 accordance with the terms of the note or servicing agreement.

17 **SECTION 42.** 224.71 (18) of the statutes is created to read:

18 224.71 (18) “Unique identifier” means a number or other identifier assigned  
19 by protocols established by the nationwide mortgage licensing system and registry.

20 **SECTION 43.** 224.72 (title) of the statutes is amended to read:

21 224.72 (title) **Registration Licensing of mortgage bankers, loan**  
22 **originators and mortgage brokers.**

23 **SECTION 44.** 224.72 (1) (intro.) of the statutes is repealed.

24 **SECTION 45.** 224.72 (1) (a) of the statutes is renumbered 224.71 (9) and  
25 amended to read:

1           224.71 (9) “Net worth” means total tangible assets less total liabilities of a  
2 person, or, if the person is ~~a natural person~~ an individual, total tangible assets less  
3 total liabilities exclusive of the person’s principal residence and its furnishings and  
4 personal use vehicles.

5           **SECTION 46.** 224.72 (1) (b) of the statutes is repealed.

6           **SECTION 47.** 224.72 (1m) of the statutes is amended to read:

7           224.72 (1m) ~~REGISTRATION LICENSE REQUIRED.~~ A person may not conduct  
8 business or act as a mortgage banker, ~~loan originator~~ or mortgage broker, use the title  
9 “mortgage banker”, ~~“loan originator”~~ or “mortgage broker”, or advertise or  
10 otherwise portray himself ~~or, herself, or itself~~ as a mortgage banker, ~~loan originator~~  
11 or mortgage broker, unless the person has been issued a ~~certificate of registration~~  
12 from mortgage banker or mortgage broker license by the division.

13           **SECTION 48.** 224.72 (2) (title) of the statutes is repealed and recreated to read:

14           224.72 (2) (title) LICENSE APPLICATIONS.

15           **SECTION 49.** 224.72 (2) (intro.) of the statutes is renumbered 224.72 (2) (am)  
16 and amended to read:

17           224.72 (2) (am) ~~A person desiring to act as~~ Applicants for a mortgage banker,  
18 ~~loan originator~~ or mortgage broker license shall apply for a certificate of registration  
19 to the division, on forms and in the manner prescribed by the division, and shall pay  
20 the fee specified in rules promulgated under sub. (8). ~~An application shall satisfy all~~  
21 ~~of the following:~~ Forms prescribed by the division under this paragraph may contain  
22 any content or requirement that the division, in its discretion, determines necessary  
23 and these forms may be modified or updated as necessary by the division to carry out  
24 the purposes of this subchapter.

25           **SECTION 50.** 224.72 (2) (a) and (b) of the statutes are repealed.



1           **SECTION 51.** 224.72 (2) (c) (title) of the statutes is repealed.

2           **SECTION 52.** 224.72 (2) (d) of the statutes is amended to read:

3           224.72 (2) (d) *Social security number exceptions.* 1. If an applicant who is an  
4 individual does not have a social security number, the applicant, as a condition of  
5 applying for or applying to renew a registration license under this section, shall  
6 submit a statement made or subscribed under oath or affirmation to the division that  
7 the applicant does not have a social security number. The form of the statement shall  
8 be prescribed by the department of children and families.

9           2. Any ~~certificate of registration~~ license issued or renewed in reliance upon a  
10 false statement submitted by an applicant under subd. 1. is invalid.

11           **SECTION 53.** 224.72 (2m) of the statutes is created to read:

12           224.72 (2m) LICENSED OFFICES. (a) Each mortgage banker or mortgage broker  
13 shall obtain and maintain a license for its principal office and a separate license for  
14 each branch office.

15           (b) A mortgage banker or mortgage broker shall have at its principal office and  
16 at each branch office, during hours when the office is open for business, a qualified  
17 individual with supervisory authority over all mortgage banking or mortgage  
18 brokerage activities who has at least 3 years of paid experience in, respectively, the  
19 mortgage banking or mortgage brokerage business.

20           **SECTION 54.** 224.72 (3) (title) of the statutes is repealed.

21           **SECTION 55.** 224.72 (3) (a) of the statutes is renumbered 224.725 (2) (d) and  
22 amended to read:

23           224.725 (2) (d) ~~In addition to the requirements of sub. (2), an~~ Any applicant for  
24 registration as a residential mortgage loan originator license shall include in the

1 application the name of the mortgage banker or mortgage broker who will employ  
2 the residential mortgage loan originator.

3 **SECTION 56.** 224.72 (3) (b) and (c) of the statutes are repealed.

4 **SECTION 57.** 224.72 (4) (title) of the statutes is amended to read:

5 224.72 **(4)** (title) ~~ADDITIONAL REQUIREMENT FOR MORTGAGE BANKER APPLICANT~~  
6 REQUIREMENTS.

7 **SECTION 58.** 224.72 (4) (a) (intro.) of the statutes is amended to read:

8 224.72 **(4)** (a) ~~With a bona fide office.~~ (intro.) In addition to the requirements  
9 of sub. (2), an applicant for ~~registration as a mortgage banker who maintains a bona~~  
10 fid e office or mortgage broker license shall do at least ~~one~~ all of the following:

11 **SECTION 59.** 224.72 (4) (a) 1. of the statutes is repealed.

12 **SECTION 60.** 224.72 (4) (a) 2. of the statutes is amended to read:

13 224.72 **(4)** (a) 2. ~~'File a bond.'~~ File with the division a commercial surety bond  
14 which is in the amount of \$25,000 \$250,000 for a mortgage banker or \$100,000 for  
15 a mortgage broker, is issued by a surety company authorized to do business in this  
16 state, secures the applicant's faithful performance of all duties and obligations of a  
17 mortgage banker or mortgage broker, is payable to the division for the benefit of  
18 persons to whom the mortgage banker or mortgage broker provided services as a  
19 mortgage banker or mortgage broker, is issued on a form that is acceptable to the  
20 division and provides that the bond may not be terminated without at least 30 days'  
21 written notice to the division.

22 **SECTION 61.** 224.72 (4) (a) 3. of the statutes is repealed.

23 **SECTION 62.** 224.72 (4) (a) 4. of the statutes is amended to read:

24 224.72 **(4)** (a) 4. ~~'Minimum net worth.'~~ Submit evidence that establishes, to the  
25 division's satisfaction, a minimum net worth of \$25,000 ~~and a warehouse line of~~

1 credit of not less than \$250,000 or a minimum net worth of \$100,000 for a mortgage  
2 banker or \$50,000 for a mortgage broker. Evidence of net worth shall include the  
3 submission of a balance sheet that is recent financial statements accompanied by a  
4 written statement by an independent certified public accountant attesting that he  
5 or she has reviewed the balance sheet financial statements in accordance with  
6 generally accepted accounting principles.

7 **SECTION 63.** 224.72 (4) (d) of the statutes is repealed.

8 **SECTION 64.** 224.72 (4m) of the statutes is repealed.

9 **SECTION 65.** 224.72 (4n) (intro.) of the statutes is amended to read:

10 224.72 (4n) SECURITY HELD BY THE DIVISION; RELEASE. (intro.) The division or its  
11 agent shall hold security filed under ~~subs. (4) (a) 3. and (4m) (a) 2. s. 224.72 (4) (a)~~  
12 3., 2007 stats., and s. 224.72 (4m) (a) 2., 2007 stats. The security shall remain in  
13 effect, and the division may not release it, until all of the following conditions are met:

14 **SECTION 66.** 224.72 (4n) (a) 2. of the statutes is amended to read:

15 224.72 (4n) (a) 2. The date on which the mortgage banker's or mortgage  
16 broker's registration license expires or is revoked.

17 **SECTION 67.** 224.72 (4r) of the statutes is repealed.

18 **SECTION 68.** 224.72 (5) (title) of the statutes is renumbered 224.72 (5m) (title)  
19 and amended to read:

20 224.72 (5m) (title) COMPLETION OF REGISTRATION LICENSING PROCESS.

21 **SECTION 69.** 224.72 (5) (a) of the statutes is renumbered 224.725 (3) (intro.) and  
22 amended to read:

23 224.725 (3) LOAN-ORIGINATOR ISSUANCE OF LICENSE. (intro.) Except as provided  
24 in sub. (7m) (6), upon receiving a properly completed the filing of an application for  
25 registration as a mortgage loan originator and license and the payment of the fee

1 specified in rules promulgated under sub. (8) and upon an applicant's compliance  
2 with sub. (3) (a) and, if required, sub. (3) (b), the division may issue to the applicant  
3 a certificate of registration as a mortgage loan originator: license if the division finds  
4 that all of the following apply:

5       **SECTION 70.** 224.72 (5) (b) of the statutes is renumbered 224.72 (5m) and  
6 amended to read:

7       **224.72 (5m) *Mortgage banker and mortgage broker.*** Except as provided in sub.  
8 (7m), upon receiving a properly completed the filing of an application for registration  
9 as a mortgage banker or ~~a~~ mortgage broker, license and the payment of the fee  
10 specified in rules promulgated under sub. (8) and satisfactory evidence of compliance  
11 with subs. (4) and (4m), the division may shall make an investigation of the applicant  
12 including, if the applicant is a partnership, limited liability company, association, or  
13 corporation, the members or officers and directors, respectively, of the applicant. If  
14 the division finds that the character, general fitness, and financial responsibility of  
15 the applicant, including its members or officers and directors if the applicant is a  
16 partnership, limited liability company, association, or corporation, warrant the  
17 belief that the business will be operated in compliance with this subchapter, the  
18 division shall issue to the applicant a certificate of registration as a mortgage banker  
19 or mortgage broker license. A mortgage banker or mortgage broker license is not  
20 assignable or transferable.

21       **SECTION 71.** 224.72 (6) of the statutes is created to read:

22       **224.72 (6) UPDATED INFORMATION.** After submitting an application for initial  
23 issuance or renewal of a license under this section, the applicant shall, on forms and  
24 in the manner prescribed by the division, provide notice within 10 days of the  
25 occurrence of any of the following:

1 (a) Any material change in information included in the application, including  
2 any name change or change of address.

3 (b) The applicant's filing for bankruptcy or consummating a corporate  
4 restructuring, including, if the applicant is not an individual, any bankruptcy filing  
5 by a member, officer, director, principal, partner, trustee, or other agent of the  
6 applicant.

7 (c) The filing of a criminal complaint or indictment against, or the conviction  
8 of, the applicant for a felony crime or any crime related to the applicant's mortgage  
9 banking or mortgage brokerage activities, fraud, theft, misappropriation of funds, or  
10 dishonesty or, if the applicant is not an individual, the filing of such a criminal  
11 complaint or indictment against, or conviction of, a member, officer, director,  
12 principal, partner, trustee, or other agent of the applicant.

13 (d) The applicant's receipt of notice of any of the following as it relates to the  
14 applicant's license or other authorization to engage in mortgage banking or mortgage  
15 brokerage activities in another state:

16 1. That proceedings have been instituted in another state to suspend or revoke  
17 the applicant's license or authorization to engage in these activities in that state.

18 2. That the applicant has been denied a license or authorization to engage in  
19 these activities in another state.

20 3. That the applicant is subject to an order to cease any of these activities in  
21 another state.

22 4. That the applicant is subject to any other disciplinary proceeding or  
23 regulatory action in another state related to these activities.

24 (e) The applicant's receipt of notice that any state or federal department of  
25 justice or attorney general has instituted an action against the applicant.

1 (f) The applicant's receipt of notice of a material adverse action with respect to  
2 an existing line of credit of the applicant.

3 (g) The suspension or termination of the applicant's status as an approved  
4 seller or servicer by the federal national mortgage association, federal home loan  
5 mortgage corporation, or government national mortgage association.

6 (h) The exercise of recourse rights by investors or subsequent assignees of  
7 mortgage loans if the loans for which the recourse rights are being exercised, in the  
8 aggregate, exceed the applicant's net worth exclusive of real property and fixed  
9 assets.

10 (i) If the applicant is not an individual, any material change in control in the  
11 ownership of the applicant or among the officers, directors, members, or partners of  
12 the applicant.

13 **SECTION 72.** 224.72 (7) (title) of the statutes is repealed and recreated to read:

14 224.72 (7) (title) LICENSE RENEWAL.

15 **SECTION 73.** 224.72 (7) (a) of the statutes is renumbered 224.72 (7) (am) and  
16 amended to read:

17 224.72 (7) (am) A loan originator, mortgage broker or mortgage banker shall  
18 may apply to renew a certificate of registration license issued under this section by  
19 timely submitting to, on forms and in the manner prescribed by the division, a  
20 completed renewal application and the all required renewal fee specified in rules  
21 promulgated under sub. (8) on or before the renewal date specified in rules  
22 promulgated under sub. (8) fees. The division may not renew a license issued under  
23 this section unless the division finds that the mortgage broker or mortgage banker  
24 continues to meet the minimum standards for license issuance under this section.

25 **SECTION 74.** 224.72 (7) (b) of the statutes is repealed.

1           **SECTION 75.** 224.72 (7) (bm) of the statutes is created to read:

2           224.72 (7) (bm) The license of a mortgage broker or mortgage banker who fails  
3 to satisfy the minimum standards for license renewal shall expire. The division may,  
4 by rule, provide for the reinstatement of expired licenses consistent with the  
5 standards established by the nationwide mortgage licensing system and registry.

6           **SECTION 76.** 224.72 (7) (c), (d) and (e) of the statutes are repealed.

7           **SECTION 77.** 224.72 (7m) (intro.) of the statutes is amended to read:

8           224.72 (7m) ~~DENIAL OF APPLICATION FOR ISSUANCE OR RENEWAL OF REGISTRATION~~  
9 ~~CERTAIN REASONS.~~ (intro.) The division may not issue or renew a ~~certificate of~~  
10 ~~registration~~ license under this section if any of the following applies:

11           **SECTION 78.** 224.72 (7m) (am) of the statutes is repealed.

12           **SECTION 79.** 224.72 (7m) (b) of the statutes is amended to read:

13           224.72 (7m) (b) The department of revenue has certified under s. 73.0301 that  
14 the applicant is liable for delinquent taxes. An applicant whose application for  
15 issuance or renewal of a ~~certificate of registration~~ license is denied under this  
16 paragraph for delinquent taxes is entitled to a notice under s. 73.0301 (2) (b) 1. b. and  
17 hearing under s. 73.0301 (5) (a) but is not entitled to any other notice or hearing  
18 under this section.

19           **SECTION 80.** 224.72 (7m) (c) of the statutes is amended to read:

20           224.72 (7m) (c) The applicant for the issuance or renewal is an individual who  
21 fails to comply, after appropriate notice, with a subpoena or warrant issued by the  
22 department of children and families or a county child support agency under s. 59.53  
23 (5) and related to paternity or child support proceedings or who is delinquent in  
24 making court-ordered payments of child or family support, maintenance, birth  
25 expenses, medical expenses or other expenses related to the support of a child or

1 former spouse, as provided in a memorandum of understanding entered into under  
2 s. 49.857. An applicant whose ~~registration~~ license is not issued or renewed under this  
3 paragraph for delinquent payments is entitled to a notice and hearing under s.  
4 49.857 but is not entitled to any other notice or hearing under this section.

5 **SECTION 81.** 224.72 (7p) of the statutes is repealed.

6 **SECTION 82.** 224.72 (8) of the statutes is amended to read:

7 224.72 (8) **REGISTRATION LICENSE PERIOD; FEES.** The division shall promulgate  
8 rules establishing the ~~registration~~ license period and the ~~registration~~ license fees for  
9 ~~loan originators~~, mortgage bankers and mortgage brokers.

10 **SECTION 83.** 224.725 of the statutes is created to read:

11 **224.725 Licensing of mortgage loan originators. (1) LICENSE REQUIRED.**

12 Except as provided in s. 224.726, an individual may not engage in the business of a  
13 mortgage loan originator with respect to a residential mortgage loan, or use the title  
14 “mortgage loan originator,” advertise, or otherwise portray himself or herself as a  
15 mortgage loan originator in this state, unless the individual has been issued by the  
16 division, and thereafter maintains, a license under this section. Each licensed  
17 mortgage loan originator shall register with, and maintain a valid unique identifier  
18 issued by, the nationwide mortgage licensing system and registry.

19 **(2) LICENSE APPLICATIONS.** (a) Applicants for a mortgage loan originator license  
20 shall apply to the division, on forms and in the manner prescribed by the division,  
21 and shall pay the fee specified in rules promulgated under sub. (8). The division shall  
22 require mortgage loan originators to be licensed and registered through the  
23 nationwide mortgage licensing system and registry. Forms prescribed by the  
24 division under this paragraph may contain any content or requirement that the



1 division, in its discretion, determines necessary and these forms may be modified or  
2 updated as necessary by the division to carry out the purposes of this subchapter.

3 (b) 1. Except as provided in subd. 2., an application shall include the  
4 individual's social security number. The division may not disclose the individual's  
5 social security number to any person except as follows:

6 a. The division may disclose the social security number to the department of  
7 revenue for the sole purpose of requesting certifications under s. 73.0301.

8 b. The division may disclose the social security number to the department of  
9 children and families in accordance with a memorandum of understanding under s.  
10 49.857.

11 2. If an individual does not have a social security number, the individual, as a  
12 condition of applying for, or applying to renew, a license under this section, shall  
13 submit a statement made or subscribed under oath or affirmation to the division that  
14 the individual does not have a social security number. The form of the statement  
15 shall be prescribed by the department of children and families. Any license issued  
16 or renewed in reliance upon a false statement submitted by an applicant under this  
17 subdivision is invalid.

18 (c) Any applicant for a license under this section shall furnish to the nationwide  
19 mortgage licensing system and registry information concerning the applicant's  
20 identity, including all of the following:

21 1. Fingerprints for submission to the federal bureau of investigation and to any  
22 governmental agency or entity authorized to receive this information, for purposes  
23 of a state, national, and international criminal history background check.

24 2. Personal history and experience in a form prescribed by the nationwide  
25 mortgage licensing system and registry, including the submission of authorization

1 for the nationwide mortgage licensing system and registry and the division to obtain  
2 all of the following:

3 a. An independent credit report from a consumer reporting agency, as defined  
4 in s. 100.54 (1) (c).

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

7 **(3)** (a) The applicant has never had a mortgage loan originator license revoked  
8 in any governmental jurisdiction, unless the revocation was subsequently and  
9 formally vacated.

10 (b) The applicant has not been convicted of, or pled guilty or no contest to, a  
11 felony in a domestic, foreign, or military court during the 7-year period preceding the  
12 date of the application or, for a felony involving an act of fraud, dishonesty, breach  
13 of trust, or money laundering, at any time preceding the date of the application. This  
14 paragraph does not apply with respect to any conviction for which the applicant has  
15 received a pardon.

16 (c) The applicant has demonstrated financial responsibility, character, and  
17 general fitness such as to command the confidence of the community and to warrant  
18 a determination that the mortgage loan originator will operate honestly, fairly, and  
19 efficiently within the purposes of this subchapter. For purposes of this paragraph,  
20 an individual has shown that he or she is not financially responsible if he or she has  
21 shown a disregard in the management of his or her own financial condition, including  
22 having current outstanding judgments other than those resulting from medical  
23 expenses, having current outstanding tax liens or other government liens and  
24 filings, or having, within the past 3 years, foreclosures or any pattern of seriously  
25 delinquent accounts.

1 (d) The applicant has satisfied the education requirements under s. 224.755 (1).

2 (e) The applicant has passed a written test that meets the requirements under  
3 s. 224.755 (4).

4 (f) The applicant has met the surety bond requirement under sub. (4).

5 **(4) SURETY BOND.** (a) Each mortgage loan originator shall be covered by a surety  
6 bond in accordance with this subsection. A surety bond of a mortgage banker or  
7 mortgage broker meeting the requirements of par. (b) and s. 224.72 (4) (a) 2. may  
8 satisfy the requirement under this paragraph for a mortgage loan originator who,  
9 under sub. (2) (d), identifies himself or herself as employed by the mortgage banker  
10 or mortgage broker.

11 (b) The penal sum of the surety bond shall provide coverage for each mortgage  
12 loan originator in an amount that reflects the dollar amount of residential mortgage  
13 loans originated by the mortgage loan originator, as determined by the division.

14 (c) The surety bond shall be in a form prescribed, and satisfy all requirements  
15 established, by rule of the division.

16 (d) When an action is commenced on a mortgage loan originator's surety bond,  
17 the division may require the filing of a new surety bond. If an action results in  
18 recovery on a mortgage loan originator's surety bond, the mortgage loan originator  
19 shall immediately file a new surety bond.

20 **(5) LICENSE RENEWAL.** (a) A mortgage loan originator may apply to renew a  
21 license issued under this section by timely submitting, on forms and in the manner  
22 prescribed by the division, a completed renewal application and all required renewal  
23 fees. The division may not renew a license issued under this section unless the  
24 division finds that all of the following apply:

1           1. The mortgage loan originator continues to meet the minimum standards for  
2 license issuance under sub. (3).

3           2. The mortgage loan originator has satisfied the annual continuing education  
4 requirements under s. 224.755 (2).

5           (b) The license of a mortgage loan originator who fails to satisfy the minimum  
6 standards for license renewal shall expire. The division may, by rule, provide for the  
7 reinstatement of expired licenses consistent with the standards established by the  
8 nationwide mortgage licensing system and registry.

9           **(6) DENIAL OF APPLICATION FOR CERTAIN REASONS.** The division may not issue or  
10 renew a license under this section if any of the following applies:

11           (a) The applicant for the issuance or renewal has failed to provide the  
12 information required under sub. (2) (b).

13           (b) The department of revenue has certified under s. 73.0301 that the applicant  
14 is liable for delinquent taxes. An applicant whose application for issuance or renewal  
15 of a license is denied under this paragraph for delinquent taxes is entitled to a notice  
16 under s. 73.0301 (2) (b) 1. b. and hearing under s. 73.0301 (5) (a) but is not entitled  
17 to any other notice or hearing under this section.

18           (c) The applicant for the issuance or renewal has failed to comply, after  
19 appropriate notice, with a subpoena or warrant issued by the department of children  
20 and families or a county child support agency under s. 59.53 (5) and related to  
21 paternity or child support proceedings or who is delinquent in making court-ordered  
22 payments of child or family support, maintenance, birth expenses, medical expenses  
23 or other expenses related to the support of a child or former spouse, as provided in  
24 a memorandum of understanding entered into under s. 49.857. An applicant whose  
25 license is not issued or renewed under this paragraph for delinquent payments is

1 entitled to a notice and hearing under s. 49.857 but is not entitled to any other notice  
2 or hearing under this section.

3 (7) UPDATED INFORMATION. After submitting an application for initial issuance  
4 or renewal of a license under this section, the applicant shall, on forms and in the  
5 manner prescribed by the division, provide notice within 10 days of the occurrence  
6 of any of the following:

7 (a) Any material change in information included in the application, including  
8 any name change or change of address.

9 (b) The applicant's filing for bankruptcy.

10 (c) The filing of a criminal complaint or indictment against, or the conviction  
11 of, the applicant for a felony crime or any crime related to the applicant's mortgage  
12 loan origination activities, fraud, theft, misappropriation of funds, or dishonesty.

13 (d) The applicant's receipt of notice of any of the following as it relates to the  
14 applicant's license or other authorization to engage in mortgage loan origination  
15 activities in another state:

16 1. That proceedings have been instituted in another state to suspend or revoke  
17 the applicant's license or authorization to engage in these activities in that state.

18 2. That the applicant has been denied a license or other authorization to engage  
19 in these activities in another state.

20 3. That the applicant is subject to an order to cease any of these activities in  
21 another state.

22 4. That the applicant is subject to any other disciplinary proceeding or  
23 regulatory action in another state related to these activities.

24 (e) The applicant's receipt of notice that any state or federal department of  
25 justice or attorney general has instituted an action against the applicant.

1           **(8) LICENSE PERIOD; FEES.** The division shall promulgate rules establishing the  
2 license period and the license fees for mortgage loan originators.

3           **SECTION 84.** 224.726 of the statutes is created to read:

4           **224.726 Persons exempt from mortgage loan originator provisions.**

5           The provisions of this subchapter relating to mortgage loan originators do not apply  
6 to any of the following:

7           **(1)** Any individual who meets the definition of mortgage loan originator and  
8 who is all of the following:

9           (a) An employee of, and acting for, a depository institution, a subsidiary owned  
10 and controlled by a depository institution and regulated by a federal banking agency,  
11 or an institution regulated by the farm credit administration.

12           (b) Registered with, and who maintains a unique identifier through, the  
13 nationwide mortgage licensing system and registry.

14           **(2)** Any individual who offers or negotiates terms of a residential mortgage loan  
15 with or on behalf of the individual's spouse, child, sibling, parent, grandparent, or  
16 grandchild, including any stepparent, stepchild, stepsibling, or adoptive  
17 relationship.

18           **(3)** Any person who offers or negotiates terms of a residential mortgage loan  
19 secured by a dwelling that served as the individual's residence.

20           **(4)** A licensed attorney who negotiates the terms of a residential mortgage loan  
21 on behalf of a client as an ancillary matter to the attorney's representation of the  
22 client, unless the attorney is compensated by a lender, mortgage broker, or mortgage  
23 loan originator or by any agent of a lender, mortgage broker, or mortgage loan  
24 originator.

25           **SECTION 85.** 224.728 of the statutes is created to read:

1           **224.728 Nationwide mortgage licensing system and registry and**  
2 **cooperative arrangements. (1) PARTICIPATION.** (a) The division shall participate  
3 in the nationwide mortgage licensing system and registry. The division may  
4 establish relationships or contracts with the nationwide mortgage licensing system  
5 and registry or other entities designated by the nationwide mortgage licensing  
6 system and registry to collect and maintain records and process transaction fees or  
7 other fees related to licensees under this subchapter. With respect to any form, fee,  
8 or other information related to the initial issuance or renewal of a mortgage loan  
9 originator license under this subchapter, the division may require that any applicant  
10 submit such form, fee, or other information directly to the nationwide mortgage  
11 licensing system and registry and may authorize the nationwide mortgage licensing  
12 system and registry to perform any function under this subchapter related to the  
13 licensing of mortgage loan originators in this state.

14           (b) The division may provide to the nationwide mortgage licensing system and  
15 registry any information relating to an applicant for initial issuance or renewal of a  
16 mortgage loan originator license that the division and the nationwide mortgage  
17 licensing system and registry determine to be relevant to the application or to any  
18 mortgage loan originator responsibility administered or conducted through the  
19 nationwide mortgage licensing system and registry.

20           (c) The division may rely on the nationwide mortgage licensing system and  
21 registry to establish any dates relating to application or reporting deadlines for  
22 mortgage loan originators, to establish requirements for amending or surrendering  
23 mortgage loan originator licenses, or to establish any other requirements applicable  
24 to mortgage loan originators licensed under this subchapter to the extent the

1 requirements are a condition of the state's participation in the nationwide mortgage  
2 licensing system and registry.

3 (2) CHANNELING INFORMATION. To reduce the points of contact that the division  
4 may have to maintain, and to facilitate compliance with the requirements under s.  
5 224.725 (2) (c), the division may use the nationwide mortgage licensing system and  
6 registry as a channeling agent for requesting and distributing information to and  
7 from any source so directed by the division, including the federal bureau of  
8 investigation, any state or federal department of justice, or any other governmental  
9 agency.

10 (3) CHALLENGE PROCESS. The division shall establish a process whereby  
11 mortgage loan originators may challenge information maintained by the nationwide  
12 mortgage licensing system and registry on behalf of the division.

13 (4) CONFIDENTIAL INFORMATION. (a) If any information or material is considered  
14 confidential or privileged under federal or state law before it is provided or disclosed  
15 to the nationwide mortgage licensing system and registry, it shall continue to be  
16 confidential or privileged after it is provided or disclosed to, and while maintained  
17 by, the nationwide mortgage licensing system and registry, except to the extent  
18 federal or state law expressly provides otherwise and except as provided in par. (c).  
19 Confidential or privileged information or material under this paragraph is not  
20 subject to any of the following:

21 1. Disclosure under any federal or state law governing the disclosure to the  
22 public of information held by an officer or an agency of federal or state government.

23 2. Subpoena or discovery, or admission into evidence, in any private civil action  
24 or administrative proceeding, unless the person to whom the information or material



1 pertains waives any right or protection of confidentiality or privilege in the  
2 information or material.

3 (b) Confidential or privileged information or material under par. (a) may be  
4 shared with any state or federal regulatory agency having supervisory authority  
5 over mortgage lending without losing any right or protection of confidentiality or  
6 privilege under federal or state law.

7 (c) This subsection does not prohibit the nationwide mortgage licensing system  
8 and registry from providing public access to information or material relating to the  
9 employment history of, and publicly adjudicated disciplinary and enforcement  
10 actions against, mortgage loan originators.

11 (5) COOPERATIVE ARRANGEMENTS. The division may enter into cooperative,  
12 coordinating, or information-sharing arrangements or agreements with other  
13 governmental agencies or with associations representing other governmental  
14 agencies, including the Conference of State Bank Supervisors and the American  
15 Association of Residential Mortgage Regulators.

16 SECTION 86. 224.73 (title) of the statutes is amended to read:

17 224.73 (title) **Relationship between mortgage loan originator and**  
18 **either a mortgage banker or a mortgage broker.**

19 SECTION 87. 224.73 (1) of the statutes is amended to read:

20 224.73 (1) RESPONSIBILITY FOR MORTGAGE LOAN ORIGINATOR. ~~A mortgage banker~~  
21 ~~or a mortgage broker is responsible for, and shall supervise the acts of, a loan~~  
22 ~~originator who registers under s. 224.72 (3) as an employee of the mortgage banker~~  
23 ~~or mortgage broker. A mortgage banker or mortgage broker is also responsible for,~~  
24 ~~and shall supervise the acts of, a mortgage loan originator or any other person who~~  
25 ~~otherwise acts on behalf of the mortgage banker or the mortgage broker.~~