

1 **SECTION 88.** 224.73 (2) (title) of the statutes is amended to read:

2 224.73 (2) (title) RESTRICTION ON MORTGAGE LOAN ORIGINATOR.

3 **SECTION 89.** 224.73 (2) of the statutes is renumbered 224.73 (2) (a) and
4 amended to read:

5 224.73 (2) (a) If the division suspends or revokes a mortgage banker's or ~~a~~
6 mortgage broker's ~~certificate of registration license~~, a mortgage loan originator may
7 not act on behalf of that mortgage banker or mortgage broker during the period of
8 suspension or revocation.

9 **SECTION 90.** 224.73 (2) (b) of the statutes is created to read:

10 224.73 (2) (b) A mortgage loan originator may act on behalf of only the
11 mortgage banker or mortgage broker with which that mortgage loan originator's
12 license is associated in the records of the division, as designated under s. 224.725 (2)
13 (d). A mortgage loan originator's license may only be associated with one mortgage
14 banker or mortgage broker at a time.

15 **SECTION 91.** 224.73 (3) (title) of the statutes is amended to read:

16 224.73 (3) (title) TRANSFER BY MORTGAGE LOAN ORIGINATOR.

17 **SECTION 92.** 224.73 (3) of the statutes is renumbered 224.73 (3) (a) and
18 amended to read:

19 224.73 (3) (a) A ~~registered licensed mortgage~~ loan originator may at any time
20 apply, on forms and in the manner prescribed and provided by the division, to
21 transfer ~~employment association~~ to another registered licensed mortgage banker or
22 mortgage broker. The division shall promulgate rules establishing a fee for a
23 transfer application under this subsection.

24 **SECTION 93.** 224.73 (3) (b) of the statutes is created to read:

1 224.73 (3) (b) A mortgage loan originator may not act on behalf of a mortgage
2 banker or mortgage broker until the mortgage loan originator's license association
3 has been transferred to that mortgage banker or mortgage broker in the records of
4 the division.

5 **SECTION 94.** 224.73 (4) (title) of the statutes is amended to read:

6 224.73 (4) (title) ~~SIGNATURE BY~~ MORTGAGE LOAN ORIGINATOR SIGNATURES AND
7 UNIQUE IDENTIFIERS.

8 **SECTION 95.** 224.73 (4) of the statutes is renumbered 224.73 (4) (a) and
9 amended to read:

10 224.73 (4) (a) Every residential mortgage loan application shall be signed by
11 a registered licensed mortgage loan originator or by a mortgage loan originator
12 exempt from licensing under s. 224.726 (1).

13 **SECTION 96.** 224.73 (4) (b) of the statutes is created to read:

14 224.73 (4) (b) Any person originating a residential mortgage loan shall clearly
15 place the person's unique identifier on all residential mortgage loan application
16 forms, solicitations, and advertisements, including business cards or Web sites, and
17 on all other documents specified by rule of the division.

18 **SECTION 97.** 224.74 (title) of the statutes is amended to read:

19 **224.74 (title) Division's review of the operations of a mortgage loan**
20 **originator, mortgage broker, or mortgage banker.**

21 **SECTION 98.** 224.74 (1) of the statutes is amended to read:

22 224.74 (1) ANNUAL CALL REPORTS; AUDITS. (a) *Annual call report.* ~~Except as~~
23 ~~provided in par. (b), each~~ Each year, ~~on a by the~~ date specified by the division and in
24 ~~a the~~ form required by the division, ~~a nationwide mortgage licensing system and~~
25 registry, each mortgage banker or, mortgage broker, and mortgage loan originator

1 licensed under this subchapter shall submit to the division nationwide mortgage
2 licensing system and registry an annual report relating to the mortgage banker's or
3 mortgage broker's operations during its most recently completed fiscal year of
4 condition, which shall contain such information as the nationwide mortgage
5 licensing system and registry may require.

6 (b) *Audit requirement.* Each year, no later than 6 months following the end of
7 its most recently completed fiscal year, ~~a~~ each mortgage banker or mortgage broker
8 ~~that qualified for registration under s. 224.72 (4) (a) 4. or (d) or (4m) (a) 3. or (b),~~ shall
9 submit a copy of an audit of the mortgage banker's or mortgage broker's operations
10 during that fiscal year. An audit under this paragraph shall be conducted by an
11 independent certified public accountant in accordance with generally accepted
12 auditing standards. The financial statements in the audit report shall be prepared
13 in accordance with generally accepted accounting principles.

14 (c) *Audits requested by the division.* The division may request that a mortgage
15 banker or mortgage broker obtain an audit of the mortgage banker's or mortgage
16 broker's operations if the division has reason to believe that the mortgage banker or
17 mortgage broker may not have sufficient financial resources to meet its obligations
18 to its clients or investors or to other persons directly affected by the activities
19 conducted by the mortgage banker or mortgage broker under the ~~certificate of~~
20 ~~registration granted~~ license issued by the division. If the division requests an audit
21 under this paragraph, the mortgage banker or mortgage broker shall have the audit
22 completed no later than 90 days after the date of the division's request. The mortgage
23 banker or mortgage broker shall submit the audit report to the division no later than
24 5 days after the date on which the audit is completed. An audit under this paragraph
25 shall be conducted by an independent certified public accountant in accordance with

1 generally accepted auditing standards. The financial statements in the audit report
2 shall be prepared in accordance with generally accepted accounting principles.

3 SECTION 99. 224.74 (2) (title) of the statutes is amended to read:

4 224.74 (2) (title) EXAMINATION AND INVESTIGATION.

5 SECTION 100. 224.74 (2) (a) (title) of the statutes is repealed.

6 SECTION 101. 224.74 (2) (a) of the statutes is renumbered 224.74 (2) (ag) (intro.)
7 and amended to read:

8 224.74 (2) (ag) (intro.) The division may at any time, on its own motion or upon
9 complaint, ~~examine the~~ conduct inquiries, investigations, and examinations of
10 licensees under this subchapter, or of persons required to be licensed under or
11 otherwise subject to the provisions of this subchapter, including doing any of the
12 following:

13 1. Examining, accessing, receiving, or using any books of account, accounts,
14 records, files, documents, or other information relating to the condition and or affairs
15 of a mortgage banker, mortgage loan originator, or mortgage broker registered under
16 this subchapter. The division shall prepare a report of each examination conducted
17 under this section. As part of the examination or preparation of the report, the
18 division may examine,

19 2. Interviewing or examining under oath any mortgage banker, mortgage loan
20 originator, or mortgage broker, any of the members, officers, directors, agents,
21 employees, contractors, or customers of the mortgage banker, mortgage loan
22 originator, or mortgage broker. The division may require a mortgage banker, loan
23 originator or mortgage broker who is examined under this paragraph to pay to the
24 division a reasonable fee for the costs of conducting the examination, or any other
25 person whose testimony the division deems to be relevant. The division may direct,

1 subpoena, or order the attendance of a person to provide testimony under this
2 subdivision and may direct, subpoena, or order the person to produce books,
3 accounts, records, files, and any other document the division deems relevant to the
4 inquiry, investigation, or examination.

5 **SECTION 102.** 224.74 (2) (ag) 3. and 4. of the statutes are created to read:

6 224.74 (2) (ag) 3. Direct or order any licensee under this subchapter to make
7 or compile reports or other information, in a format directed by the division, that the
8 division considers necessary to carry out any investigation or examination under this
9 subchapter, including any accounting compilation or other loan transaction data,
10 list, or information.

11 4. Examine, access, receive, and use any other records, documents, or other
12 information that the division deems relevant to the inquiry, investigation, or
13 examination, regardless of the location, possession, control, or custody of the records,
14 documents, or information, including any of the following:

15 a. Criminal, civil, and administrative history information, including conviction
16 information and nonconviction information to the extent permitted by law.

17 b. Personal history and experience information, including credit reports
18 obtained from a consumer reporting agency, as defined in s. 100.54 (1) (c).

19 **SECTION 103.** 224.74 (2) (ar) of the statutes is created to read:

20 224.74 (2) (ar) In making any investigation or examination authorized under
21 this subchapter, the division may control access to any documents and records of the
22 licensee or of any other person under investigation or examination. The division may
23 take possession of the documents and records or place a person in exclusive charge
24 of the documents and records in the place where they are usually kept. During the
25 period of control, no person may remove or attempt to remove any of the documents

1 and records except with the consent of the division or by court order. Unless the
2 division has reasonable grounds to believe the documents and records have been or
3 are at risk of being altered or destroyed for purposes of concealing a violation of this
4 subchapter, the licensee or owner or custodian of the documents and records shall
5 have access to the documents and records as necessary to conduct its ordinary
6 business affairs.

7 **SECTION 104.** 224.74 (2) (b) of the statutes is amended to read:

8 224.74 (2) (b) ~~Confidentiality. Examination~~ The division shall prepare a report
9 for each investigation or examination conducted under this subsection. These
10 reports, and correspondence regarding the these reports, are confidential, except
11 that the division may release examination these reports and correspondence in
12 connection with a disciplinary proceeding conducted by the division, a liquidation
13 proceeding, or a criminal investigation or proceeding. In addition, any information
14 from these reports or correspondence may be provided to the nationwide mortgage
15 licensing system and registry and is not confidential to the extent specified in s.
16 224.728 (4) (b) and (c).

17 **SECTION 105.** 224.74 (2) (c) of the statutes is created to read:

18 224.74 (2) (c) The division may require a mortgage banker, mortgage loan
19 originator, or mortgage broker who is investigated or examined under this subsection
20 to pay to the division a reasonable fee for the costs of conducting the investigation
21 or examination. A mortgage banker, mortgage loan originator, or mortgage broker
22 shall pay these costs to the division within 30 days after the division demands
23 payment of these costs.

24 **SECTION 106.** 224.74 (3) of the statutes is created to read:

1 224.74 (3) ADDITIONAL DIVISION AUTHORITY. To carry out the purposes of this
2 section, the division may do any of the following:

3 (a) Retain attorneys, accountants, and other professionals and specialists as
4 examiners, auditors, or investigators to conduct or assist in the conduct of
5 investigations or examinations.

6 (b) Enter into agreements or relationships with other government officials or
7 regulatory associations to improve efficiencies and reduce regulatory burden by
8 sharing resources, standardized or uniform methods or procedures, and documents,
9 records, or information obtained under this section.

10 (c) Use, hire, contract, or employ public or privately available analytical
11 systems, methods, or software to examine or investigate any licensee or other person
12 subject to investigation or examination.

13 (d) Accept and rely on investigation or examination reports made by other
14 government officials, in this state or elsewhere.

15 (e) Accept audit reports made by an independent certified public accountant for
16 the licensee or another person relevant to the investigation or examination and
17 incorporate any such audit report into any report of the division.

18 **SECTION 107.** 224.75 (title) of the statutes is amended to read:

19 **224.75 (title) Record-keeping requirements for mortgage bankers and**
20 **mortgage brokers licensees.**

21 **SECTION 108.** 224.75 (1) (a) of the statutes is amended to read:

22 224.75 (1) (a) *Fee record system.* A mortgage banker or mortgage broker shall
23 establish and maintain a record system which shows all fees which a mortgage
24 banker or mortgage broker charged a residential mortgage loan applicant or a

1 mortgagor in connection with a residential mortgage loan. The record shall show the
2 application or disposition of those fees.

3 **SECTION 109.** 224.75 (1) (b) (intro.) of the statutes is amended to read:

4 224.75 (1) (b) *Loan application record system.* (intro.) A mortgage banker or
5 mortgage broker shall establish and maintain a record system containing all of the
6 following information for each residential mortgage loan application:

7 **SECTION 110.** 224.75 (1) (b) 6. and 7. of the statutes are created to read:

8 224.75 (1) (b) 6. The name of the mortgage loan originator.

9 7. The loan amount.

10 **SECTION 111.** 224.75 (1) (c) (intro.) of the statutes is amended to read:

11 224.75 (1) (c) *Loan application documents.* (intro.) A mortgage banker or
12 mortgage broker shall maintain for each residential mortgage loan application all of
13 the following documents, if used by the mortgage banker or mortgage broker in
14 connection with the residential mortgage loan application file:

15 **SECTION 112.** 224.75 (1) (c) 1. of the statutes is amended to read:

16 224.75 (1) (c) 1. The completed loan application and any prior version of that
17 loan application submitted by the borrower to the mortgage banker or mortgage
18 broker.

19 **SECTION 113.** 224.75 (1) (c) 10. of the statutes is created to read:

20 224.75 (1) (c) 10. A copy of all information used in evaluating the loan
21 application.

22 **SECTION 114.** 224.75 (1) (d) of the statutes is renumbered 224.75 (1) (d) (intro.)
23 and amended to read:

1 224.75 (1) (d) *Loan servicing records and documents.* (intro.) A mortgage
2 banker shall maintain for each residential mortgage loan serviced by the mortgage
3 banker a copy of or a record of all of the following:

4 1. All correspondence relating to the loan.

5 **SECTION 115.** 224.75 (1) (d) 2., 3., 4. and 5. of the statutes are created to read:

6 224.75 (1) (d) 2. All payments received from the borrower.

7 3. All charges assessed to the borrower's account.

8 4. All payments made by the mortgage banker on behalf of the borrower.

9 5. The unpaid balance on the borrower's account.

10 **SECTION 116.** 224.75 (2) of the statutes is amended to read:

11 224.75 (2) PERIOD OF RECORD RETENTION. A mortgage banker or mortgage broker
12 shall keep for at least ~~25~~ 36 months, in an office of the mortgage banker or mortgage
13 broker licensed under this subchapter, all books and records that, in the opinion of
14 the division, will enable the division to determine whether the mortgage banker or
15 mortgage broker is in compliance with the provisions of this subchapter. These books
16 and records include copies of all deposit receipts, canceled checks, trust account
17 records, the records which a mortgage banker or mortgage broker maintains under
18 sub. (1) (c) or (d), and other relevant documents or correspondence received or
19 prepared by the mortgage banker or mortgage broker in connection with a
20 residential mortgage loan or residential mortgage loan application. The retention
21 period begins on the date the residential mortgage loan is closed or, if the loan is not
22 closed, the date of loan application. If the residential mortgage loan is serviced by
23 a mortgage banker, the retention period commences on the date that the loan is paid
24 in full. ~~The mortgage banker or mortgage broker shall make the records available~~
25 ~~for inspection and copying by the division. If the records are not kept within this~~

1 ~~state, the mortgage banker or mortgage broker shall, upon request of the division,~~
2 ~~promptly send exact and complete copies of requested records to the division.~~

3 **SECTION 117.** 224.75 (3) of the statutes is amended to read:

4 224.75 (3) CONTENTS OF CREDIT AND APPRAISAL REPORTS. (a) *Credit report.* If a
5 mortgage banker or mortgage broker charges a residential mortgage loan applicant
6 a separate fee for a credit report, the credit report shall consist, at a minimum, of a
7 written statement indicating the name of the credit reporting agency which
8 investigated the credit history of the applicant.

9 (b) *Appraisal report.* If a mortgage banker or mortgage broker charges a
10 residential mortgage loan applicant a separate fee for an appraisal report, the
11 appraisal report shall consist, at a minimum, of a written statement indicating the
12 appraiser's opinion of the value of the property appraised for residential mortgage
13 loan purposes, the basis for that opinion and the name of the person who conducted
14 the appraisal. If requested by a residential mortgage loan applicant, a mortgage
15 banker or mortgage broker shall provide the loan applicant with a copy of any written
16 appraisal report held by the mortgage banker or mortgage broker, if the loan
17 applicant paid a fee for the report.

18 **SECTION 118.** 224.75 (4) of the statutes is amended to read:

19 224.75 (4) RESPONSIBILITY FOR FORMS. A mortgage banker or mortgage broker
20 is responsible for the preparation and correctness of all entries on forms, documents
21 and records which are under the mortgage banker's or mortgage broker's control and
22 which are not dependent on information provided by the residential mortgage loan
23 applicant or a 3rd party.

24 **SECTION 119.** 224.75 (6) of the statutes is created to read:

1 224.75 (6) FURNISHING BOOKS AND RECORDS. Upon request by the division, any
2 licensee under this subchapter, and any other person whom the division has
3 authority to investigate and examine under s. 224.74 (2), shall make any books and
4 records requested by the division available for inspection and copying by the division.
5 If any records are kept at a licensed office not located within this state, the mortgage
6 banker or mortgage broker shall, upon request of the division, promptly deliver such
7 documents to any location within this state specified by the division.

8 **SECTION 120.** 224.755 (title) of the statutes is repealed and recreated to read:

9 **224.755 (title) Education and testing requirements for mortgage loan**
10 **originators.**

11 **SECTION 121.** 224.755 of the statutes is renumbered 224.755 (5) and amended
12 to read:

13 224.755 (5) COMPLIANCE RECORDS. A mortgage loan originator shall keep
14 records documenting compliance with s. 224.72 (7) (d) this section for at least 4 years.
15 ~~The technical college system board and any professional trade association or other~~
16 ~~person that administers examinations or provides education under s. 224.72 (7) (d)~~
17 ~~shall maintain records documenting attendance and examination performance for~~
18 ~~at least 4 years.~~

19 **SECTION 122.** 224.755 (1), (2), (3) and (4) of the statutes are created to read:

20 **224.755 (1) EDUCATION REQUIREMENTS APPLICABLE PRIOR TO LICENSE ISSUANCE.**

21 Subject to sub. (3) (a) and (c), an applicant for a license under s. 224.725 (1), prior to
22 the division's issuance of the license, shall complete at least 20 hours of education,
23 including a minimum of all of the following:

24 (a) Three hours of federal law and regulations.

1 (b) Three hours of ethics, including instruction on fraud, consumer protection,
2 and fair lending issues.

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

5 **(2) CONTINUING EDUCATION REQUIREMENTS.** Subject to subs. (3) (a), (c), (d), and
6 (f), an applicant for renewal of a license under s. 224.725 (5), prior to the division's
7 renewal of the license, shall annually complete at least 8 hours of education,
8 including a minimum of all of the following:

9 (a) Three hours of federal law and regulations.

10 (b) Two hours of ethics, including instruction on fraud, consumer protection,
11 and fair lending issues.

12 (c) Two hours of training related to lending standards for the nontraditional
13 mortgage product marketplace.

14 **(3) EDUCATION APPROVAL.** (a) No education course may count toward the
15 requirement under sub. (1) or (2) unless the course has been reviewed and approved
16 by the nationwide mortgage licensing system and registry based upon reasonable
17 standards, including review and approval of the course provider.

18 (b) An education course meeting the standard under par. (a) may count toward
19 the requirements under subs. (1) and (2) even if the course is any of the following:

20 1. Provided by the applicant's or licensee's employer, by an entity affiliated with
21 the applicant or licensee by an agency contract, or by any subsidiary or affiliate of
22 such an employer or affiliated entity.

23 2. Offered through the Internet or another online or electronic medium.

24 3. Taken in another state.

1 (c) Subject to any rule promulgated under s. 224.72 (7) (bm) or 224.725 (5) (b),
2 if an individual was previously registered as a loan originator under s. 224.72, 2007
3 stats., or previously licensed as a mortgage loan originator under s. 224.725, the
4 division may not issue or renew a mortgage loan originator license for the individual
5 under s. 224.725 unless the individual satisfies the requirements under sub. (1) or
6 (2) or demonstrates to the division's satisfaction that the individual has completed
7 all education requirements applicable to the individual in the last year in which the
8 individual's license or registration was valid.

9 (d) Except as provided in any rule promulgated under s. 224.72 (7) (bm), a
10 licensed mortgage loan originator may receive credit for a continuing education
11 course only in the year in which the course is taken and may not take the same
12 approved course in the same or successive years to meet the requirements under sub.
13 (2).

14 (e) A licensed mortgage loan originator who is an approved instructor of an
15 approved continuing education course may receive credit for the licensed mortgage
16 loan originator's own annual continuing education requirement at the rate of 2 hours
17 of credit for every one hour taught.

18 (f) The division may, by rule, allow an applicant for renewal of a license under
19 s. 224.725 (5) to make up any deficiency in meeting the requirements specified in sub.
20 (2).

21 **(4) TESTING REQUIREMENTS.** (a) An applicant for a license under s. 224.725 (1),
22 prior to the division's issuance of the license, shall pass a written test meeting the
23 standards under par. (b). An individual shall answer at least 75 percent of the test
24 questions correctly to achieve a passing test score.

1 (b) 1. No test may satisfy the requirement under par. (a) unless the test is
2 developed by the nationwide mortgage licensing system and registry and
3 administered by a test provider approved by the nationwide mortgage licensing
4 system and registry based upon reasonable standards.

5 2. A test does not meet the standard under subd. 1. unless the test adequately
6 measures the applicant's knowledge and comprehension in appropriate subject
7 areas, including all of the following:

8 a. Ethics.

9 b. Federal and state law, regulations, and rules pertaining to mortgage
10 origination.

11 c. Federal and state law, regulations, and rules relating to residential mortgage
12 transactions, including instruction on fraud, consumer protection, the
13 nontraditional mortgage product marketplace, and fair lending issues.

14 (c) A written test meeting the standards under par. (b) may satisfy the
15 requirement under par. (a) even if the test is provided at the location of the
16 applicant's employer, any subsidiary or affiliate of the applicant's employer, or any
17 entity with which the applicant holds an exclusive arrangement to conduct the
18 business of a mortgage loan originator.

19 (d) An individual may retake a test 3 consecutive times, with each test retaken
20 no less than 30 days after the preceding test. If the individual fails 3 consecutive
21 tests, the individual may not retake a test again for at least 6 months.

22 (e) If an individual previously licensed as a mortgage loan originator fails to
23 maintain a valid license for a period of 5 years or longer, the individual shall retake
24 the test under par. (a). For purposes of determining the 5-year period, the division

1 shall not consider any period during which the individual is exempt from licensing
2 under s. 224.726 (1).

3 SECTION 123. 224.76 of the statutes is amended to read:

4 **224.76 Mortgage banker, mortgage loan originator, and mortgage**
5 **broker trust accounts.** A mortgage banker, mortgage loan originator, or mortgage
6 broker shall deposit in one or more trust accounts all funds other than nonrefundable
7 fees which it receives on behalf of any person, pending disbursement of the funds in
8 accordance with instructions from the person on whose behalf the funds are
9 deposited. A mortgage banker or mortgage broker shall maintain trust accounts in
10 a bank, savings bank, savings and loan association or credit union which is
11 authorized to do business in this state or whose accounts are insured by the Federal
12 Deposit Insurance Corporation or the National Credit Union Administration
13 depository institution. The mortgage banker or mortgage broker shall notify the
14 division of the location of its trust accounts.

15 SECTION 124. 224.77 (title) of the statutes is amended to read:

16 **224.77 (title) Discipline Prohibited acts and practices, and discipline,**
17 **of mortgage bankers, mortgage loan originators, and mortgage brokers.**

18 SECTION 125. 224.77 (1) (intro.) of the statutes is amended to read:

19 **224.77 (1) PROHIBITED CONDUCT ACTS AND PRACTICES.** (intro.) ~~The division may~~
20 ~~deny an application submitted to it under s. 224.72, or may revoke, suspend or limit~~
21 ~~the certificate of registration of a mortgage banker, loan originator or mortgage~~
22 ~~broker, or may reprimand a mortgage banker, loan originator or mortgage broker, if~~
23 ~~it finds that the No mortgage banker, mortgage loan originator, or mortgage broker~~
24 ~~did, and no member, officer, director, principal, partner, trustee, or other agent of a~~
25 ~~mortgage banker or mortgage broker, may do any of the following:~~

1 **SECTION 126.** 224.77 (1) (a) of the statutes is amended to read:

2 224.77 (1) (a) ~~Made Make a material misstatement, or knowingly omit a~~
3 ~~material fact, in an a license application for registration, or in other information or~~
4 ~~reports furnished to the division, to the nationwide mortgage licensing system and~~
5 ~~registry, or to any other governmental agency, including failing to disclose a criminal~~
6 ~~conviction or any disciplinary action taken by a state or federal regulatory agency.~~

7 **SECTION 127.** 224.77 (1) (b) of the statutes is repealed and recreated to read:

8 224.77 (1) (b) Make, in any manner, any materially false or deceptive
9 statement or representation, including engaging in bait and switch advertising or
10 falsely representing residential mortgage loan rates, points, or other financing terms
11 or conditions.

12 **SECTION 128.** 224.77 (1) (c) and (d) of the statutes are amended to read:

13 224.77 (1) (c) ~~Made Make a false, deceptive, or misleading promise relating to~~
14 ~~the services being offered or that influences, persuades, or induces a client to act to~~
15 ~~his or her injury or damage detriment.~~

16 (d) ~~Pursued Pursue a continued and flagrant course of misrepresentation, or~~
17 ~~made make false promises, whether directly or through agents or advertising.~~

18 **SECTION 129.** 224.77 (1) (dm) of the statutes is created to read:

19 224.77 (1) (dm) Use or permit the use of any document that the mortgage
20 banker, mortgage broker, or mortgage loan originator knows to contain erroneous or
21 false information concerning a person's eligibility for a loan.

22 **SECTION 130.** 224.77 (1) (e) and (f) of the statutes are amended to read:

23 224.77 (1) (e) ~~Acted Act for more than one party in a transaction without the~~
24 ~~knowledge and consent of all parties on whose behalf the mortgage banker, mortgage~~
25 ~~loan originator, or mortgage broker is acting.~~

1 (f) ~~Accepted~~ Accept a commission, money, or other thing of value for performing
2 an act as a mortgage loan originator unless the payment is from a mortgage banker
3 or mortgage broker ~~who is registered under s. 224.72 (3) as employing the loan~~
4 ~~originator~~ with whom the mortgage loan originator's license is associated, as
5 identified in the records of the division at the time the act is performed.

6 **SECTION 131.** 224.77 (1) (fg) and (fr) of the statutes are created to read:

7 224.77 (1) (fg) As a mortgage banker or mortgage broker, pay a commission,
8 money, or other thing of value to any person for performing an act as a mortgage loan
9 originator unless the mortgage loan originator's license is associated with the
10 mortgage banker or mortgage broker in the records of the division at the time the act
11 is performed.

12 (fr) As a mortgage broker, enter into an agreement with, or otherwise require,
13 any person to pay to the mortgage broker any fee, commission, or other valuable
14 consideration in order for the person to be able to prepay the principal of a residential
15 mortgage loan.

16 **SECTION 132.** 224.77 (1) (g) of the statutes is amended to read:

17 224.77 (1) (g) As a mortgage loan originator, ~~represented or attempted~~
18 ~~represent or attempt~~ to represent a mortgage banker or mortgage broker other than
19 the mortgage banker ~~who is registered under s. 224.72 (3) as employing the loan~~
20 ~~originator~~ or mortgage broker with whom the mortgage loan originator's license was
21 associated, as identified in the records of the division at the time the representation
22 or attempted representation occurs.

23 **SECTION 133.** 224.77 (1) (gd), (gh), (gp) and (gt) of the statutes are created to
24 read:

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

4 (gh) As a mortgage banker or mortgage broker, permit a person whose
5 mortgage loan originator license is not associated in the records of the division with
6 the mortgage banker or mortgage broker to act as a mortgage loan originator on
7 behalf of the mortgage banker or mortgage broker.

8 (gp) As a mortgage banker or mortgage broker, conduct business at or from a
9 principal office or branch office that is not licensed under this subchapter.

10 (gt) As a mortgage banker or mortgage broker, conduct business under any
11 trade name other than one designated in its license application.

12 **SECTION 134.** 224.77 (1) (h) to (L) of the statutes are amended to read:

13 224.77 (1) (h) ~~Failed~~ Fail, within a reasonable time, to account for or remit any
14 moneys coming into the mortgage banker's, mortgage loan originator's, or mortgage
15 broker's possession which that belong to another person.

16 (i) ~~Demonstrated~~ Demonstrate a lack of competency to act as a mortgage
17 banker, mortgage loan originator, or mortgage broker in a way which that safeguards
18 the interests of the public.

19 (j) ~~Paid or offered~~ Pay or offer to pay a commission, money, or other thing of
20 value to any person for acts or services in violation of this subchapter.

21 (k) ~~Violated~~ Violate any provision of this subchapter, ch. 138, or any federal or
22 state statute, rule, or regulation which that relates to practice as a mortgage banker,
23 mortgage loan originator, or mortgage broker.

1 (L) Engaged Engage in conduct which that violates a standard of professional
2 behavior which, through professional experience, has become established for
3 mortgage bankers, mortgage loan originators, or mortgage brokers.

4 **SECTION 135.** 224.77 (1) (Le), (Lm) and (Ls) of the statutes are created to read:

5 224.77 (1) (Le) As a mortgage broker, fail to do any of the following:

6 1. Use reasonable care, skill, and diligence in performing the mortgage broker's
7 duties.

8 2. Act in good faith and fair dealing in all transactions with the borrower.

9 3. Make reasonable good faith efforts to secure a mortgage that is in the
10 reasonable interests of the borrower considering all the circumstances reasonably
11 available to the mortgage broker, including the rates, points, fees, charges, costs and
12 product type.

13 4. Ensure that the cost of credit is reasonably appropriate considering the
14 borrower's level of creditworthiness and other bona fide underwriting concerns.

15 5. Notify, before the closing, each mortgage banker or other lender of the
16 payment obligations associated with each of the mortgage banker's or other lender's
17 loans if the mortgage broker knows that more than one residential mortgage loan
18 will be made by different mortgage bankers or lenders contemporaneously to a
19 borrower secured by the same real property.

20 (Lm) As a mortgage broker, advertise or cause to be advertised any residential
21 mortgage loan unless the advertisement includes the following statement, clearly
22 and conspicuously expressed: "MORTGAGE BROKER ONLY, NOT A MORTGAGE
23 LENDER."

24 (Ls) As a mortgage broker, in connection with an advertisement in this state,
25 do any of the following:

1 1. Use a simulated check or other document that imitates or resembles a check
2 but that is not a negotiable instrument.

3 2. Compare the loan payments under a residential mortgage loan being offered
4 and the loan payments under a hypothetical loan, unless the advertisement includes,
5 with respect to both the hypothetical loan and the residential mortgage loan being
6 offered, the interest rate, the loan balance, the total amount of finance charges, the
7 total number of payments, and the monthly payment amount that would be required
8 to pay off the outstanding loan balance shown.

9 3. Use representations such as "verified as eligible", "eligible", "preapproved",
10 "prequalified", or similar words or phrases, without also disclosing, in immediate
11 proximity to and in similar size print, any applicable prerequisites to qualify for the
12 residential mortgage loan.

13 4. Use any word or symbol in the advertisement, or on an envelope containing
14 the advertisement, that gives the appearance that the mailing was sent by a
15 governmental agency.

16 **SECTION 136.** 224.77 (1) (m) ~~to (g)~~ of the statutes ^{is} ~~are~~ amended to read:

17 224.77 (1) (m) Engaged Engage in conduct, whether of the same or a different
18 character than specified elsewhere in this section, which that constitutes improper,
19 fraudulent, or dishonest dealing.

20 # AM; 224.77 (1) (o)
21 224.77(o) (o) In the course of practice as a mortgage banker, mortgage loan originator, or
22 mortgage broker, except in relation to housing designed to meet the needs of elderly
23 individuals, ~~treated~~ treat a person unequally solely because of sex, race, color,
24 handicap, sexual orientation, as defined in s. 111.32 (13m), religion, national origin,
25 age, or ancestry, the person's lawful source of income, or the sex or marital status of
the person maintaining a household.

ⓑ # AM; 224.77 (1) (p)

1 224.77 (1) (p) Intentionally encouraged or discouraged encourage or discourage any
2 person from purchasing or renting real estate on the basis of race.

ⓑ # AM; 224.77 (1)(q)

3 224.77 (1) (q) Because of the age or location of the property or the race of the residential
4 mortgage loan applicant, rather than because of the credit worthiness of the
5 applicant and the condition of the property securing the loan:

6 1. ~~Refused~~ Refuse to negotiate, to offer, or to attempt to negotiate a land
7 contract, residential mortgage loan or commitment for a residential mortgage loan,
8 or ~~refused~~ refuse to find a residential mortgage loan.

9 2. ~~Found a~~ Find a residential mortgage loan or ~~negotiated a~~ negotiate a
10 residential mortgage loan on terms less favorable than are usually offered.

11 SECTION 137. 224.77 (1) (r) of the statutes is repealed.

12 SECTION 138. 224.77 (1) (s), (t), (tm), (u), (um), (v), (w), (x), (y) and (z) of the
13 statutes are created to read:

14 224.77 (1) (s) Violate, or fail to comply with, any lawful order of the division.

15 (t) Impede an investigation or examination of the division or deny the division
16 access to any books, records, or other information which the division is authorized
17 to obtain under s. 224.74 (2), 224.75 (6), or any other provision of this subchapter.

18 (tm) Make a material misstatement, or knowingly omit a material fact, or
19 knowingly mutilate, destroy, or secrete any books, records, or other information
20 requested by the division, in connection with any investigation or examination
21 conducted by the division or another governmental agency.

22 (u) Solicit or enter into a contract with a borrower that provides in substance
23 that the mortgage banker, mortgage broker, or mortgage loan originator may earn
24 a fee or commission through "best efforts" to obtain a residential mortgage loan even
25 though no residential mortgage loan is actually obtained for the borrower.

1 (um) Solicit, advertise, or enter into a contract for specific interest rates, points,
2 or other financing terms unless the terms are actually available at the time of
3 soliciting, advertising, or contracting.

4 (v) Assist, aid, or abet any person in unlawfully conducting business under this
5 subchapter without a valid license.

6 (w) Fail to make disclosures required under this subchapter or required under
7 any other applicable state or federal law, rule, or regulation.

8 (x) Withhold any payment or make any payment, threat, or promise, directly
9 or indirectly, to any person for the purpose of influencing the independent judgment
10 of the person in connection with a residential mortgage loan, or withhold any
11 payment or make any payment, threat, or promise, directly or indirectly, to any
12 appraiser of a property for the purpose of influencing the independent judgment of
13 the appraiser with respect to the value of the property.

14 (y) Cause or require a borrower to obtain property insurance coverage in an
15 amount exceeding the replacement cost of improvements on the property, as
16 determined by the property insurer.

17 (z) As a mortgage banker that services a residential mortgage loan, fail to do
18 any of the following:

19 1. Promptly deliver to the mortgagor a release of the mortgage upon repayment
20 of the outstanding balance of the loan secured by the mortgage.

21 2. Identify for the borrower, upon request by the borrower, the amount of the
22 outstanding balance of the loan secured by the mortgage within 2 business days of
23 the request.

24 **SECTION 139.** 224.77 (1m) (a) of the statutes is amended to read:

1 224.77 (1m) (a) The division may assess against ~~a person who is registered~~
2 ~~under this chapter~~ any person who violates this subchapter a forfeiture of not more
3 than \$2,000 \$25,000 for each violation enumerated under sub. (1) ~~(a) to (e) or (f)~~ and
4 may further order restitution to any person suffering loss as a result of the violation.

5 **SECTION 140.** 224.77 (1m) (b) of the statutes is amended to read:

6 224.77 (1m) (b) A person may contest an assessment of forfeiture, or a
7 restitution order, under par. (a) by sending, within 10 days after receipt of notice of
8 the assessment or order under par. (a), a written request for hearing under s. 227.44
9 to the division of hearings and appeals created under s. 15.103 (1). The
10 administrator of the division of hearings and appeals may designate a hearing
11 examiner to preside over the case and recommend a decision to the administrator
12 under s. 227.46. The decision of the administrator of the division of hearings and
13 appeals shall be the final administrative decision. The division of hearings and
14 appeals shall commence the hearing within 30 days after receipt of the request for
15 hearing and shall issue a final decision within 15 days after the close of the hearing.
16 Proceedings before the division of hearings and appeals are governed by ch. 227. In
17 any petition for judicial review of a decision by the division of hearings and appeals,
18 the party, other than the petitioner, who was in the proceeding before the division of
19 hearings and appeals shall be the named respondent.

20 **SECTION 141.** 224.77 (1m) (c) of the statutes is renumbered 224.77 (1m) (c) 1.

21 **SECTION 142.** 224.77 (1m) (c) 2. of the statutes is created to read:

22 224.77 (1m) (c) 2. All amounts ordered as restitution shall be paid to the person
23 suffering loss within 10 days after receipt of notice of the order or, if the restitution
24 order is contested under par. (b), within 10 days after receipt of the final decision
25 after exhaustion of administrative review.

1 **SECTION 143.** 224.77 (1m) (d) of the statutes is amended to read:

2 224.77 **(1m)** (d) The attorney general may bring an action in the name of the
3 state to collect any forfeiture imposed, or amount ordered as restitution, under this
4 subsection if the forfeiture or restitution amount has not been paid following the
5 exhaustion of all administrative and judicial reviews. The only issue to be contested
6 in any such action shall be whether the forfeiture or restitution amount has been
7 paid.

8 **SECTION 144.** 224.77 (2) (title) of the statutes is repealed.

9 **SECTION 145.** 224.77 (2) of the statutes is renumbered 224.77 (2m) (a) 2. and
10 amended to read:

11 224.77 **(2m)** (a) 2. The division may ~~revoke, suspend or limit a certificate of~~
12 ~~registration issued under this subchapter or reprimand~~ take any action specified in
13 subd. 1. against a mortgage banker or mortgage broker ~~registered under this~~
14 ~~subchapter, if based upon any act or omission described in subd. 1. of a director,~~
15 officer, trustee, partner, or member of the mortgage banker or mortgage broker or a
16 person who has a financial interest in or is in any way connected with the operation
17 of the mortgage banker's or mortgage broker's business ~~is guilty of an act or omission~~
18 ~~which would be cause for refusing to issue a certificate of registration to that~~
19 ~~individual.~~

20 **SECTION 146.** 224.77 (2m) of the statutes is created to read:

21 224.77 **(2m)** DIVISION ACTION ON LICENSE. (a) 1. In addition to any other
22 authority provided to the division under this subchapter, if the division finds that a
23 mortgage banker, mortgage loan originator, or mortgage broker has violated any
24 provision of this subchapter or any rule promulgated by the division under this
25 subchapter, the division may do any of the following:

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

2 b. Revoke, suspend, limit, or condition any license of the mortgage banker,
3 mortgage loan originator, or mortgage broker.

4 c. Reprimand the mortgage banker, mortgage loan originator, or mortgage
5 broker.

6 (b) In addition to any other authority provided to the division under this
7 subchapter, if the division finds that an applicant for initial issuance or renewal of
8 a license under this subchapter made any material misstatement in the application
9 or withheld material information, or that the applicant no longer satisfies the
10 requirements under s. 224.72 or 224.725 for issuance or renewal of the license, the
11 division may deny the application or, if the license has already been issued, suspend
12 or revoke the license.

13 **SECTION 147.** 224.77 (3) (a) and (b) of the statutes are consolidated,
14 renumbered 224.77 (3) (a) (intro.) and amended to read:

15 224.77 (3) (a) *Orders to prevent or correct actions.* (intro.) The division may
16 issue general and special orders ~~necessary, including temporary orders that become~~
17 ~~immediately effective,~~ to prevent or correct actions by a mortgage banker, ~~mortgage~~
18 ~~loan originator, or mortgage broker that constitute cause under this section for~~
19 ~~revoking, suspending or limiting a certificate of registration.~~ (b) ~~Types of special~~
20 ~~orders.~~ Special a violation of any provision of this subchapter or of any rule
21 promulgated under this subchapter, including special orders may direct that do any
22 of the following:

23 1. Direct a mortgage banker, ~~mortgage~~ loan originator, or mortgage broker to
24 cease and desist from engaging in a particular activity ~~or may direct the, from~~

1 conducting business, or from otherwise violating any provision of this subchapter or
2 any rule promulgated under this subchapter.

3 2. Direct a mortgage banker, mortgage loan originator, or mortgage broker to
4 refund or remit to a residential mortgage loan applicant or borrower amounts that
5 the mortgage banker, mortgage loan originator, or mortgage broker got from actions
6 which ~~that~~ constitute cause under this section for revoking, suspending or limiting
7 a certificate of registration a violation of any provision of this subchapter or of any
8 rule promulgated under this subchapter.

9 **SECTION 148.** 224.77 (3) (a) 3. and 4. of the statutes are created to read:

10 224.77 (3) (a) 3. Direct a mortgage banker, mortgage loan originator, or
11 mortgage broker to cease business under a license issued under this subchapter if
12 the division determines that the license was erroneously issued or the licensee is
13 currently in violation of any provision of this subchapter or of any rule promulgated
14 under this subchapter.

15 4. Direct a mortgage banker, mortgage loan originator, or mortgage broker to
16 undertake any affirmative action, consistent with the provisions of this subchapter,
17 that the division deems necessary.

18 **SECTION 149.** 224.77 (3m) of the statutes is amended to read:

19 224.77 (3m) HEARING RIGHTS FOR REGISTRATION LICENSE DENIAL, REVOCATION, OR
20 SUSPENSION. A person whose ~~certificate of registration~~ license has been denied,
21 ~~revoked or, suspended,~~ limited, or conditioned under this section may request a
22 hearing under s. 227.44 within 30 days after the date of denial, revocation or,
23 suspension, limitation, or conditioning of the ~~certificate of registration~~ license. The
24 division may appoint a hearing examiner under s. 227.46 to conduct the hearing.

25 **SECTION 150.** 224.77 (4) of the statutes is amended to read:

1 224.77 (4) PERIOD OF DISCIPLINARY ACTION; LICENSE INELIGIBILITY FOR
2 REGISTRATION. (a) *Period*. Except as provided in par. (b), the division shall determine
3 in each case the period that a revocation, suspension or, limitation, or condition of
4 a certificate of registration license is effective.

5 (b) *Ineligibility*. 1. Except as provided in subd. 2., if the division denies or
6 revokes a certificate of registration license under sub. (1) (2m) (a), the person is not
7 eligible for a certificate of registration license until the expiration of a period
8 determined in each case by the division.

9 2. If the division revokes a certificate of registration license under sub. (1) (p)
10 or (q), the person is not eligible for a certificate of registration license until 5 years
11 after the effective date of the revocation.

12 **SECTION 151.** 224.77 (5) (a) of the statutes is amended to read:

13 224.77 (5) (a) *Mandatory revocation or suspension*. Notwithstanding sub. (1)
14 (~~intro.~~) subs. (2m) (a) and (4), if the division finds that a mortgage banker, mortgage
15 loan originator, or mortgage broker has violated sub. (1) (p) or (q), the division shall:

16 1. For the first offense, suspend the registration license of the mortgage banker,
17 mortgage loan originator, or mortgage broker for not less than 90 days.

18 2. For the 2nd offense, revoke the registration license of the mortgage banker,
19 mortgage loan originator, or mortgage broker.

20 **SECTION 152.** 224.77 (6) (title) of the statutes is repealed.

21 **SECTION 153.** 224.77 (6) of the statutes is renumbered 224.77 (2m) (c) and
22 amended to read:

23 224.77 (2m) (c) The ~~department~~ division shall restrict or suspend the
24 registration license of a mortgage banker, mortgage loan originator, or mortgage
25 broker if the registrant licensee is an individual who fails to comply, after

1 appropriate notice, with a subpoena or warrant issued by the department of children
2 and families or a county child support agency under s. 59.53 (5) and related to
3 paternity or child support proceedings or who is delinquent in making court-ordered
4 payments of child or family support, maintenance, birth expenses, medical expenses,
5 or other expenses related to the support of a child or former spouse, as provided in
6 a memorandum of understanding entered into under s. 49.857. A registrant An
7 individual whose ~~registration~~ license is restricted or suspended under this
8 subsection is entitled to a notice and hearing only as provided in a memorandum of
9 understanding entered into under s. 49.857 and is not entitled to any other notice or
10 hearing under this section.

11 **SECTION 154.** 224.77 (7) (title) of the statutes is repealed.

12 **SECTION 155.** 224.77 (7) of the statutes is renumbered 224.77 (2m) (d) and
13 amended to read:

14 224.77 (2m) (d) The department division shall revoke the ~~certificate of~~
15 ~~registration~~ license of a mortgage banker, mortgage loan originator, or mortgage
16 broker if the department of revenue certifies under s. 73.0301 that the registrant
17 licensee is liable for delinquent taxes. A registrant licensee whose ~~certificate of~~
18 ~~registration~~ license is revoked under this subsection for delinquent taxes is entitled
19 to a notice under s. 73.0301 (2) (b) 1. b. and a hearing under s. 73.0301 (5) (a) but is
20 not entitled to any other notice, hearing or review under this section.

21 **SECTION 156.** 224.77 (8) of the statutes is amended to read:

22 224.77 (8) VOLUNTARY SURRENDER. A mortgage banker, mortgage loan
23 originator, or mortgage broker may voluntarily surrender a registration license to
24 the division, but the division may refuse to accept the surrender if the division has
25 an open investigation or examination or received allegations of unprofessional

1 conduct against the mortgage banker, mortgage loan originator, or mortgage broker.

2 The division may negotiate stipulations in consideration for accepting the surrender
3 of registration the license.

4 **SECTION 157.** 224.77 (9) of the statutes is created to read:

5 **224.77 (9) REPORTING VIOLATIONS.** The division shall report regularly violations
6 of this subchapter or of rules promulgated under this subchapter, as well as
7 enforcement actions and other relevant information, to the nationwide mortgage
8 licensing system and registry. Except as provided in s. 224.728 (4) (b) and (c), these
9 reports shall be confidential.

10 **SECTION 158.** 224.78 (title) of the statutes is repealed.

11 **SECTION 159.** 224.78 of the statutes is renumbered 224.77 (1) (jm) and amended
12 to read:

13 **224.77 (1) (jm)** ~~A mortgage banker, loan originator, or mortgage broker may~~
14 ~~not pay~~ Pay a person who is not registered licensed under this subchapter a
15 commission, money, or other thing of value for performing an act as a mortgage
16 banker, mortgage loan originator, or mortgage broker.

17 **SECTION 160.** 224.785 of the statutes is created to read:

18 **224.785 Nonrefundable advance fees. (1) DEFINITIONS.** In this section:

19 (a) "Advance fee" means any consideration paid or given to a mortgage banker,
20 mortgage broker, or mortgage loan originator prior to the closing of a residential
21 mortgage loan, including loan fees, points, brokers' fees or commissions, transaction
22 fees, fees or commissions paid in connection with the sale of credit insurance
23 products, or other prepaid finance charges.

24 (b) "Applicant" means any of the following:

1 1. Any person who completes an application for a residential mortgage loan and
2 submits it to a mortgage banker or mortgage broker.

3 2. Any person who makes or will make an advance fee payment on behalf of a
4 person described in subd. 1.

5 **(2) NONREFUNDABLE ADVANCE FEE PREREQUISITES.** (a) Subject to sub. (3), a
6 mortgage banker or mortgage broker may charge an advance fee that is
7 nonrefundable, in whole or in part, only if all of the following apply:

8 (a) The mortgage banker or mortgage broker and the applicant agree in writing
9 that the advance fee is not refundable.

10 (b) The written agreement under par. (a) meets all of the following
11 requirements:

12 1. The agreement is dated, signed by all applicable parties, and executed prior
13 to the payment of the advance fee.

14 2. The agreement expressly states the total advance fee required to be paid and
15 any amount of the advance fee that is not refundable.

16 3. The agreement clearly and conspicuously states any conditions under which
17 the advance fee will be retained by the mortgage banker or mortgage broker.

18 4. The term "NONREFUNDABLE" is used to describe each advance fee or
19 portion of an advance fee to which the term is applicable, and the term appears in
20 boldface type in the agreement each time it is used.

21 (c) The form of the written agreement under par. (a) satisfies all of the
22 following:

23 1. It is separate from any other form, contract, or application utilized by the
24 mortgage banker or mortgage broker.

1 2. It contains the document heading "AGREEMENT CONCERNING
2 NONREFUNDABILITY OF ADVANCE FEE," in at least 10-point boldface type.

3 3. It provides for a duplicate copy to be given to the applicant at the time of
4 payment of the advance fee.

5 4. It includes any other information or disclosure required by rule of the
6 division.

7 **(3) MORTGAGE LOAN ORIGINATOR ACCEPTANCE.** A mortgage loan originator may
8 not accept payment of any advance fee except on behalf of a mortgage banker or
9 mortgage broker and only if the requirements under sub. (2) are satisfied. Nothing
10 in this subsection prohibits a mortgage banker or mortgage broker from paying a
11 mortgage loan originator all or part of an advance fee that complies with this section.

12 **(4) COMPENSATION AFTER FAILURE TO CONSUMMATE TRANSACTION.** No mortgage
13 banker or mortgage broker may enter into an agreement with, or otherwise require,
14 any person to pay the mortgage banker or mortgage broker for any fee, commission,
15 or other valuable consideration lost as a result of the person failing to consummate
16 a residential mortgage loan transaction, except that the mortgage banker or
17 mortgage broker may collect a fee, commission, or consideration as an advance fee
18 if the advance fee complies with the requirements under this section. An agreement
19 for payment of an advance fee that does not comply with the requirements under this
20 section is voidable at the election of the person subject to the advance fee.

21 **SECTION 161.** 224.79 of the statutes is amended to read:

22 **224.79 Consumer mortgage Mortgage brokerage agreements and**
23 **consumer disclosures. (1) FORM AND CONTENT OF CONSUMER MORTGAGE BROKERAGE**
24 **AGREEMENTS.** Every contract between a mortgage broker and ~~a consumer~~ an
25 individual under which the mortgage broker agrees to provide brokerage services to

1 the ~~consumer~~ individual relating to a residential mortgage loan shall be in writing,
2 in the form prescribed by rule of the division, and shall contain all information
3 required by rule of the division. The division shall promulgate rules to administer
4 this subsection in consultation with the mortgage loan originator council under s.
5 15.187 (1). The division shall design these rules to facilitate the comparison of
6 similar charges and total charges assessed by different mortgage brokers.

7 **(2) ~~CONSUMER DISCLOSURE~~ DISCLOSURE STATEMENT.** Before entering into a
8 contract with ~~a consumer~~ an individual to provide brokerage services relating to a
9 residential mortgage loan, a mortgage broker shall give the ~~consumer~~ individual a
10 copy of a ~~consumer~~ disclosure statement, explain the content of the statement, and
11 ensure that the ~~consumer~~ individual initials or signs the statement, acknowledging
12 that the ~~consumer~~ individual has read and understands the statement. The
13 ~~consumer~~ disclosure statement shall contain a brief explanation of the relationship
14 between the ~~consumer~~ individual and the mortgage broker under the proposed
15 contract, a brief explanation of the manner in which the mortgage broker may be
16 compensated under the proposed contract, and any additional information required
17 by rule of the division. The division shall promulgate rules to administer this
18 subsection in consultation with the mortgage loan originator council under s. 15.187
19 (1) and, by rule, shall specify the form and content of the ~~consumer~~ disclosure
20 statement required under this subsection.

21 **SECTION 162.** 224.80 (1) of the statutes is amended to read:

22 224.80 **(1) PENALTIES.** A person who violates s. ~~224.72 (1m)~~ any provision of this
23 subchapter or any rule promulgated under this subchapter may be fined not more
24 than \$2,000 \$25,000 or imprisoned for not more than 9 months or both. The district

1 attorney of the county where the violation occurs shall enforce the penalty under this
2 subsection on behalf of the state.

3 **SECTION 163.** 224.80 (2) (intro.) of the statutes is amended to read:

4 **224.80 (2) PRIVATE CAUSE OF ACTION.** (intro.) A person who is aggrieved by an
5 act which is committed by a mortgage banker, mortgage loan originator, or mortgage
6 broker ~~and which is described in s. 224.77 (1)~~ in violation of any provision of this
7 subchapter or of any rule promulgated under this subchapter may recover all of the
8 following in a private action:

9 **SECTION 164.** 224.80 (2) (a) 1. of the statutes is amended to read:

10 **224.80 (2) (a) 1.** Twice the amount of the cost of loan origination connected with
11 the transaction, except that the liability under this subdivision may not be less than
12 \$100 nor greater than ~~\$2,000~~ \$25,000 for each violation.

13 **SECTION 165.** 224.81 of the statutes is amended to read:

14 **224.81 Limitation on actions for commissions and other**
15 **compensation.** A person who is engaged in the business or acting in the capacity
16 of a mortgage banker, mortgage loan originator, or mortgage broker in this state may
17 not bring or maintain an action in this state to collect a commission, money, or other
18 thing of value for performing an act as a mortgage banker, mortgage loan originator,
19 or mortgage broker without alleging and proving that the person was ~~registered~~
20 licensed under this subchapter as a mortgage banker, mortgage loan originator, or
21 mortgage broker when the alleged cause of action arose.

22 **SECTION 166.** 224.82 of the statutes is amended to read:

23 **224.82 Compensation presumed.** In a prosecution arising from a violation
24 of this subchapter, proof that a person acted as a mortgage banker, mortgage loan

1 originator, or mortgage broker is sufficient, unless rebutted, to establish that
2 compensation was received by, or promised to, that person.

3 **SECTION 167.** 224.83 of the statutes is created to read:

4 **224.83 Loan processors and underwriters.** An individual engaging solely
5 in loan processor or underwriter activities may not represent to the public, through
6 advertising or another means of communication such as the use of business cards,
7 stationery, brochures, signs, rate lists, or other promotional items, that the
8 individual can or will perform any of the activities of a mortgage loan originator.

9 **SECTION 168.** 224.84 of the statutes is created to read:

10 **224.84 Subprime and nontraditional mortgage loan policy.** Each
11 mortgage banker shall adopt a residential mortgage loan policy relating to subprime
12 mortgage loans and nontraditional mortgage loans made by the mortgage banker
13 and shall annually review and update this policy. The policy shall be consistent with
14 the most current version of any applicable statement or guidance on subprime
15 mortgage lending or nontraditional mortgage products, respectively, available from
16 the Conference of State Bank Supervisors, the American Association of Residential
17 Mortgage Regulators, or the National Association of Consumer Credit
18 Administrators. Each mortgage banker shall develop and implement internal
19 controls reasonably designed to ensure compliance by the mortgage banker with its
20 own policy.

21 **SECTION 169.** 227.01 (13) (zy) of the statutes is created to read:

22 **227.01 (13) (zy)** Relates to any form prescribed by the division of banking in
23 the department of financial institutions in connection with the licensing of mortgage
24 bankers or mortgage brokers under s. 224.72 or the licensing of mortgage loan
25 originators under s. 224.725.

1 **SECTION 170.** 234.01 (5k) of the statutes is amended to read:

2 234.01 **(5k)** “Financial institution” means a bank, savings bank, savings and
3 loan association, credit union, insurance company, finance company, mortgage
4 banker ~~registered~~ licensed under s. 224.72, community development corporation,
5 small business investment corporation, pension fund or other lender which provides
6 commercial loans in this state.

7 **SECTION 171.** 234.49 (2) (a) 4. of the statutes is amended to read:

8 234.49 **(2)** (a) 4. To designate as an authorized lender the authority or any local
9 government agency, housing authority under s. 59.53 (22), 61.73, 66.1201 or 66.1213,
10 bank, savings bank, savings and loan institution, mortgage banker ~~registered~~
11 licensed under s. 224.72 or credit union, if the designee has a demonstrated history
12 or potential of ability to adequately make and service housing rehabilitation loans.

13 **SECTION 172.** 234.59 (1) (h) of the statutes is amended to read:

14 234.59 **(1)** (h) “Mortgage banker” means a mortgage banker ~~registered~~ licensed
15 under s. 224.72, but does not include a person licensed under s. 138.09.

16 **SECTION 173.** 321.60 (1) (a) 12. of the statutes is amended to read:

17 321.60 **(1)** (a) 12. A license or certificate of registration issued by the
18 department of financial institutions, or a division of it, under ss. 138.09, 138.12,
19 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, 224.725, or 224.93 or
20 subch. IV of ch. 551.

21 **SECTION 174.** 422.501 (2) (b) 8. of the statutes is amended to read:

22 422.501 **(2)** (b) 8. A person ~~registered~~ licensed as a mortgage banker, mortgage
23 loan originator, or mortgage broker under s. 224.72 or 224.725 if the person is acting
24 within the course and scope of ~~that registration~~ the license.

1 **SECTION 175.** 428.202 (6) of the statutes is renumbered 428.202 (9) and
2 amended to read:

3 428.202 (9) "~~Loan~~ Mortgage loan originator" has the meaning given in s. 224.71
4 (~~1+~~) (6).

5 **SECTION 176.** 428.203 (9) (title) of the statutes is amended to read:

6 428.203 (9) (title) ~~UNREGISTERED UNLICENSED~~ MORTGAGE BANKERS AND BROKERS.

7 **SECTION 177.** 428.204 of the statutes is amended to read:

8 **428.204 False statements.** No lender, licensed lender, mortgage loan
9 originator, mortgage banker, or mortgage broker may knowingly make, propose, or
10 solicit fraudulent, false, or misleading statements on any document relating to a
11 covered loan.

12 **SECTION 178.** 428.206 of the statutes is amended to read:

13 **428.206 Recommending default.** No lender, licensed lender, mortgage loan
14 originator, mortgage banker, or mortgage broker may recommend or encourage an
15 individual to default on an existing loan or other obligation before and in connection
16 with the making of a covered loan that refinances all or any portion of that existing
17 loan or obligation.

18 **SECTION 179.** 452.01 (3) (g) of the statutes is amended to read:

19 452.01 (3) (g) A person ~~registered~~ licensed as a mortgage banker under s.
20 224.72 who does not engage in activities described under sub. (2).

21 **SECTION 180.** 943.62 (2m) of the statutes is amended to read:

22 943.62 (2m) This section does not apply to a savings and loan association,
23 credit union, bank, savings bank, or a mortgage banker, mortgage loan originator,
24 or mortgage broker ~~registered~~ licensed under s. 224.72 or 224.725.

25

⑥ 9117 SECTION 181. Nonstatutory provisions [↑] _↓ Financial Institutions

SECTION 181

(c)
ARB → (1) Mortgage loan originators, mortgage brokers, and mortgage bankers *(a)*

1 (1) In this section, "division" means the division of banking in the department
2 of financial institutions.

3 *(b)* (2) Notwithstanding any other provision of subchapter III of chapter 224 of the
4 statutes, as affected by this act, the division shall, by rule, institute any system of
5 initial license issuance or license renewal that it deems advisable for the purpose of
6 implementing an orderly and efficient transition from the registration system under
7 subchapter III of chapter 224, 2007 stats., to the license system under subchapter III
8 of chapter 224 of the statutes, as affected by this act. A transition system adopted

9 under this ~~subsection~~ *paragraph* may include the requirement that registrants under section
10 224.72, 2007 stats., apply for a license under section 224.72 of the statutes, as
11 affected by this act, or under section 224.725 of the statutes, as created by this act,
12 and pay any applicable fees, before the scheduled expiration of the registration
13 period under section 224.72, 2007 stats. A transition system adopted under this

14 ~~subsection~~ *paragraph* may also provide for the initial issuance of licenses under section 224.72
15 of the statutes, as affected by this act, and under section 224.725 of the statutes, as
16 created by this act, that are valid for an initial period that is greater or less than the
17 ordinary valid period of such licenses. If a transition system adopted under this

18 ~~subsection~~ *paragraph* results in a shorter registration or license period than that which would
19 ordinarily be applicable, the division shall prorate or rebate fees corresponding to the
20 unused or unexpired portion of the ordinarily applicable registration or license
21 period. For previously registered or licensed individuals the division may establish
22 under the transition system expedited review and licensing procedures.

23 *(c)* (3) The division shall submit in proposed form the rules required under
24 ~~subsection (2)~~ *paragraph (b)* to the legislative council staff under section 227.15 (1) of the statutes
25 no later than 60 days after the effective date of this ~~subsection~~ *paragraph*

1 (d) (4) Using the emergency rules procedure under section 227.24 of the statutes,
 2 the division shall promulgate the rules required under ~~subsection (2)~~ for the period
 3 before the effective date of the rules submitted under ~~subsection (3)~~. The division
 4 shall promulgate these emergency rules no later than 60 days after the effective date
 5 of this ~~subsection~~ ^{paragraph}. Notwithstanding section 227.24 (1) (c) and (2) of the statutes,
 6 these emergency rules may remain in effect until July 1, 2011, or the date on which
 7 permanent rules take effect, whichever is sooner. Notwithstanding section 227.24
 8 (1) (a) and (3) of the statutes, the division is not required to provide evidence that
 9 promulgating a rule under this ~~subsection~~ ^{paragraph} as an emergency rule is necessary for the
 10 preservation of the public peace, health, safety, or welfare and is not required to
 11 provide a finding of emergency for a rule promulgated under this ~~subsection~~ ^{paragraph}.

ARB
 ARc

insert
73-11

SECTION 182. Effective dates. This act takes effect on January 1, 2010, or on
 the 60th day after the day of publication, whichever is later, except as follows:
 (1) SECTION 181 of this act takes effect on the day after publication.

(END)

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INSERT 73-11:

SECTION 9417. Effective dates; Financial Institutions.

(1) MORTGAGE LOAN ORIGINATORS, MORTGAGE BROKERS, AND MORTGAGE BANKERS.

(a) The treatment of sections 15.09 (6), 15.187 (1) (intro.), (a), (b), (c), and (d), 49.857 (1) (d) 12., 73.0301 (1) (d) 6., 100.55 (1) (d) 3., 220.02 (2) (g) and (3), 220.06 (1), 220.285 (1), 221.0402 (2) (b), 224.71 (1ag), (1am), (1b), (1bm), (1c), (1d), (1dm), (1f), (1h), (1m), (1u), (2), (3) (a) 1. to 3. and (b) 1. to 7., 8., 9., 10., 11. and 12., (4) (a) and (b) 1. to 3., 4., 5., 6., 7., and 8., (6) (a) 1. and 2. and (b), (7), (8), (10), (11), (12), (13), (15), (16), and (18), 224.72 (title), (1) (intro.) and (b), (1m), (2) (a), (b), (c) (title), and (d), (2m), (3) (title), (b), and (c), (4) (title), (a) (intro.), 1., 2., 3., 4. and (d), (4m), (4n) (intro.) and (a) 2., (4r), (6), (7) (b), (bm), (c), (d), and (e), (7m) (intro.), (am), (b), and (c), (7p), and (8), 224.725, 224.726, 224.728, 224.73 (title), (1), (2) (title) and (b), (3) (title) and (b), (4) (title) and (b), 224.74 (title), (1), (2) (title), (a) (title), (ag) 3. and 4., (ar), (b), and (c), and (3), 224.75 (title), (1) (a), (b) (intro.), 6., and 7., (c) (intro.), 1., and 10., (d) 2., 3., 4., and 5., (2), (3), (4), and (6), 224.755 (1), (2), (3), and (4), 224.76, 224.77 (title), (1) (intro.), (a), (c), (d), (dm), (e), (f), (fg), (fr), (g), (gd), (gh), (gp), (gt), (h) to (L), (Le), (Lm), (Ls), (m) to (q), (r), (s), (t), (tm), (u), (um), (v), (w), (x), (y) and (z), (1m) (a), (b), (c) 2. and (d), (2) (title), (2m), (3) (a) 3. and 4., (3m), (4), (5) (a), (6) (title), (7) (title), (8), and (9), 224.78 (title), 224.785, 224.79, 224.80 (1), (2) (intro.) and (a) 1., 224.81, 224.82, 224.83, 224.84, 227.01 (13) (zy), 234.01 (5k), 234.49 (2) (a) 4., 234.59 (1) (h), 321.60 (1) (a) 12., 422.501 (2) (b) 8., 428.202 (6), 428.203 (9) (title), 428.204, 428.206, 452.01 (3) (g), and 943.62 (2m) of the statutes, the repeal and recreation of sections 224.72 (2)

(1g)

Sections 224.74 (2) (a) (title), and the repeal of 224.77 (2) (title), (6) (title), (7) (title), and 224.78 (title) of the statutes,

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Move to
P. 1, line 23

1 (title) and (7) (title) ^{g and} 224.755 (title), ~~and 224.77 (1) (b)~~ ^X of the statutes, ^{to} the
 2 renumbering of section 224.77 (1m) (c) ^v of the statutes, the renumbering and
 3 amendment of sections ~~224.71 (g), (1), and (5)~~ ^{g and}, 224.72 (1) (a), (2) (intro.), ~~(3) (a), (5)~~
 4 ~~(title), (a), and (b)~~ ^{SEH} and ~~(7) (a)~~ ^X, 224.73 (2), (3), and (4), ^X 224.74 (2) (a), 224.75 (1) (d),
 5 224.755, 224.77 (2), (6), and (7), 224.78, and 428.202 (6) of the statutes, ^v and the
 6 consolidation, renumbering, and amendment of section 224.77 (3) (a) and (b) of the
 7 statutes take effect on January 1, 2010, or on the 60th day after the day of
 8 publication, whichever is later.

9 (b) ~~The treatment of~~ ^{CS} Section 9117 (1) of this act takes effect on the day after
 10 publication. ^{AR}

and the creation of sections 224.73 (2) (b), (3) (b), ^{and} (4) (b), ^z
~~and 224.75~~ 224.75 (1) (d) 2., 3., 4., and 5.,
 224.755 (1), (2), (3), and (4), 224.77 (1m) (c) 2., and
~~224.77~~ 224.77 (3) (a) 3. and 4. ^z of the statutes

^z ^Δ the amendment of section 224.73 (2) (title), (3) (title), ^{title} and
 (4) (title) of the statutes; [^]

Gary, Aaron

From: Pawasarat, Jane - DOA [jane.pawasarat@wisconsin.gov]
Sent: Thursday, February 05, 2009 2:51 PM
To: Gary, Aaron
Subject: Model SAFE Act legislation for states

Hi Aaron, You probably have this already, but it is a link to the HUD website and provides model legislation for the SAFE Act. I left you a voice mail requesting that the draft simply bring Wisconsin into conformance with the Act. Sorry about that...call if you have questions, Thanks, Jane

The message is ready to be sent with the following file or link attachments:

Shortcut to: <http://www.hud.gov/offices/hsg/sfh/mps/smllicact.cfm>

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

1/5/09

H/c w / Jane

• cut out everything

except DFI's

SAFE Act changes