1	Section 121. 224.755 of the statutes is renumbered 224.755 (5) and amended
2	to read:
3	224.755 (5) COMPLIANCE RECORDS. A mortgage loan originator shall keep
4	records documenting compliance with s. $224.72(7)(d)$ this section for at least 4 years.
5	The technical college system board and any professional trade association or other
6	person that administers examinations or provides education under s. 224.72 (7) (d)
7	shall maintain records documenting attendance and examination performance for
8	at least 4 years.
9	<b>SECTION 122.</b> 224.755 (1), (2), (3) and (4) of the statutes are created to read:
10	224.755 (1) Education requirements applicable prior to license issuance.
11	Subject to sub. (3) (a) and (c), an applicant for a license under s. 224.725 (1), prior to
12	the division's issuance of the license, shall complete at least 20 hours of education,
13	including a minimum of all of the following:
14	(a) Three hours of federal law and regulations.
15	(b) Three hours of ethics, including instruction on fraud, consumer protection,
16	and fair lending issues.
17	(c) Two hours of training related to lending standards for the nontraditional
18	mortgage product marketplace.
19	(2) CONTINUING EDUCATION REQUIREMENTS. Subject to subs. (3) (a), (c), (d), and
20	(f), an applicant for renewal of a license under s. 224.725 (5), prior to the division's
21	renewal of the license, shall annually complete at least 8 hours of education,
22	including a minimum of all of the following:
23	(a) Three hours of federal law and regulations.
24	(b) Two hours of ethics, including instruction on fraud, consumer protection,
25	and fair lending issues.

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

- (3) EDUCATION APPROVAL. (a) No education course may count toward the requirement under sub. (1) or (2) unless the course has been reviewed and approved by the nationwide mortgage licensing system and registry based upon reasonable standards, including review and approval of the course provider.
- (b) An education course meeting the standard under par. (a) may count toward the requirements under subs. (1) and (2) even if the course is any of the following:
- 1. Provided by the applicant's or licensee's employer, by an entity affiliated with the applicant or licensee by an agency contract, or by any subsidiary or affiliate of such an employer or affiliated entity.
  - 2. Offered through the Internet or another online or electronic medium.
  - 3. Taken in another state.
- (c) Subject to any rule promulgated under s. 224.72 (7) (bm) or 224.725 (5) (b), if an individual was previously registered as a loan originator under s. 224.72, 2007 stats., or previously licensed as a mortgage loan originator under s. 224.725, the division may not issue or renew a mortgage loan originator license for the individual under s. 224.725 unless the individual satisfies the requirements under sub. (1) or (2) or demonstrates to the division's satisfaction that the individual has completed all education requirements applicable to the individual in the last year in which the individual's license or registration was valid.
- (d) Except as provided in any rule promulgated under s. 224.72 (7) (bm), a licensed mortgage loan originator may receive credit for a continuing education course only in the year in which the course is taken and may not take the same

origination.

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1	approved course in the same or successive years to meet the requirements under sub
2	(2).
3	(e) A licensed mortgage loan originator who is an approved instructor of an
4	approved continuing education course may receive credit for the licensed mortgage
5	$loan\ originator's\ own\ annual\ continuing\ education\ requirement\ at\ the\ rate\ of\ 2\ hours$
6	of credit for every one hour taught.
7	(f) The division may, by rule, allow an applicant for renewal of a license under
8	s. $224.725(5)$ to make up any deficiency in meeting the requirements specified in sub.
9	(2).
10	(4) Testing requirements. (a) An applicant for a license under s. 224.725 (1),
11	prior to the division's issuance of the license, shall pass a written test meeting the
12	standards under par. (b). An individual shall answer at least 75 percent of the test
13	questions correctly to achieve a passing test score.
14	(b) 1. No test may satisfy the requirement under par. (a) unless the test is
15	developed by the nationwide mortgage licensing system and registry and
16	administered by a test provider approved by the nationwide mortgage licensing
17	system and registry based upon reasonable standards.
18	2. A test does not meet the standard under subd. 1. unless the test adequately
19	measures the applicant's knowledge and comprehension in appropriate subject
20	areas, including all of the following:
21	a. Ethics.
22	b. Federal and state law, regulations, and rules pertaining to mortgage

c. Federa	al and state l	aw, regulation	ıs, an	d rules re	elating to res	idential mort	gage
transactions,	including	instruction	on	fraud,	consumer	protection,	the
nontraditional	l mortgage p	oroduct marke	etplac	ce, and fa	air lending is	ssues.	

- (c) A written test meeting the standards under par. (b) may satisfy the requirement under par. (a) even if the test is provided at the location of the applicant's employer, any subsidiary or affiliate of the applicant's employer, or any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.
- (d) An individual may retake a test 3 consecutive times, with each test retaken no less than 30 days after the preceding test. If the individual fails 3 consecutive tests, the individual may not retake a test again for at least 6 months.
- (e) If an individual previously licensed as a mortgage loan originator fails to maintain a valid license for a period of 5 years or longer, the individual shall retake the test under par. (a). For purposes of determining the 5-year period, the division shall not consider any period during which the individual is exempt from licensing under s. 224.726 (1).

**Section 123.** 224.76 of the statutes is amended to read:

broker trust accounts. A mortgage banker, mortgage loan originator, or mortgage broker shall deposit in one or more trust accounts all funds other than nonrefundable fees which it receives on behalf of any person, pending disbursement of the funds in accordance with instructions from the person on whose behalf the funds are deposited. A mortgage banker or mortgage broker shall maintain trust accounts in a bank, savings bank, savings and loan association or credit union which is authorized to do business in this state or whose accounts are insured by the Federal

1	Deposit Insurance Corporation or the National Credit Union Administration
2	depository institution. The mortgage banker or mortgage broker shall notify the
3	division of the location of its trust accounts.
4	SECTION 124. 224.77 (title) of the statutes is amended to read:
5	224.77 (title) Discipline Prohibited acts and practices, and discipline,
6	of mortgage bankers, mortgage loan originators, and mortgage brokers.
7	SECTION 125. 224.77 (1) (intro.) of the statutes is amended to read:
8	224.77 (1) PROHIBITED CONDUCT ACTS AND PRACTICES. (intro.) The division may
9	deny an application submitted to it under s. 224.72, or may revoke, suspend or limit
10	the certificate of registration of a mortgage banker, loan originator or mortgage
11	broker, or may reprimand a mortgage banker, loan originator or mortgage broker, if
12	it finds that the $\underline{\text{No}}$ mortgage banker, $\underline{\text{mortgage}}$ loan originator, or mortgage broker
13	did, and no member, officer, director, principal, partner, trustee, or other agent of a
14	mortgage banker or mortgage broker, may do any of the following:
15	SECTION 126. 224.77 (1) (a) of the statutes is amended to read:
16	224.77 (1) (a) Made Make a material misstatement, or knowingly omit a
17	material fact, in an a license application for registration, or in other information or
18	reports furnished to the division, to the nationwide mortgage licensing system and
19	registry, or to any other governmental agency, including failing to disclose a criminal
20	conviction or any disciplinary action taken by a state or federal regulatory agency.
21	<b>Section 127.</b> 224.77 (1) (b) of the statutes is repealed and recreated to read:
22	224.77 (1) (b) Make, in any manner, any materially false or deceptive
23	statement or representation, including engaging in bait and switch advertising or
24	falsely representing residential mortgage loan rates, points, or other financing terms
25	or conditions.

1	SECTION 128. 224.77 (1) (c) and (d) of the statutes are amended to read:
2	224.77 (1) (c) Made Make a false, deceptive, or misleading promise relating to
3	the services being offered or that influences, persuades, or induces a client to act to
4	his or her injury or damage detriment.
5	(d) Pursued Pursue a continued and flagrant course of misrepresentation, or
6	made make false promises, whether directly or through agents or advertising.
7	SECTION 129, 224.77 (1) (dm) of the statutes is created to read:
8	224.77 (1) (dm) Use or permit the use of any document that the mortgage
9	banker, mortgage broker, or mortgage loan originator knows to contain erroneous or
10	false information concerning a person's eligibility for a loan.
11	SECTION 130. 224.77 (1) (e) and (f) of the statutes are amended to read:
12	224.77 (1) (e) Acted Act for more than one party in a transaction without the
13	knowledge and consent of all parties on whose behalf the mortgage banker, mortgage
14	loan originator, or mortgage broker is acting.
15	(f) Accepted Accept a commission, money, or other thing of value for performing
16	an act as a mortgage loan originator unless the payment is from a mortgage banker
17	or mortgage broker who is registered under s. 224.72 (3) as employing the loan
18	originator with whom the mortgage loan originator's license is associated, as
19	identified in the records of the division at the time the act is performed.
20)	SECTION 131. 224.77 (1) (fg) and (fr) of the statutes are created to read:
21	224.77 (1) (fg) As a mortgage banker or mortgage broker, pay a commission,
22	money, or other thing of value to any person for performing an act as a mortgage loan
23	originator unless the mortgage loan originator's license is associated with the
24	mortgage banker or mortgage broker in the records of the division at the time the act
25	is performed.

1	(fr) As a mortgage broker, enter into an agreement with, or otherwise require,
2	any person to pay to the mortgage broker any fee, commission, or other valuable
3	consideration in order for the person to be able to prepay the principal of a residential
4	mortgage loan.
5	SECTION 132. 224.77 (1) (g) of the statutes is amended to read:
6	224.77 (1) (g) As a mortgage loan originator, represented or attempted
7	represent or attempt to represent a mortgage banker or mortgage broker other than
8	the mortgage banker who is registered under s. 224.72 (3) as employing the loan
9	originator or mortgage broker with whom the mortgage loan originator's license was
10	associated, as identified in the records of the division at the time the representation
11	or attempted representation occurs.
12	or attempted representation occurs.  SECTION 133. 224.77 (1) (gd), (gh), (gp) and (gt) of the statutes are created to
13	read:
14	224.77 (1) (gd) As a mortgage banker or mortgage broker, permit a person who
15	is not licensed under this subchapter to act as a mortgage loan originator on behalf
16	of the mortgage banker or mortgage broker.
17	(gh) As a mortgage banker or mortgage broker, permit a person whose
18	mortgage loan originator license is not associated in the records of the division with
19	the mortgage banker or mortgage broker to act as a mortgage loan originator on
20	behalf of the mortgage banker or mortgage broker.
21	(gp) As a mortgage banker or mortgage broker, conduct business at or from a
22	principal office or branch office that is not licensed under this subchapter.
23	(gt) As a mortgage banker or mortgage broker, conduct business under any
24	trade name other than one designated in its license application.
25	SECTION 134, 224.77 (1) (h) to (L) of the statutes are amended to read:

1	224.77 (1) (h) Failed Fail, within a reasonable time, to account for or remit any
2.	moneys coming into the mortgage banker's, mortgage loan originator's, or mortgage
3	broker's possession which that belong to another person.
4	(i) Demonstrated Demonstrate a lack of competency to act as a mortgage
5	banker, mortgage loan originator, or mortgage broker in a way which that safeguards
6	the interests of the public.
7	(j) Paid or offered Pay or offer to pay a commission, money, or other thing of
8	value to any person for acts or services in violation of this subchapter.
9	(k) Violated Violate any provision of this subchapter, ch. 138, or any federal or
10	state statute, rule, or regulation which that relates to practice as a mortgage banker,
11	mortgage loan originator, or mortgage broker.
12	(L) Engaged Engage in conduct which that violates a standard of professional
13	behavior which, through professional experience, has become established for
14	mortgage bankers, mortgage loan originators, or mortgage brokers.
15	SECTION 135. 224.77 (1) (Le), (Lm) and (Ls) of the statutes are created to read:
16	224.77 (1) (Le) As a mortgage broker, fail to do any of the following:
17	1. Use reasonable care, skill, and diligence in performing the mortgage broker's
18	duties.
19	2. Act in good faith and fair dealing in all transactions with the borrower.
20	3. Make reasonable good faith efforts to secure a mortgage that is in the
21	reasonable interests of the borrower considering all the circumstances reasonably
22	available to the mortgage broker, including the rates, points, fees, charges, costs and
23	product type.
24	4. Ensure that the cost of credit is reasonably appropriate considering the
25	borrower's level of creditworthiness and other bona fide underwriting concerns.

- 5. Notify, before the closing, each mortgage banker or other lender of the payment obligations associated with each of the mortgage banker's or other lender's loans if the mortgage broker knows that more than one residential mortgage loan will be made by different mortgage bankers or lenders contemporaneously to a borrower secured by the same real property.
- (Lm) As a mortgage broker, advertise or cause to be advertised any residential mortgage loan unless the advertisement includes the following statement, clearly and conspicuously expressed: "MORTGAGE BROKER ONLY, NOT A MORTGAGE LENDER."
- (Ls) As a mortgage broker, in connection with an advertisement in this state, do any of the following:
- 1. Use a simulated check or other document that imitates or resembles a check but that is not a negotiable instrument.
- 2. Compare the loan payments under a residential mortgage loan being offered and the loan payments under a hypothetical loan, unless the advertisement includes, with respect to both the hypothetical loan and the residential mortgage loan being offered, the interest rate, the loan balance, the total amount of finance charges, the total number of payments, and the monthly payment amount that would be required to pay off the outstanding loan balance shown.
- 3. Use representations such as "verified as eligible", "eligible", "preapproved", "prequalified", or similar words or phrases, without also disclosing, in immediate proximity to and in similar size print, any applicable prerequisites to qualify for the residential mortgage loan.

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4. Use any word or symbol in the advertisement, or on an envelope containing
the advertisement, that gives the appearance that the mailing was sent by a
governmental agency.
<b>Section 136.</b> 224.77 (1) (m) of the statutes is amended to read:

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

**SECTION 137.** 224.77 (1) (o) of the statutes is amended to read:

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

**SECTION 138.** 224.77 (1) (p) of the statutes is amended to read:

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

**Section 139.** 224.77 (1) (q) of the statutes is amended to read:

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

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

1	2. Found a Find a residential mortgage loan or negotiated a negotiate a
2	residential mortgage loan on terms less favorable than are usually offered.
3	SECTION 140. 224.77 (1) (r) of the statutes is repealed.
4	SECTION 140. 224.77 (1) (r) of the statutes is repealed.  SECTION 141. 224.77 (1) (s), (t), (tm), (u), (um), (v), (w), (x), (y) and (z) of the
5	statutes are created to read:
6	224.77 (1) (s) Violate, or fail to comply with, any lawful order of the division.
7	(t) Impede an investigation or examination of the division or deny the division
8	access to any books, records, or other information which the division is authorized
9	to obtain under s. 224.74 (2), 224.75 (6), or any other provision of this subchapter.
10	(tm) Make a material misstatement, or knowingly omit a material fact, or
11	knowingly mutilate, destroy, or secrete any books, records, or other information
12	requested by the division, in connection with any investigation or examination
13	conducted by the division or another governmental agency.
14	(u) Solicit or enter into a contract with a borrower that provides in substance
15	that the mortgage banker, mortgage broker, or mortgage loan originator may earn
16	a fee or commission through "best efforts" to obtain a residential mortgage loan even
17	though no residential mortgage loan is actually obtained for the borrower.
18	(um) Solicit, advertise, or enter into a contract for specific interest rates, points,
19	or other financing terms unless the terms are actually available at the time of
20	soliciting, advertising, or contracting.
21	(v) Assist, aid, or abet any person in unlawfully conducting business under this
22	subchapter without a valid license.
23	(w) Fail to make disclosures required under this subchapter or required under
24	any other applicable state or federal law, rule, or regulation.

1	(x) Withhold any payment or make any payment, threat, or promise, directly
2	or indirectly, to any person for the purpose of influencing the independent judgment
3	of the person in connection with a residential mortgage loan, or withhold any
4	payment or make any payment, threat, or promise, directly or indirectly, to any
5	appraiser of a property for the purpose of influencing the independent judgment of
6	the appraiser with respect to the value of the property.
7	(y) Cause or require a borrower to obtain property insurance coverage in an
8	amount exceeding the replacement cost of improvements on the property, as
9	determined by the property insurer.
10	(2) As a mortgage banker that services a residential mortgage loan, fail to do
11	any of the following:
12	1. Promptly deliver to the mortgagor a release of the mortgage upon repayment
13	of the outstanding balance of the loan secured by the mortgage.
14	2. Identify for the borrower, upon request by the borrower, the amount of the
15	outstanding balance of the loan secured by the mortgage within 2 business days of
16	the request.
17	<b>Section 142.</b> 224.77 (1m) (a) of the statutes is amended to read:
18	224.77 (1m) (a) The division may assess against -a person who is registered
19	under this chapter any person who violates this subchapter a forfeiture of not more
20	than $\$2,000$ $\$25,000$ for each violation enumerated under sub. (1) (a) to (o) or (r) and
21	may further order restitution to any person suffering loss as a result of the violation.
22	<b>Section 143.</b> 224.77 (1m) (b) of the statutes is amended to read:
23	224.77 (1m) (b) A person may contest an assessment of forfeiture, or a
24	restitution order, under par. (a) by sending, within 10 days after receipt of notice of

the assessment <u>or order</u> under par. (a), a written request for hearing under s. 227.44

to the division of hearings and appeals created under s. 15.103 (1). The administrator of the division of hearings and appeals may designate a hearing examiner to preside over the case and recommend a decision to the administrator under s. 227.46. The decision of the administrator of the division of hearings and appeals shall be the final administrative decision. The division of hearings and appeals shall commence the hearing within 30 days after receipt of the request for hearing and shall issue a final decision within 15 days after the close of the hearing. Proceedings before the division of hearings and appeals are governed by ch. 227. In any petition for judicial review of a decision by the division of hearings and appeals, the party, other than the petitioner, who was in the proceeding before the division of hearings and appeals shall be the named respondent.

**SECTION 144.** 224.77 (1m) (c) of the statutes is renumbered 224.77 (1m) (c) 1.

**SECTION 145.** 224.77 (1m) (c) 2. of the statutes is created to read:

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

**SECTION 146.** 224.77 (1m) (d) of the statutes is amended to read:

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

Section 147. 224.77 (2) (title) of the statutes is repealed.

Section 148.	224.77 (2) of the statutes is renumbered 224.77 (2)	m) (a) 2. a	ınd
amended to read:			

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

## **SECTION 149.** 224.77 (2m) of the statutes is created to read:

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

- a. Deny any application for initial issuance or renewal of a license.
- b. Revoke, suspend, limit, or condition any license of the mortgage banker, mortgage loan originator, or mortgage broker.
- c. Reprimand the mortgage banker, mortgage loan originator, or mortgage broker.
- (b) In addition to any other authority provided to the division under this subchapter, if the division finds that an applicant for initial issuance or renewal of a license under this subchapter made any material misstatement in the application

or withheld material information, or that the applicant no longer satisfies the requirements under s. 224.72 or 224.725 for issuance or renewal of the license, the division may deny the application or, if the license has already been issued, suspend or revoke the license.

**SECTION 150.** 224.77 (3) (a) and (b) of the statutes are consolidated, renumbered 224.77 (3) (a) (intro.) and amended to read:

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

- 1. Direct a mortgage banker, mortgage loan originator, or mortgage broker to cease and desist from engaging in a particular activity or may direct the, from conducting business, or from otherwise violating any provision of this subchapter or any rule promulgated under this subchapter.
- 2. Direct a mortgage banker, mortgage loan originator, or mortgage broker to refund or remit to a residential mortgage loan applicant or borrower amounts that the mortgage banker, mortgage loan originator, or mortgage broker got from actions which that constitute cause under this section for revoking, suspending or limiting a certificate of registration a violation of any provision of this subchapter or of any rule promulgated under this subchapter.

SECTION 151. 224.77 (3) (a) 3. and 4. of the statutes are created to read:

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

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

**Section 152.** 224.77 (3m) of the statutes is amended to read:

224.77 (3m) Hearing rights for registration <u>license</u> denial, revocation, or suspension. A person whose <u>certificate of registration license</u> has been denied, revoked or, suspended, <u>limited</u>, or <u>conditioned</u> under this section may request a hearing under s. 227.44 within 30 days after the date of denial, revocation or, suspension, <u>limitation</u>, or <u>conditioning</u> of the <u>certificate of registration license</u>. The division may appoint a hearing examiner under s. 227.46 to conduct the hearing.

**Section 153.** 224.77 (4) of the statutes is amended to read:

- 224.77 (4) PERIOD OF DISCIPLINARY ACTION; <u>LICENSE</u> INELIGIBILITY FOR REGISTRATION. (a) *Period*. Except as provided in par. (b), the division shall determine in each case the period that a revocation, suspension or, limitation, or condition of a certificate of registration <u>license</u> is effective.
- (b) *Ineligibility*. 1. Except as provided in subd. 2., if the division denies or revokes a certificate of registration license under sub. (1) (2m) (a), the person is not eligible for a certificate of registration license until the expiration of a period determined in each case by the division.

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1	2. If the division revokes a certificate of registration license under sub. (1) (p)
2	or (q), the person is not eligible for a certificate of registration license until 5 years
3	after the effective date of the revocation.
4	SECTION 154. 224.77 (5) (a) of the statutes is amended to read:
5	224.77 (5) (a) Mandatory revocation or suspension. Notwithstanding sub. (1)
6	(intro.) subs. (2m) (a) and (4), if the division finds that a mortgage banker, mortgage
7	loan originator, or mortgage broker has violated sub. (1) (p) or (q), the division shall:
8	1. For the first offense, suspend the registration license of the mortgage banker,
9	mortgage loan originator, or mortgage broker for not less than 90 days.
10	2. For the 2nd offense, revoke the registration license of the mortgage banker,
11	mortgage loan originator, or mortgage broker.
12	SECTION 155. 224.77 (6) (title) of the statutes is repealed.
13	<b>SECTION 156.</b> 224.77 (6) of the statutes is renumbered 224.77 (2m) (c) and
14	amended to read:
15	224.77 (2m) (c) The department division shall restrict or suspend the
16	registration license of a mortgage banker, mortgage loan originator, or mortgage
17	broker if the registrant licensee is an individual who fails to comply, after
18	appropriate notice, with a subpoena or warrant issued by the department of children
19	and families or a county child support agency under s. 59.53 (5) and related to
20	paternity or child support proceedings or who is delinquent in making court-ordered

payments of child or family support, maintenance, birth expenses, medical expenses,

or other expenses related to the support of a child or former spouse, as provided in

a memorandum of understanding entered into under s. 49.857. A registrant An

individual whose registration license is restricted or suspended under this

subsection is entitled to a notice and hearing only as provided in a memorandum of

1	understanding entered into under s. 49.857 and is not entitled to any other notice or
2	hearing under this section.
3	Section 157. 224.77 (7) (title) of the statutes is repealed.
4	<b>Section 158.</b> 224.77 (7) of the statutes is renumbered 224.77 (2m) (d) and
5	amended to read:
6	224.77 (2m) (d) The department division shall revoke the certificate of
7	registration license of a mortgage banker, mortgage loan originator, or mortgage
8	broker if the department of revenue certifies under s. 73.0301 that the registrant
9	licensee is liable for delinquent taxes. A registrant licensee whose certificate of
10	registration <u>license</u> is revoked under this subsection for delinquent taxes is entitled
11	to a notice under s. $73.0301$ (2) (b) 1. b. and a hearing under s. $73.0301$ (5) (a) but is
12	not entitled to any other notice, hearing or review under this section.
13	<b>Section 159.</b> 224.77 (8) of the statutes is amended to read:
14	224.77 (8) VOLUNTARY SURRENDER. A mortgage banker, mortgage loan
15	originator, or mortgage broker may voluntarily surrender a registration license to
16	the division, but the division may refuse to accept the surrender if the division has
17	an open investigation or examination or received allegations of unprofessional
18	conduct against the mortgage banker, mortgage loan originator, or mortgage broker.
19	The division may negotiate stipulations in consideration for accepting the surrender
20	of registration the license.
21	<b>Section 160.</b> 224.77 (9) of the statutes is created to read:
22	224.77 (9) Reporting violations. The division shall report regularly violations
23	of this subchapter or of rules promulgated under this subchapter, as well as

enforcement actions and other relevant information, to the nationwide mortgage

1	licensing system and registry. Except as provided in s. 224.728 (4) (b) and (c), these						
2	reports shall be confidential.						
3	Section 161. 224.78 (title) of the statutes is repealed.						
4	SECTION 162. 224.78 of the statutes is renumbered 224.77 (1) (jm) and amended						
5	to read:						
6	224.77 (1) (jm) A mortgage banker, loan originator, or mortgage broker may						
7	not pay Pay a person who is not registered licensed under this subchapter a						
8	commission, money, or other thing of value for performing an act as a mortgage						
9	banker, mortgage loan originator, or mortgage broker.						
10	SECTION 163. 224.785 of the statutes is created to read:						
11	224.785 Nonrefundable advance fees. (1) Definitions. In this section:						
12	(a) "Advance fee" means any consideration paid or given to a mortgage banker,						
13	mortgage broker, or mortgage loan originator prior to the closing of a residential						
14	mortgage loan, including loan fees, points, brokers' fees or commissions, transaction						
15	fees, fees or commissions paid in connection with the sale of credit insurance						
16	products, or other prepaid finance charges.						
17	(b) "Applicant" means any of the following:						
18	1. Any person who completes an application for a residential mortgage loan and						
19	submits it to a mortgage banker or mortgage broker.						
20	2. Any person who makes or will make an advance fee payment on behalf of a						
21	person described in subd. 1.						
22	(2) Nonrefundable advance fee prerequisites. (a) Subject to sub. (3), a						
23	mortgage banker or mortgage broker may charge an advance fee that is						
24	nonrefundable, in whole or in part, only if all of the following apply:						

1	(a) The ment goes hanken on ment goes has broken and the applicant agree in writing
1	(a) The mortgage banker or mortgage broker and the applicant agree in writing
2	that the advance fee is not refundable.
3	(b) The written agreement under par. (a) meets all of the following
4	requirements:
5	1. The agreement is dated, signed by all applicable parties, and executed prior
6	to the payment of the advance fee.
7	2. The agreement expressly states the total advance fee required to be paid and
, <sub>2</sub> , 2	any amount of the advance fee that is not refundable.
9	3. The agreement clearly and conspicuously states any conditions under which
10	the advance fee will be retained by the mortgage banker or mortgage broker.
11	4. The term "NONREFUNDABLE" is used to describe each advance fee or
12	portion of an advance fee to which the term is applicable, and the term appears in
13	boldface type in the agreement each time it is used.
14	(c) The form of the written agreement under par. (a) satisfies all of the
15	following:
16	1. It is separate from any other form, contract, or application utilized by the
17	mortgage banker or mortgage broker.
18	2. It contains the document heading "AGREEMENT CONCERNING
19	NONREFUNDABILITY OF ADVANCE FEE," in at least 10-point boldface type.
20	3. It provides for a duplicate copy to be given to the applicant at the time of
21	payment of the advance fee.
22	4. It includes any other information or disclosure required by rule of the
23	division.
24	(3) MORTGAGE LOAN ORIGINATOR ACCEPTANCE. A mortgage loan originator may

not accept payment of any advance fee except on behalf of a mortgage banker or

mortgage broker and only if the requirements under sub. (2) are satisfied. Nothing in this subsection prohibits a mortgage banker or mortgage broker from paying a mortgage loan originator all or part of an advance fee that complies with this section.

(4) Compensation after failure to consummate transaction. No mortgage banker or mortgage broker may enter into an agreement with, or otherwise require, any person to pay the mortgage banker or mortgage broker for any fee, commission, or other valuable consideration lost as a result of the person failing to consummate a residential mortgage loan transaction, except that the mortgage banker or mortgage broker may collect a fee, commission, or consideration as an advance fee if the advance fee complies with the requirements under this section. An agreement for payment of an advance fee that does not comply with the requirements under this section is voidable at the election of the person subject to the advance fee.

**Section 164.** 224.79 of the statutes is amended to read:

eonsumer disclosures. (1) Form and content of consumer mortgage broker and a consumer an individual under which the mortgage broker agrees to provide brokerage services to the consumer individual relating to a residential mortgage loan shall be in writing, in the form prescribed by rule of the division, and shall contain all information required by rule of the division. The division shall promulgate rules to administer this subsection in consultation with the mortgage loan originator council under s. 15.187 (1). The division shall design these rules to facilitate the comparison of similar charges and total charges assessed by different mortgage brokers.

(2) Consumer disclosure <u>Disclosure</u> Statement. Before entering into a contract with <u>a consumer an individual</u> to provide brokerage services <u>relating to a</u>

residential mortgage loan, a mortgage broker shall give the consumer individual a copy of a consumer disclosure statement, explain the content of the statement, and ensure that the consumer individual initials or signs the statement, acknowledging that the consumer individual has read and understands the statement. The consumer disclosure statement shall contain a brief explanation of the relationship between the consumer individual and the mortgage broker under the proposed contract, a brief explanation of the manner in which the mortgage broker may be compensated under the proposed contract, and any additional information required by rule of the division. The division shall promulgate rules to administer this subsection in consultation with the mortgage loan originator council under s. 15.187 (1) and, by rule, shall specify the form and content of the consumer disclosure statement required under this subsection.

**SECTION 165.** 224.80 (1) of the statutes is amended to read:

224.80 (1) PENALTIES. A person who violates s. 224.72 (1m) any provision of this subchapter or any rule promulgated under this subchapter may be fined not more than \$2,000 \$25,000 or imprisoned for not more than 9 months or both. The district attorney of the county where the violation occurs shall enforce the penalty under this subsection on behalf of the state.

**SECTION 166.** 224.80 (2) (intro.) of the statutes is amended to read:

224.80 (2) Private Cause of action. (intro.) A person who is aggrieved by an act which is committed by a mortgage banker, mortgage loan originator, or mortgage broker and which is described in s. 224.77 (1) in violation of any provision of this subchapter or of any rule promulgated under this subchapter may recover all of the following in a private action:

**SECTION 167.** 224.80 (2) (a) 1. of the statutes is amended to read:

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

**Section 168.** 224.81 of the statutes is amended to read:

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

**Section 169.** 224.82 of the statutes is amended to read:

**224.82 Compensation presumed.** In a prosecution arising from a violation of this subchapter, proof that a person acted as a mortgage banker, <u>mortgage</u> loan originator, or mortgage broker is sufficient, unless rebutted, to establish that compensation was received by, or promised to, that person.

**Section 170.** 224.83 of the statutes is created to read:

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

**Section 171.** 224.84 of the statutes is created to read:

1	224.84 Subprime and nontraditional mortgage loan policy. Each
2	mortgage banker shall adopt a residential mortgage loan policy relating to subprime
3	mortgage loans and nontraditional mortgage loans made by the mortgage banker
4	and shall annually review and update this policy. The policy shall be consistent with
5	the most current version of any applicable statement or guidance on subprime
6	mortgage lending or nontraditional mortgage products, respectively, available from
7	the Conference of State Bank Supervisors, the American Association of Residential
8	Mortgage Regulators, or the National Association of Consumer Credit
9	Administrators. Each mortgage banker shall develop and implement internal
10	controls reasonably designed to ensure compliance by the mortgage banker with its
11	own policy.

**SECTION 172.** 227.01 (13) (zy) of the statutes is created to read:

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

**SECTION 173.** 234.01 (5k) of the statutes is amended to read:

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

**SECTION 174.** 234.49 (2) (a) 4. of the statutes is amended to read:

234.49 (2) (a) 4. To designate as an authorized lender the authority or any local government agency, housing authority under s. 59.53 (22), 61.73, 66.1201 or 66.1213,

1	bank, savings bank, savings and loan institution, mortgage banker registered
2	licensed under s. 224.72 or credit union, if the designee has a demonstrated history
3	or potential of ability to adequately make and service housing rehabilitation loans.
4	SECTION 175. 234.59 (1) (h) of the statutes is amended to read:
5	234.59 (1) (h) "Mortgage banker" means a mortgage banker registered licensed
6	under s. 224.72, but does not include a person licensed under s. 138.09.
7	<b>SECTION 176.</b> 321.60 (1) (a) 12. of the statutes is amended to read:
8	321.60 (1) (a) 12. A license or certificate of registration issued by the
9	department of financial institutions, or a division of it, under ss. 138.09, 138.12,
10	217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, <u>224.725</u> , or 224.93 or
11	subch. IV of ch. 551.
12	<b>SECTION 177.</b> 422.501 (2) (b) 8. of the statutes is amended to read:
13	422.501 (2) (b) 8. A person registered licensed as a mortgage banker, mortgage
14	loan originator, or mortgage broker under s. $224.72  \underline{\text{or } 224.725}$ if the person is acting
15	within the course and scope of that registration the license.
16	<b>SECTION 178.</b> 428.202 (6) of the statutes is renumbered 428.202 (9) and
17	amended to read:
18	428.202 (9) "Loan Mortgage loan originator" has the meaning given in s. 224.71
19	(1r) <u>(6)</u> .
20	SECTION 179. 428.203 (9) (title) of the statutes is amended to read:
21	428.203 <b>(9)</b> (title) Unregistered Unlicensed mortgage bankers and brokers.
22	SECTION 180. 428.204 of the statutes is amended to read:
23	428.204 False statements. No lender, licensed lender, mortgage loan
24	originator, mortgage banker, or mortgage broker may knowingly make, propose, or

1	solicit fraudulent, false, or misleading statements on any document relating to a
2	covered loan.
3	SECTION 181. 428.206 of the statutes is amended to read:
4	428.206 Recommending default. No lender, licensed lender, mortgage loan
5	originator, mortgage banker, or mortgage broker may recommend or encourage an
6	individual to default on an existing loan or other obligation before and in connection
7	with the making of a covered loan that refinances all or any portion of that existing
8	loan or obligation.
9	SECTION 182. 452.01 (3) (g) of the statutes is amended to read:
10	452.01 (3) (g) A person registered licensed as a mortgage banker under s.
11	224.72 who does not engage in activities described under sub. (2).
12	<b>SECTION 183.</b> 943.62 (2m) of the statutes is amended to read:
13	943.62 (2m) This section does not apply to a savings and loan association,
14	credit union, bank, savings bank, or a mortgage banker, mortgage loan originator,
15	or mortgage broker registered <u>licensed</u> under s. 224.72 <u>or 224.725</u> .
16	Section 9117. Nonstatutory provisions; Financial Institutions.
17	(1) Mortgage loan originators, mortgage brokers, and mortgage bankers.
18	(a) In this subsection, "division" means the division of banking in the
19	department of financial institutions.
20	(b) Notwithstanding any other provision of subchapter III of chapter 224 of the
21	statutes, as affected by this act, the division shall, by rule, institute any system of
22	initial license issuance or license renewal that it deems advisable for the purpose of
23	implementing an orderly and efficient transition from the registration system under
24	subchapter III of chapter 224, 2007 stats., to the license system under subchapter III

of chapter 224 of the statutes, as affected by this act. A transition system adopted

under this paragraph may include the requirement that registrants under section 224.72, 2007 stats., apply for a license under section 224.72 of the statutes, as affected by this act, or under section 224.725 of the statutes, as created by this act, and pay any applicable fees, before the scheduled expiration of the registration period under section 224.72, 2007 stats. A transition system adopted under this paragraph may also provide for the initial issuance of licenses under section 224.72 of the statutes, as affected by this act, and under section 224.725 of the statutes, as created by this act, that are valid for an initial period that is greater or less than the ordinary valid period of such licenses. If a transition system adopted under this paragraph results in a shorter registration or license period than that which would ordinarily be applicable, the division shall prorate or rebate fees corresponding to the unused or unexpired portion of the ordinarily applicable registration or license period. For previously registered or licensed individuals the division may establish under the transition system expedited review and licensing procedures.

- (c) The division shall submit in proposed form the rules required under paragraph (b) to the legislative council staff under section 227.15 (1) of the statutes no later than 60 days after the effective date of this paragraph.
- (d) Using the emergency rules procedure under section 227.24 of the statutes, the division shall promulgate the rules required under paragraph (b) for the period before the effective date of the rules submitted under paragraph (c). The division shall promulgate these emergency rules no later than 60 days after the effective date of this paragraph. Notwithstanding section 227.24 (1) (c) and (2) of the statutes, these emergency rules may remain in effect until July 1, 2011, or the date on which permanent rules take effect, whichever is sooner. Notwithstanding section 227.24 (1) (a) and (3) of the statutes, the division is not required to provide evidence that

**SECTION 9117** 

- promulgating a rule under this paragraph as an emergency rule is necessary for the 1 2 preservation of the public peace, health, safety, or welfare and is not required to
- provide a finding of emergency for a rule promulgated under this paragraph.

4	Section 9417. Effective dates; Financial Institutions.
5	(1) Mortgage loan originators, mortgage brokers, and mortgage bankers.
6	(no (a)) The treatment of sections 15.09 (6), 15.187 (1) (intro.), (a), (b), (c), and (d),
7	49.857(1)(d)12.,73.0301(1)(d)6.,100.55(1)(d)3.,220.02(2)(g)and(3),220.06(1),
8	220.285 (1), 221.0402 (2) (b), 224.71 (1ag), (1am), (1b), (1bm), (1c), (1d), (1dm), (1f),
9	(1g), (1h), (1m), (1r), (1u), (2), (3) (a) 1. to 3. and (b) 1. to 7., 8., 9., 10., 11. and 12., (4)
10	(a) and (b) 1. to 3., 4., 5., 6., 7., and 8., (5), (6) (a) 1. and 2. and (b), (7), (8), (10), (11),
11	(12), (13), (15), (16), and (18), 224.72 (title), (1) (intro.), (a), and (b), (1m), (2) (a), (b),
12	(c) (title), and (d), (2m), (3) (title), (a), (b), and (c), (4) (title), (a) (intro.), 1., 2., 3., and
13	4. and (d), (4m), (4n) (intro.) and (a) 2., (4r), (5) (title), (a), and (b), (6), (7) (title), (a),
14	and (b), (bm), (c), (d), and (e), (7m) (intro.), (am), (b), and (c), (7p), and (8), 224.725,
15	224.726, 224.728, 224.73 (title), (1), 224.74 (title), (1), (2) (title), (ag) 3. and 4., (ar),
16	(b), and (c), and (3), 224.75 (title), (1) (a), (b) (intro.), 6., and 7., (c) (intro.), 1., and 10.,
17	(2), (3), (4), and (6), 224.76, 224.77 (title), (1) (intro.), (a), (b), (c), (d), (dm), (e), (f), (fg),
(18)	(fr), (g), (gd), (gh), (gp), (gt), (h) to (L), (Le), (Lm), (Ls), (m) to (q), (r), (s), (t), (tm), (u),
19	(um), (v), (w), (x), (y) and (z), (1m) (a), (b), and (d), (2m), (3m), (4), (5) (a), (8), and (9),
20	224.785, 224.79, 224.80 (1), (2) (intro.) and (a) 1., 224.81, 224.82, 224.83, 224.84,
21	227.01(13)(zy), 234.01(5k), 234.49(2)(a)4., 234.59(1)(h), 321.60(1)(a)12., 422.501(12)(13)(13)(13)(13)(13)(13)(13)(13
22	$(2)\ (b)\ 8.,\ 428.202\ (6),\ 428.203\ (9)\ (title),\ 428.204,\ 428.206,\ 452.01\ (3)\ (g),\ and\ 943.62$
23	(2m) of the statutes, the repeal of sections $224.74$ $(2)$ $(a)$ $(title)$ , $224.77$ $(2)$ $(title)$ , $(6)$
24	(title), and (7) (title), and 224.78 (title) of the statutes, the renumbering of section

224.77 (1m) (c) of the statutes, the renumbering and amendment of sections 224.71

11

1 (5), 224.72 (1) (a), and (2) (intro.), 224.73 (2), (3), and (4), 224.74 (2) (a), 224.75 (1) (d), 2 224.755, 224.77 (2), (6), and (7), 224.78, and 428.202 (6) of the statutes, the 3 consolidation, renumbering, and amendment of section 224.77 (3) (a) and (b) of the 4 statutes, the amendment of section 224.73 (2) (title), (3) (title), and (4) (title) of the 5 statutes, the repeal and recreation of sections 224.72 (2) (title) and (7) (title) and 224.755 (title) of the statutes, and the creation of sections 224.73 (2) (b), (3) (b), and 6 (4) (b), 224.75 (1) (d) 2., 3., 4., and 5., 224.755 (1), (2), (3), and (4), 224.77 (1m) (c) 2., 7 and 224.77 (3) (a) 3. and 4. of the statutes take effect on January 1, 2010, or on the 8 9 60th day after publication, whichever is later.

(b) Section 9117 (1) of this act takes effect on the day after publication.

(END)

## Gary, Aaron

From:

Dombrowski, Cynthia A - DOA [cynthia.dombrowski@wisconsin.gov]

Sent:

Tuesday, February 10, 2009 11:24 AM

To:

Gary, Aaron

Subject: RE: LRB-1896

HI Aaron -

Yes, the text you suggest is perfect. This is only for originators -- bankers/broker language has no change at this time.

Thanks, Cindy

From: Gary, Aaron [mailto:Aaron.Gary@legis.wisconsin.gov]

Sent: Tuesday, February 10, 2009 11:16 AM

To: Dombrowski, Cynthia A - DOA

Subject: LRB-1896

Cindy,

Are you OK with adding, at p. 26, line 2, after the existing text: "The fees shall be no less than \$250 annually." (\$250 is the fee that DFI already charges by rule. DFI-Bkg 41.01)

If you want a similar provision for mortgage bankers/brokers, let me know. If you want this only for mortgage loan originators, this would be the only treatment necessary.

Thanks. Aaron

Aaron R. Gary Attorney, Legislative Reference Bureau 608.261.6926 (voice) 608.264.6948 (fax) aaron.gary@legis.state.wi.us

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