



State of Wisconsin
2009 - 2010 LEGISLATURE

LRB-1896/23

ARG:wlj:ph

Stays RMR

DOA:.....Dombrowski, BAB0025 - SAFE Act; regulation of mortgage loan originators, mortgage brokers, and mortgage bankers

FOR 2009-11 BUDGET -- NOT READY FOR INTRODUCTION

~~Only change - p. 26~~

Only changes on pp. 2, 3, 9, 17, 26

Do Not Gen

1 AN ACT ...; relating to: the budget.

Analysis by the Legislative Reference Bureau

COMMERCE AND ECONOMIC DEVELOPMENT

BUSINESS ORGANIZATIONS AND FINANCIAL INSTITUTIONS

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

This bill makes numerous changes, both substantive and stylistic, in the statutes relating to the regulation of mortgage loan originators, mortgage brokers, and mortgage bankers (mortgage regulatory provisions). Among these changes,

“loan originators” under current law are referred to as “mortgage loan originators” under the bill and, under the bill, mortgage loan originators, mortgage brokers, and mortgage bankers are licensed by the division of banking in DFI (division) instead of being registered as under current law. The bill requires the division to participate in NMLSR and authorizes the division to process and maintain mortgage loan originator licenses through, and register mortgage loan originators with, NMLSR.

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The bill modifies various definitions applicable to all mortgage regulatory provisions, thereby changing the scope of regulation. The bill slightly modifies the types of loans to which these mortgage regulatory provisions apply by redefining “loan” as “residential mortgage loan.” Under the bill, a “residential mortgage loan” is any loan primarily for personal, family, or household use that is secured by a lien or mortgage, or equivalent security interest, on a dwelling or residential real property located in this state. With certain exceptions, a “mortgage loan originator” under the bill is an individual who, for compensation or gain, takes a residential mortgage loan application and offers or negotiates terms of a residential mortgage loan. However, certain persons are exempt from all mortgage regulatory provisions, including a mortgage loan originator who is an employee of a depository institution or its regulated subsidiary and who is registered with NMLSR. A “depository institution” is a federally chartered or state-chartered bank, savings association, or credit union. The bill essentially maintains the current law definitions of “mortgage banker” and “mortgage broker,” but eliminates the exceptions under current law to these definitions and replaces them with new exceptions. Under the bill, a “mortgage banker” is a person who does any of the following: originates residential mortgage loans for itself or for another person; sells residential mortgage loans or interests in residential mortgage loans to another person; or services residential mortgage loans or provides escrow services. Under the bill, a “mortgage broker” is a person who, on behalf of a residential mortgage loan applicant or an investor and for commission or fee, finds a residential mortgage loan, negotiates a residential mortgage loan or loan commitment, or engages in table funding. Among the exceptions under the bill to the definitions of “mortgage banker” and “mortgage broker” are depository institutions and regulated subsidiaries of depository institutions.

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

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

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

3. The bill specifies certain disqualifying factors preventing the issuance of a mortgage loan originator license, including that the applicant has had a mortgage loan originator license revoked or has been convicted of a felony within a specified period. As derived from the SAFE Act, an applicant may be issued a mortgage loan originator license only if the applicant has demonstrated financial responsibility,

character, and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly, and efficiently under applicable law.

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

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

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

7. Under the bill, each mortgage loan originator must be issued a unique number or other identifier (unique identifier). The bill requires any person originating a residential mortgage loan to place the person's unique identifier on all residential mortgage loan application forms, solicitations, and advertisements.

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

The bill also includes some changes to current law relating to the regulation of mortgage bankers and mortgage brokers.

The bill creates a number of violations, and modifies certain current-law violations, relating to prohibited acts and practices of mortgage bankers, mortgage brokers, mortgage loan originators, and officers and directors of corporate mortgage bankers and mortgage brokers, including the following:

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

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

3. The bill prohibits mortgage bankers and mortgage brokers from conducting business at an unlicensed office.

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

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

* including requiring mortgage bankers and mortgage brokers to annually submit call reports to NMLSR and to maintain surety bonds in the amount of \$300,000 and \$120,000, respectively, and a minimum net worth of \$250,000 and \$100,000, respectively.

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

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

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

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

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

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

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

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

1 **SECTION 1.** 15.09 (6) of the statutes is amended to read:
2 15.09 (6) REIMBURSEMENT FOR EXPENSES. Members of a council shall not be
3 compensated for their services, but, except as otherwise provided in this subsection,
4 members of councils created by statute shall be reimbursed for their actual and
5 necessary expenses incurred in the performance of their duties, such reimbursement

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

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

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

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

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

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

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

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

22 49.857 (1) (d) 12. A license or certificate of registration issued under ss. 138.09,
23 138.12, 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, 224.725,
24 224.93 or subch. IV of ch. 551.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

21 **SECTION 13.** 224.71 (1b) of the statutes is repealed.

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

23 224.71 (1**bm**) "Another state" means any state of the United States other than
24 Wisconsin; the District of Columbia; any territory of the United States; Puerto Rico;

1 Guam; American Samoa; the Trust Territory of the Pacific Islands; the Virgin
2 Islands; or the Northern Mariana Islands.

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

4 224.71 (1c) "Branch office" means an office or place of business, other than the
5 principal office, located in this state or another state, where a mortgage banker or
6 mortgage broker conducts business with residents of this state.

7 **SECTION 16.** 224.71 (1d) of the statutes is repealed.

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

9 224.71 (1dm) "Depository institution" has the meaning given in 12 USC 1813
10 (c) (1), but also includes any state or federal credit union.

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

12 224.71 (1f) "Dwelling" has the meaning given in 15 USC 1602 (v).

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

15 224.71 (14) "Loan Residential mortgage loan" means ~~a~~ any loan primarily for
16 personal, family, or household purposes use that is secured by a lien or mortgage, or
17 equivalent security interest, on a dwelling or residential real property located in this
18 state. ~~For purposes of this subsection, a loan secured by real property consisting of~~
19 ~~1 to 4 dwelling units, including individual condominium units, is a loan for household~~
20 ~~purposes, but a loan made by a landlord to a tenant as described in sub. (3) (b) 4. is~~
21 ~~not a loan for household purposes.~~

22 **SECTION 20.** 224.71 (1h) of the statutes is created to read:

23 224.71 (1h) "Federal banking agency" means the board of governors of the
24 federal reserve system, the U.S. office of the comptroller of the currency, the U.S.

1 office of thrift supervision, the national credit union administration, or the federal
2 deposit insurance corporation.

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

4 224.71 (1m) "Finds," with respect to a residential mortgage loan, means to
5 assist a residential mortgage loan applicant in locating a lender for the purpose of
6 obtaining a residential mortgage loan and to make arrangements for a residential
7 mortgage loan applicant to obtain a residential mortgage loan, including collecting
8 information on behalf of an applicant and preparing a loan package.

9 **SECTION 22.** 224.71 (1r) of the statutes is renumbered 224.71 (6) (a) (intro.) and
10 amended to read:

11 224.71 (6) (a) (intro.) "Loan Mortgage loan originator" means ~~a person who, on~~
12 ~~behalf of a mortgage banker or mortgage broker, finds a loan or negotiates a land~~
13 ~~contract, loan or commitment for a loan. an individual who is not excluded by par.~~
14 ~~(b) and who, for compensation or gain or in the expectation of compensation or gain,~~
15 does ~~all~~ of the following: ^{any}

16 **SECTION 23.** 224.71 (1u) of the statutes is repealed.

17 **SECTION 24.** 224.71 (2) of the statutes is created to read:

18 224.71 (2) "Loan processor or underwriter" means an individual who, as an
19 employee, performs clerical or support duties at the direction of and subject to the
20 supervision and instruction of a mortgage loan originator licensed under s. 224.725
21 or exempt from licensing under s. 224.726 (1), which clerical or support duties may
22 include any of the following occurring subsequent to the receipt of a residential
23 mortgage loan application:

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

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

5 **SECTION 25.** 224.71 (3) (a) 1. to 3. of the statutes are amended to read:

6 224.71 (3) (a) 1. Originates residential mortgage loans for itself, as payee on
7 the note evidencing the residential mortgage loan, or for another person.

8 2. Sells residential mortgage loans or interests in residential mortgage loans
9 to another person.

10 3. Services residential mortgage loans ~~or land contracts~~ or provides escrow
11 services.

12 **SECTION 26.** 224.71 (3) (b) 1. to 7. of the statutes are repealed.

13 **SECTION 27.** 224.71 (3) (b) 8., 9., 10., 11. and 12. of the statutes are created to
14 read:

15 224.71 (3) (b) 8. A depository institution.

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

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

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

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

25 **SECTION 28.** 224.71 (4) (a) of the statutes is amended to read:

1 224.71 (4) (a) "Mortgage broker" means a person who is not excluded by par.
2 (b) and who, on behalf of a residential mortgage loan applicant or an investor and for
3 commission, money, or other thing of value, finds a residential mortgage loan or
4 negotiates a ~~land contract~~, residential mortgage loan or commitment for a
5 residential mortgage loan or engages in table funding.

6 **SECTION 29.** 224.71 (4) (b) 1. to 3. of the statutes are repealed.

7 **SECTION 30.** 224.71 (4) (b) 4., 5., 6., 7. and 8. of the statutes are created to read:

8 224.71 (4) (b) 4. A depository institution.

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

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

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

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

18 **SECTION 31.** 224.71 (5) of the statutes is renumbered 224.71 (17) and amended
19 to read:

20 224.71 (17) "Table funding" means a transaction in which a person conducts
21 a residential mortgage loan closing in the person's name with funds provided by a 3rd
22 party and the person assigns the residential mortgage loan to the 3rd party within
23 24 hours of the residential mortgage loan closing.

24 **SECTION 32.** 224.71 (6) (a) 1. and 2. and (b) of the statutes are created to read:

25 224.71 (6) (a) 1. Takes a residential mortgage loan application.

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

2 (b) "Mortgage loan originator" does not include any of the following:

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

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

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

14 **SECTION 33.** 224.71 (7) of the statutes is created to read:

15 224.71 (7) "Nationwide mortgage licensing system and registry" means the
16 licensing and registration system developed and maintained by the Conference of
17 State Bank Supervisors and the American Association of Residential Mortgage
18 Regulators for licensed mortgage loan originators and mortgage loan originators
19 exempt from licensing under s. 224.726 (1) or, if this system is no longer maintained,
20 any system established by the secretary of the federal department of housing and
21 urban development under P.L. 110-289, Title V, section 1509.

22 **SECTION 34.** 224.71 (8) of the statutes is created to read:

23 224.71 (8) "Negotiate," with respect to a residential mortgage loan, means to
24 discuss, explain, or present the terms and conditions, including rates, fees, and other
25 costs, of a residential mortgage loan with or to a residential mortgage loan applicant,

1 but does not include making an underwriting decision on a residential mortgage loan
2 or closing a residential mortgage loan.

3 **SECTION 35.** 224.71 (10) of the statutes is created to read:

4 224.71 (10) "Nontraditional mortgage product" means any mortgage product
5 other than a 30-year fixed rate mortgage.

6 **SECTION 36.** 224.71 (11) of the statutes is created to read:

7 224.71 (11) "Originate," with respect to a residential mortgage loan, means to
8 make an underwriting decision on the residential mortgage loan and close the loan.

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

10 224.71 (12) "Principal office," with respect to a mortgage banker or mortgage
11 broker, means the place of business designated by the mortgage banker or mortgage
12 broker as its principal place of business, as identified in the records of the division.

13 **SECTION 38.** 224.71 (13) of the statutes is created to read:

14 224.71 (13) "Real estate brokerage activity" means any activity that involves
15 offering or providing to the public real estate brokerage services involving
16 residential real property in this state, including all of the following:

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

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

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

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

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

3 **SECTION 39.** 224.71 (15) of the statutes is created to read:

4 224.71 (15) "Residential real property" means real property on which a
5 dwelling is constructed or intended to be constructed.

6 **SECTION 40.** 224.71 (16) of the statutes is created to read:

7 224.71 (16) "Services," with respect to a residential mortgage loan, means to
8 receive payments on a note from the borrower and distribute these payments in
9 accordance with the terms of the note or servicing agreement.

10 **SECTION 41.** 224.71 (18) of the statutes is created to read:

11 224.71 (18) "Unique identifier" means a number or other identifier assigned
12 by protocols established by the nationwide mortgage licensing system and registry.

13 **SECTION 42.** 224.72 (title) of the statutes is amended to read:

14 **224.72 (title) ~~Registration~~ Licensing of mortgage bankers, loan**
15 **originators and mortgage brokers.**

16 **SECTION 43.** 224.72 (1) (intro.) of the statutes is repealed.

17 **SECTION 44.** 224.72 (1) (a) of the statutes is renumbered 224.71 (9) and
18 amended to read:

19 224.71 (9) "Net worth" means total tangible assets less total liabilities of a
20 person, or, if the person is ~~a natural person~~ an individual, total tangible assets less
21 total liabilities exclusive of the person's principal residence and its furnishings and
22 personal use vehicles.

23 **SECTION 45.** 224.72 (1) (b) of the statutes is repealed.

24 **SECTION 46.** 224.72 (1m) of the statutes is amended to read:

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

7 **SECTION 47.** 224.72 (2) (title) of the statutes is repealed and recreated to read:

8 224.72 (2) (title) LICENSE APPLICATIONS.

9 **SECTION 48.** 224.72 (2) (intro.) of the statutes is renumbered 224.72 (2) (am)
10 and amended to read:

11 224.72 (2) (am) ~~A person desiring to act as Applicants for a mortgage banker,~~
12 ~~loan originator or mortgage broker license shall apply for a certificate of registration~~
13 ~~to the division, on forms and in the manner prescribed by the division, and shall pay~~
14 ~~the fee specified in rules promulgated under sub. (8). An application shall satisfy all~~
15 ~~of the following:~~ Forms prescribed by the division under this paragraph may contain
16 any content or requirement that the division, in its discretion, determines necessary
17 and these forms may be modified or updated as necessary by the division to carry out
18 the purposes of this subchapter.

19 **SECTION 49.** 224.72 (2) (a) and (b) of the statutes are repealed.

20 **SECTION 50.** 224.72 (2) (c) (title) of the statutes is repealed.

21 **SECTION 51.** 224.72 (2) (d) of the statutes is amended to read:

22 224.72 (2) (d) ~~Social security number exceptions.~~ 1. If an applicant who is an
23 individual does not have a social security number, the applicant, as a condition of
24 applying for or applying to renew a registration license under this section, shall
25 submit a statement made or subscribed under oath or affirmation to the division that

1 the applicant does not have a social security number. The form of the statement shall
2 be prescribed by the department of children and families.

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

5 **SECTION 52.** 224.72 (2m) of the statutes is created to read:

6 224.72 (2m) LICENSED OFFICES. (a) Each mortgage banker or mortgage broker
7 shall obtain and maintain a license for its principal office and a separate license for
8 each branch office.

9 **SECTION 53.** 224.72 (3) (title) of the statutes is repealed.

10 **SECTION 54.** 224.72 (3) (a) of the statutes is renumbered 224.725 (2) (d) and
11 amended to read:

12 224.725 (2) (d) ~~In addition to the requirements of sub. (2), an~~ Any applicant for
13 ~~registration as a residential mortgage loan originator license~~ shall include in the
14 application the name of the mortgage banker or mortgage broker who will employ
15 the residential mortgage loan originator.

16 **SECTION 55.** 224.72 (3) (b) and (c) of the statutes are repealed.

17 **SECTION 56.** 224.72 (4) (title) of the statutes is amended to read:

18 224.72 (4) (title) ~~ADDITIONAL REQUIREMENT FOR MORTGAGE BANKER APPLICANT~~
19 REQUIREMENTS.

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

21 224.72 (4) (a) ~~With a bona fide office.~~ (intro.) In addition to the requirements
22 of sub. (2), an applicant for ~~registration as a mortgage banker who maintains a bona~~
23 ~~fid~~ office or mortgage broker license shall do ~~at least one~~ all of the following:

24 **SECTION 58.** 224.72 (4) (a) 1. of the statutes is repealed.

25 **SECTION 59.** 224.72 (4) (a) 2. of the statutes is amended to read:

1 224.72 (4) (a) 2. ~~File a bond.~~ File with the division a commercial surety bond
 2 which is in the amount of ~~\$25,000~~ ^{\$300,000} ~~for a mortgage banker or \$10,000~~ ^{\$120,000} ~~for a mortgage~~
 3 ~~broker~~, is issued by a surety company authorized to do business in this state, secures
 4 the applicant's faithful performance of all duties and obligations of a mortgage
 5 banker ~~or mortgage broker~~, is payable to the division for the benefit of persons to
 6 whom the mortgage banker ~~or mortgage broker~~ provided services as a mortgage
 7 banker ~~or mortgage broker~~, is issued on a form that is acceptable to the division and
 8 provides that the bond may not be terminated without at least 30 days' written notice
 9 to the division.

10 **SECTION 60.** 224.72 (4) (a) 3. of the statutes is repealed.

11 **SECTION 61.** 224.72 (4) (a) 4. of the statutes is amended to read:

12 224.72 (4) (a) 4. ~~Minimum net worth.~~ Submit evidence that establishes, to the
 13 division's satisfaction, a minimum net worth of ~~\$25,000~~ and a warehouse line of
 14 credit of not less than ~~\$250,000~~ ^{\$100,000} ~~or a minimum net worth of \$100,000~~ ^{\$250,000} ~~for a mortgage~~
 15 ~~banker or \$250,000~~ ^{\$100,000} ~~for a mortgage broker.~~ Evidence of net worth shall include the
 16 submission of a ~~balance sheet that is~~ recent financial statements accompanied by a
 17 written statement by an independent certified public accountant attesting that he
 18 or she has reviewed the ~~balance sheet~~ financial statements in accordance with
 19 generally accepted accounting principles.

20 **SECTION 62.** 224.72 (4) (d) of the statutes is repealed.

21 **SECTION 63.** 224.72 (4m) of the statutes is repealed.

22 **SECTION 64.** 224.72 (4n) (intro.) of the statutes is amended to read:

23 224.72 (4n) SECURITY HELD BY THE DIVISION; RELEASE. (intro.) The division or its
 24 agent shall hold security filed under ~~subs. (4) (a) 3. and (4m) (a) 2.~~ s. 224.72 (4) (a)

1 3., 2007 stats., and s. 224.72 (4m) (a) 2., 2007 stats. The security shall remain in
2 effect, and the division may not release it, until all of the following conditions are met:

3 **SECTION 65.** 224.72 (4n) (a) 2. of the statutes is amended to read:

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

6 **SECTION 66.** 224.72 (4r) of the statutes is repealed.

7 **SECTION 67.** 224.72 (5) (title) of the statutes is renumbered 224.72 (5m) (title)
8 and amended to read:

9 224.72 (5m) (title) COMPLETION OF REGISTRATION LICENSING PROCESS.

10 **SECTION 68.** 224.72 (5) (a) of the statutes is renumbered 224.725 (3) (intro.) and
11 amended to read:

12 224.725 (3) ~~LOAN ORIGINATOR~~ ISSUANCE OF LICENSE. (intro.) Except as provided
13 in sub. ~~(7m) (6)~~, upon receiving a properly completed the filing of an application for
14 registration as a mortgage loan originator and license and the payment of the fee
15 specified in rules promulgated under sub. (8) ~~and upon an applicant's compliance~~
16 ~~with sub. (3) (a) and, if required, sub. (3) (b)~~, the division may issue to the applicant
17 a ~~certificate of registration as a mortgage loan originator.~~ license if the division finds
18 that all of the following apply:

19 **SECTION 69.** 224.72 (5) (b) of the statutes is renumbered 224.72 (5m) and
20 amended to read:

21 224.72 (5m) ~~Mortgage banker and mortgage broker.~~ Except as provided in sub.
22 (7m), upon receiving a properly completed the filing of an application for registration
23 as a mortgage banker or ~~a~~ mortgage broker; license and the payment of the fee
24 specified in rules promulgated under sub. (8) ~~and satisfactory evidence of compliance~~
25 ~~with subs. (4) and (4m)~~, the division ~~may~~ shall make an investigation of the applicant

1 including, if the applicant is a partnership, limited liability company, association, or
2 corporation, the members or officers and directors, respectively, of the applicant. If
3 the division finds that the character, general fitness, and financial responsibility of
4 the applicant, including its members or officers and directors if the applicant is a
5 partnership, limited liability company, association, or corporation, warrant the
6 belief that the business will be operated in compliance with this subchapter, the
7 division shall issue to the applicant a certificate of registration as a mortgage banker
8 or mortgage broker license. A mortgage banker or mortgage broker license is not
9 assignable or transferable.

10 **SECTION 70.** 224.72 (7) (title) of the statutes is repealed and recreated to read:
11 224.72 (7) (title) LICENSE RENEWAL.

12 **SECTION 71.** 224.72 (7) (a) of the statutes is renumbered 224.72 (7) (am) and
13 amended to read:

14 224.72 (7) (am) A ~~loan originator, mortgage broker or mortgage banker shall~~
15 may apply to renew a certificate of registration license issued under this section by
16 timely submitting to, on forms and in the manner prescribed by the division, a
17 completed renewal application and the all required renewal fee specified in rules
18 promulgated under sub. (8) on or before the renewal date specified in rules
19 promulgated under sub. (8) fees. The division may not renew a license issued under
20 this section unless the division finds that the mortgage broker or mortgage banker
21 continues to meet the minimum standards for license issuance under this section.

22 **SECTION 72.** 224.72 (7) (b) of the statutes is repealed.

23 **SECTION 73.** 224.72 (7) (bm) of the statutes is created to read:

24 224.72 (7) (bm) The license of a mortgage broker or mortgage banker who fails
25 to satisfy the minimum standards for license renewal shall expire. The division may,

1 by rule, provide for the reinstatement of expired licenses consistent with the
2 standards established by the nationwide mortgage licensing system and registry.

3 **SECTION 74.** 224.72 (7) (c), (d) and (e) of the statutes are repealed.

4 **SECTION 75.** 224.72 (7m) (intro.) of the statutes is amended to read:

5 224.72 (7m) DENIAL OF APPLICATION FOR ISSUANCE OR RENEWAL OF REGISTRATION
6 CERTAIN REASONS. (intro.) The division may not issue or renew a ~~certificate of~~
7 ~~registration~~ license under this section if any of the following applies:

8 **SECTION 76.** 224.72 (7m) (am) of the statutes is repealed.

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

10 224.72 (7m) (b) The department of revenue has certified under s. 73.0301 that
11 the applicant is liable for delinquent taxes. An applicant whose application for
12 issuance or renewal of a ~~certificate of registration~~ license is denied under this
13 paragraph for delinquent taxes is entitled to a notice under s. 73.0301 (2) (b) 1. b. and
14 hearing under s. 73.0301 (5) (a) but is not entitled to any other notice or hearing
15 under this section.

16 **SECTION 78.** 224.72 (7m) (c) of the statutes is amended to read:

17 224.72 (7m) (c) The applicant for the issuance or renewal is an individual who
18 fails to comply, after appropriate notice, with a subpoena or warrant issued by the
19 department of children and families or a county child support agency under s. 59.53
20 (5) and related to paternity or child support proceedings or who is delinquent in
21 making court-ordered payments of child or family support, maintenance, birth
22 expenses, medical expenses or other expenses related to the support of a child or
23 former spouse, as provided in a memorandum of understanding entered into under
24 s. 49.857. An applicant whose ~~registration~~ license is not issued or renewed under this

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

3 **SECTION 79.** 224.72 (7p) of the statutes is repealed.

4 **SECTION 80.** 224.72 (8) of the statutes is amended to read:

5 224.72 (8) ~~REGISTRATION~~ LICENSE PERIOD; FEES. The division shall promulgate
6 rules establishing the ~~registration~~ license period and the ~~registration~~ license fees for
7 ~~loan originators~~, mortgage bankers and mortgage brokers.

8 **SECTION 81.** 224.725 of the statutes is created to read:

9 **224.725 Licensing of mortgage loan originators. (1) LICENSE REQUIRED.**
10 Except as provided in s. 224.726, an individual may not engage in the business of a
11 mortgage loan originator with respect to a residential mortgage loan, or use the title
12 "mortgage loan originator," advertise, or otherwise portray himself or herself as a
13 mortgage loan originator in this state, unless the individual has been issued by the
14 division, and thereafter maintains, a license under this section. Each licensed
15 mortgage loan originator shall register with, and maintain a valid unique identifier
16 issued by, the nationwide mortgage licensing system and registry.

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

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

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

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

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

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

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

22 2. Personal history and experience in a form prescribed by the nationwide
23 mortgage licensing system and registry, including the submission of authorization
24 for the nationwide mortgage licensing system and registry and the division to obtain
25 all of the following:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Not The fees shall be no less than \$250 annually

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

3 SECTION 82. 224.726 of the statutes is created to read:

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

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

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

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

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

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

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

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

25 SECTION 83. 224.728 of the statutes is created to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

16 **SECTION 84.** 224.73 (title) of the statutes is amended to read:

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

19 **SECTION 85.** 224.73 (1) of the statutes is amended to read:

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

1 **SECTION 86.** 224.73 (2) (title) of the statutes is amended to read:

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

3 **SECTION 87.** 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 88.** 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 89.** 224.73 (3) (title) of the statutes is amended to read:

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

17 **SECTION 90.** 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 91.** 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 92.** 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 93.** 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 94.** 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 95.** 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 96.** 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 97.** 224.74 (2) (title) of the statutes is amended to read:

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

5 **SECTION 98.** 224.74 (2) (a) (title) of the statutes is repealed.

6 **SECTION 99.** 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 100.** 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 101.** 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 102.** 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 103.** 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 104.** 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 105.** 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 106.** 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 107.** 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 108.** 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 109.** 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 110.** 224.75 (1) (d) of the statutes is renumbered 224.75 (1) (d) (intro.)
16 and amended to read:

17 224.75 (1) (d) *Loan servicing records and documents.* (intro.) A mortgage
18 banker shall maintain for each residential mortgage loan serviced by the mortgage
19 banker a copy of or a record of all of the following:

20 1. All correspondence relating to the loan.

21 **SECTION 111.** 224.75 (1) (d) 2., 3., 4. and 5. of the statutes are created to read:

22 224.75 (1) (d) 2. All payments received from the borrower.

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

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

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