

1           **SECTION 112.** 224.75 (2) of the statutes is amended to read:

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

19           **SECTION 113.** 224.75 (3) of the statutes is amended to read:

20           224.75 (3) CONTENTS OF CREDIT AND APPRAISAL REPORTS. (a) *Credit report.* If a  
21 mortgage banker or mortgage broker charges a residential mortgage loan applicant  
22 a separate fee for a credit report, the credit report shall consist, at a minimum, of a  
23 written statement indicating the name of the credit reporting agency which  
24 investigated the credit history of the applicant.

1           (b) *Appraisal report.* If a mortgage banker or mortgage broker charges a  
2     residential mortgage loan applicant a separate fee for an appraisal report, the  
3     appraisal report shall consist, at a minimum, of a written statement indicating the  
4     appraiser's opinion of the value of the property appraised for residential mortgage  
5     loan purposes, the basis for that opinion and the name of the person who conducted  
6     the appraisal. If requested by a residential mortgage loan applicant, a mortgage  
7     banker or mortgage broker shall provide the loan applicant with a copy of any written  
8     appraisal report held by the mortgage banker or mortgage broker, if the loan  
9     applicant paid a fee for the report.

10           **SECTION 114.** 224.75 (4) of the statutes is amended to read:

11           224.75 (4) RESPONSIBILITY FOR FORMS. A mortgage banker or mortgage broker  
12     is responsible for the preparation and correctness of all entries on forms, documents  
13     and records which are under the mortgage banker's or mortgage broker's control and  
14     which are not dependent on information provided by the residential mortgage loan  
15     applicant or a 3rd party.

16           **SECTION 115.** 224.75 (6) of the statutes is created to read:

17           224.75 (6) FURNISHING BOOKS AND RECORDS. Upon request by the division, any  
18     licensee under this subchapter, and any other person whom the division has  
19     authority to investigate and examine under s. 224.74 (2), shall make any books and  
20     records requested by the division available for inspection and copying by the division.  
21     If any records are kept at a licensed office not located within this state, the mortgage  
22     banker or mortgage broker shall, upon request of the division, promptly deliver such  
23     documents to any location within this state specified by the division.

24           **SECTION 116.** 224.755 (title) of the statutes is repealed and recreated to read:

1           **224.755 (title) Education and testing requirements for mortgage loan**  
2 **originators.**

3           **SECTION 117.** 224.755 of the statutes is renumbered 224.755 (5) and amended  
4 to read:

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

11           **SECTION 118.** 224.755 (1), (2), (3) and (4) of the statutes are created to read:

12           224.755 (1) EDUCATION REQUIREMENTS APPLICABLE PRIOR TO LICENSE ISSUANCE.  
13 Subject to sub. (3) (a) and (c), an applicant for a license under s. 224.725 (1), prior to  
14 the division's issuance of the license, shall complete at least 20 hours of education,  
15 including a minimum of all of the following:

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

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

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

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

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

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

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

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

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

11 1. Provided by the applicant's or licensee's employer, by an entity affiliated with  
12 the applicant or licensee by an agency contract, or by any subsidiary or affiliate of  
13 such an employer or affiliated entity.

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

15 3. Taken in another state.

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

24 (d) Except as provided in any rule promulgated under s. 224.72 (7) (bm), a  
25 licensed mortgage loan originator may receive credit for a continuing education

1 course only in the year in which the course is taken and may not take the same  
2 approved course in the same or successive years to meet the requirements under sub.  
3 (2).

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

8 (f) The division may, by rule, allow an applicant for renewal of a license under  
9 s. 224.725 (5) to make up any deficiency in meeting the requirements specified in sub.  
10 (2).

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

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

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

22 a. Ethics.

23 b. Federal and state law, regulations, and rules pertaining to mortgage  
24 origination.

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

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

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

12           (e) If an individual previously licensed as a mortgage loan originator fails to  
13 maintain a valid license for a period of 5 years or longer, the individual shall retake  
14 the test under par. (a). For purposes of determining the 5-year period, the division  
15 shall not consider any period during which the individual is exempt from licensing  
16 under s. 224.726 (1).

17           **SECTION 119.** 224.76 of the statutes is amended to read:

18           **224.76 Mortgage banker, mortgage loan originator, and mortgage**  
19 **broker trust accounts.** A mortgage banker, mortgage loan originator, or mortgage  
20 broker shall deposit in one or more trust accounts all funds other than nonrefundable  
21 fees which it receives on behalf of any person, pending disbursement of the funds in  
22 accordance with instructions from the person on whose behalf the funds are  
23 deposited. A mortgage banker or mortgage broker shall maintain trust accounts in  
24 a bank, savings bank, savings and loan association or credit union which is  
25 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 120.** 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 121.** 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 No mortgage banker, 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 122.** 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 **SECTION 123.** 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 124.** 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 125.** 224.77 (1) (e) and (f) of the statutes are amended to read:

8           224.77 (1) (e) ~~Acted~~ Act for more than one party in a transaction without the  
9 knowledge and consent of all parties on whose behalf the mortgage banker, mortgage  
10 loan originator, or mortgage broker is acting.

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

16           **SECTION 126.** 224.77 (1) (fg) of the statutes is created to read:

17           224.77 (1) (fg) As a mortgage banker or mortgage broker, pay a commission,  
18 money, or other thing of value to any person for performing an act as a mortgage loan  
19 originator unless the mortgage loan originator's license is associated with the  
20 mortgage banker or mortgage broker in the records of the division at the time the act  
21 is performed.

22           **SECTION 127.** 224.77 (1) (g) of the statutes is amended to read:

23           224.77 (1) (g) As a mortgage loan originator, ~~represented or attempted~~  
24 represent or attempt to represent a mortgage banker or mortgage broker other than  
25 the mortgage banker ~~who is registered under s. 224.72 (3) as employing the loan~~



1 originator or mortgage broker with whom the mortgage loan originator's license was  
2 associated, as identified in the records of the division at the time the representation  
3 or attempted representation occurs.

4 **SECTION 128.** 224.77 (1) (gd), (gh), and (gp) of the statutes are created to read:

5 224.77 (1) (gd) As a mortgage banker or mortgage broker, permit a person who  
6 is not licensed under this subchapter to act as a mortgage loan originator on behalf  
7 of the mortgage banker or mortgage broker.

8 (gh) As a mortgage banker or mortgage broker, permit a person whose  
9 mortgage loan originator license is not associated in the records of the division with  
10 the mortgage banker or mortgage broker to act as a mortgage loan originator on  
11 behalf of the mortgage banker or mortgage broker.

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

14 **SECTION 129.** 224.77 (1) (h) to (L) of the statutes are amended to read:

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

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

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

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

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

4 **SECTION 130.** 224.77 (1) (m) of the statutes is amended to read:

5 224.77 (1) (m) ~~Engaged Engage~~ in conduct, whether of the same or a different  
6 character than specified elsewhere in this section, ~~which that~~ constitutes improper,  
7 fraudulent, or dishonest dealing.

8 **SECTION 131.** 224.77 (1) (o) of the statutes is amended to read:

9 224.77 (1) (o) In the course of practice as a mortgage banker, mortgage loan  
10 originator, or mortgage broker, except in relation to housing designed to meet the  
11 needs of elderly individuals, ~~treated~~ treat a person unequally solely because of sex,  
12 race, color, handicap, sexual orientation, as defined in s. 111.32 (13m), religion,  
13 national origin, age, or ancestry, the person's lawful source of income, or the sex or  
14 marital status of the person maintaining a household.

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

16 224.77 (1) (p) ~~Intentionally encouraged or discouraged~~ encourage or discourage  
17 any person from purchasing or renting real estate on the basis of race.

18 **SECTION 133.** 224.77 (1) (q) of the statutes is amended to read:

19 224.77 (1) (q) Because of the age or location of the property or the race of the  
20 residential mortgage loan applicant, rather than because of the credit worthiness of  
21 the applicant and the condition of the property securing the loan:

22 1. ~~Refused~~ Refuse to negotiate, to offer, or to attempt to negotiate a ~~land~~  
23 ~~contract,~~ residential mortgage loan or commitment for a residential mortgage loan,  
24 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 134.** 224.77 (1) (r) of the statutes is repealed.

4           **SECTION 135.** 224.77 (1) (s), (t), (tm), (u), (um), (v), (w), (x), and (y) of the statutes  
5 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           **SECTION 136.** 224.77 (1m) (a) of the statutes is amended to read:

11           224.77 (1m) (a) The division may assess against ~~a person who is registered~~  
12 under this chapter any person who violates this subchapter a forfeiture of not more  
13 than \$2,000 \$25,000 for each violation ~~enumerated under sub. (1) (a) to (e) or (r) and~~  
14 may further order restitution to any person suffering loss as a result of the violation.

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

16           224.77 (1m) (b) A person may contest an assessment of forfeiture, or a  
17 restitution order, under par. (a) by sending, within 10 days after receipt of notice of  
18 the assessment or order under par. (a), a written request for hearing under s. 227.44  
19 to the division of hearings and appeals created under s. 15.103 (1). The  
20 administrator of the division of hearings and appeals may designate a hearing  
21 examiner to preside over the case and recommend a decision to the administrator  
22 under s. 227.46. The decision of the administrator of the division of hearings and  
23 appeals shall be the final administrative decision. The division of hearings and  
24 appeals shall commence the hearing within 30 days after receipt of the request for  
25 hearing and shall issue a final decision within 15 days after the close of the hearing.

1 Proceedings before the division of hearings and appeals are governed by ch. 227. In  
2 any petition for judicial review of a decision by the division of hearings and appeals,  
3 the party, other than the petitioner, who was in the proceeding before the division of  
4 hearings and appeals shall be the named respondent.

5 **SECTION 138.** 224.77 (1m) (c) of the statutes is renumbered 224.77 (1m) (c) 1.

6 **SECTION 139.** 224.77 (1m) (c) 2. of the statutes is created to read:

7 224.77 (1m) (c) 2. All amounts ordered as restitution shall be paid to the person  
8 suffering loss within 10 days after receipt of notice of the order or, if the restitution  
9 order is contested under par. (b), within 10 days after receipt of the final decision  
10 after exhaustion of administrative review.

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

12 224.77 (1m) (d) The attorney general may bring an action in the name of the  
13 state to collect any forfeiture imposed, or amount ordered as restitution, under this  
14 subsection if the forfeiture or restitution amount has not been paid following the  
15 exhaustion of all administrative and judicial reviews. The only issue to be contested  
16 in any such action shall be whether the forfeiture or restitution amount has been  
17 paid.

18 **SECTION 141.** 224.77 (2) (title) of the statutes is repealed.

19 **SECTION 142.** 224.77 (2) of the statutes is renumbered 224.77 (2m) (a) 2. and  
20 amended to read:

21 224.77 (2m) (a) 2. The division may ~~revoke, suspend or limit a certificate of~~  
22 ~~registration issued under this subchapter or reprimand~~ take any action specified in  
23 subd. 1. against a mortgage banker or mortgage broker ~~registered under this~~  
24 ~~subchapter, if based upon any act or omission described in subd. 1. of a director,~~  
25 officer, trustee, partner, or member of the mortgage banker or mortgage broker or a

1 person who has a financial interest in or is in any way connected with the operation  
2 of the mortgage banker's or mortgage broker's business is ~~guilty of an act or omission~~  
3 ~~which would be cause for refusing to issue a certificate of registration to that~~  
4 ~~individual.~~

5 **SECTION 143.** 224.77 (2m) of the statutes is created to read:

6 224.77 (2m) DIVISION ACTION ON LICENSE. (a) 1. In addition to any other  
7 authority provided to the division under this subchapter, if the division finds that a  
8 mortgage banker, mortgage loan originator, or mortgage broker has violated any  
9 provision of this subchapter or any rule promulgated by the division under this  
10 subchapter, the division may do any of the following:

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

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

14 c. Reprimand the mortgage banker, mortgage loan originator, or mortgage  
15 broker.

16 (b) In addition to any other authority provided to the division under this  
17 subchapter, if the division finds that an applicant for initial issuance or renewal of  
18 a license under this subchapter made any material misstatement in the application  
19 or withheld material information, or that the applicant no longer satisfies the  
20 requirements under s. 224.72 or 224.725 for issuance or renewal of the license, the  
21 division may deny the application or, if the license has already been issued, suspend  
22 or revoke the license.

23 **SECTION 144.** 224.77 (3) (a) and (b) of the statutes are consolidated,  
24 renumbered 224.77 (3) (a) (intro.) and amended to read:

1           224.77 (3) (a) *Orders to prevent or correct actions.* (intro.) The division may  
2 issue general and special orders ~~necessary, including temporary orders that become~~  
3 immediately effective, to prevent or correct actions by a mortgage banker, mortgage  
4 loan originator, or mortgage broker that constitute ~~cause under this section for~~  
5 ~~revoking, suspending or limiting a certificate of registration.~~ (b) ~~Types of special~~  
6 ~~orders.~~ Special a violation of any provision of this subchapter or of any rule  
7 promulgated under this subchapter, including special orders may direct that do any  
8 of the following:

9           1. Direct a mortgage banker, mortgage loan originator, or mortgage broker to  
10 cease and desist from engaging in a particular activity or may direct the, from  
11 conducting business, or from otherwise violating any provision of this subchapter or  
12 any rule promulgated under this subchapter.

13           2. Direct a mortgage banker, mortgage loan originator, or mortgage broker to  
14 refund or remit to a residential mortgage loan applicant or borrower amounts that  
15 the mortgage banker, mortgage loan originator, or mortgage broker got from actions  
16 which that constitute cause under this section for revoking, suspending or limiting  
17 a certificate of registration a violation of any provision of this subchapter or of any  
18 rule promulgated under this subchapter.

19           **SECTION 145.** 224.77 (3) (a) 3. and 4. of the statutes are created to read:

20           224.77 (3) (a) 3. Direct a mortgage banker, mortgage loan originator, or  
21 mortgage broker to cease business under a license issued under this subchapter if  
22 the division determines that the license was erroneously issued or the licensee is  
23 currently in violation of any provision of this subchapter or of any rule promulgated  
24 under this subchapter.

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

4           **SECTION 146.** 224.77 (3m) of the statutes is amended to read:

5           224.77 (3m) HEARING RIGHTS FOR REGISTRATION LICENSE DENIAL, REVOCATION, OR  
6 SUSPENSION. A person whose ~~certificate of registration~~ license has been denied,  
7 revoked ~~or~~, suspended, limited, or conditioned under this section may request a  
8 hearing under s. 227.44 within 30 days after the date of denial, revocation ~~or~~,  
9 suspension, limitation, or conditioning of the ~~certificate of registration~~ license. The  
10 division may appoint a hearing examiner under s. 227.46 to conduct the hearing.

11           **SECTION 147.** 224.77 (4) of the statutes is amended to read:

12           224.77 (4) PERIOD OF DISCIPLINARY ACTION; LICENSE INELIGIBILITY FOR  
13 REGISTRATION. (a) *Period.* Except as provided in par. (b), the division shall determine  
14 in each case the period that a revocation, suspension ~~or~~, limitation, or condition of  
15 a ~~certificate of registration~~ license is effective.

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

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

23           **SECTION 148.** 224.77 (5) (a) of the statutes is amended to read:



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

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

6           2. For the 2nd offense, revoke the ~~registration~~ license of the mortgage banker,  
7 mortgage loan originator, or mortgage broker.

8           **SECTION 149.** 224.77 (6) (title) of the statutes is repealed.

9           **SECTION 150.** 224.77 (6) of the statutes is renumbered 224.77 (2m) (c) and  
10 amended to read:

11           224.77 (2m) (c) The ~~department~~ division shall restrict or suspend the  
12 ~~registration~~ license of a mortgage banker, mortgage loan originator, or mortgage  
13 broker if the ~~registrant~~ licensee is an individual who fails to comply, after  
14 appropriate notice, with a subpoena or warrant issued by the department of children  
15 and families or a county child support agency under s. 59.53 (5) and related to  
16 paternity or child support proceedings or who is delinquent in making court-ordered  
17 payments of child or family support, maintenance, birth expenses, medical expenses,  
18 or other expenses related to the support of a child or former spouse, as provided in  
19 a memorandum of understanding entered into under s. 49.857. A ~~registrant~~ An  
20 individual whose ~~registration~~ license is restricted or suspended under this  
21 subsection is entitled to a notice and hearing only as provided in a memorandum of  
22 understanding entered into under s. 49.857 and is not entitled to any other notice or  
23 hearing under this section.

24           **SECTION 151.** 224.77 (7) (title) of the statutes is repealed.

1           **SECTION 152.** 224.77 (7) of the statutes is renumbered 224.77 (2m) (d) and  
2 amended to read:

3           224.77 (2m) (d) The ~~department~~ division shall revoke the certificate of  
4 ~~registration~~ license of a mortgage banker, mortgage loan originator, or mortgage  
5 broker if the department of revenue certifies under s. 73.0301 that the registrant  
6 licensee is liable for delinquent taxes. A registrant licensee whose certificate of  
7 ~~registration~~ license is revoked under this subsection for delinquent taxes is entitled  
8 to a notice under s. 73.0301 (2) (b) 1. b. and a hearing under s. 73.0301 (5) (a) but is  
9 not entitled to any other notice, hearing or review under this section.

10           **SECTION 153.** 224.77 (8) of the statutes is amended to read:

11           224.77 (8) VOLUNTARY SURRENDER. A mortgage banker, mortgage loan  
12 originator, or mortgage broker may voluntarily surrender a ~~registration~~ license to  
13 the division, but the division may refuse to accept the surrender if the division has  
14 an open investigation or examination or received allegations of unprofessional  
15 conduct against the mortgage banker, mortgage loan originator, or mortgage broker.  
16 The division may negotiate stipulations in consideration for accepting the surrender  
17 of ~~registration~~ the license.

18           **SECTION 154.** 224.77 (9) of the statutes is created to read:

19           224.77 (9) REPORTING VIOLATIONS. The division shall report regularly violations  
20 of this subchapter or of rules promulgated under this subchapter, as well as  
21 enforcement actions and other relevant information, to the nationwide mortgage  
22 licensing system and registry. Except as provided in s. 224.728 (4) (b) and (c), these  
23 reports shall be confidential.

24           **SECTION 155.** 224.78 (title) of the statutes is repealed.

1           **SECTION 156.** 224.78 of the statutes is renumbered 224.77 (1) (jm) and amended  
2 to read:

3           224.77 (1) (jm) ~~A mortgage banker, loan originator, or mortgage broker may~~  
4 ~~not pay~~ Pay a person who is not registered licensed under this subchapter a  
5 commission, money, or other thing of value for performing an act as a mortgage  
6 banker, mortgage loan originator, or mortgage broker.

7           **SECTION 157.** 224.79 of the statutes is amended to read:

8           **224.79 Consumer mortgage Mortgage brokerage agreements and**  
9 **consumer disclosures. (1) FORM AND CONTENT OF CONSUMER MORTGAGE BROKERAGE**  
10 **AGREEMENTS.** Every contract between a mortgage broker and ~~a consumer~~ an  
11 individual under which the mortgage broker agrees to provide brokerage services to  
12 the ~~consumer~~ individual relating to a residential mortgage loan shall be in writing,  
13 in the form prescribed by rule of the division, and shall contain all information  
14 required by rule of the division. The division shall promulgate rules to administer  
15 this subsection in consultation with the mortgage loan originator council under s.  
16 15.187 (1). The division shall design these rules to facilitate the comparison of  
17 similar charges and total charges assessed by different mortgage brokers.

18           **(2) CONSUMER DISCLOSURE DISCLOSURE STATEMENT.** Before entering into a  
19 contract with ~~a consumer~~ an individual to provide brokerage services relating to a  
20 residential mortgage loan, a mortgage broker shall give the ~~consumer~~ individual a  
21 copy of a ~~consumer~~ disclosure statement, explain the content of the statement, and  
22 ensure that the ~~consumer~~ individual initials or signs the statement, acknowledging  
23 that the ~~consumer~~ individual has read and understands the statement. The  
24 ~~consumer~~ disclosure statement shall contain a brief explanation of the relationship  
25 between the ~~consumer~~ individual and the mortgage broker under the proposed

1 contract, a brief explanation of the manner in which the mortgage broker may be  
2 compensated under the proposed contract, and any additional information required  
3 by rule of the division. The division shall promulgate rules to administer this  
4 subsection in consultation with the mortgage loan originator council under s. 15.187  
5 (1) and, by rule, shall specify the form and content of the ~~consumer~~ disclosure  
6 statement required under this subsection.

7 **SECTION 158.** 224.80 (1) of the statutes is amended to read:

8 224.80 (1) PENALTIES. A person who violates s. ~~224.72(1m)~~ any provision of this  
9 subchapter or any rule promulgated under this subchapter may be fined not more  
10 than ~~\$2,000~~ \$25,000 or imprisoned for not more than 9 months or both. The district  
11 attorney of the county where the violation occurs shall enforce the penalty under this  
12 subsection on behalf of the state.

13 **SECTION 159.** 224.80 (2) (intro.) of the statutes is amended to read:

14 224.80 (2) PRIVATE CAUSE OF ACTION. (intro.) A person who is aggrieved by an  
15 act which is committed by a mortgage banker, mortgage loan originator, or mortgage  
16 broker ~~and which is described in s. 224.77 (1) in violation of any provision of this~~  
17 subchapter or of any rule promulgated under this subchapter may recover all of the  
18 following in a private action:

19 **SECTION 160.** 224.80 (2) (a) 1. of the statutes is amended to read:

20 224.80 (2) (a) 1. Twice the amount of the cost of loan origination connected with  
21 the transaction, except that the liability under this subdivision may not be less than  
22 \$100 nor greater than ~~\$2,000~~ \$25,000 for each violation.

23 **SECTION 161.** 224.81 of the statutes is amended to read:

24 **224.81 Limitation on actions for commissions and other**  
25 **compensation.** A person who is engaged in the business or acting in the capacity

1 of a mortgage banker, mortgage loan originator, or mortgage broker in this state may  
2 not bring or maintain an action in this state to collect a commission, money, or other  
3 thing of value for performing an act as a mortgage banker, mortgage loan originator,  
4 or mortgage broker without alleging and proving that the person was registered  
5 licensed under this subchapter as a mortgage banker, mortgage loan originator, or  
6 mortgage broker when the alleged cause of action arose.

7 **SECTION 162.** 224.82 of the statutes is amended to read:

8 **224.82 Compensation presumed.** In a prosecution arising from a violation  
9 of this subchapter, proof that a person acted as a mortgage banker, mortgage loan  
10 originator, or mortgage broker is sufficient, unless rebutted, to establish that  
11 compensation was received by, or promised to, that person.

12 **SECTION 163.** 224.83 of the statutes is created to read:

13 **224.83 Loan processors and underwriters.** An individual engaging solely  
14 in loan processor or underwriter activities may not represent to the public, through  
15 advertising or another means of communication such as the use of business cards,  
16 stationery, brochures, signs, rate lists, or other promotional items, that the  
17 individual can or will perform any of the activities of a mortgage loan originator.

18 **SECTION 164.** 227.01 (13) (zy) of the statutes is created to read:

19 227.01 (13) (zy) Relates to any form prescribed by the division of banking in  
20 the department of financial institutions in connection with the licensing of mortgage  
21 bankers or mortgage brokers under s. 224.72 or the licensing of mortgage loan  
22 originators under s. 224.725.

23 **SECTION 165.** 234.01 (5k) of the statutes is amended to read:

24 234.01 (5k) "Financial institution" means a bank, savings bank, savings and  
25 loan association, credit union, insurance company, finance company, mortgage

1 banker ~~registered~~ licensed under s. 224.72, community development corporation,  
2 small business investment corporation, pension fund or other lender which provides  
3 commercial loans in this state.

4 **SECTION 166.** 234.49 (2) (a) 4. of the statutes is amended to read:

5 234.49 (2) (a) 4. To designate as an authorized lender the authority or any local  
6 government agency, housing authority under s. 59.53 (22), 61.73, 66.1201 or 66.1213,  
7 bank, savings bank, savings and loan institution, mortgage banker ~~registered~~  
8 licensed under s. 224.72 or credit union, if the designee has a demonstrated history  
9 or potential of ability to adequately make and service housing rehabilitation loans.

10 **SECTION 167.** 234.59 (1) (h) of the statutes is amended to read:

11 234.59 (1) (h) "Mortgage banker" means a mortgage banker ~~registered~~ licensed  
12 under s. 224.72, but does not include a person licensed under s. 138.09.

13 **SECTION 168.** 321.60 (1) (a) 12. of the statutes is amended to read:

14 321.60 (1) (a) 12. A license or certificate of registration issued by the  
15 department of financial institutions, or a division of it, under ss. 138.09, 138.12,  
16 217.06, 218.0101 to 218.0163, 218.02, 218.04, 218.05, 224.72, 224.725, or 224.93 or  
17 subch. IV of ch. 551.

18 **SECTION 169.** 422.501 (2) (b) 8. of the statutes is amended to read:

19 422.501 (2) (b) 8. A person ~~registered~~ licensed as a mortgage banker, mortgage  
20 loan originator, or mortgage broker under s. 224.72 or 224.725 if the person is acting  
21 within the course and scope of ~~that registration~~ the license.

22 **SECTION 170.** 428.202 (6) of the statutes is renumbered 428.202 (9) and  
23 amended to read:

24 428.202 (9) "Loan Mortgage loan originator" has the meaning given in s. 224.71  
25 (~~1r~~) (6).

1           **SECTION 171.** 428.203 (9) (title) of the statutes is amended to read:

2           428.203 (9) (title) ~~UNREGISTERED~~ UNLICENSED MORTGAGE BANKERS AND BROKERS.

3           **SECTION 172.** 428.204 of the statutes is amended to read:

4           **428.204 False statements.** No lender, licensed lender, mortgage loan  
5           originator, mortgage banker, or mortgage broker may knowingly make, propose, or  
6           solicit fraudulent, false, or misleading statements on any document relating to a  
7           covered loan.

8           **SECTION 173.** 428.206 of the statutes is amended to read:

9           **428.206 Recommending default.** No lender, licensed lender, mortgage loan  
10          originator, mortgage banker, or mortgage broker may recommend or encourage an  
11          individual to default on an existing loan or other obligation before and in connection  
12          with the making of a covered loan that refinances all or any portion of that existing  
13          loan or obligation.

14          **SECTION 174.** 452.01 (3) (g) of the statutes is amended to read:

15          452.01 (3) (g) A person ~~registered~~ licensed as a mortgage banker under s.  
16          224.72 who does not engage in activities described under sub. (2).

17          **SECTION 175.** 943.62 (2m) of the statutes is amended to read:

18          943.62 (2m) This section does not apply to a savings and loan association,  
19          credit union, bank, savings bank, or a mortgage banker, mortgage loan originator,  
20          or mortgage broker ~~registered~~ licensed under s. 224.72 or 224.725.

21          **SECTION 9117. Nonstatutory provisions; Financial Institutions.**

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

23          (a) In this subsection, "division" means the division of banking in the  
24          department of financial institutions.

1           (b) Notwithstanding any other provision of subchapter III of chapter 224 of the  
2 statutes, as affected by this act, the division shall, by rule, institute any system of  
3 initial license issuance or license renewal that it deems advisable for the purpose of  
4 implementing an orderly and efficient transition from the registration system under  
5 subchapter III of chapter 224, 2007 stats., to the license system under subchapter III  
6 of chapter 224 of the statutes, as affected by this act. A transition system adopted  
7 under this paragraph may include the requirement that registrants under section  
8 224.72, 2007 stats., apply for a license under section 224.72 of the statutes, as  
9 affected by this act, or under section 224.725 of the statutes, as created by this act,  
10 and pay any applicable fees, before the scheduled expiration of the registration  
11 period under section 224.72, 2007 stats. A transition system adopted under this  
12 paragraph may also provide for the initial issuance of licenses under section 224.72  
13 of the statutes, as affected by this act, and under section 224.725 of the statutes, as  
14 created by this act, that are valid for an initial period that is greater or less than the  
15 ordinary valid period of such licenses. If a transition system adopted under this  
16 paragraph results in a shorter registration or license period than that which would  
17 ordinarily be applicable, the division shall prorate or rebate fees corresponding to the  
18 unused or unexpired portion of the ordinarily applicable registration or license  
19 period. For previously registered or licensed individuals the division may establish  
20 under the transition system expedited review and licensing procedures.

21           (c) The division shall submit in proposed form the rules required under  
22 paragraph (b) to the legislative council staff under section 227.15 (1) of the statutes  
23 no later than 60 days after the effective date of this paragraph.

24           (d) Using the emergency rules procedure under section 227.24 of the statutes,  
25 the division shall promulgate the rules required under paragraph (b) for the period



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

10 **SECTION 9417. Effective dates; Financial Institutions.**

11 (1) MORTGAGE LOAN ORIGINATORS, MORTGAGE BROKERS, AND MORTGAGE BANKERS.  
12 The treatment of sections 15.09 (6), 15.187 (1) (intro.), (a), (b), (c), and (d), 49.857 (1)  
13 (d) 12., 73.0301 (1) (d) 6., 100.55 (1) (d) 3., 220.02 (2) (g) and (3), 220.06 (1), 220.285  
14 (1), 221.0402 (2) (b), 224.71 (1a), (1b), (1bm), (1c), (1d), (1dm), (1f), (1g), (1h), (1m),  
15 (1r), (1u), (2), (3) (a) 1. to 3. and (b) 1. to 7., 8., 9., 10., 11. and 12., (4) (a) and (b) 1. to  
16 3., 4., 5., 6., 7., and 8., (5), (6) (a) 1. and 2. and (b), (7), (8), (10), (11), (12), (13), (15),  
17 (16), and (18), 224.72 (title), (1) (intro.), (a), and (b), (1m), (2) (a), (b), (c) (title), and  
18 (d), (2m), (3) (title), (a), (b), and (c), (4) (title), (a) (intro.), 1., 2., 3., and 4. and (d), (4m),  
19 (4n) (intro.) and (a) 2., (4r), (5) (title), (a), and (b), (7) (title), (a), and (b), (bm), (c), (d),  
20 and (e), (7m) (intro.), (am), (b), and (c), (7p), and (8), 224.725, 224.726, 224.728,  
21 224.73 (title), (1), 224.74 (title), (1), (2) (title), (ag) 3. and 4., (ar), (b), and (c), and (3),  
22 224.75 (title), (1) (a), (b) (intro.), 6., and 7., and (c) (intro.), (2), (3), (4), and (6), 224.76,  
23 224.77 (title), (1) (intro.), (a), (b), (c), (d), (e), (f), (fg), (g), (gd), (gh), (gp), (h) to (L), (m)  
24 to (q), (r), (s), (t), (tm), (u), (um), (v), (w), (x), and (y), (1m) (a), (b), and (d), (2m), (3m),  
25 (4), (5) (a), (8), and (9), 224.79, 224.80 (1), (2) (intro.) and (a) 1., 224.81, 224.82, 224.83,

1 227.01 (13) (zy), 234.01 (5k), 234.49 (2) (a) 4., 234.59 (1) (h), 321.60 (1) (a) 12., 422.501  
2 (2) (b) 8., 428.202 (6), 428.203 (9) (title), 428.204, 428.206, 452.01 (3) (g), and 943.62  
3 (2m) of the statutes, the repeal of sections 224.74 (2) (a) (title), 224.77 (2) (title), (6)  
4 (title), and (7) (title), and 224.78 (title) of the statutes, the renumbering of section  
5 224.77 (1m) (c) of the statutes, the renumbering and amendment of sections 224.71  
6 (5), 224.72 (1) (a), and (2) (intro.), 224.73 (2), (3), and (4), 224.74 (2) (a), 224.75 (1) (d),  
7 224.755, 224.77 (2), (6), and (7), 224.78, and 428.202 (6) of the statutes, the  
8 consolidation, renumbering, and amendment of section 224.77 (3) (a) and (b) of the  
9 statutes, the amendment of section 224.73 (2) (title), (3) (title), and (4) (title) of the  
10 statutes, the repeal and recreation of sections 224.72 (2) (title) and (7) (title) and  
11 224.755 (title) of the statutes, and the creation of sections 224.73 (2) (b), (3) (b), and  
12 (4) (b), 224.75 (1) (d) 2., 3., 4., and 5., 224.755 (1), (2), (3), and (4), 224.77 (1m) (c) 2.,  
13 and 224.77 (3) (a) 3. and 4. of the statutes take effect on January 1, 2010, or on the  
14 60th day after publication, whichever is later.

15 (END)

**Barman, Mike**

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**From:** Barman, Mike  
**Sent:** Wednesday, February 11, 2009 1:33 PM  
**To:** Onsager, Paul  
**Cc:** Hanaman, Cathlene  
**Subject:** LRB-1896/3 (attached) (Oked by ARG)

**Attachments:** 09-1896/3



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