

Senate File 355 - Enrolled

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1 1 SENATE FILE 355

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AN ACT

1 4 RELATING TO MORTGAGE LENDING BY ESTABLISHING LICENSING
1 5 REQUIREMENTS APPLICABLE TO MORTGAGE LOAN ORIGINATORS;
1 6 MAKING SPECIFIED MODIFICATIONS TO EXISTING LICENSING
1 7 PROVISIONS RELATING TO MORTGAGE BANKERS AND BROKERS,
1 8 REGULATED LOANS, AND INDUSTRIAL LOANS; AND PROVIDING
1 9 PENALTIES AND EFFECTIVE DATES.

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1 11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

1 14

MORTGAGE LOAN ORIGINATORS

1 15

Section 1. NEW SECTION. 535D.1 TITLE.

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1 16 This chapter shall be known and may be cited as the "Iowa
1 17 Secure and Fair Enforcement for Mortgage Licensing Act".

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Sec. 2. NEW SECTION. 535D.2 LEGISLATIVE FINDINGS AND

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PURPOSE.

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1 20 The activities of mortgage loan originators and the
1 21 origination or offering of financing for residential real
1 22 property have a direct, valuable, and immediate impact upon
1 23 this state's consumers, its economy, the neighborhoods and
1 24 communities of this state, and the housing and real estate
1 25 industry. The general assembly finds that accessibility to
1 26 mortgage credit is vital to the state's citizens. The general
1 27 assembly also finds that it is essential for the protection of
1 28 the citizens of this state and the stability of the state's
1 29 economy that reasonable standards for licensing and regulation
1 30 of the business practices of mortgage loan originators be
1 31 imposed. The general assembly further finds that the
1 32 obligations of mortgage loan originators to consumers in
1 33 connection with originating or making residential mortgage
1 34 loans are such as to warrant the regulation of the mortgage
1 35 lending process. The purpose of this chapter is to protect
2 1 consumers seeking mortgage loans and to ensure that the
2 2 mortgage lending industry is operating without unfair,
2 3 deceptive, or fraudulent practices on the part of mortgage
2 4 loan originators.

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Sec. 3. NEW SECTION. 535D.3 DEFINITIONS.

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As used in this chapter, unless the context otherwise

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requires:

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1. "Clerical or support duties" means, subsequent to the
2 9 receipt of a residential mortgage loan application, the
2 10 receipt, collection, distribution, and analysis of information
2 11 common for the processing or underwriting of a residential
2 12 mortgage loan; and communicating with a consumer to obtain the
2 13 information necessary for the processing or underwriting of a
2 14 residential mortgage loan, to the extent that such
2 15 communication does not include offering or negotiating loan
2 16 rates or terms, or counseling consumers about residential
2 17 mortgage loan rates or terms.

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2. "Depository institution" means a depository institution
2 19 as defined in 12 U.S.C. } 1813(c) and a credit union organized
2 20 under the laws of this state, another state, or the United
2 21 States.

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3. "Federal banking agencies" means the board of governors
2 23 of the federal reserve system, the comptroller of the

2 24 currency, the director of the office of thrift supervision,
2 25 the national credit union administration, and the federal
2 26 deposit insurance corporation.

2 27 4. "Immediate family member" means a spouse, child,
2 28 sibling, parent, grandparent, or grandchild. This includes
2 29 stepparents, stepchildren, stepsiblings, and adoptive
2 30 relationships.

2 31 5. "Individual" means a natural person.

2 32 6. "Loan processor or underwriter" means an individual who
2 33 performs clerical or support duties as an employee at the
2 34 direction of and subject to the supervision and instruction of
2 35 a person licensed, or exempt from licensing, under chapter
3 1 535B, 536, 536A, or this chapter.

3 2 7. "Loss mitigation efforts" means, when a residential
3 3 mortgage loan borrower is in default or default is reasonably
3 4 foreseeable, working with the borrower on behalf of the
3 5 residential mortgage loan servicer to modify either
3 6 temporarily or permanently the obligation or otherwise
3 7 mitigate loss on an existing residential mortgage loan.

3 8 8. "Mortgage loan originator" means an individual who for
3 9 compensation or gain or in the expectation of compensation or
3 10 gain takes a residential mortgage loan application or offers
3 11 or negotiates terms of a residential mortgage loan. "Mortgage
3 12 loan originator" does not include any of the following:

3 13 a. An individual engaged solely as a loan processor or
3 14 underwriter except as otherwise provided in section 535D.4,
3 15 subsection 2.

3 16 b. An individual who only performs real estate brokerage
3 17 activities and is licensed in accordance with state law,
3 18 unless the individual is compensated by a lender, a mortgage
3 19 broker, or mortgage loan originator or by any agent of such
3 20 lender, mortgage broker, or mortgage loan originator.

3 21 c. An individual solely involved in extensions of credit
3 22 relating to timeshare plans, as that term is defined in 11
3 23 U.S.C. } 101(53D).

3 24 d. An individual employed by a residential mortgage loan
3 25 servicer if the individual is involved solely in loss
3 26 mitigation efforts.

3 27 9. "Nationwide mortgage licensing system and registry"
3 28 means a mortgage licensing system developed and maintained by
3 29 the conference of state bank supervisors and the American
3 30 association of residential mortgage regulators for the
3 31 licensing and registration of licensed mortgage loan
3 32 originators.

3 33 10. "Nontraditional mortgage product" means any mortgage
3 34 product other than a thirty-year fixed rate mortgage.

3 35 11. "Real estate brokerage activity" means any activity
4 1 that involves offering or providing real estate brokerage
4 2 services to the public, including the following:

4 3 a. Acting as a real estate agent or real estate broker for
4 4 a buyer, seller, lessor, or lessee of real property.

4 5 b. Bringing together parties interested in the sale,
4 6 purchase, lease, rental, or exchange of real property.

4 7 c. Negotiating, on behalf of any party, any portion of a
4 8 contract relating to the sale, purchase, lease, rental, or
4 9 exchange of real property other than in connection with
4 10 providing financing with respect to any such transaction.

4 11 d. Engaging in any activity for which a person engaged in
4 12 the activity is required to be registered or licensed as a
4 13 real estate agent or real estate broker under any applicable
4 14 law.

4 15 e. Offering to engage in any activity, or act in any
4 16 capacity, described in paragraphs "a" through "d".

4 17 12. "Registered mortgage loan originator" means a mortgage
4 18 loan originator who is an employee of a depository

4 19 institution, a subsidiary that is owned and controlled by a
4 20 depository institution and regulated by a federal banking
4 21 agency, or an institution regulated by the farm credit
4 22 administration; and is registered with and maintains a unique
4 23 identifier through the nationwide mortgage licensing system
4 24 and registry.

4 25 13. "Residential mortgage loan" means any loan primarily
4 26 for personal, family, or household use that is secured by a
4 27 mortgage, deed of trust, or other equivalent consensual
4 28 security interest on a dwelling as defined in section 103(v)
4 29 of the federal Truth in Lending Act or on residential real
4 30 estate.

4 31 14. "Residential real estate" means any real property
4 32 located in this state, upon which is constructed or intended
4 33 to be constructed a dwelling as defined in section 103(v) of
4 34 the federal Truth in Lending Act.

4 35 15. "Superintendent" means the superintendent of banking
5 1 appointed pursuant to section 524.201.

5 2 16. "Unique identifier" means a number or other identifier
5 3 assigned by protocols established by the nationwide mortgage
5 4 licensing system and registry.

5 5 Sec. 4. NEW SECTION. 535D.4 LICENSE AND REGISTRATION
5 6 REQUIRED.

5 7 1. On or after January 1, 2010, an individual shall not
5 8 engage in the business of a mortgage loan originator with
5 9 respect to any residential real estate located in this state
5 10 without first obtaining and maintaining annually a license
5 11 under this chapter. Each licensed mortgage loan originator
5 12 must register with and maintain a valid unique identifier
5 13 issued by the nationwide mortgage licensing system and
5 14 registry.

5 15 2. A loan processor or underwriter who is an independent
5 16 contractor may not engage in the activities of a loan
5 17 processor or underwriter unless such independent contractor
5 18 loan processor or underwriter obtains and maintains a license
5 19 pursuant to this section, and registers with and maintains a
5 20 valid unique identifier issued by the nationwide mortgage
5 21 licensing system and registry.

5 22 3. An individual engaging solely in loan processor or
5 23 underwriter activities shall not represent to the public,
5 24 through advertising or other means of communicating or
5 25 providing information including the use of business cards,
5 26 stationery, brochures, signs, rate lists, or other promotional
5 27 items, that the individual can or will perform any of the
5 28 activities of a mortgage loan originator.

5 29 Sec. 5. NEW SECTION. 535D.4A EXEMPTIONS.

5 30 This chapter does not apply to any of the following:

5 31 1. A registered mortgage loan originator when acting for
5 32 an employer described in section 535D.3, subsection 11.

5 33 2. An individual who offers or negotiates terms of a
5 34 residential mortgage loan with or on behalf of an immediate
5 35 family member of the individual.

6 1 3. An individual who offers or negotiates terms of a
6 2 residential mortgage loan secured by a dwelling that served as
6 3 the individual's residence.

6 4 4. A licensed attorney who negotiates the terms of a
6 5 residential mortgage loan on behalf of a client as an
6 6 ancillary matter to the attorney's representation of the
6 7 client, unless the attorney is compensated by a lender, a
6 8 mortgage broker, or other mortgage loan originator or by any
6 9 agent of such lender, mortgage broker, or other mortgage loan
6 10 originator.

6 11 5. A licensed manufactured housing retailer selling
6 12 mobile, manufactured, or modular homes, if the retailer only
6 13 assists the consumer in filling out a loan application and

6 14 does not offer or negotiate loan rates or terms, and does not
6 15 do any counseling with consumers about residential mortgage
6 16 loan rates or terms and does not receive any payment or fee
6 17 from any company or individual for assisting the consumer.

6 18 Sec. 6. NEW SECTION. 535D.5 LICENSE AND REGISTRATION ==
6 19 APPLICATION AND ISSUANCE.

6 20 1. An applicant for licensure shall submit an application
6 21 on a form prescribed by the superintendent.

6 22 2. The superintendent may enter into a contract with the
6 23 nationwide mortgage licensing system and registry or other
6 24 entities designated by the nationwide mortgage licensing
6 25 system and registry to collect and maintain records and
6 26 process transaction fees or other fees related to licensees or
6 27 other persons subject to this chapter.

6 28 3. For the purpose of participating in the nationwide
6 29 mortgage licensing system and registry, the superintendent may
6 30 adopt rules which waive or modify, in whole or in part,
6 31 requirements of this chapter and replace them with
6 32 requirements reasonably necessary to participate in the
6 33 nationwide mortgage licensing system and registry.

6 34 4. In connection with an application for licensing as a
6 35 mortgage loan originator, the applicant shall, at a minimum,
7 1 furnish to the nationwide mortgage licensing system and
7 2 registry information concerning the applicant's identity,
7 3 including all of the following:

7 4 a. Fingerprints for submission to the federal bureau of
7 5 investigation, and any governmental agency or entity
7 6 authorized to receive such information for a state, national,
7 7 and international criminal history background check.

7 8 b. Personal history and experience in a form prescribed by
7 9 the nationwide mortgage licensing system and registry,
7 10 including the submission of authorization for the nationwide
7 11 mortgage licensing system and registry and the superintendent
7 12 to obtain an independent credit report obtained from a
7 13 consumer reporting agency described in section 603(p) of the
7 14 federal Fair Credit Reporting Act; and information related to
7 15 any administrative, civil, or criminal findings by any
7 16 governmental jurisdiction.

7 17 c. Any other information requested by the superintendent.

7 18 5. For the purposes of this section and in order to reduce
7 19 the points of contact which the federal bureau of
7 20 investigation may have to maintain for purposes of subsection
7 21 4, the superintendent may use the nationwide mortgage
7 22 licensing system and registry as a channeling agent for
7 23 requesting information from and distributing information to
7 24 the United States department of justice or other governmental
7 25 agency, or to or from any other source so directed by the
7 26 superintendent.

7 27 Sec. 7. NEW SECTION. 535D.6 CONDITIONS OF LICENSURE.

7 28 An applicant for licensure as a mortgage loan originator
7 29 shall demonstrate qualifications as follows:

7 30 1. The applicant has never had a mortgage loan originator
7 31 license revoked in any governmental jurisdiction, except that
7 32 a subsequent formal vacation of such revocation shall not be
7 33 deemed a revocation.

7 34 2. The applicant has not been convicted of, or pled guilty
7 35 or no contest to, a felony in a domestic, foreign, or military
8 1 court during the seven-year period preceding the date of the
8 2 application for licensure; or at any time preceding such date
8 3 of application, if such felony involved an act of fraud,
8 4 dishonesty, or a breach of trust, or money laundering. A
8 5 pardon of a conviction shall not constitute a conviction for
8 6 purposes of this subsection.

8 7 3. The applicant has demonstrated financial
8 8 responsibility, character, and general fitness such as to

8 9 command the confidence of the community and to warrant a
8 10 determination that the applicant will operate honestly,
8 11 fairly, and efficiently within the purposes of this chapter.
8 12 For purposes of this subsection, a person has shown that the
8 13 person is not financially responsible when the person has
8 14 shown a disregard in the management of their own financial
8 15 condition. The superintendent shall not deny a license on the
8 16 sole basis of an applicant's credit score. A determination
8 17 that an individual has not shown financial responsibility may
8 18 include but not be limited to current outstanding judgments,
8 19 except judgments solely as a result of medical expenses;
8 20 current outstanding tax liens or other government liens or
8 21 filings; foreclosures within the past three years; or a
8 22 pattern of seriously delinquent accounts within the past three
8 23 years.

8 24 4. The applicant has completed the prelicensing education
8 25 requirements pursuant to section 535D.7.

8 26 5. The applicant has passed a written test that meets the
8 27 requirements of section 535D.8.

8 28 6. The applicant has met the surety bond requirement or
8 29 paid into a recovery fund as required pursuant to section
8 30 535D.14.

8 31 7. There are no other grounds to deny the applicant a
8 32 license pursuant to rules adopted by the superintendent. Such
8 33 rules may include discretionary grounds for license denial.

8 34 Sec. 8. NEW SECTION. 535D.7 PRELICENSING EDUCATION OF
8 35 LOAN ORIGINATORS.

9 1 1. An applicant for licensure shall complete at least
9 2 twenty hours of prelicensing education approved in accordance
9 3 with subsection 2, which shall include at a minimum the
9 4 following:

9 5 a. Three hours of federal laws and regulations pertaining
9 6 to residential mortgage loan origination.

9 7 b. Three hours of ethics, which shall include instruction
9 8 on fraud, consumer protection, and fair lending issues.

9 9 c. Two hours of training related to lending standards for
9 10 the nontraditional mortgage product marketplace.

9 11 2. Prelicensing education courses shall be reviewed and
9 12 approved by the nationwide mortgage licensing system and
9 13 registry based upon reasonable standards. Review and approval
9 14 of a prelicensing education course shall include review and
9 15 approval of the course provider.

9 16 3. A prelicensing education course that is approved by the
9 17 nationwide mortgage licensing system and registry, and is
9 18 provided by the employer of the applicant or an entity which
9 19 is affiliated with the applicant by an agency contract, or any
9 20 subsidiary or affiliate of such employer or entity, shall meet
9 21 the requirements of this section.

9 22 4. Prelicensing education may be offered either in a
9 23 classroom, online, or by any other means approved by the
9 24 nationwide mortgage licensing system and registry.

9 25 5. Prelicensing education requirements approved by the
9 26 nationwide mortgage licensing system and registry for any
9 27 state shall be accepted as credit towards completion of
9 28 prelicensing education requirements in this state.

9 29 Sec. 9. NEW SECTION. 535D.8 TEST REQUIREMENTS.

9 30 1. An applicant for licensure shall pass a qualified
9 31 written test developed by the nationwide mortgage licensing
9 32 system and registry and administered by a test provider
9 33 approved by the nationwide mortgage licensing system and
9 34 registry based upon reasonable standards.

9 35 2. A written test shall not be treated as a qualified
10 1 written test for purposes of subsection 1 unless the test, in
10 2 the determination of the nationwide mortgage licensing system
10 3 and registry, adequately measures the applicant's knowledge

10 4 and comprehension in appropriate subject areas including the
10 5 following:

- 10 6 a. Ethics.
- 10 7 b. Federal laws and regulations pertaining to residential
10 8 mortgage loan origination.
- 10 9 c. State laws and regulations pertaining to residential
10 10 mortgage loan origination.

- 10 11 d. Other relevant federal and state laws and regulations,
10 12 including instruction on fraud, consumer protection, the
10 13 nontraditional mortgage marketplace, and fair lending issues.

10 14 3. Nothing in this section shall prohibit a test provider
10 15 approved by the nationwide mortgage licensing system and
10 16 registry from providing a test at the location of the employer
10 17 of the applicant or the location of any subsidiary or
10 18 affiliate of the employer of the applicant, or the location of
10 19 any entity with which the applicant holds an exclusive
10 20 arrangement to conduct the business of a mortgage loan
10 21 originator.

10 22 4. An applicant shall not be considered to have passed a
10 23 qualified written test unless the applicant achieves a test
10 24 score of not less than seventy-five percent correct answers to
10 25 questions. An applicant who fails to achieve a test score of
10 26 not less than seventy-five percent correct answers to
10 27 questions may retake the test three consecutive times with
10 28 each consecutive retake occurring at least thirty days after
10 29 the preceding test. After three consecutive failed tests, an
10 30 individual shall be required to wait at least six months
10 31 before taking the test again. A licensed mortgage loan
10 32 originator who fails to maintain a valid license for a period
10 33 of five years or longer shall be required to retake and
10 34 successfully pass the test, not taking into account any time
10 35 during which such individual is a registered mortgage loan
11 1 originator.

11 2 Sec. 10. NEW SECTION. 535D.9 STANDARDS FOR LICENSE
11 3 RENEWAL AND NONRENEWAL.

11 4 1. The minimum standards for license renewal for a
11 5 mortgage loan originator include the following:

- 11 6 a. The mortgage loan originator continues to meet the
11 7 conditions for licensure under section 535D.6.
- 11 8 b. The mortgage loan originator has satisfied the annual
11 9 continuing education requirements described in section
11 10 535D.10.

- 11 11 c. The mortgage loan originator has paid all required fees
11 12 for renewal of the license.

11 13 2. The license of a mortgage loan originator failing to
11 14 satisfy the minimum standards for license renewal shall not be
11 15 renewed. The superintendent may adopt rules for the
11 16 reinstatement of a license not renewed pursuant to this
11 17 subsection consistent with the standards established by the
11 18 nationwide mortgage licensing system and registry.

11 19 Sec. 11. NEW SECTION. 535D.10 CONTINUING EDUCATION.

11 20 1. A licensed mortgage loan originator shall annually
11 21 complete at least eight hours of education approved in
11 22 accordance with subsection 2, which shall include at a minimum
11 23 the following:

- 11 24 a. Three hours of federal laws and regulations pertaining
11 25 to residential mortgage loan origination.
- 11 26 b. Two hours of ethics, which shall include instruction on
11 27 fraud, consumer protection, and fair lending issues.
- 11 28 c. Two hours of training related to lending standards for
11 29 the nontraditional mortgage product marketplace.

11 30 2. Continuing education courses shall be reviewed and
11 31 approved by the nationwide mortgage licensing system and
11 32 registry based upon reasonable standards. Review and approval
11 33 of a continuing education course shall include review and

11 34 approval of the course provider.

11 35 3. A continuing education course that is approved by the
12 1 nationwide mortgage licensing system and registry and is
12 2 provided by the employer of the mortgage loan originator or an
12 3 entity which is affiliated with the mortgage loan originator
12 4 by an agency contract, or any subsidiary or affiliate of such
12 5 employer or entity, shall meet the requirements of this
12 6 section.

12 7 4. Continuing education may be offered either in a
12 8 classroom, online, or by any other means approved by the
12 9 nationwide mortgage licensing system and registry.

12 10 5. A licensed mortgage loan originator, other than an
12 11 originator subject to license nonrenewal pursuant to section
12 12 535D.9, subsection 2, or making up continuing education
12 13 pursuant to subsection 9 of this section may only receive
12 14 credit for a continuing education course in the year in which
12 15 the course is taken, and may not take the same approved course
12 16 in the same or successive years to meet the annual
12 17 requirements for continuing education.

12 18 6. A licensed mortgage loan originator who is an approved
12 19 instructor of an approved continuing education course may
12 20 receive credit for the licensed mortgage loan originator's own
12 21 annual continuing education requirement at the rate of two
12 22 hours credit for every one hour taught.

12 23 7. Completion of continuing education requirements that
12 24 have been approved by the nationwide mortgage licensing system
12 25 and registry for any state shall be accepted as credit towards
12 26 completion of continuing education requirements in this state.

12 27 8. A licensed mortgage loan originator who subsequently
12 28 becomes unlicensed must complete the continuing education
12 29 requirements for the last year in which the license was held
12 30 prior to issuance of a new or renewed license.

12 31 9. A person meeting the requirements of section 535D.9,
12 32 subsection 1, paragraphs "a" and "c", may make up any
12 33 deficiency in continuing education as established by rule of
12 34 the superintendent.

12 35 Sec. 12. NEW SECTION. 535D.11 DUTIES AND POWERS OF
13 1 SUPERINTENDENT.

13 2 In addition to any other duties imposed upon the
13 3 superintendent by law, the superintendent shall require
13 4 mortgage loan originators to be licensed and registered, as
13 5 provided in this chapter, through the nationwide mortgage
13 6 licensing system and registry. In order to carry out this
13 7 requirement the superintendent may participate in the
13 8 nationwide mortgage licensing system and registry. For this
13 9 purpose, the superintendent may establish by rule requirements
13 10 as necessary, including but not limited to the following:

13 11 1. Applicant background checks for criminal history
13 12 through fingerprint or other databases or through civil or
13 13 administrative records; applicant background checks for credit
13 14 history; or applicant background checks for any other
13 15 information as deemed necessary by the nationwide mortgage
13 16 licensing system and registry.

13 17 2. The payment of application and renewal fees for
13 18 licenses through the nationwide mortgage licensing system and
13 19 registry and any additional fees as determined by the
13 20 superintendent based on the actual cost of the operation of
13 21 the finance bureau of the banking division of the department
13 22 of commerce, including the proportionate share of
13 23 administrative expenses in the operation of the banking
13 24 division attributable to the finance bureau as determined by
13 25 the superintendent, incurred in the discharge of duties
13 26 imposed by this chapter.

13 27 3. Establishment of licensure renewal or reporting dates.

13 28 4. Requirements for amending or surrendering a license or

13 29 any other such activities as the superintendent deems
13 30 necessary for participation in the nationwide mortgage
13 31 licensing system and registry.

13 32 Sec. 13. NEW SECTION. 535D.12 NATIONWIDE MORTGAGE
13 33 LICENSING SYSTEM AND REGISTRY INFORMATION == CHALLENGE
13 34 PROCESS.

13 35 The superintendent shall establish a process by rule
14 1 whereby mortgage loan originators may challenge information
14 2 entered into the nationwide mortgage licensing system and
14 3 registry by the superintendent.

14 4 Sec. 14. NEW SECTION. 535D.13 DISCIPLINARY ACTION AND
14 5 CIVIL ENFORCEMENT AUTHORITY.

14 6 1. The superintendent may, pursuant to chapter 17A, take
14 7 disciplinary action against a licensed mortgage loan
14 8 originator if the superintendent finds any of the following:

14 9 a. The licensee has violated a provision of this chapter
14 10 or a rule adopted pursuant to this chapter or any other state
14 11 or federal law or regulation applicable to the conduct of the
14 12 licensee's business including but not limited to chapters 535
14 13 and 535A.

14 14 b. A fact or condition exists which, had it existed at the
14 15 time of the original application for the license, would have
14 16 warranted the superintendent to refuse to issue the original
14 17 license.

14 18 c. The licensee fails at any time to meet the requirements
14 19 of section 535D.6 or 535D.9, or withholds information or makes
14 20 a material misstatement in an application for a license or
14 21 renewal of a license.

14 22 d. The licensee has violated an order of the
14 23 superintendent.

14 24 2. The superintendent may impose one or more of the
14 25 following disciplinary actions against a licensee:

14 26 a. Revoke a license.

14 27 b. Suspend a license until further order of the
14 28 superintendent or for a specified period of time.

14 29 c. Impose a period of probation under specified
14 30 conditions.

14 31 d. Impose civil penalties in an amount not to exceed five
14 32 thousand dollars for each violation.

14 33 e. Issue a citation and warning concerning licensee
14 34 behavior.

14 35 f. Order a licensee to cease and desist from conducting
15 1 business or from any harmful activities or violations of law
15 2 or rule.

15 3 g. Order the licensee to pay restitution.

15 4 3. The superintendent may order an emergency suspension of
15 5 a licensee's license or issue an order to immediately cease
15 6 and desist from conducting business or from any harmful
15 7 activities or violations of law or rule pursuant to section
15 8 17A.18A. A written order containing the facts or conduct
15 9 which warrants the emergency action shall be timely sent to
15 10 the licensee by restricted certified mail. Upon issuance of
15 11 an emergency suspension order, the licensee must also be
15 12 notified of the right to an evidentiary hearing. A suspension
15 13 proceeding shall be promptly instituted and determined.

15 14 4. A licensee may surrender a license by delivering to the
15 15 superintendent written notice of surrender, but a surrender
15 16 does not affect the licensee's civil or criminal liability for
15 17 acts committed before the surrender.

15 18 5. A revocation, suspension, or surrender of a license
15 19 does not impair or affect the obligation of a preexisting
15 20 lawful contract between the licensee and any person, including
15 21 a mortgagor.

15 22 6. The superintendent may issue an order to a person who
15 23 is not licensed under this chapter to require compliance with

15 24 this chapter, including to cease and desist from conducting
15 25 business or from any harmful activities or violations of law
15 26 or rule, may impose a civil penalty against such person for
15 27 any violation of this chapter in an amount up to five thousand
15 28 dollars for each violation, and may order the person to pay
15 29 restitution.

15 30 7. Before issuing an order under subsection 6, the
15 31 superintendent shall provide the person written notice and the
15 32 opportunity to request a hearing. The hearing must be
15 33 requested within thirty days after receipt of the notice and
15 34 shall be conducted in the same manner as provided for
15 35 disciplinary proceedings involving a licensee under this
16 1 chapter.

16 2 8. A person aggrieved by the imposition of a civil penalty
16 3 under subsection 6 may seek judicial review pursuant to
16 4 section 17A.19.

16 5 9. An action to enforce an order under this section may be
16 6 joined with an action for an injunction.

16 7 Sec. 15. NEW SECTION. 535D.14 SURETY BOND REQUIRED OR
16 8 RECOVERY FUND.

16 9 1. a. A mortgage loan originator shall be covered by a
16 10 surety bond in accordance with this section unless the
16 11 superintendent establishes a recovery fund pursuant to
16 12 subsection 4 into which the mortgage loan originator makes
16 13 payments. In the event that the mortgage loan originator is
16 14 an employee or exclusive agent of a person subject to chapter
16 15 535B, 536, or 536A, the surety bond of such person can be used
16 16 in lieu of the mortgage loan originator's surety bond
16 17 requirement.

16 18 b. The surety bond shall provide coverage for each
16 19 mortgage loan originator in an amount as prescribed in
16 20 subsection 2. The surety bond shall be in a form as
16 21 prescribed by the superintendent. The superintendent may,
16 22 pursuant to rule, determine requirements for such surety bonds
16 23 as are necessary to accomplish the purposes of this chapter.

16 24 2. The bond shall be maintained in an amount that reflects
16 25 the dollar value of loans originated as determined by the
16 26 superintendent.

16 27 3. When an action is commenced on a licensee's bond the
16 28 superintendent may require the filing of a new bond.
16 29 Immediately upon recovery upon any action on the bond the
16 30 licensee shall file a new bond.

16 31 4. If the superintendent determines it is not feasible to
16 32 establish surety bonding requirements that reflect the dollar
16 33 amount of loans originated by a mortgage loan originator, as
16 34 provided in subsection 1508(d)(6) of the federal Housing and
16 35 Economic Recovery Act of 2008, Pub. L. No. 110-289(1508), the
17 1 superintendent may establish by rule a recovery fund to be
17 2 paid into by mortgage loan originators. The rules shall
17 3 provide for the amounts to be paid into the fund by mortgage
17 4 loan originators. In the event the superintendent establishes
17 5 a recovery fund, the fund shall be established as a separate
17 6 fund in the state treasury. Moneys deposited in the fund
17 7 shall be administered by the superintendent and used for the
17 8 purposes of compensating members of the public for losses
17 9 caused by licensees. In addition, the superintendent may use
17 10 moneys from the fund for the purpose of investigating and
17 11 prosecuting violations of this chapter or any other state or
17 12 federal law, rule, or regulation applicable to the conduct of
17 13 a licensee's business. Notwithstanding section 12C.7,
17 14 interest earned on amounts deposited in the fund, if
17 15 established, shall be credited to the fund. Any balance in
17 16 the fund on June 30 of any fiscal year shall not revert to the
17 17 general fund of the state.

17 18 Sec. 16. NEW SECTION. 535D.15 CONFIDENTIALITY.

17 19 1. Except as otherwise provided in section 1512 of the
17 20 federal Housing and Economic Recovery Act of 2008, Pub. L. No.
17 21 110=289(1512), the requirements under any federal law or
17 22 chapter 22 or 692 regarding the privacy or confidentiality of
17 23 any information or material provided to the nationwide
17 24 mortgage licensing system and registry, and any privilege
17 25 arising under federal or state law, including the rules of any
17 26 federal or state court, with respect to such information or
17 27 material, shall continue to apply to such information or
17 28 material after the information or material has been disclosed
17 29 to the nationwide mortgage licensing system and registry.
17 30 Such information and material may be shared with any state or
17 31 federal regulatory official with mortgage industry oversight
17 32 authority without the loss of privilege or the loss of
17 33 confidentiality protections provided by federal law or chapter
17 34 22 or 692.

17 35 2. The superintendent may enter into agreements or sharing
18 1 arrangements with other governmental agencies, the conference
18 2 of state bank supervisors, the American association of
18 3 residential mortgage regulators, or other associations
18 4 representing governmental agencies.

18 5 3. Information or material that is subject to privilege or
18 6 confidentiality under subsection 1 shall not be subject to any
18 7 of the following:

18 8 a. Disclosure under any federal or state law governing the
18 9 disclosure to the public of information held by an officer or
18 10 an agency of the federal government or this state.

18 11 b. Subpoena or discovery, or admission into evidence, in
18 12 any private civil action or administrative process, unless
18 13 with respect to any privilege held by the nationwide mortgage
18 14 licensing system and registry with respect to such information
18 15 or material, the person to whom such information or material
18 16 pertains waives, in whole or in part, that privilege.

18 17 4. This section supersedes any provision of chapter 22
18 18 relating to the disclosure of confidential supervisory
18 19 information or any information or material described in
18 20 subsection 1 of this section that is inconsistent with
18 21 subsection 1.

18 22 5. This section shall not apply with respect to
18 23 information or material relating to the employment history of,
18 24 and publicly adjudicated disciplinary and enforcement actions
18 25 against, mortgage loan originators that are included in the
18 26 nationwide mortgage licensing system and registry for access
18 27 by the public.

18 28 Sec. 17. NEW SECTION. 535D.16 INVESTIGATION AND
18 29 EXAMINATION AUTHORITY.

18 30 The superintendent may conduct investigations and
18 31 examinations as follows:

18 32 1. For purposes of initial licensing, license renewal,
18 33 license suspension, license conditioning, license revocation
18 34 or termination, or general or specific inquiry or
18 35 investigation to determine compliance with this chapter, the
19 1 superintendent may access, receive, and use any relevant
19 2 books, accounts, records, files, documents, information, or
19 3 evidence including but not limited to:

19 4 a. Criminal, civil, and administrative history
19 5 information, which is accessible to licensing authorities.

19 6 b. Personal history and experience information including
19 7 independent credit reports obtained from a consumer reporting
19 8 agency described in section 603(p) of the federal Fair Credit
19 9 Reporting Act.

19 10 c. Any other documents, information, or evidence the
19 11 superintendent deems relevant to the inquiry or investigation
19 12 regardless of the location, possession, control, or custody of
19 13 such documents, information, or evidence.

19 14 2. For the purposes of investigating violations or
19 15 complaints arising under this chapter, or for the purposes of
19 16 examination, the superintendent may review, investigate, or
19 17 examine any licensee, individual, or person subject to this
19 18 chapter, as often as necessary in order to carry out the
19 19 purposes of this chapter. The superintendent may direct,
19 20 subpoena, or order the attendance of and examine under oath
19 21 all persons whose testimony may be required about the loans or
19 22 the business or subject matter of any such examination or
19 23 investigation, and may direct, subpoena, or order such person
19 24 to produce books, accounts, records, files, and any other
19 25 documents the superintendent deems relevant to the inquiry.

19 26 3. Each licensee, individual, or person subject to this
19 27 chapter shall make available to the superintendent upon
19 28 request the books and records relating to the operations of
19 29 such licensee, individual, or person. The superintendent
19 30 shall have access to such books and records and interview the
19 31 officers, principals, mortgage loan originators, employers,
19 32 employees, independent contractors, agents, and customers of
19 33 the licensee, individual, or person subject to this chapter
19 34 concerning their business.

19 35 4. Each licensee, individual, or person subject to this
20 1 chapter shall make or compile reports or prepare other
20 2 information as directed by the superintendent in order to
20 3 carry out the purposes of this section including but not
20 4 limited to the following:

20 5 a. Accounting compilations.
20 6 b. Information lists and data concerning loan transactions
20 7 in a format prescribed by the superintendent.
20 8 c. Such other information deemed necessary to carry out
20 9 the purposes of this section.

20 10 5. In making any examination or investigation authorized
20 11 by this chapter, the superintendent may control access to any
20 12 documents and records of the licensee or person under
20 13 examination or investigation. The superintendent may take
20 14 possession of the documents and records or place a person in
20 15 exclusive charge of the documents and records in the place
20 16 where they are usually kept. During the period of control, an
20 17 individual or person shall not remove or attempt to remove any
20 18 of the documents or records except pursuant to a court order
20 19 or with the consent of the superintendent. Unless the
20 20 superintendent has reasonable grounds to believe the documents
20 21 or records of the licensee have been or are at risk of being
20 22 altered or destroyed for purposes of concealing a violation of
20 23 this chapter, the licensee or owner of the documents or
20 24 records shall have access to the documents or records as
20 25 necessary to conduct its ordinary business affairs.

20 26 6. In order to carry out the purposes of this section, the
20 27 superintendent may:

20 28 a. Retain attorneys, accountants, or other professionals
20 29 or specialists as examiners, auditors, or investigators to
20 30 conduct or assist in the conduct of examinations or
20 31 investigations.

20 32 b. Enter into agreements or relationships with other
20 33 government officials or regulatory associations in order to
20 34 improve efficiencies and reduce regulatory burden by sharing
20 35 resources, standardized or uniform methods or procedures, and
21 1 documents, records, information, or evidence obtained under
21 2 this section.

21 3 c. Use, hire, contract, or employ publicly or privately
21 4 available analytical systems, methods, or software to examine
21 5 or investigate the licensee, individual, or person subject to
21 6 this chapter.

21 7 d. Accept and rely on examination or investigation reports
21 8 made by other government officials, within or without this

21 9 state.

21 10 e. Accept audit reports made by an independent certified
21 11 public accountant for the licensee, individual, or person
21 12 subject to this chapter in the course of that part of the
21 13 examination covering the same general subject matter as the
21 14 audit and may incorporate the audit report in the report of
21 15 the examination, report of investigation, or other writing of
21 16 the superintendent.

21 17 7. The authority of this section shall remain in effect,
21 18 whether such a licensee, individual, or person subject to this
21 19 chapter acts or claims to act under any licensing or
21 20 registration law of this state, or claims to act without such
21 21 authority.

21 22 8. A licensee, individual, or person subject to
21 23 investigation or examination under this section shall not
21 24 knowingly withhold, abstract, remove, mutilate, destroy, or
21 25 secrete any books, records, computer records, or other
21 26 information.

21 27 Sec. 18. NEW SECTION. 535D.17 PROHIBITED ACTS AND
21 28 PRACTICES.

21 29 It is a violation of this chapter for a person or
21 30 individual subject to this chapter to engage in any of the
21 31 following activities:

21 32 1. Directly or indirectly employ any scheme, device, or
21 33 artifice to defraud or mislead borrowers or lenders or to
21 34 defraud any person.

21 35 2. Engage in any unfair or deceptive practice toward any
22 1 person.

22 2 3. Obtain property by fraud or misrepresentation.

22 3 4. Solicit or enter into a contract with a borrower that
22 4 provides in substance that the person or individual subject to
22 5 this chapter may earn a fee or commission through "best
22 6 efforts" to obtain a loan even though no loan is actually
22 7 obtained for the borrower.

22 8 5. Solicit, advertise, or enter into a contract for
22 9 specific interest rates, points, or other financing terms
22 10 unless the terms are actually available at the time of
22 11 soliciting, advertising, or contracting.

22 12 6. Conduct any business covered by this chapter without
22 13 holding a valid license as required under this chapter, or
22 14 assist or aid and abet any person in the conduct of business
22 15 under this chapter without a valid license as required under
22 16 this chapter.

22 17 7. Fail to make disclosures as required by this chapter or
22 18 any other applicable state or federal law including
22 19 regulations thereunder.

22 20 8. Fail to comply with this chapter or rules or
22 21 regulations promulgated under this chapter, or fail to comply
22 22 with any other state or federal law, including the rules and
22 23 regulations thereunder, applicable to any business authorized
22 24 or conducted under this chapter.

22 25 9. Make, in any manner, any false or deceptive statement
22 26 or representation.

22 27 10. Negligently make any false statement or knowingly and
22 28 willfully make any omission of material fact in connection
22 29 with any information or reports filed with a governmental
22 30 agency or the nationwide mortgage licensing system and
22 31 registry or in connection with any investigation conducted by
22 32 the superintendent or another governmental agency.

22 33 11. Make any payment, threat, or promise, directly or
22 34 indirectly, to any person for the purposes of influencing the
22 35 independent judgment of the person in connection with a
23 1 residential mortgage loan, or make any payment, threat, or
23 2 promise, directly or indirectly, to any appraiser of a
23 3 property, for the purposes of influencing the independent

23 4 judgment of the appraiser with respect to the value of the
23 5 property.
23 6 12. Collect, charge, attempt to collect or charge, or use
23 7 or propose any agreement purporting to collect or charge any
23 8 fee prohibited by this chapter.

23 9 13. Cause or require a borrower to obtain property
23 10 insurance coverage in an amount that exceeds the replacement
23 11 cost of the improvements as established by the property
23 12 insurer.

23 13 14. Fail to truthfully account for moneys belonging to a
23 14 party to a residential mortgage loan transaction.

23 15 Sec. 19. NEW SECTION. 535D.18 REPORT TO NATIONWIDE
23 16 MORTGAGE LICENSING SYSTEM AND REGISTRY.

23 17 The superintendent shall regularly report violations of
23 18 this chapter, as well as enforcement actions and other
23 19 relevant information, to the nationwide mortgage licensing
23 20 system and registry subject to the confidentiality provisions
23 21 of section 535D.15.

23 22 Sec. 20. NEW SECTION. 535D.19 UNIQUE IDENTIFIER SHOWN.

23 23 The unique identifier of any person originating a
23 24 residential mortgage loan shall be clearly shown on all
23 25 residential mortgage loan application forms, solicitations, or
23 26 advertisements, including business cards or internet websites,
23 27 and any other documents as established by rule, regulation, or
23 28 order of the superintendent.

23 29 Sec. 21. NEW SECTION. 535D.20 OPERATING WITHOUT A
23 30 LICENSE == PENALTY.

23 31 A person who, without first obtaining a license under this
23 32 chapter, engages in the business or occupation of, or
23 33 advertises or holds the person out as, or claims to be, or
23 34 temporarily acts as, a mortgage loan originator in this state
23 35 is guilty of a class "D" felony and may be prosecuted by the
24 1 attorney general or a county attorney.

24 2 Sec. 22. NEW SECTION. 535D.21 ADMINISTRATIVE AUTHORITY.

24 3 The superintendent shall have broad administrative
24 4 authority to administer, interpret, and enforce this chapter
24 5 and to promulgate rules implementing this chapter.

24 6 Sec. 23. NEW SECTION. 535D.22 COMPLIANCE WITH FEDERAL
24 7 LAW.

24 8 If the United States department of housing and urban
24 9 development determines in writing that any provision of this
24 10 chapter or its application to any person or circumstance is
24 11 invalid under Title V of the federal Housing and Economic
24 12 Recovery Act of 2009, Pub. L. No. 110=289, the superintendent
24 13 is authorized to adopt rules which waive or modify, in whole
24 14 or in part, requirements of this chapter as necessary to
24 15 achieve a determination by the United States department of
24 16 housing and urban development that this state is in compliance
24 17 with the federal law.

24 18 Sec. 24. TRANSITION PROVISIONS. If an individual
24 19 registrant who was registered under chapter 535B before
24 20 January 1, 2010, meets the qualifications for licensure in
24 21 section 535D.6, subsections 1, 2, 3, 6, and 7, as enacted by
24 22 this Act, but has not completed the prelicensing education
24 23 requirements pursuant to section 535D.7, as enacted by this
24 24 Act, or passed a written test that meets the requirements of
24 25 section 535D.8, as enacted by this Act, by January 1, 2010,
24 26 the superintendent may issue the individual a temporary
24 27 mortgage loan originator license under chapter 535D, as
24 28 enacted by this division of this Act. The temporary mortgage
24 29 loan originator license shall expire on December 31, 2010, and
24 30 beginning January 1, 2011, the individual must meet all of the
24 31 qualifications for licensure specified in section 535D.6, as
24 32 enacted by this ACT, to obtain a license.

24 33 Sec. 25. EFFECTIVE DATE. This division of this Act takes

24 34 effect July 1, 2009.

24 35

DIVISION II

25 1

MORTGAGE

25 2

BANKERS AND BROKERS

25 3 Sec. 26. Section 535B.1, subsection 2, Code 2009, is

25 4 amended by striking the subsection.

25 5 Sec. 27. Section 535B.1, subsections 4 and 5, Code 2009,

25 6 are amended to read as follows:

25 7 4. "Mortgage banker" means a person who does one or more

25 8 of the following:

25 9 a. Makes at least four mortgage loans on residential real
25 10 property located in this state in a calendar year.

25 11 b. Originates at least four mortgage loans on residential
25 12 real property located in this state in a calendar year and
25 13 sells four or more such loans in the secondary market.

25 14 c. Services at least four mortgage loans on residential
25 15 real property located in this state. However, a natural
25 16 person, who services less than fifteen mortgage loans on
25 17 residential real estate within the state and who does not sell
25 18 or transfer mortgage loans, is exempt from this paragraph if
25 19 that person is otherwise exempt from the provisions of this
25 20 chapter.

25 21 "Mortgage banker" does not include a person whose job

~~25 22 responsibilities on behalf of a licensee or individual~~

~~25 23 registrant are to process mortgage loans, are solely clerical~~

~~25 24 in nature, or otherwise do not involve direct contact with~~

~~25 25 loan applicants who is a licensed mortgage loan originator~~

25 26 under chapter 535D.

25 27 5. "Mortgage broker" means a person who arranges or

25 28 negotiates, or attempts to arrange or negotiate, at least four

25 29 mortgage loans or commitments for four or more such loans on

25 30 residential real property located in this state in a calendar

25 31 year. "Mortgage broker" does not include a person whose job

~~25 32 responsibilities on behalf of a licensee or individual~~

~~25 33 registrant are to process mortgage loans, are solely clerical~~

~~25 34 in nature, or otherwise do not involve direct contact with~~

~~25 35 loan applicants who is a licensed mortgage loan originator~~

26 1 under chapter 535D.

26 2 Sec. 28. Section 535B.4, subsection 7, Code 2009, is

26 3 amended to read as follows:

~~26 4 7. Applications for renewals of licenses and individual~~

~~26 5 registrations under this chapter must be filed with the~~

26 6 administrator before December 1 of the year of expiration on

26 7 forms prescribed by the administrator. A renewal application

26 8 must be accompanied by a fee of two hundred dollars for a

26 9 license to transact business solely as a mortgage broker, and

26 10 four hundred dollars for a license to transact business as a

26 11 mortgage banker. ~~The fee to renew an individual registration~~

~~26 12 shall be the fee determined pursuant to section 535B.4A. The~~

26 13 administrator may assess a late fee of ten dollars per day for

26 14 applications or registrations accepted for processing after

26 15 December 1.

26 16 Sec. 29. Section 535B.7, Code 2009, is amended to read as

26 17 follows:

26 18 535B.7 DISCIPLINARY ACTION.

26 19 1. The administrator may, pursuant to chapter 17A, take

26 20 disciplinary action against a licensee ~~or individual~~

~~26 21 registrant~~ if the administrator finds any of the following:

26 22 a. The licensee ~~or individual registrant~~ has violated a

26 23 provision of this chapter or a rule adopted under this chapter

26 24 or any other state or federal law applicable to the conduct of

26 25 its business including but not limited to chapters 535 and

26 26 535A.

26 27 b. A fact or condition exists which, if it had existed at

26 28 the time of the original application for the license ~~or~~

~~26 29 individual registration~~, would have warranted the
26 30 administrator to refuse originally to issue the license ~~or~~
~~26 31 individual registration~~.

26 32 c. The licensee is found upon investigation to be
26 33 insolvent, in which case the license shall be revoked
26 34 immediately.

26 35 d. The licensee ~~or individual registrant~~ has violated an
27 1 order of the administrator.

27 2 2. The administrator may impose one or more of the
27 3 following disciplinary actions against a licensee ~~or~~
~~27 4 individual registrant~~:

27 5 a. Revoke a license ~~or individual registration~~.

27 6 b. Suspend a license ~~or individual registration~~ until
27 7 further order of the administrator or for a specified period
27 8 of time.

27 9 c. Impose a period of probation under specified
27 10 conditions.

27 11 d. Impose civil penalties in an amount not to exceed five
27 12 thousand dollars for each violation.

27 13 e. Issue a citation and warning respecting licensee ~~or~~
~~27 14 individual registrant~~ behavior.

27 15 f. Order the licensee ~~or individual registrant~~ to pay
27 16 restitution.

27 17 3. The administrator may order an emergency suspension of
27 18 a licensee's license ~~or an individual's registration~~ pursuant
27 19 to section 17A.18A. A written order containing the facts or
27 20 conduct which warrants the emergency action shall be timely
27 21 sent to the licensee ~~or individual registrant~~ by restricted
27 22 certified mail. Upon issuance of the suspension order, the
27 23 licensee ~~or individual registrant~~ must also be notified of the
27 24 right to an evidentiary hearing. A suspension proceeding
27 25 shall be promptly instituted and determined.

27 26 4. Except as provided in this section, a license ~~or~~
~~27 27 individual registration~~ shall not be revoked or suspended
27 28 except after notice and a hearing thereon in accordance with
27 29 chapter 17A.

27 30 5. A licensee may surrender a license ~~and an individual~~
~~27 31 registrant may surrender an individual registration~~ by
27 32 delivering to the administrator written notice of surrender,
27 33 but a surrender does not affect the licensee's ~~or individual~~
~~27 34 registrant's~~ civil or criminal liability for acts committed
27 35 before the surrender.

28 1 6. A revocation, suspension, or surrender of a license ~~or~~
~~28 2 individual registration~~ does not impair or affect the
28 3 obligation of a preexisting lawful contract between the
28 4 licensee ~~or individual registrant~~ and any person, including a
28 5 mortgagor.

28 6 Sec. 30. NEW SECTION. 535B.7A PROHIBITED ACTS.

28 7 It is a violation of this chapter for a licensee to engage
28 8 in any of the prohibited acts or practices in section 535D.16.

28 9 Sec. 31. Section 535B.8, Code 2009, is amended to read as
28 10 follows:

28 11 535B.8 OPERATING WITHOUT A LICENSE ~~OR REGISTRATION~~.

~~28 12 A person who, without first obtaining a license or~~
~~28 13 individual registration~~ under this chapter, engages in the
28 14 business or occupation of, or advertises or holds the person
28 15 out as, or claims to be, or temporarily acts as, a mortgage
28 16 banker or mortgage broker in this state is guilty of a class
28 17 "D" felony and may be prosecuted by the attorney general or a
28 18 county attorney.

28 19 Sec. 32. Section 535B.9, subsection 1, Code 2009, is
28 20 amended to read as follows:

28 21 1. An applicant for a license shall file with the
28 22 administrator a bond furnished by a surety company authorized
28 23 to do business in this state, together with evidence of

28 24 whether the applicant is seeking to transact business as a
28 25 mortgage broker or as a mortgage banker. The Until such time
28 26 as the superintendent pursuant to administrative rule
28 27 determines a bond amount that reflects the dollar value of
28 28 loans originated, the bond shall be in the amount of one
28 29 hundred thousand dollars. The bond shall be continuous in
28 30 nature until canceled by the surety with not less than thirty
28 31 days' notice in writing to the mortgage broker or mortgage
28 32 banker and to the administrator indicating the surety's
28 33 intention to cancel the bond on a specific date. The bond
28 34 shall be for the use of the state and any persons who may have
28 35 causes of action against the applicant. The bond shall be
29 1 conditioned upon the applicant's faithfully conforming to and
29 2 abiding by this chapter and any rules adopted under this
29 3 chapter and shall require that the surety pay to the state and
29 4 to any persons all moneys that become due or owing to the
29 5 state and to the persons from the applicant by virtue of this
29 6 chapter.

29 7 Sec. 33. Section 535B.10, subsection 2, Code 2009, is
29 8 amended to read as follows:

29 9 2. For the purposes of discovering violations of this
29 10 chapter or any related rules or for securing information
29 11 lawfully required under this chapter, the administrator may at
29 12 any time and as often as the administrator deems necessary,
29 13 but in no event less frequently than once during each two-year
29 14 period, investigate the business and examine the books,
29 15 accounts, records, and files used by a licensee ~~or individual~~
~~29 16 registrant.~~

29 17 Sec. 34. Section 535B.14, Code 2009, is amended to read as
29 18 follows:

29 19 535B.14 RULEMAKING AUTHORITY.

29 20 The administrator may adopt, amend, or repeal rules to aid
29 21 in the administration and enforcement of this chapter,
29 22 including rules providing the grounds for denial of an
~~29 23 individual registration a license based on information~~
29 24 received as a result of a background check, character and
29 25 fitness grounds, and any other grounds for which an individual
~~29 26 registrant or a licensee may be disciplined.~~

29 27 Sec. 35. Section 535B.17, Code 2009, is amended to read as
29 28 follows:

29 29 535B.17 POWERS AND DUTIES OF THE ADMINISTRATOR == WAIVER
29 30 AUTHORITY.

29 31 In addition to any other duties imposed upon the
29 32 administrator by law, the administrator may participate in a
29 33 multistate automated licensing system for mortgage bankers,
29 34 mortgage brokers, and ~~individual registrants~~ mortgage loan
29 35 originators. For this purpose, the administrator may

30 1 establish by rule or order new requirements as necessary,
30 2 including but not limited to requirements that license
30 3 applicants and individual registrants submit to fingerprinting
30 4 and criminal history checks, and pay fees therefor.

30 5 Sec. 36. NEW SECTION. 535B.18 MORTGAGE CALL REPORTS.

30 6 Each licensee shall submit to the nationwide mortgage
30 7 licensing system and registry, as defined in section 535D.3,
30 8 reports of condition, which shall be in such form and shall
30 9 contain such information as the nationwide mortgage licensing
30 10 system and registry may require.

30 11 Sec. 37. Section 535B.4A, Code 2009, is repealed.

30 12 Sec. 38. Section 535B.9A, Code 2009, is repealed.

30 13 Sec. 39. EFFECTIVE DATES.

30 14 1. The sections of this division of this Act amending
30 15 section 535B.9 and enacting sections 535B.7A and 535B.18 take
30 16 effect July 1, 2009.

30 17 2. The sections of this division of this Act amending
30 18 sections 535B.1, 535B.4, 535B.7, 535B.8, 535B.10, 535B.14, and

30 19 535B.17 to eliminate the classification of "individual
30 20 registrant" and repealing sections 535B.4A and 535B.9A take
30 21 effect January 1, 2010.

30 22 DIVISION III
30 23 REGULATED AND INDUSTRIAL LOANS

30 24 Sec. 40. Section 536.3, Code 2009, is amended by striking
30 25 the section and inserting in lieu thereof the following:

30 26 536.3 BOND.

30 27 An applicant for a license shall file with the
30 28 superintendent a bond furnished by a surety company authorized
30 29 to do business in this state. Until such time as the
30 30 superintendent through the administrative rule process
30 31 determines a bond amount that reflects the dollar value of
30 32 loans originated, the bond shall be in the amount of
30 33 twenty-five thousand dollars. The bond shall be continuous in
30 34 nature until canceled by the surety with not less than thirty
30 35 days' notice in writing to the licensee and to the
31 1 superintendent indicating the surety's intention to cancel the
31 2 bond on a specific date. The bond shall be for the use of the
31 3 state and any persons who may have causes of action against
31 4 the applicant. The bond shall be conditioned upon the
31 5 applicant's faithfully conforming to and abiding by this
31 6 chapter and any rules adopted under this chapter and shall
31 7 require that the surety pay to the state and to any persons
31 8 all moneys that become due or owing to the state and to the
31 9 persons from the applicant by virtue of this chapter.

31 10 Sec. 41. Section 536.6, subsection 1, Code 2009, is
31 11 amended to read as follows:

31 12 1. If the superintendent ~~shall find~~ finds at any time that
31 13 the bond is insecure or exhausted or otherwise of doubtful
31 14 validity or collectibility, an additional bond to be approved
31 15 by the superintendent, with one or more sureties and of the
31 16 character specified in section 536.3, in the a sum of not more
~~31 17 than twenty-five thousand dollars~~ not to exceed that amount
31 18 determined pursuant to section 536.3, shall be filed by the
31 19 licensee within ten days after written demand upon the
31 20 licensee by the superintendent.

31 21 Sec. 42. Section 536.11, Code 2009, is amended by adding
31 22 the following new subsection:

31 23 NEW SUBSECTION. 3. Each licensee making residential
31 24 mortgage loans shall submit to the nationwide mortgage
31 25 licensing system and registry reports of condition, which
31 26 shall be in such form and shall contain such information as
31 27 the nationwide mortgage licensing system and registry may
31 28 require. For purposes of this subsection, "nationwide
31 29 mortgage licensing system and registry" and "residential
31 30 mortgage loan" mean the same as defined in section 535D.3.

31 31 Sec. 43. NEW SECTION. 536.30 POWERS AND DUTIES OF THE
31 32 SUPERINTENDENT == NATIONWIDE SYSTEM.

31 33 In addition to any other duties imposed upon the
31 34 superintendent by law, the superintendent may require
31 35 applicants and licensees to be licensed through the nationwide
32 1 mortgage licensing system and registry as defined in section
32 2 535D.3. In order to carry out this requirement, the
32 3 superintendent may participate in the nationwide mortgage
32 4 licensing system and registry. For this purpose, the
32 5 superintendent may establish by rule or order new requirements
32 6 as necessary, including but not limited to requirements that
32 7 applicants, including officers and directors and those who
32 8 have control of the applicant, submit to fingerprinting,
32 9 criminal history checks, and pay fees therefor.

32 10 Sec. 44. Section 536A.7A, subsection 1, Code 2009, is
32 11 amended to read as follows:

32 12 1. An applicant for a license shall file with the
32 13 superintendent a bond furnished by a surety company authorized

32 14 to do business in this state. The Until such time as the
 32 15 superintendent pursuant to administrative rule determines a
 32 16 bond amount that reflects the dollar value of the loans
 32 17 originated, the bond shall be in the amount of twenty-five
 32 18 thousand dollars. The bond shall be continuous in nature
 32 19 until canceled by the surety with not less than thirty days'
 32 20 notice in writing to the applicant and to the superintendent
 32 21 indicating the surety's intention to cancel the bond on a
 32 22 specific date. The bond shall be for the use of the state and
 32 23 any persons who may have causes of action against the
 32 24 applicant. The bond shall be conditioned upon the applicant's
 32 25 faithfully conforming to and abiding by this chapter and any
 32 26 rules adopted under this chapter and shall require that the
 32 27 surety pay to the state and to any persons all moneys that
 32 28 become due or owing to the state and to the persons from the
 32 29 applicant by virtue of this chapter.

32 30 Sec. 45. Section 536A.14, Code 2009, is amended by adding
 32 31 the following new subsection:

32 32 NEW SUBSECTION. 3. Each licensee making residential
 32 33 mortgage loans shall submit to the nationwide mortgage
 32 34 licensing system and registry reports of condition, which
 32 35 shall be in such form and shall contain such information as
 33 1 the nationwide mortgage licensing system and registry may
 33 2 require. For purposes of this subsection, "nationwide
 33 3 mortgage licensing system and registry" and "residential
 33 4 mortgage loan" mean the same as defined in section 535D.3.

33 5 Sec. 46. NEW SECTION. 536A.32 POWERS AND DUTIES OF THE
 33 6 SUPERINTENDENT == NATIONWIDE SYSTEM.

33 7 In addition to any other duties imposed upon the
 33 8 superintendent by law, the superintendent may require
 33 9 applicants and licensees to be licensed through the nationwide
 33 10 mortgage licensing system and registry as defined in section
 33 11 535D.3. In order to carry out this requirement, the
 33 12 superintendent may participate in the nationwide mortgage
 33 13 licensing system and registry. For this purpose, the
 33 14 superintendent may establish by rule or order new requirements
 33 15 as necessary, including but not limited to requirements that
 33 16 applicants, including officers and directors and those who
 33 17 have control of the applicant, submit to fingerprinting,
 33 18 criminal history checks, and pay fees therefor.

33 19 Sec. 47. EFFECTIVE DATE. This division of this Act takes
 33 20 effect July 1, 2009.

33 21

33 22

33 23

33 24

 JOHN P. KIBBIE
 President of the Senate

33 25

33 26

33 27

33 28

33 29

 PATRICK J. MURPHY
 Speaker of the House

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33 32 I hereby certify that this bill originated in the Senate and
 33 33 is known as Senate File 355, Eighty-third General Assembly.

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 MICHAEL E. MARSHALL
 Secretary of the Senate

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34 4 Approved _____, 2009

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 CHESTER J. CULVER

