

State of South Dakota

EIGHTY-FOURTH SESSION
LEGISLATIVE ASSEMBLY, 2009

400Q0228

HOUSE BILL NO. 1060

Introduced by: The Committee on Commerce at the request of the Department of Revenue
and Regulation

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the mortgage lender
2 business and to provide for fees and penalties related thereto.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 54-14-12 be amended to read as follows:

5 54-14-12. Terms used in this chapter mean:

- 6 (1) "Administrative or clerical tasks," the receipt, collection, and distribution of
7 information common for the processing or underwriting of a loan in the mortgage
8 industry and communication with a consumer to obtain information necessary for the
9 processing or underwriting of a residential mortgage loan;
- 10 (2) "Depository institution," the same meaning as provided in 12 U.S.C. § 1813(c) as of
11 January 1, 2009, and includes any credit union;
- 12 (3) "Director," the director of the Division of Banking of the Department of Revenue and
13 Regulation;
- 14 ~~(2)~~(4) "Division," the Division of Banking of the Department of Revenue and Regulation;
- 15 (5) "Federal banking agencies," the Board of Governors of the Federal Reserve System,



1 the Comptroller of the Currency, the director of the Office of Thrift Supervision, the
 2 National Credit Union Administration, and the Federal Deposit Insurance
 3 Corporation;

4 (6) "Immediate family member," a spouse, child, sibling, parent, grandparent, grandchild,
 5 stepparent, stepchildren, stepsibling, and adoptive relationship;

6 (7) "Individual," a natural person;

7 ~~(3)~~(8) "Licensee," the person holding a license provided by this chapter;

8 ~~(4)~~(9) "Mortgage lender," any person who, for valuable consideration, originates, sells, or
 9 services mortgages, or holds himself, herself, or itself out as a person who, for
 10 valuable consideration, originates, sells, or services mortgages, other than those
 11 exempt pursuant to § 54-14-21;

12 ~~(5)~~(10) "Mortgage broker," any person who, ~~for compensation or gain, acts as an~~
 13 ~~intermediary between borrower and lender to assist a person in obtaining or~~
 14 ~~applying to obtain a mortgage loan or holds himself, herself, or itself out as~~
 15 ~~being able to assist a person in obtaining or applying to obtain a mortgage loan~~
 16 acts as a mortgage loan originator and has not less than a ten percent interest
 17 in a mortgage brokerage;

18 ~~(5A)~~(11) "Mortgage brokerage," any person engaged in placing loans with investors for
 19 a fee, but does not service such loans;

20 ~~(6)~~ "Mortgage brokering activities," ~~for compensation, either directly or indirectly,~~
 21 ~~assisting or offering to assist in the preparation of an application for a mortgage loan~~
 22 ~~on behalf of a borrower, or negotiating or offering to negotiate the terms or~~
 23 ~~conditions of a mortgage loan with any person making mortgage loans;~~

24 ~~(7)~~ "Mortgage loan originator," any person acting under the supervision of a licensee and

1 who, for compensation or gain, takes or receives a mortgage application, assembles
 2 information, and prepares paperwork and documentation necessary for obtaining a
 3 mortgage loan or arranges for a conditional mortgage loan commitment between a
 4 borrower and a lender, or arranges for a loan commitment from a lender. The term,
 5 mortgage loan originator, does not include an employee of a licensee whose job
 6 responsibilities are limited to clerical tasks that do not include processing of
 7 mortgage loans;

8 (8)(12) "Mortgage lending activities," for compensation, either directly or indirectly,
 9 accepting or offering to accept applications for making mortgage loans;

10 (13) "Nationwide mortgage licensing system and registry," a mortgage licensing system
 11 developed and maintained by the Conference of State Bank Supervisors and the
 12 American Association of Residential Mortgage Regulators for the licensing and
 13 registration of licensed mortgage loan originators;

14 (9)(14) "Regional revolving loan fund," any regional revolving loan fund with a
 15 service area of at least five South Dakota counties, a designated staff for loan
 16 processing and servicing, a loan portfolio of at least one million dollars, and
 17 which is governed by a board of directors that meets at least quarterly;

18 (15) "Unique identifier," a number or other identifier assigned by protocols established by
 19 the nationwide mortgage licensing system and registry.

20 Section 2. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
 21 follows:

22 For the purposes of this chapter, the term, loan processor or underwriter, means any
 23 individual who performs clerical or support duties as an employee at the direction of and subject
 24 to the supervision and instruction of a person licensed according to this chapter, or a person

1 exempt according to this chapter. Clerical or support duties include the receipt, collection,
2 distribution, and analysis of information common for the processing or underwriting of a
3 mortgage loan; and communicating with a consumer to obtain the information necessary for the
4 processing or underwriting of a loan, to the extent that the communication does not include
5 offering or negotiating loan rates or terms, or counseling consumers about mortgage loan rates
6 or terms.

7 No individual engaging solely in loan processor or underwriter activities may represent to
8 the public, through advertising or other means of communicating or providing information
9 including the use of business cards, stationery, brochures, signs, rate lists, or other promotional
10 items, that the individual can or will perform any of the activities of a mortgage loan originator.

11 Section 3. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 For the purposes of this chapter, the term, mortgage loan originator, means an individual
14 who for compensation or gain or in the expectation of compensation or gain takes a mortgage
15 loan application or offers or negotiates terms of a mortgage loan.

16 A mortgage loan originator does not include:

- 17 (1) An individual engaged solely as a loan processor or underwriter except as otherwise
18 provided in section 2 of this Act;
- 19 (2) An individual or entity that performs only real estate brokerage activities and is
20 licensed or registered in accordance with applicable South Dakota law, unless the
21 individual or entity is compensated by a lender, a mortgage broker, or other mortgage
22 loan originator or by any agent of such lender, mortgage broker, or other mortgage
23 loan originator; or
- 24 (3) Any individual or entity solely involved in extensions of credit relating to timeshare

1 plans, as that term is defined in 11 U.S.C. § 101(53D) as of January 1, 2009.

2 Section 4. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 For the purposes of this chapter, the term, real estate brokerage activity, means any activity
5 that involves offering or providing real estate brokerage services to the public, including:

- 6 (1) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee
7 of real property;
- 8 (2) Bringing together parties interested in the sale, purchase, lease, rental, or exchange
9 of real property;
- 10 (3) Negotiating, on behalf of any party, any portion of a contract relating to the sale,
11 purchase, lease, rental, or exchange of real property (other than in connection with
12 providing financing with respect to any such transaction);
- 13 (4) Engaging in any activity for which a person engaged in the activity is required to be
14 registered or licensed as a real estate agent or real estate broker under any applicable
15 law;
- 16 (5) Offering to engage in any activity, or act in any capacity, described in this section.

17 Section 5. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
18 follows:

19 For the purposes of this chapter, the term, registered mortgage loan originator, means any
20 individual who:

- 21 (1) Meets the definition of mortgage loan originator and is an employee of:
 - 22 (a) A depository institution;
 - 23 (b) A subsidiary that is owned and controlled by a depository institution and
24 regulated by a federal banking agency; or

- 1 (c) An institution regulated by the Farm Credit Administration; and
- 2 (2) Is registered with, and maintains a unique identifier through, the nationwide
- 3 mortgage licensing system and registry.

4 Section 6. That § 54-14-13 be amended to read as follows:

5 54-14-13. No person may act as a mortgage lender, mortgage brokerage, mortgage broker,

6 or mortgage loan originator in this state or use the title, ~~mortgage broker~~, mortgage lender,

7 mortgage brokerage, mortgage broker, or mortgage loan originator with respect to any property

8 located in South Dakota without first obtaining and maintaining a license, ~~or in the case of~~

9 ~~originators a registration, and undergoing a criminal background check from the division~~

10 according to the requirements of this chapter. Each person shall be licensed or registered, and

11 maintain a unique identifier through the nationwide mortgage licensing system and registry.

12 Section 7. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as

13 follows:

14 The director may not issue a mortgage loan originator license unless the director makes the

15 following findings:

- 16 (1) The applicant has never had a mortgage loan originator license revoked in any
- 17 governmental jurisdiction. No revocation for which there has been a subsequent
- 18 formal vacation of the revocation may be considered by the director;
- 19 (2) The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony
- 20 in a domestic, foreign, or military court:
 - 21 (a) During the seven year period preceding the date of the application for
 - 22 licensing and registration; or
 - 23 (b) At any time preceding the date of application, if the felony involved an act of
 - 24 fraud, dishonesty, breach of trust, or money laundering.

1 No pardon of a conviction may be considered a conviction for purposes of this
2 subdivision;

3 (3) The applicant has demonstrated financial responsibility, character, and general fitness
4 such as to command the confidence of the community and to warrant a determination
5 that the mortgage loan originator will operate honestly, fairly, and efficiently within
6 the purposes of this chapter. For purposes of this subdivision, an applicant shows a
7 lack of financial responsibility if the applicant has shown a disregard in the
8 management of his or her own financial affairs. Factors to be considered may include
9 current outstanding judgments, except judgments solely as a result of medical
10 expenses; current outstanding tax liens or other governmental liens and filings;
11 foreclosures within the past three years; or a pattern of seriously delinquent accounts
12 within the past three years;

13 (4) The applicant has completed the pre-licensing education requirement provided for
14 by rule pursuant to § 54-14-31;

15 (5) The applicant has passed a written test that meets the test requirement provided for
16 by rule pursuant to § 54-14-31; and

17 (6) The applicant has met the surety bond requirement as required by § 54-14-24 and
18 provided for by rule pursuant to § 54-14-24.

19 The pre-licensing education and written testing requirements in subdivisions (4) and (5)
20 shall be met prior to license renewals being approved for the renewal period that ends on
21 December 31, 2009, and all new licenses issued after that date.

22 Section 8. That § 54-14-15 be amended to read as follows:

23 ~~54-14-15. Each applicant for licensure and registration under this chapter shall submit to a~~
24 ~~state and federal criminal background investigation by means of fingerprint checks by the~~

1 ~~Division of Criminal Investigation and the Federal Bureau of Investigation. Upon application,~~
2 ~~the Division of Banking shall submit completed fingerprint cards to the Division of Criminal~~
3 ~~Investigation. Upon completion of the criminal background check, the Division of Criminal~~
4 ~~Investigation shall forward to the Division of Banking all information obtained as a result of the~~
5 ~~criminal background check. In connection with an application for licensing as a mortgage~~
6 ~~lender, mortgage broker, or mortgage loan originator, the applicant shall furnish to the~~
7 ~~nationwide mortgage licensing system and registry information concerning the applicant's~~
8 ~~identity, including:~~

9 (1) Fingerprints for submission to the Federal Bureau of Investigation, and any
10 governmental agency or entity authorized to receive such information, for a state,
11 national, and international criminal history background check; and

12 (2) Personal history and experience in a form prescribed by the nationwide mortgage
13 licensing system and registry, including the submission of authorization for the
14 nationwide mortgage licensing system and registry and the director to obtain:

15 (a) An independent credit report from a consumer reporting agency described in
16 15 U.S.C. § 1681(a) as of January 1, 2009; and

17 (b) Information related to any administrative, civil, or criminal findings by any
18 governmental jurisdiction.

19 The Division of Banking may require a state and federal criminal background check for any
20 licensee who is the subject of a disciplinary investigation by the division. Failure to submit or
21 cooperate with the criminal background investigation is grounds for denial of an application or
22 may result in revocation of a license. The applicant shall pay for any fees charged for the cost
23 of fingerprinting or the criminal background investigation. ~~Any applicant who has previously~~
24 ~~completed a background check in another jurisdiction in anticipation of receiving a license or~~

1 registration in that jurisdiction may have the results of such a background check forwarded to
2 the division in satisfaction of this requirement. However, no background check in another
3 jurisdiction may be used if it was completed more than one year prior to application.

4 The director may use the nationwide mortgage licensing system and registry as a channeling
5 agent for requesting information from and distributing information to the United States
6 Department of Justice or any governmental agency. The director may use the nationwide
7 mortgage licensing system and registry as a channeling agent for requesting and distributing
8 information to and from any source so directed by the director.

9 Section 9. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
10 follows:

11 The minimum standards for license renewal for mortgage loan originators shall include the
12 following:

- 13 (1) The mortgage loan originator continues to meet the minimum standards for license
14 issuance under subdivisions (1) to (5), inclusive, of section 7 of this Act; and
- 15 (2) The mortgage loan originator has satisfied the annual continuing education
16 requirements provided by rule pursuant to § 54-14-31.

17 Section 10. That § 54-14-16 be amended to read as follows:

18 54-14-16. The applicant for an initial license shall submit a fee in the amount of not more
19 than two hundred fifty dollars for a mortgage loan originator, not more than five hundred dollars
20 for a mortgage broker license, and not more than one thousand dollars for a mortgage lender
21 license. ~~The applicant for initial registration shall submit a fee in the amount of not more than~~
22 ~~two hundred fifty dollars for mortgage loan originator registration.~~ The director shall establish
23 the fees by rules promulgated pursuant to chapter 1-26.

24 Section 11. That § 54-14-19 be amended to read as follows:

1 54-14-19. Any application for renewal of a license or registration under this chapter ~~must~~
2 shall be postmarked to the director by December first and shall be accompanied by a fee to be
3 established by the director by rules promulgated pursuant to chapter 1-26. ~~Any license granted~~
4 ~~by the division prior to the implementation of this chapter is valid until December 31, 2007.~~
5 ~~However, no mortgage loan originator is required to be licensed prior to December 31, 2007.~~
6 The fee to transact business as a mortgage loan originator may not exceed two hundred fifty
7 dollars. The fee to transact business as a mortgage broker may not exceed five hundred dollars.
8 The fee to transact business as a mortgage lender may not exceed one thousand dollars. ~~The fee~~
9 ~~to register as a mortgage loan originator may not exceed two hundred fifty dollars.~~ Any licensee
10 or registrant that files for renewal after December first and before January first of the next
11 calendar year shall pay a late fee in addition to the renewal fee. The late fee, not to exceed
12 twenty-five percent of the renewal fee, shall be established by the director by rules promulgated
13 pursuant to chapter 1-26. After January first no license may be issued unless an application is
14 filed pursuant to §§ 54-14-13 to 54-14-16, inclusive.

15 Section 12. That § 54-14-21 be amended to read as follows:

16 54-14-21. The following entities ~~and their employees and exclusive agents~~ are exempt from
17 the ~~provisions of~~ requirement of a mortgage lender or mortgage broker license as required by
18 this chapter:

- 19 (1) Any state bank and its subsidiary;
- 20 (2) Any national bank and its subsidiary;
- 21 (3) Any bank holding company and its subsidiary;
- 22 (4) Any other federally insured financial institution, and its holding company and
23 subsidary; and
- 24 (5) Any South Dakota chartered trust company;

1 ~~(6) Any real estate broker licensed pursuant to chapter 36-21A; and~~

2 ~~(7) Any insurance company or any person acting as an intermediary thereto, if~~
3 ~~participating in mortgage lending activities solely with its own assets and for its own~~
4 ~~portfolio.~~

5 Any registered mortgage loan originator, if acting for a depository institution, is exempt
6 from the provisions of this chapter.

7 Section 13. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 No loan processor or underwriter who is an independent contractor may engage in the
10 activities of a loan processor or underwriter unless the loan processor or underwriter obtains and
11 maintains a license under this chapter. Each loan processor or underwriter who is an
12 independent contractor licensed as a mortgage loan originator shall have and maintain a valid
13 unique identifier issued by the nationwide mortgage licensing system and registry.

14 Section 14. That § 54-14-24 be amended to read as follows:

15 54-14-24. ~~Any applicant for a license~~ Each mortgage lender, mortgage brokerage, mortgage
16 broker, or mortgage loan originator shall submit with the any application, and maintain at all
17 times, a surety bond in the an amount of twenty-five thousand dollars that reflects the total
18 dollar amount of loans originated by the licensee and the licensee's employees and agents, but
19 not less than twenty-five thousand dollars. The surety bond shall be in a form and amount as
20 prescribed by the director.

21 Each mortgage loan originator and mortgage broker shall be covered by a surety bond in
22 accordance with this section. If the mortgage loan originator or mortgage broker is an employee
23 or exclusive agent of a person subject to this chapter, the surety bond of such person can be used
24 in lieu of the mortgage loan originator or mortgage broker's surety bond requirement. The surety

1 bond shall provide coverage for each mortgage loan originator and mortgage broker in an
2 amount prescribed by this section.

3 The bond shall be issued by a surety company qualified to do business as a surety in this
4 state. The bond shall be in favor of this state for the use of this state and any person who has a
5 cause of action under this chapter against the licensee. The bond shall be conditioned on:

6 (1) The licensee's faithful performance under this chapter and any rules adopted pursuant
7 to this chapter; and

8 (2) The payment of any amounts that are due to the state or another person during the
9 time the bond is in force.

10 The bond may be continuous, and regardless of how long the bond remains in force, the
11 aggregate liability of a surety to all persons damaged by a licensee's violation of the provisions
12 of this chapter may not exceed the amount of the bond. The bond may be cancelled by the surety
13 upon thirty days notice to the licensee and the director, and the surety's liability on the bond
14 shall also terminate upon the effective date of any suspension or revocation of the license.

15 ~~A mortgage brokerage may obtain one bond to satisfy the bond requirement for individual~~
16 ~~applicants employed by the mortgage brokerage. If an action is commenced on a licensee's bond,~~
17 ~~the director may require the filing of a new bond. Immediately upon recovery in any action on~~
18 ~~the bond the licensee shall file a new bond.~~

19 The director may promulgate rules pursuant to chapter 1-26 with respect to the requirements
20 for such surety bonds as are necessary to accomplish the purposes of this chapter.

21 Section 15. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
22 follows:

23 The director may impose a civil penalty in an amount not to exceed one thousand dollars
24 upon any person acting as a mortgage lender, mortgage broker, or mortgage loan originator in

1 this state without the required license or registration. Each instance of operating without a
2 license, or holding oneself out as being authorized to conduct the business authorized by this
3 chapter, constitutes a separate violation of this chapter and subjects any such person to a civil
4 penalty for each violation.

5 Section 16. That § 54-14-27 be amended to read as follows:

6 54-14-27. The director may condition, deny, decline to renew, suspend; for a period not to
7 exceed six months, or revoke a license ~~or registration~~ if the director finds:

- 8 (1) Any fact or condition exists that, if it had existed at the time the licensee ~~or registrant~~
9 applied for its license ~~or registration~~, would have been grounds for denying the
10 application;
- 11 (2) The licensee ~~or registrant~~ violated any provisions of this chapter or any rule or order
12 promulgated by the director;
- 13 (3) The licensee ~~or registrant~~ refuses to permit the director to make any examination
14 authorized by this chapter or rule promulgated pursuant to this chapter, or any federal
15 statute, rule, or regulation pertaining to mortgage lending;
- 16 (4) The licensee ~~or registrant~~ willfully fails to make any report required of this chapter;
- 17 (5) The competence, experience, character, or general fitness of the licensee ~~or registrant~~
18 indicates that it is not in the public interest to permit the licensee ~~or registrant~~ to
19 continue to conduct business;
- 20 (6) The bond of the licensee has been revoked or cancelled by the surety;
- 21 (7) The licensee or any partner, officer, director, manager, or employee of the licensee
22 has been convicted of a felony or a misdemeanor involving any aspect of the
23 financial services business;
- 24 (8) The licensee or any partner, officer, director, manager, or employee of the licensee

1 has had a license substantially equivalent to a license under this chapter, and issued
2 by another state, denied, revoked or suspended under the laws of that state;

3 (9) The licensee ~~or registrant~~ has filed an application for a license ~~or registration~~ which
4 as of the date the license ~~or registration~~ was issued, or as of the date of an order
5 denying, suspending, or revoking a license ~~or registration~~, was incomplete in any
6 material respect or contained any statement that was, in light of the circumstances
7 under which it was made, false or misleading with respect to any material fact.

8 The director may revoke a license ~~or registration~~ for good cause pursuant to chapter 1-26.
9 If the licensee is the holder of more than one license, the director may revoke any or all of the
10 licenses.

11 Section 17. That § 54-14-31 be amended to read as follows:

12 54-14-31. The director may promulgate rules pursuant to chapter 1-26 for the pre-licensing
13 education, written testing, continuing education, personal history, and experience checks of
14 mortgage brokers, mortgage lenders, and mortgage loan originators, and for the management
15 and administration of licenses and registrations issued pursuant to this chapter.

16 The director may promulgate rules pursuant to chapter 1-26 to establish fees required for the
17 licensure and renewal of licenses through the nationwide mortgage licensing system and registry
18 in addition to those fees established in §§ 54-14-16 and 54-14-19. Such fees may not exceed
19 five hundred dollars.

20 Section 18. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
21 follows:

22 The director may establish relationships or contracts with the nationwide mortgage licensing
23 system and registry or other entities designated by the nationwide mortgage licensing system
24 and registry to collect and maintain records and process transaction fees or other fees related to

1 licensees or other persons subject to this chapter.

2 Section 19. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 The director shall establish a process through rules promulgated pursuant to chapter 1-26
5 to allow mortgage loan originators and mortgage brokers to challenge information entered into
6 the nationwide mortgage licensing system and registry by the director.

7 Section 20. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 The following provisions apply to the sharing of information collected and retained by the
10 director during the administration of this chapter:

11 (1) Except as otherwise provided in 12 U.S.C. § 5111 as of January 1, 2009, the
12 requirements under any federal law or § 51A-2-35 regarding privacy or
13 confidentiality of any information or material provided to the nationwide mortgage
14 licensing system and registry, and any privilege arising under federal or state law
15 (including the rules of any federal or state court) with respect to the information or
16 material, continue to apply to the information or material after the information or
17 material has been disclosed to the nationwide mortgage licensing system and registry.
18 The information and material may be shared with all state and federal regulatory
19 officials with mortgage industry oversight authority without the loss of privilege or
20 the loss of confidentiality protections by federal law or § 51A-2-35;

21 (2) No information or material that is subject to a privilege or confidentiality under this
22 section is subject to:

23 (a) Disclosure under any federal or state law governing the disclosure to the
24 public of information held by an officer or an agency of the federal

1 government or the respective state; or

2 (b) Subpoena or discovery, or admission into evidence, in any private civil action
3 or administrative process, unless with respect to any privilege held by the
4 nationwide mortgage licensing system and registry with respect to the
5 information or material, the person to whom the information or material
6 pertains waives, in whole or in part, in the discretion of the person, that
7 privilege.

8 This section does not apply with respect to the information or material relating to the
9 employment history of, and publicly adjudicated disciplinary and enforcement actions against,
10 mortgage loan originators that is included in the nationwide mortgage licensing system and
11 registry for access by the public.

12 Section 21. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
13 follows:

14 Each mortgage lender, mortgage broker, and mortgage loan originator shall submit to the
15 nationwide mortgage licensing system and registry reports of condition, which shall be in such
16 form and shall contain such information as the director establishes through rules promulgated
17 pursuant to chapter 1-26.

18 Section 22. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 The director shall report on a regular basis violations of this chapter, as well as enforcement
21 actions and other relevant information, to the nationwide mortgage licensing system and registry
22 subject to the provisions contained in section 20 of this Act.

23 Section 23. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
24 follows:

1 The unique identifier of any person originating a mortgage loan shall be clearly shown on
2 all mortgage loan application forms, solicitations, or advertisements, including business cards
3 or websites, and any other documents as established by rules promulgated by the director
4 pursuant to chapter 1-26.

5 Section 24. That chapter 54-14 be amended by adding thereto a NEW SECTION to read as
6 follows:

7 The following are exempt from the requirement of obtaining a mortgage loan originator
8 license:

- 9 (1) Any individual who offers or negotiates terms of a mortgage loan with or on behalf
10 of an immediate family member of the individual;
- 11 (2) Any individual who offers or negotiates terms of a residential mortgage loan secured
12 by a dwelling that served as the individual's residence; or
- 13 (3) A licensed attorney who negotiates the terms of a mortgage loan on behalf of a client
14 as an ancillary matter to the attorney's representation of the client, unless the attorney
15 is compensated by a lender, mortgage broker, or other mortgage loan originator or by
16 any agent of the lender, mortgage broker, or other mortgage loan originator.

17 Section 25. That § 54-14-20 be amended to read as follows:

18 54-14-20. The State of South Dakota, any political subdivision of the state, and any quasi-
19 governmental organization created by an executive order of the State of South Dakota and any
20 subsidiary of such organization; any nonprofit corporation formed pursuant to chapter 47-22;
21 any nonprofit United States Treasury Community Development Financial Institution, Small
22 Business Administration Certified Development Company, or Regional Revolving Loan Fund;
23 or any commercial club, chamber of commerce, or industrial development corporation formed
24 pursuant to § 9-12-11 or 9-27-37 is subject to this chapter but exempt from initial license fees,

- 1 renewal fees, ~~criminal background checks, and~~ the years of service requirement in § 54-14-22;
- 2 ~~any continuing education requirements, and surety bond requirements under this chapter.~~