

By: Senator(s) Parks

To: Business and Financial
Institutions

SENATE BILL NO. 2508

1 AN ACT TO AUTHORIZE MORTGAGE LOAN ORIGINATORS TO PERFORM
2 ORIGATION ACTIVITIES AT A REMOTE LOCATION UNDER THE SUPERVISION
3 AND IN COMPLIANCE WITH THE LICENSEE'S POLICIES AND PROCEDURES
4 SUBJECT TO CERTAIN CONDITIONS; TO AMEND SECTION 81-18-3,
5 MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS "EMPLOYEE,"
6 "EXCLUSIVE AGENT," "INDEPENDENT CONTRACTOR" AND "REMOTE LOCATION";
7 TO AMEND SECTION 81-18-9, MISSISSIPPI CODE OF 1972, TO INCREASE
8 THE FEE FOR A MORTGAGE LOAN ORIGINATOR LICENSE; TO AMEND SECTION
9 81-18-11, MISSISSIPPI CODE OF 1972, TO INCREASE THE MAXIMUM SUM OF
10 SURETY BOND FOR MORTGAGE BROKERS, MORTGAGE LENDERS AND INITIAL
11 APPLICANTS; TO AMEND SECTION 81-18-25, MISSISSIPPI CODE OF 1972,
12 TO PROVIDE THAT NOTHING IN THIS CHAPTER SHALL BE INTERPRETED TO
13 PROHIBIT MORTGAGE LOAN ORIGINATORS OF A LICENSEE PERFORMING
14 ORIGATION ACTIVITIES AT A REMOTE LOCATION, HIS OR HER RESIDENCE,
15 OR ANOTHER REMOTE LOCATION, PROVIDED THAT THE LICENSEE COMPLIES
16 WITH THE PROVISIONS OF THIS ACT; TO AMEND SECTION 81-18-15,
17 MISSISSIPPI CODE OF 1972, TO INCREASE THE LICENSE FEE FOR INITIAL
18 APPLICATIONS FOR A LICENSE TO OPERATE AS A MORTGAGE BROKER OR
19 LENDER; TO INCREASE THE ANNUAL RENEWAL FEE; TO AMEND SECTION
20 81-18-17, MISSISSIPPI CODE OF 1972, TO INCREASE THE APPLICATION
21 FEE FOR A LICENSEE'S BRANCH OFFICE; TO INCREASE THE ANNUAL RENEWAL
22 FEE FOR A LICENSEE'S BRANCH OFFICE; TO AMEND SECTION 81-18-21,
23 MISSISSIPPI CODE OF 1972, TO INCREASE THE EXAMINATION FEE FOR
24 LICENSEES IN THE STATE OF MISSISSIPPI; TO BRING FORWARD SECTIONS
25 81-18-5, 81-18-7, 81-18-8, 81-18-13, 81-18-14, 81-18-19, 81-18-23,
26 81-18-27, 81-18-28, 81-18-29, 81-18-31, 81-18-33, 81-18-35,
27 81-18-36, 81-18-37, 81-18-39, 81-18-40, 81-18-41, 81-18-43,
28 81-18-45, 81-18-47, 81-18-49, 81-18-53, 81-18-55, 81-18-61 AND
29 81-18-63, MISSISSIPPI CODE OF 1972, WHICH RELATE TO THE
30 MISSISSIPPI S.A.F.E. MORTGAGE ACT, FOR PURPOSES OF POSSIBLE
31 AMENDMENT; AND FOR RELATED PURPOSES.

32 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:



SECTION 1.

(1) A licensee may permit mortgage loan originators to perform origination activities at a remote location under the supervision and in compliance with the licensee's written policies and procedures subject to the conditions provided in this subsection.

The licensee shall establish appropriate standards relating to administrative, technical, and physical safeguards to ensure the security and confidentiality of customer information; protect against anticipated threats or hazards to the security or integrity of such records; and protect against unauthorized access to or use of such records or information which could result in substantial harm or inconvenience to any customer. Appropriate safeguards shall include, but are not limited to, the following:

(a) Customer interactions and conversations about consumers will be in compliance with federal and state information security requirements, including applicable provisions under the Gramm-Leach-Bliley Act and the Safeguards Rule established under the Federal Trade Commission, set forth at 16 CFR Part 314;

(b) Mortgage loan originators performing origination activities from a remote location must access the licensee's secure systems (including cloud-based systems) directly from any out-of-office device such individual uses (laptop, phone, desktop computer, tablet, etc.) via a virtual private network (VPN) or comparable system that ensures secure connectivity and requires passwords or other forms of authentication to access;



58 (c) The licensee shall ensure that appropriate security
59 updates, patches, or other alterations to the security of all
60 devices used at remote locations are installed and maintained;

61 (d) The licensee must have an ability to remotely lock
62 or erase company-related contents of any device or otherwise
63 remotely limit all access to a company's secure systems;

64 (e) The licensee shall employ appropriate risk-based
65 monitoring and oversight processes and any mortgage loan
66 originator that performs origination activities from a remote
67 location agrees to comply with the licensee's established
68 processes;

69 (f) The licensee shall at least once annually certify
70 that all mortgage loan originators engaging in remote activity
71 meet the appropriate standards and safeguards to continue such
72 activity; and

73 (g) The NMLS record of a mortgage loan originator that
74 performs origination activities from a remote location shall
75 designate the licensee's licensed main office as their registered
76 location unless such mortgage loan originator elects to choose a
77 licensed branch as a registered location.

78 (2) A licensee shall notify the commissioner as promptly as
79 possible but in no event later than three (3) business days from a
80 determination that an unauthorized access to or disruption or
81 misuse of consumer information has occurred.



(3) (a) A licensee must regularly audit or otherwise monitor the effectiveness of its information security requirements.

(b) The audit must include continuous monitoring or periodic penetration testing and vulnerability assessments. Penetration testing means a test methodology in which assessors attempt to circumvent or defeat the security features of licensee's information systems by attempting penetration of databases or controls from outside or inside the licensee's system.

(c) Absent effective continuous monitoring or other systems to detect, on an ongoing basis, changes in information systems that may create vulnerabilities, the nonbank licensee shall conduct annual penetration testing of the licensee's information systems determined each given year based on relevant identified risks in assessment, and biannual vulnerability assessments, including any systemic scans or reviews of information systems reasonably designed to identify publicly known security vulnerabilities in the licensee's information systems based on a risk assessment.

SECTION 2. Section 81-18-3, Mississippi Code of 1972, is amended as follows:

81-18-3. For purposes of this chapter, the following terms shall have the following meanings:



106 (a) "Application" means the submission of a borrower's
107 financial information in anticipation of a credit decision,
108 whether written or computer-generated. If the submission does not
109 state or identify a specific property, the submission is an
110 application for a prequalification and not an application for a
111 federally related mortgage loan. The subsequent addition of an
112 identified property to the submission converts the submission to
113 an application for a federally related mortgage loan.

114 (b) "Borrower" means a person who submits an
115 application for a residential mortgage loan.

116 (c) "Branch" means a location of a company in or
117 outside of the state that conducts business as a mortgage broker
118 or mortgage lender, but does not include a remote location. A
119 location shall be considered a branch regarding mortgage broker or
120 mortgage lender activities in any of the following:

121 (i) If the location is used on any type of
122 advertisement;

123 (ii) If any type of record, loan file or
124 application of the company is located at the location, with the
125 exception of unstaffed storage facilities; or

126 (iii) If the activities of a mortgage loan
127 originator occur at the location.

128 (d) "Commissioner" means the Commissioner of the
129 Mississippi Department of Banking and Consumer Finance.



(e) "Commitment" means a statement by a lender required to be licensed under this chapter that sets forth the terms and conditions upon which the lender is willing to make a particular mortgage loan to a particular borrower.

(f) "Company" means a licensed mortgage broker or mortgage lender under this chapter.

(g) "Control" means the direct or indirect possession of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract or otherwise, and shall include "controlling," "controlled by," and "under common control with."

(h) "Department" means the Department of Banking and Consumer Finance of the State of Mississippi.

(i) "Depository institution" has the same meaning as in Section 3 of the Federal Deposit Insurance Act, and includes any credit union.

(j) "Executive officer" means the chief executive officer, the president, the principal financial officer, the principal operating officer, each vice president with responsibility involving policy-making functions for a significant aspect of a person's business, the secretary, the treasurer, or any other person performing similar managerial or supervisory functions with respect to any organization whether incorporated or unincorporated.



(k) "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

(l) "Housing finance agency" means any authority that is chartered by a state to help meet the affordable housing needs of the residents of the state, is supervised directly or indirectly by the state government, is subject to audit and review by the state in which it operates, and whose activities make it eligible to be a member of the National Council of State Housing Agencies.

(m) "Immediate family member" means a spouse, child, sibling, parent, grandparent or grandchild. This term includes stepparents, stepchildren, stepsiblings and adoptive relationships.

(n) "Individual" means a "natural person."

(o) "License" means a license to act as a mortgage broker or mortgage lender issued by the department under this chapter.

(p) "Licensee" means a person who is required to be licensed as a mortgage broker or mortgage lender under this chapter.

(q) "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the



direction of and subject to the supervision and instruction of a person licensed or exempt from licensing under this chapter.

For the purposes of this paragraph (q), the term "clerical or support duties" may include, after the receipt of an application:

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

(ii) Communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

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

(r) "Lock-in agreement" means a written agreement stating the terms of the lock-in fee.

(s) "Lock-in fee" means a fee collected by a licensee to be paid to a lender to guarantee an interest rate or a certain number of points on a mortgage loan from the lender.



(t) "Make a mortgage loan" means to advance funds, offer to advance funds or make a commitment to advance funds to a borrower.

(u) "Misrepresent" means to make a false statement of a substantive fact or to engage in, with intent to deceive or mislead, any conduct that leads to a false belief that is material to the transaction.

(v) "Mortgage broker" means any person who directly or indirectly or by electronic activity solicits, places or negotiates residential mortgage loans for others, or offers to solicit, place or negotiate residential mortgage loans for others that does not close residential mortgage loans in the company name, does not use its own funds, or who closes residential mortgage loans in the name of the company, and sells, assigns or transfers the loan to others within forty-eight (48) hours of the closing.

(w) "Mortgage lender" means any person who directly or indirectly or by electronic activity originates, makes, funds or purchases or offers to originate, make, or fund or purchase a residential mortgage loan or who services residential mortgage loans.

(x) "Mortgage-lending process" means the process through which a person seeks or obtains a mortgage loan, including, but not limited to, solicitation, application, origination, negotiation of terms, third-party provider services,



underwriting, signing and closing, and funding of the loan. Documents involved in the mortgage-lending process include, but are not limited to, uniform residential loan applications or other loan applications, appraisal reports, HUD-1 Settlement Statements, supporting personal documentation for loan applications such as W-2 forms, verifications of income and employment, bank statements, tax returns, payroll stubs and any required disclosures.

(y) "Mortgage loan originator" means an individual who:

(i) Takes a residential mortgage loan application;

and

(ii) Offers or negotiates terms of a residential

mortgage loan for compensation or gain. The term "mortgage loan originator" does not include:

1. An individual engaged solely as a loan processor or underwriter except as otherwise provided in this chapter;

2. A person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with Mississippi law, unless the person or entity is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator; and



251 3. A person or entity solely involved in
252 extensions of credit relating to time-share plans, as that term is
253 defined in Title 11 USCS, Section 101(53D).

254 (z) "Nationwide Mortgage Licensing System and Registry"
255 or "Nationwide Multistate Licensing System and Registry" means
256 a * * * multistate licensing system developed and maintained by
257 the Conference of State Bank Supervisors and the American
258 Association of Residential Mortgage Regulators for the licensing
259 and registration of licensed mortgage loan originators, brokers
260 and lenders.

261 (aa) "Natural person" means a human being, as
262 distinguished from an artificial person created by law.

263 (bb) "Nontraditional mortgage product" means any
264 mortgage product other than a thirty-year fixed rate mortgage.

265 (cc) "Offering or negotiating a residential mortgage
266 loan" means:

267 (i) Presenting particular mortgage loan terms for
268 consideration by a borrower; or

269 (ii) Communicating directly or indirectly with a
270 borrower for purposes of reaching a mutual understanding about
271 prospective loan terms.

272 "Offering or negotiating" does not include the following:
273 the mere sharing of general information about a financing source;
274 discussing hypothetical financing options, i.e., options not
275 related to specific financing source; giving the homebuyer a list



of available financing sources; discussing a buyer's ability to afford a home; presenting or discussing generic facts or generic rate sheets; closing personal property transactions.

(dd) "Person" means a natural person, sole proprietorship, corporation, company, limited liability company, partnership or association.

(ee) "Principal" means a person who, directly or indirectly, owns or controls an ownership interest of ten percent (10%) or more in a corporation or any other form of business organization, regardless of whether the person owns or controls the ownership interest through one or more persons or one or more proxies, powers of attorney, nominees, corporations, associations, limited liability companies, partnerships, trusts, joint-stock companies, other entities or devises, or any combination thereof.

(ff) "Qualifying individual" means an owner or employee of a mortgage broker or mortgage lender who submits documentation of two (2) years' experience directly related to mortgage activities and who shall be primarily responsible for the operations of the licensed mortgage broker or mortgage lender. This individual will also be designated as the qualifying individual in the Nationwide * * * Multistate Licensing System and Registry.

(gg) "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:



(i) Acting as a real estate agent or real estate broker for a buyer, seller, lessor or lessee of real property;

(ii) Bringing together parties interested in the sale, purchase, lease, rental or exchange of real property;

(iii) Negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property (other than in connection with providing financing with respect to any such transaction);

(iv) Engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker under any applicable law; and

(v) Offering to engage in any activity, or act in any capacity, described in subparagraph (i), (ii), (iii) or (iv) of this paragraph (gg).

(hh) "Records" or "documents" means any item in hard copy or produced in a format of storage commonly described as electronic, imaged, magnetic, microphotographic or otherwise, and any reproduction so made shall have the same force and effect as the original thereof and be admitted in evidence equally with the original.

(ii) "Registered mortgage loan originator" means any individual who:

(i) Meets the definition of mortgage loan originator and is an employee of a depository institution, a



326 subsidiary that is owned and controlled by a depository
327 institution and regulated by a federal banking agency or an
328 institution regulated by the Farm Credit Administration; and

329 (ii) Is registered with, and maintains a unique
330 identifier through, the Nationwide * * * Multistate Licensing
331 System and Registry.

332 (jj) "Residential mortgage loan" means any loan
333 primarily for personal, family or household use that is secured by
334 a mortgage, deed of trust or other equivalent consensual security
335 interest on a dwelling (as defined in Section 103(v) of the Truth
336 in Lending Act) or residential real estate upon which is
337 constructed or intended to be constructed a dwelling (as so
338 defined).

339 (kk) "Residential real estate" means any real property
340 located in Mississippi upon which is constructed or intended to be
341 constructed a dwelling.

342 (ll) "Service a mortgage loan" means the collection or
343 remittance for another, the right to collect or remit for another,
344 or the collection of the company's own loan portfolio, whether or
345 not the company originated, funded or purchased the loan in the
346 secondary market, of payments of principal and interest, trust
347 items such as insurance and taxes, and any other payments pursuant
348 to a mortgage loan.

349 (mm) "Taking an application for a residential mortgage
350 loan" means a receipt of an application for the purpose of



351 deciding whether or not to extend the requested offer of a loan to
352 the borrower whether the application is received directly or
353 indirectly from the borrower. However, an individual whose only
354 role with respect to the application is physically handling a
355 completed application form or transmitting a completed form to a
356 lender on behalf of a prospective borrower does not take an
357 application.

358 (nn) "Unique identifier" means a number or other
359 identifier assigned by protocols established by the
360 Nationwide * * * Multistate Licensing System and Registry.

361 (oo) "Employee" means an individual who has an
362 employment relationship with a person subject to this chapter and
363 is treated as an employee for purposes of compliance with the
364 federal income tax laws.

365 (pp) "Exclusive agent" means a mortgage loan originator
366 who works for a person subject to this chapter and engages only in
367 the performance of mortgage loan originator duties and such
368 mortgage loan originator is prohibited from working for any other
369 person as a mortgage loan originator.

370 (qq) "Independent contractor" means an individual who
371 has a contractual relationship with a person subject to this
372 chapter and is treated as an independent contractor for purposes
373 of compliance with federal income tax laws. However, such
374 individual shall be an exclusive agent of the person subject to
375 this chapter.



(rr) "Remote location" means a location at which a mortgage loan originator of a licensee conducts business other than the principal place of business or a branch. Mortgage loan originator activities from a remote location shall be permitted when under the supervision of the licensee and when all of the following apply:

(i) The licensee has written policies and procedures for supervision of mortgage loan originators performing origination activities from his or her residence or a location other than a licensed location;

(ii) Access to company platforms and customer information shall be in accordance with the licensee's comprehensive written information security plan;

(iii) No in-person customer interaction will occur at a mortgage loan originator's residence; and

(iv) Physical records shall not be maintained at a remote location.

SECTION 3. Section 81-18-9, Mississippi Code of 1972, is amended as follows:

81-18-9. (1) Applicants for a license shall apply in a form as prescribed by the commissioner. Each such form shall contain content as set forth by rule, regulation, instruction or procedure of the commissioner and may be changed or updated as necessary by the commissioner in order to carry out the purposes of this chapter.



(2) The mortgage broker and mortgage lender application through the Nationwide * * * Multistate Licensing System and Registry shall include, but is not limited to, the following:

(a) The legal name, residence and business address of the applicant and, if applicable, the legal name, residence and business address of every principal and executive officer, together with the résumé of the applicant and of every principal and executive officer of the applicant. In addition, an independent credit report obtained from a consumer-reporting agency described in Section 603(p) of the Fair Credit Reporting Act and information related to any administrative, civil or criminal findings by any governmental jurisdiction of every principal and executive officer.

(b) The legal name of the mortgage broker or mortgage lender in addition to the name under which the applicant will conduct business in the state, neither of which may be already assigned to a licensed mortgage broker or mortgage lender.

(c) The complete address of the applicant's principal place of business, branch office(s) and any other locations at which the applicant will engage in any business activity covered by this chapter. All locations shall be within the United States of America or a territory of the United States of America, including Puerto Rico and the U.S. Virgin Islands.

(d) A copy of the certificate of incorporation, if a Mississippi corporation.



426 (e) Documentation satisfactory to the department as to
427 a certificate of existence of authority to transact business
428 lawfully in Mississippi from the Mississippi Secretary of State's
429 office, if a limited liability company, partnership, trust or any
430 other group of persons, however organized. This paragraph does
431 not pertain to applicants organized as an individual or as a sole
432 proprietorship.

433 (f) If a foreign entity, a copy of a certificate of
434 authority to conduct business in Mississippi and the address of
435 the principal place of business of the foreign entity.

436 (g) Documentation of a minimum of two (2) years'
437 experience directly related to mortgage activities by a person
438 named as the qualifying individual of the company. The qualifying
439 individual shall be primarily responsible for the operations of
440 the licensed mortgage broker or mortgage lender. Only one (1)
441 qualifying individual shall be named for Mississippi and this
442 person shall be the qualifying individual for only one (1)
443 licensee. Evidence of experience shall include, where applicable:

444 (i) Copies of business licenses issued by
445 governmental agencies.

446 (ii) Employment history of the person filing the
447 application for at least two (2) years before the date of the
448 filing of an application, including, but not limited to, job
449 descriptions, length of employment, names, addresses and phone
450 numbers for past employers.



(iii) Any other data and pertinent information as the department may require with respect to the applicant, its directors, principals, trustees, officers, members, contractors or agents. A resume alone shall not be sufficient proof of employment history.

(3) The mortgage broker and mortgage lender applications shall be filed on the Nationwide * * * Multistate Licensing System and Registry together with the following:

(a) The license fee specified in Section 81-18-15;

(b) An original or certified copy of a surety bond in favor of the State of Mississippi for the use, benefit and indemnity of any person who suffers any damage or loss as a result of the company's breach of contract or of any obligation arising therefrom or any violation of law;

(c) A set of fingerprints from any local law enforcement agency from the following applicants:

(i) All persons operating as a sole proprietorship that plan to conduct a mortgage-brokering or lending business in the State of Mississippi;

(ii) Partners in a partnership or principal owners of a limited liability company that own at least ten percent (10%) of the voting shares of the company;

(iii) Any shareholders owning ten percent (10%) or more of the outstanding shares of the corporation;

(iv) All executive officers of the applicant;



476 (v) All loan originators; and
477 (vi) The named qualifying individual of the
478 company as required in Section 81-18-9(2)(g). The applicant shall
479 name only one (1) individual as the qualifying individual for the
480 State of Mississippi; and
481 (d) At least one (1) * * * individual shall be licensed
482 as a loan originator at a licensed location.
483 (4) In connection with an application for licensing as a
484 mortgage broker or lender under this chapter, the required
485 stockholders, owners, directors and executive officers of the
486 applicant shall, at a minimum, furnish to the Nationwide * * *
487 Multistate Licensing System and Registry information concerning
488 the individual's identity, including:
489 (a) Fingerprints from any local law enforcement agency
490 for submission to the Federal Bureau of Investigation and any
491 governmental entity authorized to receive that information for a
492 state, national and/or international criminal history background
493 check; and
494 (b) Personal history and experience in a form
495 prescribed by the Nationwide * * * Multistate Licensing System and
496 Registry, including the submission of authorization for the
497 Nationwide * * * Multistate Licensing System and Registry and the
498 commissioner to obtain:



499 (i) An independent credit report obtained from a
500 consumer-reporting agency described in Section 603(p) of the Fair
501 Credit Reporting Act; and

502 (ii) Information related to any administrative,
503 civil or criminal findings by any governmental jurisdiction.

504 (5) Upon receipt of an application for licensure, the
505 department or designated third party shall conduct an
506 investigation as it deems necessary to determine that the
507 applicant and its officers, directors and principals are of good
508 character and ethical reputation; that the applicant demonstrates
509 reasonable financial responsibility; and that the applicant has
510 reasonable policies and procedures to receive and process customer
511 grievances and inquiries promptly and fairly.

512 (6) The commissioner shall not license an applicant unless
513 he is satisfied that the applicant will operate its mortgage
514 activities in compliance with the laws, rules and regulations of
515 this state and the United States.

516 (7) If an applicant satisfies the requirements of this
517 chapter for a mortgage broker or mortgage lender license, the
518 commissioner shall issue the license unless the commissioner finds
519 any of the following:

520 (a) The applicant has had a mortgage lender, mortgage
521 broker or mortgage servicer license revoked in any governmental
522 jurisdiction, except that a subsequent formal vacation of the
523 revocation shall not be deemed a revocation; or



524 (b) The applicant or its controlling persons has been
525 convicted of, or pled guilty or nolo contendere to, (i) a felony
526 in a domestic, foreign or military court during the seven-year
527 period preceding the date of application for licensing; or (ii) at
528 any time preceding the date of application if such felony involved
529 an act of fraud, dishonesty, a breach of trust, or money
530 laundering. However, any pardon or expungement of a conviction
531 shall not be a conviction for purposes of this subsection.

532 (8) Applicants for a mortgage loan originator license shall
533 apply in a form as prescribed by the commissioner and shall be
534 filed on the Nationwide * * * Multistate Licensing System and
535 Registry. Each such form shall contain content as set forth by
536 rules, regulations, instructions or procedures of the commissioner
537 and may be changed or updated as necessary by the commissioner in
538 order to carry out the purposes of this chapter. The initial
539 license of a mortgage loan originator shall be accompanied by a
540 fee of * * * Three Hundred Dollars (\$300.00), to be paid to the
541 Nationwide * * * Multistate Licensing System and Registry, and any
542 additional fees as required by the Nationwide * * * Multistate
543 Licensing System and Registry. The commissioner shall not issue a
544 mortgage loan originator license unless the commissioner makes at
545 a minimum the following findings:

546 (a) The applicant has never had a mortgage loan
547 originator license revoked in any governmental jurisdiction,



except that a later formal vacation of that revocation shall not be deemed a revocation.

(b) The applicant has not been convicted of, or pled guilty or nolo contendere to, (i) a felony in a domestic, foreign or military court during the seven-year period preceding the date of application for licensing; or (ii) at any time preceding the date of application if such felony involved an act of fraud, dishonesty, a breach of trust or money laundering. However, any pardon or expungement of a conviction shall not be a conviction for purposes of this subsection.

(c) The applicant has demonstrated financial responsibility, character and general fitness such as to command the confidence of the community and to warrant a determination that the mortgage loan originator will operate honestly, fairly and efficiently within the purposes of this chapter.

(d) The applicant has completed the prelicensing education requirement described in Section 81-18-14(1).

(e) The applicant has passed a written test that meets the test requirement described in Section 81-18-14(7).

(f) The applicant has met the surety bond requirement as provided in Section 81-18-11.

(g) This individual must work or be exclusively engaged to perform mortgage loan origination activities for a Mississippi licensed company and work or perform mortgage loan origination activities from the location licensed with the department or a



573 remote location. * * * If the licensed loan originator resides
574 and works or performs mortgage loan origination activities in
575 Mississippi, then he or she may work or perform mortgage loan
576 origination activities from any licensed location of the licensed
577 company within the State of Mississippi or a remote location.
578 However, an owner of a minimum of ten percent (10%) of a licensed
579 company or the named qualifying individual on file with the
580 department, who is a licensed loan originator with the department,
581 may work from any licensed location of the licensed company within
582 the State of Mississippi in the capacity of a loan originator as
583 described in this chapter.

584 (9) In order to fulfill the purposes of this chapter, the
585 commissioner is authorized to establish relationships or contracts
586 with the Nationwide * * * Multistate Licensing System and Registry
587 or other entities designated by the Nationwide * * * Multistate
588 Licensing System and Registry to collect and maintain records and
589 process transaction fees or other fees related to licensees or
590 other persons subject to this chapter.

591 (10) In connection with an application for licensing as a
592 mortgage loan originator, the applicant shall, at a minimum,
593 furnish to the Nationwide * * * Multistate Licensing System and
594 Registry information concerning the applicant's identity,
595 including:

596 (a) Fingerprints for submission to the Federal Bureau
597 of Investigation, and any governmental agency or entity authorized



to receive that information for a state, national and/or international criminal history background check; and

(b) Personal history and experience in a form prescribed by the Nationwide * * * Multistate Licensing System and Registry, including the submission of authorization for the Nationwide * * * Multistate Licensing System and Registry and the commissioner to obtain:

(i) An independent credit report obtained from a consumer-reporting agency described in Section 603(p) of the Fair Credit Reporting Act; and

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

(11) For the purposes of this section and in order to reduce the points of contact which the Federal Bureau of Investigation may have to maintain for purposes of subsection (10)(a) and (b)(ii) of this section, the commissioner may use the Nationwide * * * Multistate Licensing System and Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency.

(12) For the purposes of this section and in order to reduce the points of contact which the commissioner may have to maintain for purposes of subsection (10)(b)(i) and (ii) of this section, the commissioner may use the Nationwide * * * Multistate Licensing System and Registry as a channeling agent for requesting and



distributing information to and from any source so directed by the commissioner.

SECTION 4. Section 81-18-11, Mississippi Code of 1972, is amended as follows:

81-18-11. (1) Each mortgage loan originator shall be covered by a surety bond in accordance with this section. If the mortgage loan originator is an employee or * * * independent contractor of a person subject to this chapter, the surety bond of the person who is subject to this chapter may be used in lieu of the mortgage loan originator's surety bond requirement.

(2) The surety bond shall be in a form as prescribed by the commissioner, and shall provide coverage for each mortgage loan originator in an amount as prescribed in subsection (3) of this section.

(3) The penal sum of the surety bond shall be maintained in an amount as determined by the commissioner by rule or regulation and shall be based upon loan activity during the previous year, but shall not exceed * * * Fifty Thousand Dollars (\$50,000.00) for a mortgage broker or * * * Two Hundred Fifty Thousand Dollars (\$250,000.00) for a mortgage lender. For an initial applicant, the bond amount shall be set at * * * Fifty Thousand Dollars (\$50,000.00) for a mortgage broker and * * * Two Hundred Fifty Thousand Dollars (\$250,000.00) for a mortgage lender.

(4) When an action is commenced on a licensee's bond, the commissioner may require the filing of a new bond. Immediately



upon recovery upon any action on the bond, the licensee shall file a new bond.

(5) All surety bonds shall be in favor, first, of the State of Mississippi for the use, benefit and indemnity of any person who suffers any damage or loss as a result of the company's breach of contract or of any obligation arising from the contract or any violation of law, and, second, for the payment of any civil penalties, criminal fines, or costs of investigation and/or prosecution incurred by the State of Mississippi, including local law enforcement agencies.

(6) The commissioner may promulgate rules or regulations with respect to the requirements for the surety bonds as are necessary to accomplish the purposes of this chapter.

SECTION 5. Section 81-18-25, Mississippi Code of 1972, is amended as follows:

81-18-25. (1) Each principal place of business and branch office in the state shall meet all of the following requirements:

(a) Be in compliance with local zoning ordinances and have posted any licenses required by local government agencies. It is the responsibility of the licensee to meet local zoning ordinances and obtain the required occupational licenses; however, zoning cannot be residential. If there is no zoning in the area, then the person shall submit to the department a letter from the city or county stating that there is no zoning.



672 (b) Consist of at least one (1) secure enclosed room or
673 secure building of stationary construction in which negotiations
674 of mortgage loan transactions may be conducted in privacy.
675 Stationary construction does not include the use of portable
676 buildings. If there is no zoning in the requested location and
677 the property is used for residential purposes, then the person
678 shall utilize an enclosed room with a dedicated outside door.

679 (c) Display a permanent sign outside the place of
680 business readily visible to the general public, unless the display
681 of sign violates local zoning ordinances or restrictive covenants.
682 The sign must contain the name of the licensee and shall also
683 contain the Nationwide * * * Multistate Licensing System and
684 Registry Unique Identifier issued to that particular licensed
685 location.

686 (2) If one (1) of the following is correct, then that
687 location shall be licensed as a mortgage broker or mortgage lender
688 under this chapter and not as a branch:

689 (a) It is a separate entity operating as an independent
690 business or mortgage operation which is not under the direct
691 control, management supervision and responsibility of the
692 licensee;

693 (b) The licensee is not the lessee or owner of the
694 branch and the branch is not under the direct and daily ownership,
695 control, management and supervision of the licensee;



696 (c) All assets and liabilities of the branch are not
697 assets and liabilities of the licensee, and all income and
698 expenses of the branch are income and expenses of the licensee and
699 properly accounted for in the financial records and tax returns of
700 the licensee; or

701 (d) All practices, policies and procedures, including,
702 but not limited to, those relating to employment and operations,
703 are not originated and established by the licensee or registered
704 company and are not applied consistently to the principal place of
705 business and all branches.

706 Nothing in this subsection (2) shall affect or change, or be
707 construed as affecting or changing, the existing statutory law and
708 common law on agency, principal and agent, independent
709 contractors, and parent and subsidiary companies.

710 (3) Notwithstanding any other provision of law to the
711 contrary, nothing in this chapter shall be interpreted to prohibit
712 mortgage loan originators of a licensee performing origination
713 activities at a remote location, his or her residence, or another
714 remote location, provided that the licensee complies with the
715 provisions of Section 1 of this act.

716 **SECTION 6.** Section 81-18-15, Mississippi Code of 1972, is
717 amended as follows:

718 81-18-15. (1) Each mortgage broker and mortgage lender
719 license shall remain in full force and effect until relinquished,
720 suspended, revoked or expired. With each initial application for



a license to operate as a mortgage broker or mortgage lender, the applicant shall pay through the Nationwide * * * Multistate Licensing System and Registry to the commissioner a license fee of * * * Two Thousand Dollars (\$2,000.00); however, if the initial mortgage broker or mortgage lender license is issued between November 1 and December 31, the license will expire December 31 of the following licensing year. Upon the expiration of the initial license, the licensee shall pay an annual renewal fee of * * * One Thousand Five Hundred Dollars (\$1,500.00) on or before December 31 of each year. If the annual renewal fee remains unpaid, the license shall expire, but not before December 31 of any year for which the annual renewal fee has been paid. If the renewal fee is not paid before the expiration date of the license, then the licensee shall be liable for the initial license fee, which is * * * Two Thousand Dollars (\$2,000.00), plus a penalty in an amount not to exceed Twenty-five Dollars (\$25.00) for each day after the expiration of the license. All licensing fees and penalties shall be paid into the Consumer Finance Fund of the department. If the application is withdrawn or denied, the application fee along with any other applicable fee are not refundable.

(2) The minimum standards for license renewal for mortgage loan originators shall include the following:

(a) The mortgage loan originator continues to meet the minimum standards for license issuance under Section 81-18-9(4).



(b) The mortgage loan originator has satisfied the annual continuing education requirements described in Section 81-18-15(5).

(c) The mortgage loan originator has paid all required fees for renewal of the license. Annual renewals of this license shall require a fee of * * * One Hundred Fifty Dollars (\$150.00).

(3) The license of a mortgage loan originator failing to satisfy the minimum standards for license renewal shall expire. The commissioner may adopt procedures for the reinstatement of expired licenses consistent with the standards established by the Nationwide * * * Multistate Licensing System and Registry. If the renewal fee remains unpaid, the license shall expire, but not before December 31 of any year for which the annual renewal fee has been paid. However, if the initial loan originator license is issued between November 1 and December 31, the license will expire December 31 of the following licensing year. If the renewal fee is not paid before the expiration date of the license, the mortgage loan originator shall be liable for the initial license fee, which is * * * Three Hundred Dollars (\$300.00), in order to renew.

(4) Any licensee making timely and proper application for a license renewal shall be permitted to continue to operate under its existing license until its application is approved or rejected, but shall not be released from or otherwise indemnified for any act covered by this chapter or for any penalty incurred



under this chapter as a result of any violation of this chapter or regulations adopted under this chapter, pending final approval or disapproval of the application for the license renewal.

(5) In order to meet the annual continuing education requirements referred to in Section 81-18-15(2)(b), a licensed mortgage loan originator shall complete at least eight (8) hours of education approved in accordance with subsection (2) of this section, which shall include at least:

(a) Three (3) hours of federal law and regulations;
(b) Two (2) hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues;
and

(c) Two (2) hours of training related to lending standards for the nontraditional mortgage product marketplace.

(6) For the purposes of subsection (5) of this section, continuing education courses shall be reviewed, and approved by the Nationwide * * * Multistate Licensing System and Registry based upon reasonable standards. Review and approval of a continuing education course shall include review and approval of the course provider.

(7) Nothing in this section shall preclude any education course, as approved by the Nationwide * * * Multistate Licensing System and Registry, that is provided by the employer of the mortgage loan originator or an entity that is affiliated with the



mortgage loan originator by an agency contract, or any subsidiary or affiliate of such employer or entity.

(8) Continuing education may be offered either in a classroom, online or by any other means approved by the Nationwide * * * Multistate Licensing System and Registry.

(9) A licensed mortgage loan originator:

(a) Except for Section 81-18-15(3) and subsection (13) of this section, may only receive credit for a continuing education course in the year in which the course is taken; and

(b) May not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

(10) A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two (2) hours credit for every one (1) hour taught.

(11) A person having successfully completed the education requirements approved by the Nationwide * * * Multistate Licensing System and Registry in subsection (5) of this section for any state shall be accepted as credit towards completion of continuing education requirements in Mississippi.

(12) A licensed mortgage loan originator who later becomes unlicensed must complete the continuing education requirements for



the last year in which the license was held prior to issuance of a new or renewed license.

(13) A person meeting the requirements of subsection (2)(a) and (c) of this section may make up any deficiency in continuing education as established by rule or regulation of the commissioner.

SECTION 7. Section 81-18-17, Mississippi Code of 1972, is amended as follows:

81-18-17. (1) A license may not be transferred or assigned.

(2) No licensee shall transact business under any name other than that designated in the license.

(3) A licensed mortgage broker or mortgage lender shall notify the department through the Nationwide * * * Multistate Licensing System and Registry of any change in the address of its principal place of business or of any change in the address of an additional licensed branch location within thirty (30) days of the change.

(4) No licensee shall open a branch office in this state or a branch office outside this state from which the licensee has direct contact with consumers regarding origination or brokering Mississippi residential property, without prior approval of the department. An application for any branch office shall be made through the Nationwide * * * Multistate Licensing System and Registry on a form prescribed by the department, which shall include at least evidence of compliance with subsection (1) of



844 Section 81-18-25 as to that branch and shall be accompanied by
845 payment of a nonrefundable application fee of * * * Five Hundred
846 Dollars (\$500.00) and at least one (1) loan originator application
847 licensed at that branch office. The application shall be approved
848 unless the department finds that the applicant has not conducted
849 business under this chapter in accordance with law. Each branch
850 office that currently holds a branch license shall renew that
851 branch license before the expiration date of the main company
852 license, on or before December 31; however, if the initial branch
853 license is issued between November 1 and December 31, the license
854 will expire December 31 of the following licensing year. The
855 license renewal shall be on a form prescribed by the department
856 with a nonrefundable renewal application fee of * * * Three
857 Hundred Fifty Dollars (\$350.00). If the annual renewal fee
858 remains unpaid, the license shall expire, but not before December
859 31 of any year for which the annual renewal fee has been paid. If
860 the renewal fee is not paid before the expiration date of the
861 license, the branch shall be liable for the initial license fee,
862 which is * * * Five Hundred Dollars (\$500.00), in order to renew.

863 (5) A licensed mortgage broker or mortgage lender shall
864 notify the department within thirty (30) days by submitting a
865 sponsorship removal in the Nationwide * * * Multistate Licensing
866 System and Registry when a loan originator is released from its
867 employment. In addition, the licensed mortgage broker or mortgage
868 lender shall notify the department within thirty (30) days through



the Nationwide * * * Multistate Licensing System and Registry when there is a change of the qualifying individual of the licensee.

SECTION 8. Section 81-18-21, Mississippi Code of 1972, is amended as follows:

81-18-21. (1) Any person required to be licensed under this chapter shall maintain in its offices, or such other location as the department shall permit, the books, accounts and records necessary for the department to determine whether or not the person is complying with the provisions of this chapter and the rules and regulations adopted by the department under this chapter. These books, accounts and records shall be maintained apart and separate from any other business in which the person is involved and may represent historical data for five (5) years from the final disposition of the loan application to which the records relate. The books, accounts and records for individual consumer mortgage files shall be maintained apart and separate from any other personal loan files made by the same consumer. The books, accounts and records shall be kept in a secure location under conditions that will not lead to their damage or destruction. If the licensee wishes to keep the files in a location other than the location listed on the license, then the licensee first must submit a written request on a form designated by the department and gain written approval from the commissioner before storing the files at an off-site secure location.



(2) To assure compliance with the provisions of this chapter, the department may examine the books and records of any licensee without notice during normal business hours. The commissioner shall charge the licensee an examination fee in an amount not less than * * * Four Hundred Dollars (\$400.00) nor more than * * * Eight Hundred Dollars (\$800.00) per day with a maximum examination fee of * * * Three Thousand Two Hundred Dollars (\$3,200.00) for each office or location within the State of Mississippi, and an examination fee in an amount not less than * * * Four Hundred Dollars (\$400.00) nor more than * * * One Thousand Dollars (\$1,000.00) per day for each office or location outside the State of Mississippi, plus any actual expenses incurred while examining the licensee's records or books that are located outside the State of Mississippi. However, in no event shall a licensee be examined more than once in a two-year period unless for cause shown based upon consumer complaint and/or other exigent reasons as determined by the commissioner.

(3) The department, its designated officers and employees, or its duly authorized representatives, for the purposes of discovering violations of this chapter and for the purpose of determining whether any person or individual reasonably suspected by the commissioner of conducting business that requires a license under this chapter, may investigate those persons and individuals and examine all relevant books, records and papers employed by those persons or individuals in the transaction of business, and



918 may summon witnesses and examine them under oath concerning
919 matters as to the business of those persons, or other such matters
920 as may be relevant to the discovery of violations of this chapter,
921 including, without limitation, the conduct of business without a
922 license as required under this chapter.

923 (4) Each licensee, individual or person subject to this
924 chapter shall make available to the commissioner upon request the
925 books and records relating to the operations of the licensee,
926 individual or person subject to this chapter. The commissioner
927 shall have access to those books and records and interview the
928 officers, principals, mortgage loan originators, employees,
929 independent contractors, agents, and customers of the licensee,
930 individual or person subject to this chapter concerning their
931 business. Failure to produce the books and records within sixty
932 (60) days from the date of request may result in a violation of
933 this chapter, resulting in a civil penalty.

934 (5) Each licensee, individual or person subject to this
935 chapter shall make or compile reports or prepare other information
936 as directed by the commissioner in order to carry out the purposes
937 of this section, including, but not limited to:

938 (a) Accounting compilations;

939 (b) Information lists and data concerning loan
940 transactions in a format prescribed by the commissioner; or

941 (c) Such other information deemed necessary to carry
942 out the purposes of this section.



943 (6) In making any examination or investigation authorized by
944 this chapter, the commissioner may control access to any documents
945 and records of the licensee or person under examination or
946 investigation. The commissioner may take possession of the
947 documents and records or place a person in exclusive charge of the
948 documents and records in the place where they are usually kept.
949 During the period of control, no individual or person shall remove
950 or attempt to remove any of the documents and records except under
951 a court order or with the consent of the commissioner. Unless the
952 commissioner has reasonable grounds to believe the documents or
953 records of the licensee have been or are at risk of being altered
954 or destroyed for purposes of concealing a violation of this
955 chapter, the licensee or owner of the documents and records shall
956 have access to the documents or records as necessary to conduct
957 its ordinary business affairs.

958 (7) The commissioner shall report regularly violations of
959 this chapter, as well as enforcement actions and other relevant
960 information, to the Nationwide * * * Multistate Licensing System
961 and Registry subject to the provisions contained in Section
962 81-18-63.

963 (8) Examinations and investigations conducted under this
964 chapter and information obtained by the department, except as
965 provided in subsection (7) of this section, in the course of its
966 duties under this chapter are confidential.



(9) In the absence of malice, fraud or bad faith a person is not subject to civil liability arising from the filing of a complaint with the department, furnishing other information required by this chapter, information required by the department under the authority granted in this chapter, or information voluntarily given to the department related to allegations that a licensee or prospective licensee has violated this chapter. Failure of a person to respond to a formal complaint made with the department by a consumer may result in a violation of this chapter, resulting in a civil penalty.

(10) In order to carry out the purposes of this section, the commissioner may:

(a) Accept and rely on examination or investigation reports made by other government officials, within or without this state; or

(b) Accept audit reports made by an independent certified public accountant for the licensee, individual or person subject to this chapter in the course of that part of the examination covering the same general subject matter as the audit and may incorporate the audit report in the report of the examination, report of investigation or other writing of the commissioner; or

(c) Rely upon attorneys, accountants, or other professionals and specialists as examiners, auditors or



investigators to conduct or assist in the conduct of examinations
or investigations; or

(d) Enter into agreements or relationships with other
government officials or regulatory associations, including, but
not limited to, joint enforcement action, by sharing resources,
standardized or uniform methods or procedures, and documents,
records, information or evidence obtained under this section.

(11) The authority of this section shall remain in effect,
whether such a licensee, individual or person subject to this
chapter acts or claims to act under any licensing or registration
law of this state, or claims to act without that authority.

(12) No licensee, individual or person subject to
investigation or examination under this section may knowingly
withhold, abstract, remove, mutilate, destroy, falsify, abandon or
secret any books, records, computer records or other information.

SECTION 9. Section 81-18-5, Mississippi Code of 1972, is
brought forward as follows:

81-18-5. The following are exempt from the provisions of
this chapter:

(a) Registered mortgage loan originators, when acting
for an entity described in Section 81-18-3(ii).

(b) Any person who offers or negotiates terms of a
residential mortgage loan with or on behalf of an immediate family
member of the individual.



1015 (c) Any person, estate or trust who owner finances in
1016 one (1) calendar year no more than ten (10) residential mortgage
1017 loans or no more than twenty percent (20%) of his total
1018 residential units sold, whichever is greater. A violation of this
1019 paragraph (c) shall not affect the title of the purchaser/borrower
1020 or the obligation of the purchaser/borrower under the terms of the
1021 mortgage loan.

1022 (d) A licensed attorney who negotiates the terms of a
1023 residential mortgage loan on behalf of a client as an ancillary
1024 matter to the attorney's representation of the client, unless the
1025 attorney is compensated by a lender, a mortgage broker, or other
1026 mortgage loan originator or by any agent of the lender, mortgage
1027 broker, or other mortgage loan originator.

1028 (e) A depository institution, or a subsidiary that is
1029 owned and controlled by a depository institution, or an
1030 institution regulated by the Farm Credit Administration.

1031 (f) Any mortgage lender who holds a valid license under
1032 the provisions of the Small Loan Regulatory Law, Section 75-67-101
1033 et seq., and the Small Loan Privilege Tax Law, Section 75-67-201
1034 et seq., and whose mortgage lending activities are limited solely
1035 to the servicing of mortgage loans that were in such mortgage
1036 lender's own loan portfolio as of December 31, 2009. For the
1037 purposes of the exemption in this paragraph (f), "servicing of
1038 mortgage loans" shall mean and include the collection of payments
1039 of principal and interest, insurance premiums, taxes and other



1040 payments required under such mortgage loans, and shall also
1041 include activities related to the collection of such payments such
1042 as collection calls whether by phone, mail, electronic means or in
1043 person, and enforcement remedies permitted by law or at equity.
1044 In no event shall the term "servicing of mortgage loans" include
1045 the renewal or reworking of the mortgage. If a mortgage loan is
1046 renewed or reworked, the lender shall be required to obtain a
1047 mortgage license in order to continue any mortgage activity
1048 described in this chapter.

1049 (g) Any bona fide nonprofit organization and its
1050 employees who demonstrate to the satisfaction of the commissioner
1051 through the periodic examination of the books and activities of
1052 the organization as required in Section 81-18-21, Mississippi Code
1053 of 1972, that they continually meet the following requirements, at
1054 a minimum:

1055 (i) Maintains tax-exempt status under Section
1056 501(c)(3) of the Internal Revenue Code of 1986;

1057 (ii) Promotes affordable housing or provides
1058 homeownership education, or similar services;

1059 (iii) Conducts its activities in a manner that
1060 serves public or charitable purposes;

1061 (iv) Receives funding and revenue and charges fees
1062 in a manner that does not incentivize the organization or its
1063 employees to act other than in the best interests of its clients;



1064 (v) Compensates employees in a manner that does
1065 not incentivize employees to act other than in the best interests
1066 of its client; and

1067 (vi) Provides to or identifies for the borrower
1068 residential mortgage loans with terms that are favorable to the
1069 borrower and comparable to mortgage loans and housing assistance
1070 provided under government housing assistance programs.

1071 (h) Any person who is an employee of a government
1072 agency or housing finance agency who acts as a mortgage loan
1073 originator in accordance with his duties as an employee of such
1074 agency.

1075 (i) Any person who performs clerical or support duties
1076 at the direction of and subject to the supervision and instruction
1077 of a state-licensed loan originator or a registered loan
1078 originator. For purposes of this paragraph (i), the term
1079 "clerical or support duties" may include:

1080 (i) The receipt, collection, distribution and
1081 analysis of information common for the processing or underwriting
1082 of a residential mortgage loan; and

1083 (ii) Communicating with a consumer to obtain the
1084 information necessary for the processing or underwriting of a
1085 loan, to the extent that such communication does not include
1086 offering or negotiating loan rates or terms, or counseling
1087 consumers about residential mortgage loan rates or terms.



1088 **SECTION 10.** Section 81-18-7, Mississippi Code of 1972, is
1089 brought forward as follows:

1090 81-18-7. (1) No person shall transact business in this
1091 state, directly or indirectly, as a mortgage broker or mortgage
1092 lender unless he or she is licensed by the department or is a
1093 person exempted from the licensing requirements under Section
1094 81-18-5.

1095 (2) A violation of this section does not affect the
1096 obligation of the borrower under the terms of the mortgage loan.
1097 The department shall publish and provide for distribution of
1098 information regarding approved or revoked licenses.

1099 (3) Every person who directly or indirectly controls a
1100 person who violates this section, including a general partner,
1101 executive officer, joint venturer, contractor, or director of the
1102 person, violates this section to the same extent as the person,
1103 unless the person whose violation arises under this subsection
1104 shows by a preponderance of evidence the burden of proof that he
1105 or she did not know and, in the exercise of reasonable care, could
1106 not have known of the existence of the facts by reason of which
1107 the original violation is alleged to exist.

1108 (4) An individual, unless specifically exempted from this
1109 chapter under Section 81-18-5, shall not engage in the business of
1110 a mortgage loan originator with respect to any dwelling located in
1111 this state without first obtaining and maintaining annually a
1112 license under this chapter. Each licensed mortgage loan



1113 originator must register with and maintain a valid unique
1114 identifier issued by the Nationwide Mortgage Licensing System and
1115 Registry.

1116 (5) In order to facilitate an orderly transition to
1117 licensing and minimize disruption in the mortgage marketplace, the
1118 effective date of subsection (4) of this section shall be as
1119 follows:

1120 (a) For all individuals other than individuals
1121 described in paragraph (b), the effective date shall be July 31,
1122 2010, or such later date approved by the Secretary of the United
1123 States Department of Housing and Urban Development, under the
1124 authority granted under Public Law 110-289, Section 1508(a).

1125 (b) For all individuals licensed as mortgage loan
1126 originators as of July 31, 2009, the effective date shall be
1127 January 1, 2011, or such later date approved by the Secretary of
1128 the United States Department of Housing and Urban Development,
1129 under the authority granted under Public Law 110-289, Section
1130 1508(a).

1131 (6) For the purposes of implementing an orderly and
1132 efficient licensing process, the commissioner may establish
1133 licensing rules or regulations and interim procedures for
1134 licensing and acceptance of applications. For previously
1135 registered or licensed individuals, the commissioner may establish
1136 expedited review and licensing procedures.



1137 **SECTION 11.** Section 81-18-8, Mississippi Code of 1972, is
1138 brought forward as follows:

1139 81-18-8. Municipalities and counties in this state may enact
1140 ordinances that are in compliance with, but not more restrictive
1141 than, the provisions of this chapter. Any order, ordinance or
1142 regulation existing on July 1, 2002, or enacted on or after July
1143 1, 2002, that conflicts with this provision shall be null and
1144 void.

1145 **SECTION 12.** Section 81-18-13, Mississippi Code of 1972, is
1146 brought forward as follows:

1147 81-18-13. (1) In order to fulfill the purposes of this
1148 chapter, the commissioner is authorized to establish relationships
1149 or contracts with the Nationwide Mortgage Licensing System and
1150 Registry or other entities designated by the Nationwide Mortgage
1151 Licensing System and Registry to collect and maintain records and
1152 process transaction fees or other fees related to licensees or
1153 other persons subject to this chapter.

1154 (2) Within thirty (30) days after receipt of a completed
1155 application, final verification from the Department of Public
1156 Safety and/or FBI, and payment of licensing fees prescribed by
1157 this chapter, the department shall either grant or deny the
1158 request for license. However, if the Federal Financial
1159 Institutions Examination Council (FFIEC) prescribes a lesser
1160 period of time within which the department shall either grant or



deny the request for license, then that time limitation shall supersede this subsection.

(3) A person shall not be indemnified for any act covered by this chapter or for any fine or penalty incurred under this chapter as a result of any violation of this chapter or regulations adopted under this chapter, due to the legal form, corporate structure, or choice of organization of the person, including, but not limited to, a limited liability corporation.

SECTION 13. Section 81-18-14, Mississippi Code of 1972, is brought forward as follows:

81-18-14. (1) In order to meet the prelicensing education requirement referred to in Section 81-18-9(4)(d), a person shall complete at least twenty (20) hours of education approved in accordance with subsection (2) of this section, which shall include at least:

- (a) Three (3) hours of federal law and regulations;
- (b) Three (3) hours of ethics, which shall include instruction on fraud, consumer protection and fair lending issues;
- (c) Two (2) hours of training related to lending standards for the nontraditional mortgage product marketplace; and
- (d) Four (4) hours of education related to the Mississippi S.A.F.E. Mortgage Act.

(2) For the purposes of subsection (1) of this section, prelicensing education courses shall be reviewed, and approved by the Nationwide Mortgage Licensing System and Registry based upon



reasonable standards. Review and approval of a prelicensing education course shall include review and approval of the course provider.

(3) Nothing in this section shall preclude any prelicensing education course, as approved by the Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the applicant or an entity that is affiliated with the applicant by an agency contract, or any subsidiary or affiliate of such employer or entity.

(4) Prelicensing education may be offered either in a classroom, online or by any other means approved by the Nationwide Mortgage Licensing System and Registry.

(5) The prelicensing education requirements approved by the Nationwide Mortgage Licensing System and Registry in subsection (1) of this section for any state shall be accepted as credit towards completion of prelicensing education requirements in Mississippi.

(6) A person previously licensed under this chapter who applies to be licensed again on or after July 1, 2009, must prove that they have completed all of the continuing education requirements for the year in which the license was last held.

(7) In order to meet the written test requirement for mortgage loan originators referred to in Section 81-18-9(4)(e), an individual shall pass, in accordance with the standards established under this subsection, a qualified written test



1211 developed by the Nationwide Mortgage Licensing System and Registry
1212 and administered by a test provider approved by the Nationwide
1213 Mortgage Licensing System and Registry based upon reasonable
1214 standards.

1215 (8) A written test shall not be treated as a qualified
1216 written test for purposes of subsection (7) of this section unless
1217 the test adequately measures the applicant's knowledge and
1218 comprehension in appropriate subject areas, including:

1219 (a) Ethics;

1220 (b) Federal law and regulation pertaining to mortgage
1221 origination;

1222 (c) State law and regulation pertaining to mortgage
1223 origination; and

1224 (d) Federal and state law and regulation, including
1225 instruction on fraud, consumer protection, the nontraditional
1226 mortgage marketplace and fair lending issues.

1227 (9) Nothing in this section shall prohibit a test provider
1228 approved by the Nationwide Mortgage Licensing System and Registry
1229 from providing a test at the location of the employer of the
1230 applicant or the location of any subsidiary or affiliate of the
1231 employer of the applicant, or the location of any entity with
1232 which the applicant holds an exclusive arrangement to conduct the
1233 business of a mortgage loan originator.

1234 (10) (a) An individual shall not be considered to have
1235 passed a qualified written test unless the individual achieves a



1236 test score of not less than seventy-five percent (75%) correct
1237 answers to questions.

1238 (b) An individual may retake a test three (3)
1239 consecutive times with each consecutive taking occurring at least
1240 thirty (30) days after the preceding test.

1241 (c) After failing three (3) consecutive tests, an
1242 individual shall wait at least six (6) months before taking the
1243 test again.

1244 (d) A licensed mortgage loan originator who fails to
1245 maintain a valid license for a period of five (5) years or longer
1246 shall retake the test, not taking into account any time during
1247 which such individual is a registered mortgage loan originator.

1248 **SECTION 14.** Section 81-18-19, Mississippi Code of 1972, is
1249 brought forward as follows:

1250 81-18-19. (1) Except as provided in this section, no person
1251 shall acquire directly or indirectly ten percent (10%) or more of
1252 the voting shares of a corporation or ten percent (10%) or more of
1253 the ownership of any other entity licensed to conduct business
1254 under this chapter unless it first files an application in
1255 accordance with the requirements prescribed in Section 81-18-9.

1256 (2) Upon the filing and investigation of an application, the
1257 department shall permit the applicant to acquire the interest in
1258 the licensee if it is satisfied and finds that the applicant and
1259 its members, if applicable, its directors and officers, if a
1260 corporation, and any proposed new directors and officers have



provided its surety bond and have the character, reputation and experience to warrant belief that the business will be operated fairly and in accordance with the law. If the application is denied, the department shall notify the applicant of the denial and the reasons for the denial.

(3) A decision of the department denying a license, original or renewal, shall be conclusive, except that the applicant may seek judicial review in the Chancery Court of the First Judicial District of Hinds County, Mississippi.

(4) The provisions of this section do not apply to the following, subject to notification as required in this section:

(a) The acquisition of an interest in a licensee directly or indirectly including an acquisition by merger or consolidation by or with a person licensed under this chapter or exempt from this chapter under Section 81-18-5.

(b) The acquisition of an interest in a licensee directly or indirectly including an acquisition by merger or consolidation by or with a person affiliated through common ownership with the licensee.

(c) The acquisition of an interest in a licensee by a person by bequest, devise, gift or survivorship or by operation of law.

(5) A person acquiring an interest in a licensee in a transaction that is requesting exemption from filing an application for approval of the application shall send a written



1286 request to the department for an exemption within thirty (30) days
1287 before the closing of the transaction.

1288 **SECTION 15.** Section 81-18-23, Mississippi Code of 1972, is
1289 brought forward as follows:

1290 81-18-23. (1) Each mortgage licensee shall submit to the
1291 Nationwide Mortgage Licensing System and Registry reports of
1292 condition, which shall be in such form and shall contain such
1293 information as the Nationwide Mortgage Licensing System and
1294 Registry may require. Failure to file accurate, timely and
1295 complete reports on the Nationwide Mortgage Licensing System and
1296 Registry may result in a violation of this chapter, resulting in a
1297 civil penalty.

1298 (2) The department, in its discretion, may relieve any
1299 company from the payment of any penalty, in whole or in part, for
1300 good cause.

1301 (3) If a company fails to pay a penalty from which it has
1302 not been relieved, the department may maintain an action at law to
1303 recover the penalty.

1304 (4) Within fifteen (15) days of the occurrence of any of the
1305 following events, a company shall file with the Nationwide
1306 Mortgage Licensing System and Registry the applicable change in
1307 the disclosure questions and shall submit the information through
1308 the Nationwide Mortgage Licensing System and Registry or file a
1309 written report with the commissioner describing the event and its
1310 expected impact on the activities of the company in this state:



1311 (a) The filing for bankruptcy or reorganization by the
1312 company;
1313 (b) The institution of revocation or suspension
1314 proceedings against the company by any state or governmental
1315 authority;
1316 (c) Any felony indictment of the company or any of its
1317 directors, executive officers, qualifying individual or loan
1318 originators;
1319 (d) Any felony conviction of the company or any of its
1320 directors, executive officers, qualifying individual or loan
1321 originators;
1322 (e) Expiration, termination or default, technical or
1323 otherwise, of any existing line of credit or warehouse credit
1324 agreement;
1325 (f) Suspension or termination of the licensee's status
1326 as an approved seller or seller/servicer by the Federal National
1327 Mortgage Association, Federal Home Loan Mortgage Corporation or
1328 Government National Mortgage Association;
1329 (g) Exercise of recourse rights by investors or
1330 subsequent assignees of mortgage loans if such loans, in the
1331 aggregate, exceed the licensee's net worth exclusive of real
1332 property and fixed assets; or
1333 (h) Existence of negative balances, exceeding One
1334 Hundred Dollars (\$100.00) in any operation account at any time or



1335 the return of checks, exceeding One Hundred Dollars (\$100.00) for
1336 insufficient funds.

1337 (5) Licensees who are involved in civil actions shall notify
1338 the Nationwide Mortgage Licensing System and Registry within sixty
1339 (60) days of the occurrence. An explanation and supporting
1340 documentation for each civil action concerning the company shall
1341 be submitted through the Nationwide Mortgage Licensing System and
1342 Registry. The department may require additional information as
1343 necessary.

1344 **SECTION 16.** Section 81-18-27, Mississippi Code of 1972, is
1345 brought forward as follows:

1346 81-18-27. (1) No person required to be licensed under this
1347 chapter shall:

1348 (a) Directly or indirectly employ any scheme, device or
1349 artifice to defraud or mislead borrowers or lenders or to defraud
1350 any person.

1351 (b) Misrepresent to or conceal from an applicant for a
1352 mortgage loan or mortgagor, material facts, terms or conditions of
1353 a transaction to which the licensee is a party.

1354 (c) Fail to disburse funds in accordance with a written
1355 commitment or agreement to make a mortgage loan.

1356 (d) Fail to truthfully account for monies belonging to
1357 a party to a residential mortgage loan transaction.

1358 (e) Improperly refuse to issue a satisfaction of a
1359 mortgage loan.



1360 (f) Fail to account for or deliver to any person any
1361 personal property obtained in connection with a mortgage loan,
1362 such as money, funds, deposits, checks, drafts, mortgages or other
1363 documents or things of value that have come into the possession of
1364 the licensee and that are not the property of the licensee, or
1365 that the licensee is not by law or at equity entitled to retain.

1366 (g) Engage in any transaction, practice, or course of
1367 business that is not in good faith, or that operates a fraud upon
1368 any person in connection with the making of or purchase or sale of
1369 any mortgage loan, including the use of correction fluid on any
1370 document associated with the mortgage loan.

1371 (h) Engage in any fraudulent residential mortgage
1372 underwriting practices, which include, but are not limited to,
1373 making in any manner, any false or deceptive statement or
1374 representation including, with regard to the rates, points or
1375 other financing terms or conditions for a residential mortgage
1376 loan, or engage in bait and switch advertising.

1377 (i) Solicit or enter into a contract with a borrower
1378 that provides in substance that the person or individual subject
1379 to this chapter may earn a fee or commission through "best
1380 efforts" to obtain a loan even though no loan is actually obtained
1381 for the borrower.

1382 (j) Induce, require, or otherwise permit the applicant
1383 for a mortgage loan or mortgagor to sign a security deed, note, or
1384 other pertinent financial disclosure documents with any blank



1385 spaces to be filled in after it has been signed, except blank
1386 spaces relating to recording or other incidental information not
1387 available at the time of signing.

1388 (k) Make, directly or indirectly, any residential
1389 mortgage loan with the intent to foreclose on the borrower's
1390 property. For purposes of this paragraph, there is a presumption
1391 that a person has made a residential mortgage loan with the intent
1392 to foreclose on the borrower's property if any of the following
1393 circumstances are proven:

1394 (i) Lack of substantial benefit to the borrower;

1395 (ii) The probability that full payment of the loan
1396 cannot be made by the borrower;

1397 (iii) That the person has made a significant
1398 proportion of loans foreclosed under similar circumstances;

1399 (iv) That the person has provided an extension of
1400 credit or collected a mortgage debt by extortion;

1401 (v) That the person does business under a trade
1402 name that misrepresents or tends to misrepresent that the person
1403 is a bank, trust company, savings bank, savings and loan
1404 association, credit union, or insurance company.

1405 (l) Charge or collect any direct payment, compensation
1406 or advance fee from a borrower unless and until a loan is actually
1407 found, obtained and closed for that borrower, and in no event
1408 shall that direct payment, compensation or advance fee exceed
1409 seven and ninety-five one-hundredths percent (7.95%) of the



1410 original principal amount of the loan, and any such direct
1411 payments, compensation or advance fees shall be included in all
1412 annual percentage rate (APR) calculations if required under
1413 Regulation Z of the federal Truth in Lending Act (TILA). A direct
1414 payment, compensation or advance fee as defined in this section
1415 shall not include:

1416 (i) Any direct payment, compensation or advance
1417 fee collected by a licensed mortgage broker or mortgage lender to
1418 be paid to a nonrelated third party;

1419 (ii) Any indirect payment to a licensed mortgage
1420 broker or mortgage lender by a lender if those fees are not
1421 required to be disclosed under the Real Estate Settlement
1422 Procedures Act (RESPA);

1423 (iii) Any indirect payment or compensation by a
1424 lender to a licensee required to be disclosed by the licensee
1425 under RESPA, provided that the payment or compensation is
1426 disclosed to the borrower by the licensee on a good faith estimate
1427 of costs, is included in the APR if required under Regulation Z of
1428 TILA, and is made pursuant to a written agreement between the
1429 licensee and the borrower as may be required by Section 81-18-33;

1430 (iv) A fee not to exceed one percent (1%) of the
1431 principal amount of a loan for construction, provided that a
1432 binding commitment for the loan has been obtained for the
1433 prospective borrower; or



1434 (v) An advance fee, known as a lock-in fee,
1435 collected by a licensee to be paid to a lender to lock in an
1436 interest rate and/or a certain number of points on a mortgage loan
1437 from the lender as provided in Section 81-18-28.

1438 (m) Pay to any person not licensed under the provisions
1439 of this chapter any commission, bonus or fee in connection with
1440 arranging for or originating a mortgage loan for a borrower,
1441 except that a licensed loan originator may be paid a bonus,
1442 commission, or fee by his or her licensed employer.

1443 (n) Refuse to provide the loan payoff within three (3)
1444 business days of an oral or written request from a borrower or
1445 third party. Proof of authorization of the borrower shall be
1446 submitted for a third-party request. The payoff statement must be
1447 an understandable and accurate statement of the total amount that
1448 is required to pay off the mortgage loan as of a specified date.
1449 No borrower shall be charged a fee for being informed or receiving
1450 a payoff statement or for being provided with a release upon full
1451 payment, provided that the licensed mortgage lender may charge a
1452 reasonable fee for providing a payoff statement after five (5) or
1453 more requests in any calendar year.

1454 (o) Knowingly withhold, extract, remove, mutilate,
1455 destroy or conceal any books, records, computer records or other
1456 information which are required by law to be disclosed.

1457 (p) Negligently make any false statement or knowingly
1458 and willfully make any omission of material fact in connection



1459 with any information or reports filed with a governmental agency
1460 or the Nationwide Mortgage Licensing System and Registry or in
1461 connection with any investigation conducted by the commissioner or
1462 another governmental agency.

1463 (q) Fail to comply with this chapter or rules or
1464 regulations promulgated under this chapter, or fail to comply with
1465 any other state or federal law, including the rules and
1466 regulations under that law, applicable to any business authorized
1467 or conducted under this chapter.

1468 (r) Conduct any business covered by this chapter
1469 without holding a valid license as required under this chapter, or
1470 assist or aid and abet any person in the conduct of business under
1471 this chapter without a valid license as required under this
1472 chapter.

1473 (s) Make any payment, threat or promise, directly or
1474 indirectly, to any person for the purposes of influencing the
1475 independent judgment of the person in connection with a
1476 residential mortgage loan, or make any payment threat or promise,
1477 directly or indirectly, to any appraiser of a property, for the
1478 purposes of influencing the independent judgment of the appraiser
1479 with respect to the value of the property.

1480 (t) Solicit, advertise or enter into a contract for
1481 specific interest rates, points or other financing terms unless
1482 the terms are actually available at the time of soliciting,
1483 advertising or contracting.



1484 (u) Fail to make disclosures as required by this
1485 chapter and any other applicable state or federal law including
1486 regulations under that law.

1487 (v) Cause or require a borrower to obtain property
1488 insurance coverage in an amount that exceeds the replacement cost
1489 of the improvements as established by the property insurer.

1490 (w) Sign a consumer's name to a mortgage loan
1491 application or mortgage loan documents on behalf of a consumer.

1492 (x) Knowingly falsify income or asset information on a
1493 mortgage loan application or mortgage loan documents.

1494 (y) Discourage a consumer in a mortgage loan
1495 transaction from seeking or obtaining independent legal counsel or
1496 legal advice.

1497 (2) A licensed mortgage broker or mortgage lender shall only
1498 broker a residential mortgage loan to a mortgage broker or
1499 mortgage lender licensed under this chapter or to a person exempt
1500 from licensure under the provisions of this chapter.

1501 (3) No nonbanking entity may use any sign or handwritten or
1502 printed paper indicating that it is a bank, savings bank, trust
1503 company or place of banking. No entity may use the word "bank,"
1504 "savings bank," "banking," "banker" or "trust company," or the
1505 equivalent or plural of any of these words, in connection with any
1506 business other than that of banking. This subsection does not
1507 prohibit a person from acting in a trust capacity.



1508 (4) No person shall use the name or logo of any banking
1509 entity in connection with the sale, offering for sale, or
1510 advertising of any financial product or service without the
1511 express written consent of the banking entity.

1512 (5) No unlicensed Mississippi location of a Mississippi
1513 licensed mortgage broker or mortgage lender may advertise mortgage
1514 services if the unlicensed location is more than fifty (50) miles
1515 from a licensed Mississippi location.

1516 **SECTION 17.** Section 81-18-28, Mississippi Code of 1972, is
1517 brought forward as follows:

1518 81-18-28. (1) A licensed mortgage broker or mortgage lender
1519 may enter into lock-in agreements and collect a lock-in fee from a
1520 borrower on the lender's behalf. The lock-in fee shall not exceed
1521 the following:

1522 (a) No fee may be collected to lock in for sixty (60)
1523 days or less;

1524 (b) One percent (1%) of the principal amount of the
1525 loan to lock in for more than sixty (60) days, but not to exceed
1526 one hundred eighty (180) days;

1527 (c) One and one-half percent (1-1/2%) of the principal
1528 amount of the loan to lock in for more than one hundred eighty
1529 (180) days, but not to exceed two hundred seventy (270) days; or

1530 (d) Two percent (2%) of the principal amount of the
1531 loan to lock in for more than two hundred seventy (270) days.



1532 (2) Before the collection of a lock-in fee, the applicant
1533 must be provided a copy of the lock-in fee agreement. This
1534 agreement shall contain at least the following:

1535 (a) Identification of the property that is associated
1536 with the loan;

1537 (b) The principal amount and term of the loan;

1538 (c) The initial interest rate and/or points, whether
1539 the interest rate is fixed or variable, and if variable, the index
1540 and margin, or the method by which an interest rate change for the
1541 mortgage loan will be calculated;

1542 (d) The amount of the lock-in fee, whether the fee is
1543 refundable or nonrefundable, the time by which the lock-in fee
1544 must be paid to the lender, and if the fee is refundable, the
1545 terms and conditions necessary to obtain the refund; and

1546 (e) The length of the lock-in period that the agreement
1547 covers.

1548 **SECTION 18.** Section 81-18-29, Mississippi Code of 1972, is
1549 brought forward as follows:

1550 81-18-29. The commissioner shall promulgate those rules and
1551 regulations, not inconsistent with law, necessary for the
1552 enforcement of this chapter.

1553 **SECTION 19.** Section 81-18-31, Mississippi Code of 1972, is
1554 brought forward as follows:



1555 81-18-31. The department shall promulgate regulations
1556 governing the advertising of mortgage loans, including, but not
1557 limited to, the following requirements:

1558 (a) That all advertisements for loans regulated under
1559 this chapter may not be false, misleading or deceptive. No person
1560 whose activities are regulated under this chapter may advertise in
1561 any manner so as to indicate or imply that its interest rates or
1562 charges for loans are "recommended," "approved," "set" or
1563 "established" by the State of Mississippi;

1564 (b) That all licensees shall maintain a copy of all
1565 advertisements citing interest rates or payment amounts primarily
1566 disseminated in this state and shall attach to each advertisement
1567 documentation that provides corroboration of the availability of
1568 the interest rate and terms of loans and names the specific media
1569 sources by which the advertisements were distributed;

1570 (c) That all published advertisements disseminated
1571 primarily in this state by a licensee shall contain the name and an
1572 office address of the licensee, which shall be the same as the
1573 name and address of the licensee on record with the department;

1574 (d) That an advertisement containing either a quoted
1575 interest rate or monthly payment amount must include:

1576 (i) The interest rate of the mortgage, a statement
1577 as to whether the rate is fixed or adjustable, and the adjustment
1578 index and frequency of adjustments;



1579 (ii) The term in years or months to fully repay
1580 the mortgage;
1581 (iii) The APR as computed under federal
1582 guidelines; and
1583 (e) That the unique identifier of any person
1584 originating a residential mortgage loan shall be clearly shown on
1585 all residential mortgage loan application forms, solicitations or
1586 advertisements, including business cards or websites, and any
1587 other documents as established by rule, regulation or order of the
1588 commissioner.

1589 **SECTION 20.** Section 81-18-33, Mississippi Code of 1972, is
1590 brought forward as follows:

1591 81-18-33. (1) The individual borrower files of a licensee
1592 shall contain at least the following:

1593 (a) A mortgage origination agreement provided to the
1594 borrower containing at least the following statements:

1595 (i) "As required by Mississippi Law, (licensed
1596 company name) has secured a bond issued by (name of insurance
1597 company), a surety company authorized to do business in this
1598 state. A certified copy of this bond is filed with the
1599 Mississippi Commissioner of Banking and Consumer Finance."

1600 (ii) "As a borrower you are protected under the
1601 Mississippi S.A.F.E. Mortgage Act."

1602 (iii) "Complaints against a licensee may be made
1603 by contacting the:



1604 Mississippi Department of Banking and
1605 Consumer Finance
1606 P.O. Drawer 12129
1607 Jackson, MS 39236-2129";
1608 (b) A copy of the original loan application signed and
1609 dated by the licensee;
1610 (c) A copy of the signed closing statement as required
1611 by HUD or documentation of denial or cancellation of the loan
1612 application;
1613 (d) A copy of the loan estimate of costs provided to
1614 the borrower;
1615 (e) A copy of the appraisal or statement of value if
1616 procured as a part of the loan application process;
1617 (f) A copy of a loan lock-in agreement, if any,
1618 provided by the licensee;
1619 (g) A copy of the disclosures required under Regulation
1620 Z of the federal Truth In Lending Act and other disclosures as
1621 required under federal regulations and evidence that those
1622 disclosures have been properly and timely made to the borrower;
1623 (h) A copy of the final signed Uniform Residential Loan
1624 Application. However, any mortgage licensee who holds a license
1625 under the provisions of the Small Loan Regulatory Law, Section
1626 75-67-101 et seq., and the Small Loan Privilege Tax Law, Section
1627 75-67-201 et seq., may substitute an application that is otherwise
1628 compliant with federal and state law; and



1629 (i) Additional information as required per the rules
1630 and regulations adopted by the commissioner according to Section
1631 81-18-29.

1632 (2) The individual servicer files of a licensee shall
1633 contain at least the following:

1634 (a) A copy of the original initial loan application
1635 signed and dated by the licensee;

1636 (b) A copy of the final loan application signed and
1637 dated by the licensee;

1638 (c) A copy of the signed closing statement as required
1639 by HUD or documentation of denial or cancellation of the loan
1640 application;

1641 (d) Modification agreements;

1642 (e) Collection/default letters and related
1643 documentation;

1644 (f) Addendums, riders, assigned note, if applicable;

1645 (g) Complete pay history from the time the loan was
1646 transferred or boarded;

1647 (h) Complete comment/note history from the time the
1648 loan was transferred or boarded; and

1649 (i) Additional information as required per the rules
1650 and regulations of this chapter as deemed by the commissioner
1651 according to Section 81-18-29.

1652 **SECTION 21.** Section 81-18-35, Mississippi Code of 1972, is
1653 brought forward as follows:



1654 81-18-35. (1) Each licensee shall maintain a journal of
1655 mortgage transactions at the principal place of business as stated
1656 on its license for all Mississippi residential loans that the
1657 licensee originated and/or funded. This journal shall be separate
1658 from non-Mississippi loans. The journal shall include at least
1659 the following information:

- 1660 (a) Name of applicant and co-applicant, if applicable;
- 1661 (b) Date of application;
- 1662 (c) Disposition of loan application, indicating date of
1663 loan closing, loan denial, withdrawal and name of lender if
1664 applicable;
- 1665 (d) Property address;
- 1666 (e) Loan amount;
- 1667 (f) Terms;
- 1668 (g) Loan program; and
- 1669 (h) Loan originator.

1670 (2) Each licensee shall maintain a journal of serviced loans
1671 at the principal place of business as stated on its license, for
1672 all Mississippi residential loans that the licensee owns and/or
1673 services. This journal shall be kept separate from
1674 non-Mississippi loans. The journal shall include at least the
1675 following information:

- 1676 (a) The number of mortgage loans the licensee is
1677 servicing;
- 1678 (b) The type and characteristics of the loans;



1679 (c) The number of serviced loans in default, along with
1680 a breakdown of thirty-, sixty- and ninety-day delinquencies;

1681 (d) Information on loss mitigation activities,
1682 including details on workout arrangements undertaken and date loss
1683 mitigation application was submitted/approved/denied;

1684 (e) Information on foreclosures commenced and
1685 completed;

1686 (f) Name of applicant and co-applicant, if applicable;
1687 and

1688 (g) Date the loan was boarded/deboarded, if applicable.

1689 **SECTION 22.** Section 81-18-36, Mississippi Code of 1972, is
1690 brought forward as follows:

1691 81-18-36. (1) (a) All monies paid to a licensee for
1692 payment of taxes, loan commitment deposits, work completion
1693 deposits, appraisals, credit reports or insurance premiums on
1694 property that secures any loan made or serviced by the licensee
1695 shall be deposited in an account that is insured by the Federal
1696 Deposit Insurance Corporation or the National Credit Union
1697 Administration and shall be kept separate, distinct, and apart
1698 from funds belonging to the licensee.

1699 (b) The funds, when deposited, are to be designated as
1700 an "escrow account," or under some other appropriate name,
1701 indicating that the funds are not the funds of the licensee.

1702 (2) The licensee shall, upon reasonable notice, account to
1703 any debtor whose property secures a loan made by the licensee for



1704 any funds which that person has paid to the licensee for the
1705 payment of taxes or insurance premiums on the property in
1706 question.

1707 (3) The licensee shall, upon reasonable notice, account to
1708 the commissioner for all funds in the company's escrow account.

1709 (4) Escrow accounts are not subject to execution or
1710 attachment on any claim against the licensee.

1711 (5) It is unlawful for any licensee knowingly to keep or
1712 cause to be kept any funds or money in any bank or other financial
1713 institution under the heading of "escrow account" or any other
1714 name designating the funds or monies belonging to the debtors of
1715 the licensee, except actual funds paid to the licensee for the
1716 payment of taxes and insurance premiums on property securing loans
1717 made or serviced by the company.

1718 **SECTION 23.** Section 81-18-37, Mississippi Code of 1972, is
1719 brought forward as follows:

1720 81-18-37. (1) The department may suspend or revoke any
1721 license for any reason that would have been grounds for refusal to
1722 issue an original license or for:

1723 (a) A violation of any provision of this chapter or any
1724 rule or regulation adopted under this chapter;

1725 (b) Failure of the licensee to pay, within thirty (30)
1726 days after it becomes final and nonappealable, a judgment
1727 recovered in any court within this state by a claimant or creditor



1728 in an action arising out of the licensee's business in this state
1729 as a mortgage broker or mortgage lender.

1730 (2) Notice of the department's intention to enter an order
1731 denying an application for a license under this chapter or of an
1732 order suspending or revoking a license under this chapter shall be
1733 given to the applicant, licensee in writing, sent by registered or
1734 certified mail addressed to the principal place of business of the
1735 applicant or licensee. Within thirty (30) days of the date of the
1736 notice of intention to enter an order of denial, suspension or
1737 revocation under this chapter, the applicant or licensee may
1738 request in writing a hearing to contest the order. If a hearing
1739 is not requested in writing within thirty (30) days of the date of
1740 the notice of intention, the department shall enter a final order
1741 regarding the denial, suspension or revocation. Any final order
1742 of the department denying, suspending or revoking a license shall
1743 state the grounds upon which it is based and shall be effective on
1744 the date of issuance. A copy of the final order shall be
1745 forwarded promptly by registered or certified mail addressed to
1746 the principal place of business of the applicant or licensee.

1747 **SECTION 24.** Section 81-18-39, Mississippi Code of 1972, is
1748 brought forward as follows:

1749 81-18-39. (1) For purposes of this section, the term
1750 "person" shall be construed to include any officer, director,
1751 employee, affiliate or other person participating in the conduct



1752 of the affairs of the person subject to the orders issued under
1753 this section.

1754 (2) If the department reasonably determines that a person
1755 required to be licensed under this chapter has violated any law of
1756 this state or any order or regulation of the department, the
1757 department may issue a written order requiring the person to cease
1758 and desist from unlawful or unauthorized practices. In the case
1759 of an unlawful purchase of mortgage loans, the cease and desist
1760 order to a purchaser shall constitute the knowledge required under
1761 this section for any subsequent violations.

1762 (3) Any person required to be licensed under this chapter
1763 who has been deemed by the commissioner, after notice and hearing,
1764 to have violated the terms of any order properly issued by the
1765 department under this section shall be liable for a civil penalty
1766 not to exceed Three Thousand Dollars (\$3,000.00). The department,
1767 in determining the amount of the penalty, shall take into account
1768 the appropriateness of the penalty relative to the size of the
1769 financial resources of the person, the good-faith efforts of the
1770 person to comply with the order, the gravity of the violation, the
1771 history of previous violations by the person, and other factors or
1772 circumstances that contributed to the violation. The department
1773 may compromise, modify or refund any penalty that has been imposed
1774 under this section. Any person assessed a penalty as provided in
1775 this subsection shall have the right to request a hearing on the
1776 amount of the penalty within ten (10) days after receiving



notification of the assessment. If no hearing is requested within ten (10) days of the receipt of the notice, the penalty shall be final except as to judicial review in the Chancery Court of the First Judicial District of Hinds County. Upon the filing of a petition for judicial review, the court shall issue an order to the licensee requiring the licensee to show cause why it should not be entered. If the court determines, after a hearing upon the merits or after failure of the person to appear when so ordered, that the order of the department was properly issued, it shall grant the penalty sought by the department.

SECTION 25. Section 81-18-40, Mississippi Code of 1972, is brought forward as follows:

81-18-40. (1) For the purpose of conducting investigations, examinations or other proceedings under this chapter, the commissioner or his designee may issue subpoenas to any individual, person or other entity for the production of all books, papers, records, files, documents or other things, and may subpoena and compel the attendance of witnesses to give testimony, and may administer oaths. Subpoenas as herein provided may be served either by personal process or by registered mail, and upon service shall command attendance of such witnesses, and/or production of such papers and documents, at the time and place so specified.

(2) Any person or entity who fails or refuses to comply with a subpoena issued hereunder may be assessed by the commissioner a



civil penalty of not more than Five Hundred Dollars (\$500.00) for each day of noncompliance, and any privileges or licenses issued by the commissioner to the person or entity may be suspended for not more than six (6) months. In addition to the civil penalty, the commissioner shall be entitled to the assistance of the chancery court or the chancellor in vacation, which, on petition by the commissioner or his designee, shall issue ancillary subpoenas and petitions and may punish as for contempt of court in the event of noncompliance therewith, and assess attorney's fees and costs, if deemed appropriate.

SECTION 26. Section 81-18-41, Mississippi Code of 1972, is brought forward as follows:

81-18-41. Nothing in this chapter shall preclude a person whose license has been suspended or revoked from continuing to service mortgage loans pursuant to servicing contracts in existence at the time of the suspension or revocation for a reasonable transition period, as determined by the commissioner, after the date of the entry of the final decision in the case suspending or revoking the license.

SECTION 27. Section 81-18-43, Mississippi Code of 1972, is brought forward as follows:

81-18-43. (1) In order to ensure the effective supervision and enforcement of this chapter, the commissioner may:

(a) Deny, suspend, revoke, condition or decline to renew a license for a violation of this chapter, rules or



1827 regulations issued under this chapter or order or directive
1828 entered under this chapter.

1829 (b) Deny, suspend, revoke, condition or decline to
1830 renew a license if an applicant or licensee fails at any time to
1831 meet the requirements of Section 81-18-9(4) or 81-18-15(2), or
1832 withholds information or makes a material misstatement in an
1833 application for a license or renewal of a license.

1834 (c) Order restitution against persons subject to this
1835 chapter for violations of this chapter.

1836 (d) Impose civil penalties on persons subject to this
1837 chapter under subsections (2) and (3) of this section.

1838 (e) Issue orders or directives under this chapter as
1839 follows:

1840 (i) Order or direct persons subject to this
1841 chapter to cease and desist from conducting business, including
1842 immediate temporary orders to cease and desist.

1843 (ii) Order or direct persons subject to this
1844 chapter to cease any harmful activities or violations of this
1845 chapter, including immediate temporary orders to cease and desist.

1846 (iii) Enter immediate temporary orders to cease
1847 business under a license issued under the authority granted under
1848 Section 81-18-7(6) if the commissioner determines that the license
1849 was erroneously granted or the licensee is currently in violation
1850 of this chapter.



1851 (iv) Order or direct such other affirmative action
1852 as the commissioner deems necessary.

1853 (2) The commissioner may impose a civil penalty on a
1854 mortgage loan originator or person subject to this chapter, if the
1855 commissioner finds, on the record after notice and opportunity for
1856 hearing, that the mortgage loan originator or person subject to
1857 this chapter has violated or failed to comply with any requirement
1858 of this chapter or any regulation prescribed by the commissioner
1859 under this chapter or order issued under authority of this
1860 chapter. The maximum amount of penalty for each act or omission
1861 described in this subsection shall be Twenty-five Thousand Dollars
1862 (\$25,000.00).

1863 (3) Each violation or failure to comply with any directive
1864 or order of the commissioner is a separate and distinct violation
1865 or failure.

1866 (4) For a first offense, the licensee, person required to be
1867 licensed, or employee may be found guilty of a misdemeanor and,
1868 upon conviction thereof, shall be punishable by imprisonment in
1869 the county jail for not more than one (1) year.

1870 (5) For a second or subsequent offense, the licensee, person
1871 required to be licensed, or employee shall be guilty of a felony
1872 and, upon conviction thereof, may be punished by imprisonment in
1873 the custody of the State Department of Corrections for a term not
1874 less than one (1) year nor more than five (5) years.



1875 (6) Compliance with the criminal provisions of this section
1876 shall be enforced by the appropriate law enforcement agency, which
1877 may exercise for that purpose any authority conferred upon the
1878 agency by law.

1879 (7) The commissioner shall report regularly violations of
1880 this chapter, as well as enforcement actions and other relevant
1881 information, to the Nationwide Mortgage Licensing System and
1882 Registry subject to the provisions contained in Section 81-18-63.

1883 (8) The state may enforce its rights under the surety bond
1884 as required in Section 81-18-11 as an available remedy for the
1885 collection of any civil penalties, criminal fines or costs of
1886 investigation and/or prosecution incurred.

1887 (9) Any person assessed a penalty as provided in this
1888 section shall have the right to request a hearing on the amount of
1889 the penalty within ten (10) days after receiving notification of
1890 the assessment. If no hearing is requested within ten (10) days
1891 of the receipt of the notice, the penalty shall be final except as
1892 to judicial review in the Chancery Court of the First Judicial
1893 District of Hinds County. Upon the filing of a petition for
1894 judicial review, the court shall issue an order to the licensee
1895 requiring the licensee to show cause why it should not be entered.
1896 If the court determines, after a hearing upon the merits or after
1897 failure of the person to appear when so ordered, that the order of
1898 the department was properly issued, it shall grant the penalty
1899 sought by the department.



SECTION 28. Section 81-18-45, Mississippi Code of 1972, is brought forward as follows:

81-18-45. The commissioner may employ the necessary full-time employees above the number of permanent full-time employees authorized for the department for the fiscal year 2001, to carry out and enforce the provisions of this chapter. The commissioner also may expend the necessary funds and equip and provide necessary travel expenses for those employees.

SECTION 29. Section 81-18-47, Mississippi Code of 1972, is brought forward as follows:

81-18-47. (1) A licensee under this chapter shall have no liability for any act or practice done or omitted in conformity with (a) any rule or regulation of the commissioner, or (b) any rule, regulation, interpretation or approval of any other state or federal agency or any opinion of the Attorney General, notwithstanding that after such act or omission has occurred the rule, regulation, interpretation, approval or opinion is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(2) A licensee under this chapter, acting in conformity with a written interpretation or approval by an official or employee of any state or federal agency or department, shall be presumed to have acted in accordance with applicable law, notwithstanding that after such act has occurred, the interpretation or approval is



amended, rescinded, or determined by judicial or other authority to be incorrect or invalid for any reason.

SECTION 30. Section 81-18-49, Mississippi Code of 1972, is brought forward as follows:

81-18-49. Notwithstanding any provisions of this chapter to the contrary, mortgage companies engaging in business on or before June 1, 2000, shall be duly licensed by the department after submitting not later than January 1, 2001, the required documents and fees provided in Sections 81-18-9 and 81-18-15. However, upon the expiration of the initial licenses for such mortgage companies, the department shall renew the licenses only if the mortgage companies satisfy all of the provisions of this chapter.

SECTION 31. Section 81-18-53, Mississippi Code of 1972, is brought forward as follows:

81-18-53. The provisions of this chapter shall apply to the activities of retail sellers of manufactured homes to the extent as determined by the United States Department of Housing and Urban Development through guidelines, rules, regulations or interpretive letters or the United States Consumer Financial Protection Bureau.

SECTION 32. Section 81-18-55, Mississippi Code of 1972, is brought forward as follows:

81-18-55. (1) In addition to the activities prohibited under other provisions of this chapter, it shall be unlawful in the course of any residential mortgage loan transaction:



1948 (a) For any person to fail to comply with the mortgage
1949 loan servicing transfer, escrow account administration, or
1950 borrower inquiry response requirements imposed by Sections 6 and
1951 10 of the Real Estate Settlement Procedures Act (RESPA) and
1952 regulations adopted thereunder;

1953 (b) For a mortgage lender to fail to provide written
1954 notice to a borrower upon taking action to place hazard,
1955 homeowners, or flood insurance on the mortgaged property or to
1956 place such insurance when the mortgage lender knows or has reason
1957 to know that the insurance is in effect;

1958 (c) For a mortgage lender to place hazard, homeowners
1959 or flood insurance on a mortgaged property for an amount that
1960 exceeds either the value of the insurable improvements or the
1961 last-known coverage amount of insurance;

1962 (d) For a mortgage lender to fail to provide to the
1963 borrower a refund or earned premiums paid by a borrower or charged
1964 to the borrower for hazard, homeowners, or flood insurance placed
1965 by a mortgage lender if the borrower provides reasonable proof
1966 that the borrower has obtained coverage such that the forced
1967 placement is no longer necessary and the property is insured. If
1968 the borrower provides reasonable proof within twelve (12) months
1969 of the placement that no lapse in coverage occurred such that the
1970 forced placement was not necessary, the mortgage lender shall
1971 refund the entire premium;



1972 (e) For a mortgage lender to refuse to reinstate a
1973 delinquent loan upon a tender of payment made timely under the
1974 contract which is sufficient in amount, based upon the last
1975 written statement received by the borrower, to pay all past-due
1976 amounts, outstanding or overdue charges, and restore the loan to a
1977 nondelinquent status, but his reinstatement shall be available to
1978 a borrower no more than twice in any twenty-four-month period;

1979 (f) For a mortgage lender to fail to mail, at least
1980 forty-five (45) days before the power-of-sale foreclosure auction
1981 is conducted, a notice addressed to the borrower at the borrower's
1982 last-known address with the following information:

1983 (i) An itemization of all past-due amounts causing
1984 the loan to be in default;

1985 (ii) An itemization of any other charges that must
1986 be paid in order to bring the loan current;

1987 (iii) A statement that the borrower may have
1988 options available other than foreclosure and that the borrower may
1989 discuss the options with the mortgage lender, or a counselor
1990 approved by the U.S. Department of Housing and Urban Development
1991 (HUD);

1992 (iv) The address, telephone number, and other
1993 contact information for the mortgage lender or the agent for the
1994 mortgage lender who is authorized to attempt to work with the
1995 borrower to avoid foreclosure;



1996 (v) The name, address, telephone number, and other
1997 contact information for one or more HUD-approved counseling
1998 agencies operating to assist borrowers in Mississippi to avoid
1999 foreclosure; and

2000 (vi) The address, telephone number, and other
2001 contact information for the consumer complaint section of the
2002 Mississippi Department of Banking and Consumer Finance;

2003 (g) For a mortgage lender to fail to make all payments
2004 from any escrow account held for the borrower for insurance, taxes
2005 and other charges with respect to the property in a timely manner
2006 so as to ensure that no late penalties are assessed or other
2007 negative consequences result regardless of whether the loan is
2008 delinquent, unless there are not sufficient funds in the account
2009 to cover the payments and the mortgage lender has a reasonable
2010 basis to believe that recovery of the funds will not be possible.

2011 (2) The mortgage lender shall make reasonable attempts to
2012 comply with a borrower's request for information about the home
2013 loan account and to respond to any dispute initiated by the
2014 borrower about the loan account, as provided in this section. The
2015 mortgage lender shall maintain, until the home loan is paid in
2016 full, otherwise satisfied, or sold, written or electronic records
2017 of each written request for information regarding a dispute or
2018 error involving the borrower's account. Specifically, the
2019 mortgage lender is required to do all of the following:



2020 (a) Provide a written statement to the borrower within
2021 ten (10) business days of receipt of a written request from the
2022 borrower that includes or otherwise enables the mortgage lender to
2023 identify the name and account of the borrower and includes a
2024 statement that the account is or may be in error or otherwise
2025 provides sufficient detail to the mortgage lender regarding
2026 information sought by the borrower. The borrower is entitled to
2027 one such statement in any six-month period free of charge, and
2028 additional statements shall be provided if the borrower pays the
2029 mortgage lender a reasonable charge for preparing and furnishing
2030 the statement not to exceed Twenty-five Dollars (\$25.00). The
2031 statement shall include the following information if requested:
2032 (i) Whether the account is current or, if the
2033 account is not current, an explanation of the default and the date
2034 the account went into default;
2035 (ii) The current balance due on the loan,
2036 including the principal due, the amount of funds (if any) held in
2037 a suspense account, the amount of the escrow balance (if any)
2038 known to the mortgage lender, and whether there are any escrow
2039 deficiencies or shortages known to the mortgage lender;
2040 (iii) The identity, address and other relevant
2041 information about the current holder, owner or assignee of the
2042 loan; and



2043 (iv) The telephone number and mailing address of a
2044 mortgage lender representative with the information and authority
2045 to answer questions and resolve disputes;

2046 (b) Provide the following information and/or documents
2047 within twenty-five (25) business days of receipt of a written
2048 request from the borrower that includes or otherwise enables the
2049 mortgage lender to identify the name and account of the borrower
2050 and includes a statement that the account is or may be in error or
2051 otherwise provides sufficient detail to the mortgage lender
2052 regarding information sought by the borrower:

2053 (i) A copy of the original note, or if
2054 unavailable, an affidavit of the lost note;

2055 (ii) A statement that identifies and itemizes all
2056 fees and charges assessed under the loan transaction and provides
2057 a full payment history identifying in a clear and conspicuous
2058 manner all of the debits, credits, application of and disbursement
2059 of all payments received from or for the benefit of the borrower,
2060 and other activity on the home loan including escrow account
2061 activity and suspense account activity, if any. The period of the
2062 account history shall cover at a minimum the two-year period prior
2063 to the date of the receipt of the request for information. If the
2064 mortgage lender has not serviced the home loan for the entire
2065 two-year time period the mortgage lender shall provide the
2066 information going back to the date on which the mortgage lender
2067 began servicing the home loan. For purposes of this subsection,



2068 the date of the request for the information shall be presumed to
2069 be no later than thirty (30) days from the date of the receipt of
2070 the request. If the mortgage lender claims that any delinquent or
2071 outstanding sums are owed on the home loan prior to the two-year
2072 period or the period during which the mortgage lender has serviced
2073 the loan, the mortgage lender shall provide an account history
2074 beginning with the month that the mortgage lender claims any
2075 outstanding sums are owed on the loan up to the date of the
2076 request for the information. The borrower is entitled to one (1)
2077 such statement in any six-month period free of charge. Additional
2078 statements shall be provided if the borrower pays the mortgage
2079 lender a reasonable charge for preparing and furnishing the
2080 statement not to exceed Fifty Dollars (\$50.00); and

2081 (c) Promptly correct errors relating to the allocation
2082 of payments, the statement of account, or the payoff balance
2083 identified in any notice from the borrower provided in accordance
2084 with paragraph (b) of this subsection, or discovered through the
2085 due diligence of the mortgage lender or other means.

2086 (3) A mortgage lender must comply as to every residential
2087 mortgage loan, regardless of whether the loan is considered in
2088 default or the borrower is in bankruptcy or the borrower has been
2089 in bankruptcy, with the following requirements:

2090 (a) Any fee that is incurred by a mortgage lender shall
2091 be both:



2092 (i) Assessed within forty-five (45) days of the
2093 date on which the fee was incurred. Provided, however, that
2094 attorney or trustee fees and costs incurred as a result of a
2095 foreclosure action shall be assessed within forty-five (45) days
2096 of the date they are charged by either the attorney or trustee to
2097 the mortgage lender; and

2098 (ii) Explained clearly and conspicuously in a
2099 statement mailed to the borrower at the borrower's last-known
2100 address within thirty (30) days after assessing the fee, provided
2101 the mortgage lender shall not be required to take any action in
2102 violation of the provisions of the federal bankruptcy code. The
2103 mortgage lender shall not be required to send such a statement for
2104 a fee that: results from a service that is affirmatively
2105 requested by the borrower, is paid for by the borrower at the time
2106 the service is provided, and is not charged to the borrower's loan
2107 account.

2108 (b) All amounts received by a mortgage lender on a home
2109 loan at the address where the borrower has been instructed to make
2110 payments shall be accepted and credited, or treated as credited,
2111 within one (1) business day of the date received, provided that
2112 the borrower has made the full contractual payment and has
2113 provided sufficient information to credit the account. If a
2114 mortgage lender uses the scheduled method of accounting, any
2115 regularly scheduled payment made prior to the scheduled due date
2116 shall be credited no later than the due date. Provided, however,



2117 that if any payment is received and not credited, or treated as
2118 credited, the borrower shall be notified within ten (10) business
2119 days by mail at the borrower's last-known address of the
2120 disposition of the payment, the reason the payment was not
2121 credited, or treated as credited to the account, and any actions
2122 necessary by the borrower to make the loan current.

2123 (c) The notification required by paragraph (b) of this
2124 subsection is not necessary if the mortgage lender complies with
2125 the terms of any agreement or plan made with the borrower and has
2126 applied and credited payments received in the manner required, and
2127 the mortgage lender is applying and crediting payments to the
2128 borrower's account in compliance with all applicable state and
2129 federal laws, including bankruptcy laws, and if at least one (1)
2130 of the following occurs:

2131 (i) The borrower has entered into written loss
2132 mitigation, loan modification, or forbearance agreement with the
2133 mortgage lender that itemizes all amounts due and specifies how
2134 payments will be applied and credited;

2135 (ii) The borrower has elected to participate in an
2136 alternative payment plan, such as a biweekly payment plan, that
2137 specifies as part of a written agreement how payments will be
2138 applied and credited; or

2139 (iii) The borrower is making payments pursuant to
2140 a bankruptcy plan.



2141 (d) Failure to charge the fee or provide the
2142 information within the allowable time and in the manner required
2143 under subsection (3)(a)(i) of this section constitutes a waiver of
2144 such fee.

2145 (e) All fees charged by a mortgage lender must be
2146 otherwise permitted under applicable law and the contracts between
2147 the parties. Nothing herein is intended to permit the application
2148 of payments or method of charging interest which is less
2149 protective of the borrower than the contracts between the parties
2150 and other applicable law.

2151 (f) A mortgage lender shall charge a sum or prepayment
2152 penalty for the prepayment of any residential mortgage loan only
2153 as authorized by Section 75-17-31.

2154 (g) A mortgage lender shall charge a late payment
2155 charge only as authorized by Section 75-17-27.

2156 (h) The costs of collection and reasonable attorney
2157 fees may not be in excess of twenty-five percent (25%) of the
2158 unpaid debt after default, when the debt has been referred to an
2159 attorney for collection.

2160 (i) Charges or premiums for credit life insurance
2161 actually written on the life of the borrower or endorser in an
2162 amount not to exceed the total sum payable under the residential
2163 mortgage loan, including all interest, fees, costs and charges.

2164 **SECTION 33.** Section 81-18-61, Mississippi Code of 1972, is
2165 brought forward as follows:



2166 81-18-61. (1) In addition to any other duties imposed upon
2167 the commissioner by law, the commissioner shall require mortgage
2168 loan originators to be licensed through the Nationwide Mortgage
2169 Licensing System and Registry. In order to carry out this
2170 requirement, the commissioner is authorized to participate in the
2171 Nationwide Mortgage Licensing System and Registry. For this
2172 purpose, the commissioner may establish, by rule, regulation or
2173 order, requirements as necessary, including, but not limited to:

2174 (a) Background checks for:

2175 (i) Criminal history through fingerprint or other
2176 databases;

2177 (ii) Civil or administrative records;

2178 (iii) Credit history; or

2179 (iv) Any other information as deemed necessary by
2180 the Nationwide Mortgage Licensing System and Registry;

2181 (b) The payment of fees to apply for or renew licenses
2182 through the Nationwide Mortgage Licensing System and Registry;

2183 (c) The setting or resetting as necessary of renewal or
2184 reporting dates; and

2185 (d) Requirements for amending or surrendering a license
2186 or any other such activities as the commissioner deems necessary
2187 for participation in the Nationwide Mortgage Licensing System and
2188 Registry.

2189 (2) The commissioner shall establish a process by which
2190 mortgage loan originators may challenge information entered into



2191 the Nationwide Mortgage Licensing System and Registry by the
2192 commissioner.

2193 (3) In order to fulfill the purposes of this chapter, the
2194 commissioner is authorized to establish relationships or contracts
2195 with the Nationwide Mortgage Licensing System and Registry or
2196 other entities designated by the Nationwide Mortgage Licensing
2197 System and Registry to collect and maintain records and process
2198 transaction fees or other fees related to licensees or other
2199 persons subject to this chapter.

2200 (4) A loan processor or underwriter who is an independent
2201 contractor may not engage in the activities of a loan processor or
2202 underwriter unless the independent contractor loan processor or
2203 underwriter obtains and maintains a license under Section
2204 81-18-7(4). Each independent contractor loan processor or
2205 underwriter licensed as a mortgage loan originator must have and
2206 maintain a valid unique identifier issued by the Nationwide
2207 Mortgage Licensing System and Registry.

2208 **SECTION 34.** Section 81-18-63, Mississippi Code of 1972, is
2209 brought forward as follows:

2210 81-18-63. (1) Except as otherwise provided in Public Law
2211 110-289, Section 1512, the requirements under any federal law or
2212 applicable state law regarding the privacy or confidentiality of
2213 any information or material provided to the Nationwide Mortgage
2214 Licensing System and Registry, and any privilege arising under
2215 federal or state law (including the rules of any federal or state



2216 court) with respect to that information or material, shall
2217 continue to apply to the information or material after the
2218 information or material has been disclosed to the Nationwide
2219 Mortgage Licensing System and Registry. The information and
2220 material may be shared with all state and federal regulatory
2221 officials with mortgage industry oversight authority without the
2222 loss of privilege or the loss of confidentiality protections
2223 provided by federal law or applicable state law.

2224 (2) In order to promote more effective regulation and reduce
2225 regulatory burden through supervisory information sharing, the
2226 commissioner is authorized to enter agreements or sharing
2227 arrangements with other governmental agencies, the Conference of
2228 State Bank Supervisors, the American Association of Residential
2229 Mortgage Regulators or other associations representing
2230 governmental agencies as established by rule, regulation or order
2231 of the commissioner.

2232 (3) Information or material that is subject to a privilege
2233 or confidentiality under subsection (1) of this section shall not
2234 be subject to:

2235 (a) Disclosure under any federal or state law governing
2236 the disclosure to the public of information held by an officer or
2237 an agency of the federal government or the respective state; or

2238 (b) Subpoena or discovery, or admission into evidence,
2239 in any private civil action or administrative process, unless with
2240 respect to any privilege held by the Nationwide Mortgage Licensing



2241 System and Registry with respect to that information or material,
2242 the person to whom the information or material pertains waives, in
2243 whole or in part, in the discretion of the person, that privilege.

2244 (4) Any applicable state law relating to the disclosure of
2245 confidential supervisory information or any information or
2246 material described in subsection (1) of this section that is
2247 inconsistent with subsection (1) shall be superseded by the
2248 requirements of this section.

2249 (5) This section shall not apply with respect to the
2250 information or material relating to the employment history of, and
2251 publicly adjudicated disciplinary and enforcement actions against,
2252 mortgage loan originators that is included in the Nationwide
2253 Mortgage Licensing System and Registry for access by the public.

2254 **SECTION 35.** This act shall take effect and be in force from
2255 and after July 1, 2025.

