

By: Senator(s) Parks, Jackson (11th)

To: Business and Financial  
Institutions

COMMITTEE SUBSTITUTE  
FOR  
SENATE BILL NO. 2504

1 AN ACT TO REENACT SECTIONS 81-18-1 THROUGH 81-18-63, KNOWN AS  
2 THE "MISSISSIPPI S.A.F.E. MORTGAGE ACT"; TO AMEND REENACTED  
3 SECTION 81-18-9, MISSISSIPPI CODE OF 1972, TO REVISE THE  
4 QUALIFICATIONS FOR LICENSURE; TO AMEND REENACTED SECTION 81-18-15,  
5 MISSISSIPPI CODE OF 1972, TO REVISE THE NUMBER OF HOURS OF ANNUAL  
6 CONTINUING EDUCATION REQUIRED FOR A LICENSED MORTGAGE LOAN  
7 ORIGINATOR; TO AMEND REENACTED SECTION 81-18-21, MISSISSIPPI CODE  
8 OF 1972, TO REVISE THE MAINTENANCE REQUIREMENTS AND INVESTIGATION  
9 AUTHORITY OF BUSINESS RECORDS; TO AMEND REENACTED SECTION  
10 81-18-23, MISSISSIPPI CODE OF 1972, TO REVISE THE ANNUAL WRITTEN  
11 REPORTING REQUIREMENTS BY LICENSEES; TO AMEND REENACTED SECTION  
12 81-18-25, MISSISSIPPI CODE OF 1972, TO REVISE THE SIGNAGE  
13 REQUIREMENTS FOR PRINCIPAL PLACE OF BUSINESS AND BRANCH OFFICES;  
14 TO AMEND REENACTED SECTION 81-18-27, MISSISSIPPI CODE OF 1972, TO  
15 PROHIBIT CERTAIN ACTS OF LICENSEES; TO AMEND REENACTED SECTION  
16 81-18-28, MISSISSIPPI CODE OF 1972, TO CLARIFY THE CONTENTS OF A  
17 LOCK-IN FEE AGREEMENT; TO AMEND REENACTED SECTION 81-18-31,  
18 MISSISSIPPI CODE OF 1972, TO REVISE THE REGULATIONS GOVERNING  
19 ADVERTISING OF MORTGAGE LOANS; TO AMEND REENACTED SECTION  
20 81-18-33, MISSISSIPPI CODE OF 1972, TO PROVIDE FOR THE REQUIRED  
21 CONTENTS OF INDIVIDUAL CONSUMER SERVICER FILES; TO AMEND REENACTED  
22 SECTION 81-18-35, MISSISSIPPI CODE OF 1972, TO REVISE THE REQUIRED  
23 CONTENT OF A LICENSEE'S JOURNAL OF MORTGAGE TRANSACTIONS; TO AMEND  
24 REENACTED SECTION 81-18-37, MISSISSIPPI CODE OF 1972, TO MAKE A  
25 TECHNICAL AMENDMENT; TO AMEND REENACTED SECTION 81-18-51,  
26 MISSISSIPPI CODE OF 1972, TO EXTEND THE REPEALER; TO AMEND  
27 REENACTED SECTION 81-18-55, MISSISSIPPI CODE OF 1972, TO CLARIFY  
28 THE PROHIBITED ACTIVITIES IN THE COURSE OF RESIDENTIAL MORTGAGE  
29 LOAN TRANSACTIONS; TO AMEND REENACTED SECTION 81-18-61,  
30 MISSISSIPPI CODE OF 1972, TO DELETE THE REGISTRATION REQUIREMENT  
31 FOR MORTGAGE LOAN ORIGINATORS THROUGH THE NATIONWIDE MORTGAGE  
32 LICENSING SYSTEM AND REGISTRY; AND FOR RELATED PURPOSES.

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



34           **SECTION 1.** Section 81-18-1, Mississippi Code of 1972, is  
35 reenacted as follows:

36           81-18-1. This chapter shall be known and cited as the  
37 "Mississippi S.A.F.E. Mortgage Act."

38           **SECTION 2.** Section 81-18-3, Mississippi Code of 1972, is  
39 reenacted as follows:

40           81-18-3. For purposes of this chapter, the following terms  
41 shall have the following meanings:

42                   (a) "Application" means the submission of a borrower's  
43 financial information in anticipation of a credit decision,  
44 whether written or computer-generated. If the submission does not  
45 state or identify a specific property, the submission is an  
46 application for a prequalification and not an application for a  
47 federally related mortgage loan. The subsequent addition of an  
48 identified property to the submission converts the submission to  
49 an application for a federally related mortgage loan.

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

52                   (c) "Branch" means a location of a company in or  
53 outside of the state that conducts business as a mortgage broker  
54 or mortgage lender. A location shall be considered a branch  
55 regarding mortgage broker or mortgage lender activities in any of  
56 the following:

57                           (i) If the location is used on any type of  
58 advertisement;



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

62 (iii) If the activities of a mortgage loan  
63 originator occur at the location.

64 (d) "Commissioner" means the Commissioner of the  
65 Mississippi Department of Banking and Consumer Finance.

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

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

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

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

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

82 (j) "Executive officer" means the chief executive  
83 officer, the president, the principal financial officer, the



84 principal operating officer, each vice president with  
85 responsibility involving policy-making functions for a significant  
86 aspect of a person's business, the secretary, the treasurer, or  
87 any other person performing similar managerial or supervisory  
88 functions with respect to any organization whether incorporated or  
89 unincorporated.

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

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

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

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



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

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

113           (q) "Loan processor or underwriter" means an individual  
114 who performs clerical or support duties as an employee at the  
115 direction of and subject to the supervision and instruction of a  
116 person licensed or exempt from licensing under this chapter.

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

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

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

127           An individual engaging solely in loan processor or  
128 underwriter activities, shall not represent to the public, through  
129 advertising or other means of communicating or providing  
130 information including the use of business cards, stationery,  
131 brochures, signs, rate lists or other promotional items, that the



132 individual can or will perform any of the activities of a mortgage  
133 loan originator.

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

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

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

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

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

155 (w) "Mortgage lender" means any person who directly or  
156 indirectly or by electronic activity originates, makes, funds or



157 purchases or offers to originate, make, or fund or purchase a  
158 residential mortgage loan or who services residential mortgage  
159 loans.

160 (x) "Mortgage-lending process" means the process  
161 through which a person seeks or obtains a mortgage loan,  
162 including, but not limited to, solicitation, application,  
163 origination, negotiation of terms, third-party provider services,  
164 underwriting, signing and closing, and funding of the loan.  
165 Documents involved in the mortgage-lending process include, but  
166 are not limited to, uniform residential loan applications or other  
167 loan applications, appraisal reports, HUD-1 Settlement Statements,  
168 supporting personal documentation for loan applications such as  
169 W-2 forms, verifications of income and employment, bank  
170 statements, tax returns, payroll stubs and any required  
171 disclosures.

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

173 (i) Takes a residential mortgage loan application;  
174 and

175 (ii) Offers or negotiates terms of a residential  
176 mortgage loan for compensation or gain. The term "mortgage loan  
177 originator" does not include:

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



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

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

190                   (z) "Nationwide Mortgage Licensing System and Registry"  
191 means a mortgage licensing system developed and maintained by the  
192 Conference of State Bank Supervisors and the American Association  
193 of Residential Mortgage Regulators for the licensing and  
194 registration of licensed mortgage loan originators.

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

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

199                   (cc) "Offering or negotiating a residential mortgage  
200 loan" means:

201                   (i) Presenting particular mortgage loan terms for  
202 consideration by a borrower; or

203                   (ii) Communicating directly or indirectly with a  
204 borrower for purposes of reaching a mutual understanding about  
205 prospective loan terms.





206 "Offering or negotiating" does not include the following:  
207 the mere sharing of general information about a financing source;  
208 discussing hypothetical financing options, i.e., options not  
209 related to specific financing source; giving the homebuyer a list  
210 of available financing sources; discussing a buyer's ability to  
211 afford a home; presenting or discussing generic facts or generic  
212 rate sheets; closing personal property transactions.

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

216 (ee) "Principal" means a person who, directly or  
217 indirectly, owns or controls an ownership interest of ten percent  
218 (10%) or more in a corporation or any other form of business  
219 organization, regardless of whether the person owns or controls  
220 the ownership interest through one or more persons or one or more  
221 proxies, powers of attorney, nominees, corporations, associations,  
222 limited liability companies, partnerships, trusts, joint-stock  
223 companies, other entities or devises, or any combination thereof.

224 (ff) "Qualifying individual" means an owner or employee  
225 of a mortgage broker or mortgage lender who submits documentation  
226 of two (2) years' experience directly related to mortgage  
227 activities and who shall be primarily responsible for the  
228 operations of the licensed mortgage broker or mortgage lender.  
229 This individual will also be designated as the qualifying



230 individual in the Nationwide Mortgage Licensing System and  
231 Registry.

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

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

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

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

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

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

250 (hh) "Records" or "documents" means any item in hard  
251 copy or produced in a format of storage commonly described as  
252 electronic, imaged, magnetic, microphotographic or otherwise, and  
253 any reproduction so made shall have the same force and effect as



254 the original thereof and be admitted in evidence equally with the  
255 original.

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

258 (i) Meets the definition of mortgage loan  
259 originator and is an employee of a depository institution, a  
260 subsidiary that is owned and controlled by a depository  
261 institution and regulated by a federal banking agency or an  
262 institution regulated by the Farm Credit Administration; and

263 (ii) Is registered with, and maintains a unique  
264 identifier through, the Nationwide Mortgage Licensing System and  
265 Registry.

266 (jj) "Residential mortgage loan" means any loan  
267 primarily for personal, family or household use that is secured by  
268 a mortgage, deed of trust or other equivalent consensual security  
269 interest on a dwelling (as defined in Section 103(v) of the Truth  
270 in Lending Act) or residential real estate upon which is  
271 constructed or intended to be constructed a dwelling (as so  
272 defined).

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

276 (ll) "Service a mortgage loan" means the collection or  
277 remittance for another, the right to collect or remit for another,  
278 or the collection of the company's own loan portfolio, whether or



279 not the company originated, funded or purchased the loan in the  
280 secondary market, of payments of principal and interest, trust  
281 items such as insurance and taxes, and any other payments pursuant  
282 to a mortgage loan.

283 (mm) "Taking an application for a residential mortgage  
284 loan" means a receipt of an application for the purpose of  
285 deciding whether or not to extend the requested offer of a loan to  
286 the borrower whether the application is received directly or  
287 indirectly from the borrower. However, an individual whose only  
288 role with respect to the application is physically handling a  
289 completed application form or transmitting a completed form to a  
290 lender on behalf of a prospective borrower does not take an  
291 application.

292 (nn) "Unique identifier" means a number or other  
293 identifier assigned by protocols established by the Nationwide  
294 Mortgage Licensing System and Registry.

295 **SECTION 3.** Section 81-18-5, Mississippi Code of 1972, is  
296 reenacted as follows:

297 81-18-5. The following are exempt from the provisions of  
298 this chapter:

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

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



304           (c) Any person, estate or trust who owner finances in  
305 one (1) calendar year no more than ten (10) residential mortgage  
306 loans or no more than twenty percent (20%) of his total  
307 residential units sold, whichever is greater. A violation of this  
308 paragraph (c) shall not affect the title of the purchaser/borrower  
309 or the obligation of the purchaser/borrower under the terms of the  
310 mortgage loan.

311           (d) A licensed attorney who negotiates the terms of a  
312 residential mortgage loan on behalf of a client as an ancillary  
313 matter to the attorney's representation of the client, unless the  
314 attorney is compensated by a lender, a mortgage broker, or other  
315 mortgage loan originator or by any agent of the lender, mortgage  
316 broker, or other mortgage loan originator.

317           (e) A depository institution, or a subsidiary that is  
318 owned and controlled by a depository institution, or an  
319 institution regulated by the Farm Credit Administration.

320           (f) Any mortgage lender who holds a valid license under  
321 the provisions of the Small Loan Regulatory Law, Section 75-67-101  
322 et seq., and the Small Loan Privilege Tax Law, Section 75-67-201  
323 et seq., and whose mortgage lending activities are limited solely  
324 to the servicing of mortgage loans that were in such mortgage  
325 lender's own loan portfolio as of December 31, 2009. For the  
326 purposes of the exemption in this paragraph (f), "servicing of  
327 mortgage loans" shall mean and include the collection of payments  
328 of principal and interest, insurance premiums, taxes and other



329 payments required under such mortgage loans, and shall also  
330 include activities related to the collection of such payments such  
331 as collection calls whether by phone, mail, electronic means or in  
332 person, and enforcement remedies permitted by law or at equity.  
333 In no event shall the term "servicing of mortgage loans" include  
334 the renewal or reworking of the mortgage. If a mortgage loan is  
335 renewed or reworked, the lender shall be required to obtain a  
336 mortgage license in order to continue any mortgage activity  
337 described in this chapter.

338 (g) Any bona fide nonprofit organization and its  
339 employees who demonstrate to the satisfaction of the commissioner  
340 through the periodic examination of the books and activities of  
341 the organization as required in Section 81-18-21, Mississippi Code  
342 of 1972, that they continually meet the following requirements, at  
343 a minimum:

344 (i) Maintains tax-exempt status under Section  
345 501(c) (3) of the Internal Revenue Code of 1986;

346 (ii) Promotes affordable housing or provides  
347 homeownership education, or similar services;

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

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



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

356 (vi) Provides to or identifies for the borrower  
357 residential mortgage loans with terms that are favorable to the  
358 borrower and comparable to mortgage loans and housing assistance  
359 provided under government housing assistance programs.

360 (h) Any person who is an employee of a government  
361 agency or housing finance agency who acts as a mortgage loan  
362 originator in accordance with his duties as an employee of such  
363 agency.

364 (i) Any person who performs clerical or support duties  
365 at the direction of and subject to the supervision and instruction  
366 of a state-licensed loan originator or a registered loan  
367 originator. For purposes of this paragraph (i), the term  
368 "clerical or support duties" may include:

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

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



377           **SECTION 4.** Section 81-18-7, Mississippi Code of 1972, is  
378 reenacted as follows:

379           81-18-7. (1) No person shall transact business in this  
380 state, directly or indirectly, as a mortgage broker or mortgage  
381 lender unless he or she is licensed by the department or is a  
382 person exempted from the licensing requirements under Section  
383 81-18-5.

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

388           (3) Every person who directly or indirectly controls a  
389 person who violates this section, including a general partner,  
390 executive officer, joint venturer, contractor, or director of the  
391 person, violates this section to the same extent as the person,  
392 unless the person whose violation arises under this subsection  
393 shows by a preponderance of evidence the burden of proof that he  
394 or she did not know and, in the exercise of reasonable care, could  
395 not have known of the existence of the facts by reason of which  
396 the original violation is alleged to exist.

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





402 originator must register with and maintain a valid unique  
403 identifier issued by the Nationwide Mortgage Licensing System and  
404 Registry.

405 (5) In order to facilitate an orderly transition to  
406 licensing and minimize disruption in the mortgage marketplace, the  
407 effective date of subsection (4) of this section shall be as  
408 follows:

409 (a) For all individuals other than individuals  
410 described in paragraph (b), the effective date shall be July 31,  
411 2010, or such later date approved by the Secretary of the United  
412 States Department of Housing and Urban Development, under the  
413 authority granted under Public Law 110-289, Section 1508(a).

414 (b) For all individuals licensed as mortgage loan  
415 originators as of July 31, 2009, the effective date shall be  
416 January 1, 2011, or such later date approved by the Secretary of  
417 the United States Department of Housing and Urban Development,  
418 under the authority granted under Public Law 110-289, Section  
419 1508(a).

420 (6) For the purposes of implementing an orderly and  
421 efficient licensing process, the commissioner may establish  
422 licensing rules or regulations and interim procedures for  
423 licensing and acceptance of applications. For previously  
424 registered or licensed individuals, the commissioner may establish  
425 expedited review and licensing procedures.



426           **SECTION 5.** Section 81-18-8, Mississippi Code of 1972, is  
427 reenacted as follows:

428           81-18-8. Municipalities and counties in this state may enact  
429 ordinances that are in compliance with, but not more restrictive  
430 than, the provisions of this chapter. Any order, ordinance or  
431 regulation existing on July 1, 2002, or enacted on or after July  
432 1, 2002, that conflicts with this provision shall be null and  
433 void.

434           **SECTION 6.** Section 81-18-9, Mississippi Code of 1972, is  
435 reenacted and amended as follows:

436           81-18-9. (1) Applicants for a license shall apply in a form  
437 as prescribed by the commissioner. Each such form shall contain  
438 content as set forth by rule, regulation, instruction or procedure  
439 of the commissioner and may be changed or updated as necessary by  
440 the commissioner in order to carry out the purposes of this  
441 chapter.

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

445           (a) The legal name, residence and business address of  
446 the applicant and, if applicable, the legal name, residence and  
447 business address of every principal and executive officer,  
448 together with the résumé of the applicant and of every principal  
449 and executive officer of the applicant. In addition, an  
450 independent credit report obtained from a consumer-reporting



451 agency described in Section 603(p) of the Fair Credit Reporting  
452 Act and information related to any administrative, civil or  
453 criminal findings by any governmental jurisdiction of every  
454 principal and executive officer.

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

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

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

467 (e) Documentation satisfactory to the department as to  
468 a certificate of existence of authority to transact business  
469 lawfully in Mississippi from the Mississippi Secretary of State's  
470 office, if a limited liability company, partnership, trust or any  
471 other group of persons, however organized. This paragraph does  
472 not pertain to applicants organized as an individual or as a sole  
473 proprietorship.



474 (f) If a foreign entity, a copy of a certificate of  
475 authority to conduct business in Mississippi and the address of  
476 the principal place of business of the foreign entity.

477 (g) Documentation of a minimum of two (2) years'  
478 experience directly related to mortgage activities by a person  
479 named as the qualifying individual of the company. The qualifying  
480 individual shall be primarily responsible for the operations of  
481 the licensed mortgage broker or mortgage lender. Only one (1)  
482 qualifying individual shall be named for Mississippi and this  
483 person shall be the qualifying individual for only one (1)  
484 licensee. Evidence of experience shall include, where applicable:

485 (i) Copies of business licenses issued by  
486 governmental agencies.

487 (ii) Employment history of the person filing the  
488 application for at least two (2) years before the date of the  
489 filing of an application, including, but not limited to, job  
490 descriptions, length of employment, names, addresses and phone  
491 numbers for past employers.

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



497 (3) The mortgage broker and mortgage lender applications  
498 shall be filed on the Nationwide Mortgage Licensing System and  
499 Registry together with the following:

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

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

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

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

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

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

516 (iv) All executive officers of the applicant;

517 (v) All loan originators; and

518 (vi) The named qualifying individual of the  
519 company as required in Section 81-18-9(2)(g). The applicant shall  
520 name only one (1) individual as the qualifying individual for the  
521 State of Mississippi \* \* \*; and



522 (d) At least one (1) employee shall be licensed as a  
523 loan originator at a licensed location.

524 (4) In connection with an application for licensing as a  
525 mortgage broker or lender under this chapter, the required  
526 stockholders, owners, directors and executive officers of the  
527 applicant shall, at a minimum, furnish to the Nationwide Mortgage  
528 Licensing System and Registry information concerning the  
529 individual's identity, including:

530 (a) Fingerprints from any local law enforcement agency  
531 for submission to the Federal Bureau of Investigation and any  
532 governmental entity authorized to receive that information for a  
533 state, national and/or international criminal history background  
534 check; and

535 (b) Personal history and experience in a form  
536 prescribed by the Nationwide Mortgage Licensing System and  
537 Registry, including the submission of authorization for the  
538 Nationwide Mortgage Licensing System and Registry and the  
539 commissioner to obtain:

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

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

545 (5) Upon receipt of an application for licensure, the  
546 department or designated third party shall conduct an



547 investigation as it deems necessary to determine that the  
548 applicant and its officers, directors and principals are of good  
549 character and ethical reputation; that the applicant demonstrates  
550 reasonable financial responsibility; and that the applicant has  
551 reasonable policies and procedures to receive and process customer  
552 grievances and inquiries promptly and fairly.

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

557 (7) If an applicant satisfies the requirements of this  
558 chapter for a mortgage broker or mortgage lender license, the  
559 commissioner shall issue the license unless the commissioner finds  
560 any of the following:

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

565 (b) The applicant or its controlling persons has been  
566 convicted of, or pled guilty or nolo contendere to, (i) a felony  
567 in a domestic, foreign or military court during the seven-year  
568 period preceding the date of application for licensing; or

569 (ii) \* \* \* at any time preceding the date of application \* \* \* if  
570 such felony involved an act of fraud, dishonesty, a breach of  
571 trust, or money laundering \* \* \*. However, any pardon or



572 expungement of a conviction shall not be a conviction for purposes  
573 of this subsection.

574 (8) Applicants for a mortgage loan originator license shall  
575 apply in a form as prescribed by the commissioner and shall be  
576 filed on the Nationwide Mortgage Licensing System and Registry.  
577 Each such form shall contain content as set forth by rules,  
578 regulations, instructions or procedures of the commissioner and  
579 may be changed or updated as necessary by the commissioner in  
580 order to carry out the purposes of this chapter. The initial  
581 license of a mortgage loan originator shall be accompanied by a  
582 fee of Two Hundred Dollars (\$200.00), to be paid to the Nationwide  
583 Mortgage Licensing System and Registry, and any additional fees as  
584 required by the Nationwide Mortgage Licensing System and Registry.  
585 The commissioner shall not issue a mortgage loan originator  
586 license unless the commissioner makes at a minimum the following  
587 findings:

588 (a) The applicant has never had a mortgage loan  
589 originator license revoked in any governmental jurisdiction,  
590 except that a later formal vacation of that revocation shall not  
591 be deemed a revocation.

592 (b) The applicant has not been convicted of, or pled  
593 guilty or nolo contendere to, (i) a felony in a domestic, foreign  
594 or military court during the seven-year period preceding the date  
595 of application for licensing; or (ii) \* \* \* at any time preceding  
596 the date of application \* \* \* if such felony involved an act of





597 fraud, dishonesty, a breach of trust or money laundering \* \* \*.  
598 However, any pardon or expungement of a conviction shall not be a  
599 conviction for purposes of this subsection.

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

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

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

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

611 (g) This individual must work for a Mississippi  
612 licensed company and work from the location licensed with the  
613 department. The licensed location that he or she is assigned to  
614 must be within one hundred twenty-five (125) miles of his or her  
615 residency. If the licensed loan originator resides and works in  
616 Mississippi, then he or she may work from any licensed location of  
617 the licensed company within the State of Mississippi. However, an  
618 owner of a minimum of ten percent (10%) of a licensed company or  
619 the named qualifying individual on file with the department, who  
620 is a licensed loan originator with the department, may work from  
621 any licensed location of the licensed company within the State of



622 Mississippi in the capacity of a loan originator as described in  
623 this chapter.

624 (9) In order to fulfill the purposes of this chapter, the  
625 commissioner is authorized to establish relationships or contracts  
626 with the Nationwide Mortgage Licensing System and Registry or  
627 other entities designated by the Nationwide Mortgage Licensing  
628 System and Registry to collect and maintain records and process  
629 transaction fees or other fees related to licensees or other  
630 persons subject to this chapter.

631 (10) In connection with an application for licensing as a  
632 mortgage loan originator, the applicant shall, at a minimum,  
633 furnish to the Nationwide Mortgage Licensing System and Registry  
634 information concerning the applicant's identity, including:

635 (a) Fingerprints for submission to the Federal Bureau  
636 of Investigation, and any governmental agency or entity authorized  
637 to receive that information for a state, national and/or  
638 international criminal history background check; and

639 (b) Personal history and experience in a form  
640 prescribed by the Nationwide Mortgage Licensing System and  
641 Registry, including the submission of authorization for the  
642 Nationwide Mortgage Licensing System and Registry and the  
643 commissioner to obtain:

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



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

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

656 (12) For the purposes of this section and in order to reduce  
657 the points of contact which the commissioner may have to maintain  
658 for purposes of subsection (10)(b)(i) and (ii) of this section,  
659 the commissioner may use the Nationwide Mortgage Licensing System  
660 and Registry as a channeling agent for requesting and distributing  
661 information to and from any source so directed by the  
662 commissioner.

663 **SECTION 7.** Section 81-18-11, Mississippi Code of 1972, is  
664 reenacted as follows:

665 81-18-11. (1) Each mortgage loan originator shall be  
666 covered by a surety bond in accordance with this section. If the  
667 mortgage loan originator is an employee or exclusive agent of a  
668 person subject to this chapter, the surety bond of the person who  
669 is subject to this chapter may be used in lieu of the mortgage  
670 loan originator's surety bond requirement.



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

675 (3) The penal sum of the surety bond shall be maintained in  
676 an amount as determined by the commissioner by rule or regulation  
677 and shall be based upon loan activity during the previous year,  
678 but shall not exceed Twenty-five Thousand Dollars (\$25,000.00) for  
679 a mortgage broker or One Hundred Fifty Thousand Dollars  
680 (\$150,000.00) for a mortgage lender. For an initial applicant,  
681 the bond amount shall be set at Twenty-five Thousand Dollars  
682 (\$25,000.00) for a mortgage broker and One Hundred Fifty Thousand  
683 Dollars (\$150,000.00) for a mortgage lender.

684 (4) When an action is commenced on a licensee's bond, the  
685 commissioner may require the filing of a new bond. Immediately  
686 upon recovery upon any action on the bond, the licensee shall file  
687 a new bond.

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



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

699 **SECTION 8.** Section 81-18-13, Mississippi Code of 1972, is  
700 reenacted as follows:

701 81-18-13. (1) In order to fulfill the purposes of this  
702 chapter, the commissioner is authorized to establish relationships  
703 or contracts with the Nationwide Mortgage Licensing System and  
704 Registry or other entities designated by the Nationwide Mortgage  
705 Licensing System and Registry to collect and maintain records and  
706 process transaction fees or other fees related to licensees or  
707 other persons subject to this chapter.

708 (2) Within thirty (30) days after receipt of a completed  
709 application, final verification from the Department of Public  
710 Safety and/or FBI, and payment of licensing fees prescribed by  
711 this chapter, the department shall either grant or deny the  
712 request for license. However, if the Federal Financial  
713 Institutions Examination Council (FFIEC) prescribes a lesser  
714 period of time within which the department shall either grant or  
715 deny the request for license, then that time limitation shall  
716 supersede this subsection.

717 (3) A person shall not be indemnified for any act covered by  
718 this chapter or for any fine or penalty incurred under this  
719 chapter as a result of any violation of this chapter or  
720 regulations adopted under this chapter, due to the legal form,



721 corporate structure, or choice of organization of the person,  
722 including, but not limited to, a limited liability corporation.

723 **SECTION 9.** Section 81-18-14, Mississippi Code of 1972, is  
724 reenacted as follows:

725 81-18-14. (1) In order to meet the prelicensing education  
726 requirement referred to in Section 81-18-9(4)(d), a person shall  
727 complete at least twenty (20) hours of education approved in  
728 accordance with subsection (2) of this section, which shall  
729 include at least:

730 (a) Three (3) hours of federal law and regulations;

731 (b) Three (3) hours of ethics, which shall include  
732 instruction on fraud, consumer protection and fair lending issues;

733 (c) Two (2) hours of training related to lending  
734 standards for the nontraditional mortgage product marketplace; and

735 (d) Four (4) hours of education related to the  
736 Mississippi S.A.F.E. Mortgage Act.

737 (2) For the purposes of subsection (1) of this section,  
738 prelicensing education courses shall be reviewed, and approved by  
739 the Nationwide Mortgage Licensing System and Registry based upon  
740 reasonable standards. Review and approval of a prelicensing  
741 education course shall include review and approval of the course  
742 provider.

743 (3) Nothing in this section shall preclude any prelicensing  
744 education course, as approved by the Nationwide Mortgage Licensing  
745 System and Registry, that is provided by the employer of the



746 applicant or an entity that is affiliated with the applicant by an  
747 agency contract, or any subsidiary or affiliate of such employer  
748 or entity.

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

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

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

761 (7) In order to meet the written test requirement for  
762 mortgage loan originators referred to in Section 81-18-9(4)(e), an  
763 individual shall pass, in accordance with the standards  
764 established under this subsection, a qualified written test  
765 developed by the Nationwide Mortgage Licensing System and Registry  
766 and administered by a test provider approved by the Nationwide  
767 Mortgage Licensing System and Registry based upon reasonable  
768 standards.

769 (8) A written test shall not be treated as a qualified  
770 written test for purposes of subsection (7) of this section unless



771 the test adequately measures the applicant's knowledge and  
772 comprehension in appropriate subject areas, including:

773 (a) Ethics;

774 (b) Federal law and regulation pertaining to mortgage  
775 origination;

776 (c) State law and regulation pertaining to mortgage  
777 origination; and

778 (d) Federal and state law and regulation, including  
779 instruction on fraud, consumer protection, the nontraditional  
780 mortgage marketplace and fair lending issues.

781 (9) Nothing in this section shall prohibit a test provider  
782 approved by the Nationwide Mortgage Licensing System and Registry  
783 from providing a test at the location of the employer of the  
784 applicant or the location of any subsidiary or affiliate of the  
785 employer of the applicant, or the location of any entity with  
786 which the applicant holds an exclusive arrangement to conduct the  
787 business of a mortgage loan originator.

788 (10) (a) An individual shall not be considered to have  
789 passed a qualified written test unless the individual achieves a  
790 test score of not less than seventy-five percent (75%) correct  
791 answers to questions.

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





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

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

802 **SECTION 10.** Section 81-18-15, Mississippi Code of 1972, is  
803 reenacted and amended as follows:

804 81-18-15. (1) Each mortgage broker and mortgage lender  
805 license shall remain in full force and effect until relinquished,  
806 suspended, revoked or expired. With each initial application for  
807 a license to operate as a mortgage broker or mortgage lender, the  
808 applicant shall pay through the Nationwide Mortgage Licensing  
809 System and Registry to the commissioner a license fee of One  
810 Thousand Five Hundred Dollars (\$1,500.00); however, if the initial  
811 mortgage broker or mortgage lender license is issued between  
812 November 1 and December 31, the license will expire December 31 of  
813 the following licensing year. Upon the expiration of the initial  
814 license, the licensee shall pay an annual renewal fee of One  
815 Thousand Dollars (\$1,000.00) on or before December 31 of each  
816 year. If the annual renewal fee remains unpaid, the license shall  
817 expire, but not before December 31 of any year for which the  
818 annual renewal fee has been paid. If the renewal fee is not paid  
819 before the expiration date of the license, then the licensee shall



820 be liable for the initial license fee, which is One Thousand Five  
821 Hundred Dollars (\$1,500.00), plus a penalty in an amount not to  
822 exceed Twenty-five Dollars (\$25.00) for each day after the  
823 expiration of the license. All licensing fees and penalties shall  
824 be paid into the Consumer Finance Fund of the department. If the  
825 application is withdrawn or denied, the application fee along with  
826 any other applicable fee are not refundable.

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

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

831 (b) The mortgage loan originator has satisfied the  
832 annual continuing education requirements described in Section  
833 81-18-15(5).

834 (c) The mortgage loan originator has paid all required  
835 fees for renewal of the license. Annual renewals of this license  
836 shall require a fee of One Hundred Dollars (\$100.00).

837 (3) The license of a mortgage loan originator failing to  
838 satisfy the minimum standards for license renewal shall expire.  
839 The commissioner may adopt procedures for the reinstatement of  
840 expired licenses consistent with the standards established by the  
841 Nationwide Mortgage Licensing System and Registry. If the renewal  
842 fee remains unpaid, the license shall expire, but not before  
843 December 31 of any year for which the annual renewal fee has been  
844 paid. However, if the initial loan originator license is issued



845 between November 1 and December 31, the license will expire  
846 December 31 of the following licensing year. If the renewal fee  
847 is not paid before the expiration date of the license, the  
848 mortgage loan originator shall be liable for the initial license  
849 fee, which is Two Hundred Dollars (\$200.00), in order to renew.

850 (4) Any licensee making timely and proper application for a  
851 license renewal shall be permitted to continue to operate under  
852 its existing license until its application is approved or  
853 rejected, but shall not be released from or otherwise indemnified  
854 for any act covered by this chapter or for any penalty incurred  
855 under this chapter as a result of any violation of this chapter or  
856 regulations adopted under this chapter, pending final approval or  
857 disapproval of the application for the license renewal.

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

863 (a) Three (3) hours of federal law and regulations;

864 (b) Two (2) hours of ethics, which shall include  
865 instruction on fraud, consumer protection and fair lending issues;  
866 and

867 (c) Two (2) hours of training related to lending  
868 standards for the nontraditional mortgage product  
869 marketplace \* \* \*.



870 \* \* \*

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

877 (7) Nothing in this section shall preclude any education  
878 course, as approved by the Nationwide Mortgage Licensing System  
879 and Registry, that is provided by the employer of the mortgage  
880 loan originator or an entity that is affiliated with the mortgage  
881 loan originator by an agency contract, or any subsidiary or  
882 affiliate of such employer or entity.

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

886 (9) A licensed mortgage loan originator:

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

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

893 (10) A licensed mortgage loan originator who is an approved  
894 instructor of an approved continuing education course may receive



895 credit for the licensed mortgage loan originator's own annual  
896 continuing education requirement at the rate of two (2) hours  
897 credit for every one (1) hour taught.

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

903 (12) A licensed mortgage loan originator who later becomes  
904 unlicensed must complete the continuing education requirements for  
905 the last year in which the license was held prior to issuance of a  
906 new or renewed license.

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

911 **SECTION 11.** Section 81-18-17, Mississippi Code of 1972, is  
912 reenacted as follows:

913 81-18-17. (1) A license may not be transferred or assigned.

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

916 (3) A licensed mortgage broker or mortgage lender shall  
917 notify the department through the Nationwide Mortgage Licensing  
918 System and Registry of any change in the address of its principal



919 place of business or of any change in the address of an additional  
920 licensed branch location within thirty (30) days of the change.

921 (4) No licensee shall open a branch office in this state or  
922 a branch office outside this state from which the licensee has  
923 direct contact with consumers regarding origination or brokering  
924 Mississippi residential property, without prior approval of the  
925 department. An application for any branch office shall be made  
926 through the Nationwide Mortgage Licensing System and Registry on a  
927 form prescribed by the department, which shall include at least  
928 evidence of compliance with subsection (1) of Section 81-18-25 as  
929 to that branch and shall be accompanied by payment of a  
930 nonrefundable application fee of Three Hundred Dollars (\$300.00)  
931 and at least one (1) loan originator application licensed at that  
932 branch office. The application shall be approved unless the  
933 department finds that the applicant has not conducted business  
934 under this chapter in accordance with law. Each branch office  
935 that currently holds a branch license shall renew that branch  
936 license before the expiration date of the main company license, on  
937 or before December 31; however, if the initial branch license is  
938 issued between November 1 and December 31, the license will expire  
939 December 31 of the following licensing year. The license renewal  
940 shall be on a form prescribed by the department with a  
941 nonrefundable renewal application fee of One Hundred Dollars  
942 (\$100.00). If the annual renewal fee remains unpaid, the license  
943 shall expire, but not before December 31 of any year for which the



944 annual renewal fee has been paid. If the renewal fee is not paid  
945 before the expiration date of the license, the branch shall be  
946 liable for the initial license fee, which is Three Hundred Dollars  
947 (\$300.00), in order to renew.

948 (5) A licensed mortgage broker or mortgage lender shall  
949 notify the department within thirty (30) days by submitting a  
950 sponsorship removal in the Nationwide Mortgage Licensing System  
951 and Registry when a loan originator is released from its  
952 employment. In addition, the licensed mortgage broker or mortgage  
953 lender shall notify the department within thirty (30) days through  
954 the Nationwide Mortgage Licensing System and Registry when there  
955 is a change of the qualifying individual of the licensee.

956 **SECTION 12.** Section 81-18-19, Mississippi Code of 1972, is  
957 reenacted as follows:

958 81-18-19. (1) Except as provided in this section, no person  
959 shall acquire directly or indirectly ten percent (10%) or more of  
960 the voting shares of a corporation or ten percent (10%) or more of  
961 the ownership of any other entity licensed to conduct business  
962 under this chapter unless it first files an application in  
963 accordance with the requirements prescribed in Section 81-18-9.

964 (2) Upon the filing and investigation of an application, the  
965 department shall permit the applicant to acquire the interest in  
966 the licensee if it is satisfied and finds that the applicant and  
967 its members, if applicable, its directors and officers, if a  
968 corporation, and any proposed new directors and officers have



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

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

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

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

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

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

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





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

996 **SECTION 13.** Section 81-18-21, Mississippi Code of 1972, is  
997 reenacted and amended as follows:

998 81-18-21. (1) Any person required to be licensed under this  
999 chapter shall maintain in its offices, or such other location as  
1000 the department shall permit, the books, accounts and records  
1001 necessary for the department to determine whether or not the  
1002 person is complying with the provisions of this chapter and the  
1003 rules and regulations adopted by the department under this  
1004 chapter. These books, accounts and records shall be maintained  
1005 apart and separate from any other business in which the person is  
1006 involved and may represent historical data for three (3) years  
1007 preceding the date of the last license application date forward.  
1008 The books, accounts and records for individual consumer mortgage  
1009 files shall be maintained apart and separate from any other  
1010 personal loan files made by the same consumer. The books,  
1011 accounts and records shall be kept in a secure location under  
1012 conditions that will not lead to their damage or destruction. If  
1013 the licensee wishes to keep the files in a location other than the  
1014 location listed on the license, then the licensee first must  
1015 submit a written request on a form designated by the department  
1016 and gain written approval from the commissioner before storing the  
1017 files at an off-site secure location.



1018           (2) To assure compliance with the provisions of this  
1019 chapter, the department may examine the books and records of any  
1020 licensee without notice during normal business hours. The  
1021 commissioner shall charge the licensee an examination fee in an  
1022 amount not less than Three Hundred Dollars (\$300.00) nor more than  
1023 Six Hundred Dollars (\$600.00) per day with a maximum examination  
1024 fee of Two Thousand Four Hundred Dollars (\$2,400.00) for each  
1025 office or location within the State of Mississippi, and an  
1026 examination fee in an amount not less than Three Hundred Dollars  
1027 (\$300.00) nor more than Eight Hundred Dollars (\$800.00) per day  
1028 for each office or location outside the State of Mississippi, plus  
1029 any actual expenses incurred while examining the licensee's  
1030 records or books that are located outside the State of  
1031 Mississippi. However, in no event shall a licensee be examined  
1032 more than once in a two-year period unless for cause shown based  
1033 upon consumer complaint and/or other exigent reasons as determined  
1034 by the commissioner.

1035           (3) The department, its designated officers and employees,  
1036 or its duly authorized representatives, for the purposes of  
1037 discovering violations of this chapter and for the purpose of  
1038 determining whether any person or individual reasonably suspected  
1039 by the commissioner of conducting business that requires a license  
1040 under this chapter, may investigate those persons and individuals  
1041 and examine all relevant books, records and papers employed by  
1042 those persons or individuals in the transaction of business, and



1043 may summon witnesses and examine them under oath concerning  
1044 matters as to the business of those persons, or other such matters  
1045 as may be relevant to the discovery of violations of this chapter,  
1046 including, without limitation, the conduct of business without a  
1047 license as required under this chapter.

1048 (4) Each licensee, individual or person subject to this  
1049 chapter shall make available to the commissioner upon request the  
1050 books and records relating to the operations of the licensee,  
1051 individual or person subject to this chapter. The commissioner  
1052 shall have access to those books and records and interview the  
1053 officers, principals, mortgage loan originators, employees,  
1054 independent contractors, agents, and customers of the licensee,  
1055 individual or person subject to this chapter concerning their  
1056 business. Failure to produce the books and records within sixty  
1057 (60) days from the date of request may result in a violation of  
1058 this chapter, resulting in a civil penalty.

1059 (5) Each licensee, individual or person subject to this  
1060 chapter shall make or compile reports or prepare other information  
1061 as directed by the commissioner in order to carry out the purposes  
1062 of this section, including, but not limited to:

1063 (a) Accounting compilations;

1064 (b) Information lists and data concerning loan  
1065 transactions in a format prescribed by the commissioner; or

1066 (c) Such other information deemed necessary to carry  
1067 out the purposes of this section.



1068           (6) In making any examination or investigation authorized by  
1069 this chapter, the commissioner may control access to any documents  
1070 and records of the licensee or person under examination or  
1071 investigation. The commissioner may take possession of the  
1072 documents and records or place a person in exclusive charge of the  
1073 documents and records in the place where they are usually kept.  
1074 During the period of control, no individual or person shall remove  
1075 or attempt to remove any of the documents and records except under  
1076 a court order or with the consent of the commissioner. Unless the  
1077 commissioner has reasonable grounds to believe the documents or  
1078 records of the licensee have been or are at risk of being altered  
1079 or destroyed for purposes of concealing a violation of this  
1080 chapter, the licensee or owner of the documents and records shall  
1081 have access to the documents or records as necessary to conduct  
1082 its ordinary business affairs.

1083           (7) The commissioner shall report regularly violations of  
1084 this chapter, as well as enforcement actions and other relevant  
1085 information, to the Nationwide Mortgage Licensing System and  
1086 Registry subject to the provisions contained in Section 81-18-63.

1087           (8) Examinations and investigations conducted under this  
1088 chapter and information obtained by the department, except as  
1089 provided in subsection (7) of this section, in the course of its  
1090 duties under this chapter are confidential.

1091           (9) In the absence of malice, fraud or bad faith a person is  
1092 not subject to civil liability arising from the filing of a



1093 complaint with the department, furnishing other information  
1094 required by this chapter, information required by the department  
1095 under the authority granted in this chapter, or information  
1096 voluntarily given to the department related to allegations that a  
1097 licensee or prospective licensee has violated this chapter.  
1098 Failure of a person to respond to a formal complaint made with the  
1099 department by a consumer may result in a violation of this  
1100 chapter, resulting in a civil penalty.

1101 (10) In order to carry out the purposes of this section, the  
1102 commissioner may:

1103 (a) Accept and rely on examination or investigation  
1104 reports made by other government officials, within or without this  
1105 state; or

1106 (b) Accept audit reports made by an independent  
1107 certified public accountant for the licensee, individual or person  
1108 subject to this chapter in the course of that part of the  
1109 examination covering the same general subject matter as the audit  
1110 and may incorporate the audit report in the report of the  
1111 examination, report of investigation or other writing of the  
1112 commissioner \* \* \*; or

1113 (c) Rely upon attorneys, accountants, or other  
1114 professionals and specialists as examiners, auditors or  
1115 investigators to conduct or assist in the conduct of examinations  
1116 or investigations; or



1117           (d) Enter into agreements or relationships with other  
1118 government officials or regulatory associations, including, but  
1119 not limited to, joint enforcement action, by sharing resources,  
1120 standardized or uniform methods or procedures, and documents,  
1121 records, information or evidence obtained under this section.

1122           (11) The authority of this section shall remain in effect,  
1123 whether such a licensee, individual or person subject to this  
1124 chapter acts or claims to act under any licensing or registration  
1125 law of this state, or claims to act without that authority.

1126           (12) No licensee, individual or person subject to  
1127 investigation or examination under this section may knowingly  
1128 withhold, abstract, remove, mutilate, destroy, falsify, abandon  
1129 or \* \* \* secret any books, records, computer records or other  
1130 information.

1131           **SECTION 14.** Section 81-18-23, Mississippi Code of 1972, is  
1132 reenacted and amended as follows:

1133           81-18-23. (1) Each mortgage licensee shall submit to the  
1134 Nationwide Mortgage Licensing System and Registry reports of  
1135 condition, which shall be in such form and shall contain such  
1136 information as the Nationwide Mortgage Licensing System and  
1137 Registry may require. Failure to file accurate, timely and  
1138 complete reports on the Nationwide Mortgage Licensing System and  
1139 Registry may result in a violation of this chapter, resulting in a  
1140 civil penalty.



1141 (2) The department, in its discretion, may relieve any  
1142 company from the payment of any penalty, in whole or in part, for  
1143 good cause.

1144 (3) If a company fails to pay a penalty from which it has  
1145 not been relieved, the department may maintain an action at law to  
1146 recover the penalty.

1147 (4) Within fifteen (15) days of the occurrence of any of the  
1148 following events, a company shall file with the Nationwide  
1149 Mortgage Licensing System and Registry the applicable change in  
1150 the disclosure questions and shall submit the information through  
1151 the Nationwide Mortgage Licensing System and Registry or file a  
1152 written report with the commissioner describing the event and its  
1153 expected impact on the activities of the company in this state:

1154 (a) The filing for bankruptcy or reorganization by the  
1155 company;

1156 (b) The institution of revocation or suspension  
1157 proceedings against the company by any state or governmental  
1158 authority;

1159 (c) Any felony indictment of the company or any of its  
1160 directors, executive officers, qualifying individual or loan  
1161 originators;

1162 (d) Any felony conviction of the company or any of its  
1163 directors, executive officers, qualifying individual or loan  
1164 originators; \* \* \*



1165 (e) \* \* \* Expiration, termination or default, technical  
1166 or otherwise, of any existing line of credit or warehouse credit  
1167 agreement;

1168 (f) Suspension or termination of the licensee's status  
1169 as an approved seller or seller/servicer by the Federal National  
1170 Mortgage Association, Federal Home Loan Mortgage Corporation or  
1171 Government National Mortgage Association;

1172 (g) Exercise of recourse rights by investors or  
1173 subsequent assignees of mortgage loans if such loans, in the  
1174 aggregate, exceed the licensee's net worth exclusive of real  
1175 property and fixed assets; or

1176 (h) Existence of negative balances, exceeding One  
1177 Hundred Dollars (\$100.00) in any operation account at any time or  
1178 the return of checks, exceeding One Hundred Dollars (\$100.00) for  
1179 insufficient funds.

1180 (5) Licensees who are involved in civil actions shall notify  
1181 the Nationwide Mortgage Licensing System and Registry within sixty  
1182 (60) days of the occurrence. An explanation and supporting  
1183 documentation for each civil action concerning the company shall  
1184 be submitted through the Nationwide Mortgage Licensing System and  
1185 Registry. The department may require additional information as  
1186 necessary.

1187 **SECTION 15.** Section 81-18-25, Mississippi Code of 1972, is  
1188 reenacted and amended as follows:





1189           81-18-25. (1) Each principal place of business and branch  
1190 office in the state shall meet all of the following requirements:

1191           (a) Be in compliance with local zoning ordinances and  
1192 have posted any licenses required by local government agencies.  
1193 It is the responsibility of the licensee to meet local zoning  
1194 ordinances and obtain the required occupational licenses; however,  
1195 zoning cannot be residential. If there is no zoning in the area,  
1196 then the person shall submit to the department a letter from the  
1197 city or county stating that there is no zoning.

1198           (b) Consist of at least one (1) secure enclosed room or  
1199 secure building of stationary construction in which negotiations  
1200 of mortgage loan transactions may be conducted in privacy.  
1201 Stationary construction does not include the use of portable  
1202 buildings. If there is no zoning in the requested location and  
1203 the property is used for residential purposes, then the person  
1204 shall utilize an enclosed room with a dedicated outside door.

1205           (c) Display a permanent sign outside the place of  
1206 business readily visible to the general public, unless the display  
1207 of sign violates local zoning ordinances or restrictive covenants.  
1208 The sign must contain the name of the licensee and \* \* \* shall  
1209 also contain the Nationwide Mortgage Licensing System and Registry  
1210 Unique Identifier issued to that particular licensed location.

1211           (2) If one (1) of the following is correct, then that  
1212 location shall be licensed as a mortgage broker or mortgage lender  
1213 under this chapter and not as a branch:



1214 (a) It is a separate entity operating as an independent  
1215 business or mortgage operation which is not under the direct  
1216 control, management supervision and responsibility of the  
1217 licensee;

1218 (b) The licensee is not the lessee or owner of the  
1219 branch and the branch is not under the direct and daily ownership,  
1220 control, management and supervision of the licensee;

1221 (c) All assets and liabilities of the branch are not  
1222 assets and liabilities of the licensee, and all income and  
1223 expenses of the branch are income and expenses of the licensee and  
1224 properly accounted for in the financial records and tax returns of  
1225 the licensee; or

1226 (d) All practices, policies and procedures, including,  
1227 but not limited to, those relating to employment and operations,  
1228 are not originated and established by the licensee or registered  
1229 company and are not applied consistently to the principal place of  
1230 business and all branches.

1231 Nothing in this subsection (2) shall affect or change, or be  
1232 construed as affecting or changing, the existing statutory law and  
1233 common law on agency, principal and agent, independent  
1234 contractors, and parent and subsidiary companies.

1235 **SECTION 16.** Section 81-18-27, Mississippi Code of 1972, is  
1236 reenacted and amended as follows:

1237 81-18-27. (1) No person required to be licensed under this  
1238 chapter shall:



1239           (a) Directly or indirectly employ any scheme, device or  
1240 artifice to defraud or mislead borrowers or lenders or to defraud  
1241 any person.

1242           (b) Misrepresent to or conceal from an applicant for a  
1243 mortgage loan or mortgagor, material facts, terms or conditions of  
1244 a transaction to which the licensee is a party.

1245           (c) Fail to disburse funds in accordance with a written  
1246 commitment or agreement to make a mortgage loan.

1247           (d) Fail to truthfully account for monies belonging to  
1248 a party to a residential mortgage loan transaction.

1249           (e) Improperly refuse to issue a satisfaction of a  
1250 mortgage loan.

1251           (f) Fail to account for or deliver to any person any  
1252 personal property obtained in connection with a mortgage loan,  
1253 such as money, funds, deposits, checks, drafts, mortgages or other  
1254 documents or things of value that have come into the possession of  
1255 the licensee and that are not the property of the licensee, or  
1256 that the licensee is not by law or at equity entitled to retain.

1257           (g) Engage in any transaction, practice, or course of  
1258 business that is not in good faith, or that operates a fraud upon  
1259 any person in connection with the making of or purchase or sale of  
1260 any mortgage loan, including the use of correction fluid on any  
1261 document associated with the mortgage loan.

1262           (h) Engage in any fraudulent residential mortgage  
1263 underwriting practices, which include, but are not limited to,



1264 making in any manner, any false or deceptive statement or  
1265 representation including, with regard to the rates, points or  
1266 other financing terms or conditions for a residential mortgage  
1267 loan, or engage in bait and switch advertising.

1268 (i) Solicit or enter into a contract with a borrower  
1269 that provides in substance that the person or individual subject  
1270 to this chapter may earn a fee or commission through "best  
1271 efforts" to obtain a loan even though no loan is actually obtained  
1272 for the borrower.

1273 (j) Induce, require, or otherwise permit the applicant  
1274 for a mortgage loan or mortgagor to sign a security deed, note, or  
1275 other pertinent financial disclosure documents with any blank  
1276 spaces to be filled in after it has been signed, except blank  
1277 spaces relating to recording or other incidental information not  
1278 available at the time of signing.

1279 (k) Make, directly or indirectly, any residential  
1280 mortgage loan with the intent to foreclose on the borrower's  
1281 property. For purposes of this paragraph, there is a presumption  
1282 that a person has made a residential mortgage loan with the intent  
1283 to foreclose on the borrower's property if any of the following  
1284 circumstances are proven:

1285 (i) Lack of substantial benefit to the borrower;

1286 (ii) The probability that full payment of the loan  
1287 cannot be made by the borrower;



1288 (iii) That the person has made a significant  
1289 proportion of loans foreclosed under similar circumstances;

1290 (iv) That the person has provided an extension of  
1291 credit or collected a mortgage debt by extortion;

1292 (v) That the person does business under a trade  
1293 name that misrepresents or tends to misrepresent that the person  
1294 is a bank, trust company, savings bank, savings and loan  
1295 association, credit union, or insurance company.

1296 (1) Charge or collect any direct payment, compensation  
1297 or advance fee from a borrower unless and until a loan is actually  
1298 found, obtained and closed for that borrower, and in no event  
1299 shall that direct payment, compensation or advance fee exceed  
1300 seven and ninety-five one-hundredths percent (7.95%) of the  
1301 original principal amount of the loan, and any such direct  
1302 payments, compensation or advance fees shall be included in all  
1303 annual percentage rate (APR) calculations if required under  
1304 Regulation Z of the federal Truth in Lending Act (TILA). A direct  
1305 payment, compensation or advance fee as defined in this section  
1306 shall not include:

1307 (i) Any direct payment, compensation or advance  
1308 fee collected by a licensed mortgage broker or mortgage lender to  
1309 be paid to a nonrelated third party;

1310 (ii) Any indirect payment to a licensed mortgage  
1311 broker or mortgage lender by a lender if those fees are not



1312 required to be disclosed under the Real Estate Settlement  
1313 Procedures Act (RESPA);

1314 (iii) Any indirect payment or compensation by a  
1315 lender to a licensee required to be disclosed by the licensee  
1316 under RESPA, provided that the payment or compensation is  
1317 disclosed to the borrower by the licensee on a good faith estimate  
1318 of costs, is included in the APR if required under Regulation Z of  
1319 TILA, and is made pursuant to a written agreement between the  
1320 licensee and the borrower as may be required by Section 81-18-33;

1321 (iv) A fee not to exceed one percent (1%) of the  
1322 principal amount of a loan for construction, provided that a  
1323 binding commitment for the loan has been obtained for the  
1324 prospective borrower; or

1325 (v) An advance fee, known as a lock-in fee,  
1326 collected by a licensee to be paid to a lender to lock in an  
1327 interest rate and/or a certain number of points on a mortgage loan  
1328 from the lender as provided in Section 81-18-28.

1329 (m) Pay to any person not licensed under the provisions  
1330 of this chapter any commission, bonus or fee in connection with  
1331 arranging for or originating a mortgage loan for a borrower,  
1332 except that a licensed loan originator may be paid a bonus,  
1333 commission, or fee by his or her licensed employer.

1334 (n) Refuse to provide the loan payoff within three (3)  
1335 business days of an oral or written request from a borrower or  
1336 third party. Proof of authorization of the borrower shall be



1337 submitted for a third-party request. The payoff statement must be  
1338 an understandable and accurate statement of the total amount that  
1339 is required to pay off the mortgage loan as of a specified date.  
1340 No borrower shall be charged a fee for being informed or receiving  
1341 a payoff statement or for being provided with a release upon full  
1342 payment, provided that the licensed mortgage lender may charge a  
1343 reasonable fee for providing a payoff statement after five (5) or  
1344 more requests in any calendar year.

1345 (o) Knowingly withhold, extract, remove, mutilate,  
1346 destroy or conceal any books, records, computer records or other  
1347 information which are required by law to be disclosed.

1348 (p) Negligently make any false statement or knowingly  
1349 and willfully make any omission of material fact in connection  
1350 with any information or reports filed with a governmental agency  
1351 or the Nationwide Mortgage Licensing System and Registry or in  
1352 connection with any investigation conducted by the commissioner or  
1353 another governmental agency.

1354 (q) Fail to comply with this chapter or rules or  
1355 regulations promulgated under this chapter, or fail to comply with  
1356 any other state or federal law, including the rules and  
1357 regulations under that law, applicable to any business authorized  
1358 or conducted under this chapter.

1359 (r) Conduct any business covered by this chapter  
1360 without holding a valid license as required under this chapter, or  
1361 assist or aid and abet any person in the conduct of business under



1362 this chapter without a valid license as required under this  
1363 chapter.

1364 (s) Make any payment, threat or promise, directly or  
1365 indirectly, to any person for the purposes of influencing the  
1366 independent judgment of the person in connection with a  
1367 residential mortgage loan, or make any payment threat or promise,  
1368 directly or indirectly, to any appraiser of a property, for the  
1369 purposes of influencing the independent judgment of the appraiser  
1370 with respect to the value of the property.

1371 (t) Solicit, advertise or enter into a contract for  
1372 specific interest rates, points or other financing terms unless  
1373 the terms are actually available at the time of soliciting,  
1374 advertising or contracting.

1375 (u) Fail to make disclosures as required by this  
1376 chapter and any other applicable state or federal law including  
1377 regulations under that law.

1378 (v) Cause or require a borrower to obtain property  
1379 insurance coverage in an amount that exceeds the replacement cost  
1380 of the improvements as established by the property insurer.

1381 (w) Sign a consumer's name to a mortgage loan  
1382 application or mortgage loan documents on behalf of a consumer.

1383 (x) Knowingly falsify income or asset information on a  
1384 mortgage loan application or mortgage loan documents.





1385                   (y) Discourage a consumer in a mortgage loan  
1386 transaction from seeking or obtaining independent legal counsel or  
1387 legal advice.

1388           (2) A licensed mortgage broker or mortgage lender shall only  
1389 broker a residential mortgage loan to a mortgage broker or  
1390 mortgage lender licensed under this chapter or to a person exempt  
1391 from licensure under the provisions of this chapter.

1392           (3) No nonbanking entity may use any sign or handwritten or  
1393 printed paper indicating that it is a bank, savings bank, trust  
1394 company or place of banking. No entity may use the word "bank,"  
1395 "savings bank," "banking," "banker" or "trust company," or the  
1396 equivalent or plural of any of these words, in connection with any  
1397 business other than that of banking. This subsection does not  
1398 prohibit a person from acting in a trust capacity.

1399           (4) No person shall use the name or logo of any banking  
1400 entity in connection with the sale, offering for sale, or  
1401 advertising of any financial product or service without the  
1402 express written consent of the banking entity.

1403           (5) No unlicensed Mississippi location of a Mississippi  
1404 licensed mortgage broker or mortgage lender may advertise mortgage  
1405 services if the unlicensed location is more than fifty (50) miles  
1406 from a licensed Mississippi location.

1407           **SECTION 17.** Section 81-18-28, Mississippi Code of 1972, is  
1408 reenacted and amended as follows:



1409 81-18-28. (1) A licensed mortgage broker or mortgage lender  
1410 may enter into lock-in agreements and collect a lock-in fee from a  
1411 borrower on the lender's behalf. The lock-in fee shall not exceed  
1412 the following:

1413 (a) No fee may be collected to lock in for sixty (60)  
1414 days or less;

1415 (b) One percent (1%) of the principal amount of the  
1416 loan to lock in for more than sixty (60) days, but not to exceed  
1417 one hundred eighty (180) days;

1418 (c) One and one-half percent (1-1/2%) of the principal  
1419 amount of the loan to lock in for more than one hundred eighty  
1420 (180) days, but not to exceed two hundred seventy (270) days; or

1421 (d) Two percent (2%) of the principal amount of the  
1422 loan to lock in for more than two hundred seventy (270) days.

1423 (2) Before the collection of a lock-in fee, the applicant  
1424 must be provided a copy of the lock-in fee agreement. This  
1425 agreement shall contain at least the following:

1426 (a) Identification of the property that is \* \* \*  
1427 associated with the loan;

1428 (b) The principal amount and term of the loan;

1429 (c) The initial interest rate and/or points, whether  
1430 the interest rate is fixed or variable, and if variable, the index  
1431 and margin, or the method by which an interest rate change for the  
1432 mortgage loan will be calculated;



1433 (d) The amount of the lock-in fee, whether the fee is  
1434 refundable or nonrefundable, the time by which the lock-in fee  
1435 must be paid to the lender, and if the fee is refundable, the  
1436 terms and conditions necessary to obtain the refund; and

1437 (e) The length of the lock-in period that the agreement  
1438 covers.

1439 **SECTION 18.** Section 81-18-29, Mississippi Code of 1972, is  
1440 reenacted as follows:

1441 81-18-29. The commissioner shall promulgate those rules and  
1442 regulations, not inconsistent with law, necessary for the  
1443 enforcement of this chapter.

1444 **SECTION 19.** Section 81-18-31, Mississippi Code of 1972, is  
1445 reenacted and amended as follows:

1446 81-18-31. The department shall promulgate regulations  
1447 governing the advertising of mortgage loans, including, but not  
1448 limited to, the following requirements:

1449 (a) That all advertisements for loans regulated under  
1450 this chapter may not be false, misleading or deceptive. No person  
1451 whose activities are regulated under this chapter may advertise in  
1452 any manner so as to indicate or imply that its interest rates or  
1453 charges for loans are "recommended," "approved," "set" or  
1454 "established" by the State of Mississippi;

1455 (b) That all licensees shall maintain a copy of all  
1456 advertisements citing interest rates or payment amounts primarily  
1457 disseminated in this state and shall attach to each advertisement



1458 documentation that provides corroboration of the availability of  
1459 the interest rate and terms of loans and names the specific media  
1460 sources by which the advertisements were distributed;

1461 (c) That all published advertisements disseminated  
1462 primarily in this state by a license shall contain the name and an  
1463 office address of the licensee, which shall be the same as the  
1464 name and address of the licensee on record with the department;

1465 (d) That an advertisement containing either a quoted  
1466 interest rate or monthly payment amount must include:

1467 (i) The interest rate of the mortgage, a statement  
1468 as to whether the rate is fixed or adjustable, and the adjustment  
1469 index and frequency of adjustments;

1470 (ii) The term in years or months to fully repay  
1471 the mortgage;

1472 (iii) The APR as computed under federal  
1473 guidelines; and

1474 \* \* \*

1475 ( \* \* \*e) That the unique identifier of any person  
1476 originating a residential mortgage loan shall be clearly shown on  
1477 all residential mortgage loan application forms, solicitations or  
1478 advertisements, including business cards or websites, and any  
1479 other documents as established by rule, regulation or order of the  
1480 commissioner.

1481 **SECTION 20.** Section 81-18-33, Mississippi Code of 1972, is  
1482 reenacted and amended as follows:



1483           81-18-33. (1) The individual borrower files of a licensee  
1484 shall contain at least the following:

1485           (a) A mortgage origination agreement provided to the  
1486 borrower containing at least the following statements:

1487           (i) "As required by Mississippi Law, (licensed  
1488 company name) has secured a bond issued by (name of insurance  
1489 company), a surety company authorized to do business in this  
1490 state. A certified copy of this bond is filed with the  
1491 Mississippi Commissioner of Banking and Consumer Finance."

1492           (ii) "As a borrower you are protected under the  
1493 Mississippi S.A.F.E. Mortgage Act."

1494           (iii) "Complaints against a licensee may be made  
1495 by contacting the:

1496           Mississippi Department of Banking and  
1497           Consumer Finance

1498           P.O. Drawer \* \* \* 12129

1499           Jackson, MS \* \* \* 39236-2129";

1500           (b) A copy of the original loan application signed and  
1501 dated by the licensee;

1502           (c) A copy of the signed closing statement as required  
1503 by HUD or documentation of denial or cancellation of the loan  
1504 application;

1505           (d) A copy of the good-faith estimate of costs provided  
1506 to the borrower;



1507 (e) A copy of the appraisal or statement of value if  
1508 procured as a part of the loan application process;

1509 (f) A copy of a loan lock-in agreement, if any,  
1510 provided by the licensee;

1511 (g) A copy of the disclosures required under Regulation  
1512 Z of the federal Truth In Lending Act and other disclosures as  
1513 required under federal regulations and evidence that those  
1514 disclosures have been properly and timely made to the borrower;  
1515 and

1516 (h) A copy of the final signed Uniform Residential Loan  
1517 Application. However, any mortgage licensee who holds a license  
1518 under the provisions of the Small Loan Regulatory Law, Section  
1519 75-67-101 et seq., and the Small Loan Privilege Tax Law, Section  
1520 75-67-201 et seq., may substitute an application that is otherwise  
1521 compliant with federal and state law.

1522 (i) Additional information as required per the rules  
1523 and regulations adopted by the commissioner according to Section  
1524 81-18-29.

1525 (2) The individual servicer files of a licensee shall  
1526 contain at least the following:

1527 (a) A copy of the original initial loan application  
1528 signed and dated by the licensee;

1529 (b) A copy of the final loan application signed and  
1530 dated by the licensee;



- 1531           (c) A copy of the signed closing statement as required  
1532 by HUD or documentation of denial or cancellation of the loan  
1533 application;
- 1534           (d) Modification agreements;
- 1535           (e) Collection/default letters and related  
1536 documentation;
- 1537           (f) Addendums, riders, assigned note, if applicable;
- 1538           (g) Complete pay history from the time the loan was  
1539 transferred or boarded;
- 1540           (h) Complete comment/note history from the time the  
1541 loan was transferred or boarded; and
- 1542           (i) Additional information as required per the rules  
1543 and regulations of this chapter as deemed by the commissioner  
1544 according to Section 81-18-29.

1545           **SECTION 21.** Section 81-18-35, Mississippi Code of 1972, is  
1546 reenacted and amended as follows:

1547           81-18-35. (1) Each licensee shall maintain a journal of  
1548 mortgage transactions at the principal place of business as stated  
1549 on its license for all Mississippi residential loans that the  
1550 licensee originated and/or funded. This journal shall be separate  
1551 from non-Mississippi loans. The journal shall include at least  
1552 the following information:

- 1553           (a) Name of applicant and co-applicant, if applicable;
- 1554           (b) Date of application; \* \* \*



1555 (c) Disposition of loan application, indicating date of  
1556 loan closing, loan denial, withdrawal and name of lender if  
1557 applicable \* \* \*;

1558 (d) Property address;

1559 (e) Loan amount;

1560 (f) Terms;

1561 (g) Loan program; and

1562 (h) Loan originator.

1563 (2) Each licensee shall maintain a journal of serviced loans  
1564 at the principal place of business as stated on its license, for  
1565 all Mississippi residential loans that the licensee owns and/or  
1566 services. This journal shall be kept separate from  
1567 non-Mississippi loans. The journal shall include at least the  
1568 following information:

1569 (a) The number of mortgage loans the licensee is  
1570 servicing;

1571 (b) The type and characteristics of the loans;

1572 (c) The number of serviced loans in default, along with  
1573 a breakdown of thirty-, sixty- and ninety-day delinquencies;

1574 (d) Information on loss mitigation activities,  
1575 including details on workout arrangements undertaken and date loss  
1576 mitigation application was submitted/approved/denied; \* \* \*

1577 (e) Information on foreclosures commenced \* \* \* and  
1578 completed;





1579                   (f) Name of applicant and co-applicant, if applicable;

1580 and

1581                   (g) Date the loan was boarded/deboarded, if applicable.

1582                   **SECTION 22.** Section 81-18-36, Mississippi Code of 1972, is  
1583 reenacted as follows:

1584                   81-18-36. (1) (a) All monies paid to a licensee for  
1585 payment of taxes, loan commitment deposits, work completion  
1586 deposits, appraisals, credit reports or insurance premiums on  
1587 property that secures any loan made or serviced by the licensee  
1588 shall be deposited in an account that is insured by the Federal  
1589 Deposit Insurance Corporation or the National Credit Union  
1590 Administration and shall be kept separate, distinct, and apart  
1591 from funds belonging to the licensee.

1592                   (b) The funds, when deposited, are to be designated as  
1593 an "escrow account," or under some other appropriate name,  
1594 indicating that the funds are not the funds of the licensee.

1595                   (2) The licensee shall, upon reasonable notice, account to  
1596 any debtor whose property secures a loan made by the licensee for  
1597 any funds which that person has paid to the licensee for the  
1598 payment of taxes or insurance premiums on the property in  
1599 question.

1600                   (3) The licensee shall, upon reasonable notice, account to  
1601 the commissioner for all funds in the company's escrow account.

1602                   (4) Escrow accounts are not subject to execution or  
1603 attachment on any claim against the licensee.



1604 (5) It is unlawful for any licensee knowingly to keep or  
1605 cause to be kept any funds or money in any bank or other financial  
1606 institution under the heading of "escrow account" or any other  
1607 name designating the funds or monies belonging to the debtors of  
1608 the licensee, except actual funds paid to the licensee for the  
1609 payment of taxes and insurance premiums on property securing loans  
1610 made or serviced by the company.

1611 **SECTION 23.** Section 81-18-37, Mississippi Code of 1972, is  
1612 reenacted and amended as follows:

1613 81-18-37. (1) The department may suspend or revoke any  
1614 license for any reason that would have been grounds for refusal to  
1615 issue an original license or for:

1616 (a) A violation of any provision of this chapter or any  
1617 rule or regulation adopted under this chapter;

1618 (b) Failure of the licensee to pay, within thirty (30)  
1619 days after it becomes final and nonappealable, a judgment  
1620 recovered in any court within this state by a claimant or creditor  
1621 in an action arising out of the licensee's business in this state  
1622 as a mortgage broker or mortgage lender.

1623 (2) Notice of the department's intention to enter an order  
1624 denying an application for a license under this chapter or of an  
1625 order suspending or revoking a license under this chapter shall be  
1626 given to the applicant, licensee in writing, sent by registered or  
1627 certified mail addressed to the principal place of business of the  
1628 applicant or licensee. Within thirty (30) days of the date of the



1629 notice of intention to enter an order of denial, suspension or  
1630 revocation under this chapter, the applicant \* \* \* or licensee may  
1631 request in writing a hearing to contest the order. If a hearing  
1632 is not requested in writing within thirty (30) days of the date of  
1633 the notice of intention, the department shall enter a final order  
1634 regarding the denial, suspension or revocation. Any final order  
1635 of the department denying, suspending or revoking a license shall  
1636 state the grounds upon which it is based and shall be effective on  
1637 the date of issuance. A copy of the final order shall be  
1638 forwarded promptly by registered or certified mail addressed to  
1639 the principal place of business of the applicant or licensee.

1640       **SECTION 24.** Section 81-18-39, Mississippi Code of 1972, is  
1641 reenacted as follows:

1642       81-18-39. (1) For purposes of this section, the term  
1643 "person" shall be construed to include any officer, director,  
1644 employee, affiliate or other person participating in the conduct  
1645 of the affairs of the person subject to the orders issued under  
1646 this section.

1647       (2) If the department reasonably determines that a person  
1648 required to be licensed under this chapter has violated any law of  
1649 this state or any order or regulation of the department, the  
1650 department may issue a written order requiring the person to cease  
1651 and desist from unlawful or unauthorized practices. In the case  
1652 of an unlawful purchase of mortgage loans, the cease and desist



1653 order to a purchaser shall constitute the knowledge required under  
1654 this section for any subsequent violations.

1655 (3) Any person required to be licensed under this chapter  
1656 who has been deemed by the commissioner, after notice and hearing,  
1657 to have violated the terms of any order properly issued by the  
1658 department under this section shall be liable for a civil penalty  
1659 not to exceed Three Thousand Dollars (\$3,000.00). The department,  
1660 in determining the amount of the penalty, shall take into account  
1661 the appropriateness of the penalty relative to the size of the  
1662 financial resources of the person, the good-faith efforts of the  
1663 person to comply with the order, the gravity of the violation, the  
1664 history of previous violations by the person, and other factors or  
1665 circumstances that contributed to the violation. The department  
1666 may compromise, modify or refund any penalty that has been imposed  
1667 under this section. Any person assessed a penalty as provided in  
1668 this subsection shall have the right to request a hearing on the  
1669 amount of the penalty within ten (10) days after receiving  
1670 notification of the assessment. If no hearing is requested within  
1671 ten (10) days of the receipt of the notice, the penalty shall be  
1672 final except as to judicial review in the Chancery Court of the  
1673 First Judicial District of Hinds County. Upon the filing of a  
1674 petition for judicial review, the court shall issue an order to  
1675 the licensee requiring the licensee to show cause why it should  
1676 not be entered. If the court determines, after a hearing upon the  
1677 merits or after failure of the person to appear when so ordered,



1678 that the order of the department was properly issued, it shall  
1679 grant the penalty sought by the department.

1680           **SECTION 25.** Section 81-18-40, Mississippi Code of 1972, is  
1681 reenacted as follows:

1682           81-18-40. (1) For the purpose of conducting investigations,  
1683 examinations or other proceedings under this chapter, the  
1684 commissioner or his designee may issue subpoenas to any  
1685 individual, person or other entity for the production of all  
1686 books, papers, records, files, documents or other things, and may  
1687 subpoena and compel the attendance of witnesses to give testimony,  
1688 and may administer oaths. Subpoenas as herein provided may be  
1689 served either by personal process or by registered mail, and upon  
1690 service shall command attendance of such witnesses, and/or  
1691 production of such papers and documents, at the time and place so  
1692 specified.

1693           (2) Any person or entity who fails or refuses to comply with  
1694 a subpoena issued hereunder may be assessed by the commissioner a  
1695 civil penalty of not more than Five Hundred Dollars (\$500.00) for  
1696 each day of noncompliance, and any privileges or licenses issued  
1697 by the commissioner to the person or entity may be suspended for  
1698 not more than six (6) months. In addition to the civil penalty,  
1699 the commissioner shall be entitled to the assistance of the  
1700 chancery court or the chancellor in vacation, which, on petition  
1701 by the commissioner or his designee, shall issue ancillary  
1702 subpoenas and petitions and may punish as for contempt of court in



1703 the event of noncompliance therewith, and assess attorney's fees  
1704 and costs, if deemed appropriate.

1705         **SECTION 26.** Section 81-18-41, Mississippi Code of 1972, is  
1706 reenacted as follows:

1707             81-18-41. Nothing in this chapter shall preclude a person  
1708 whose license has been suspended or revoked from continuing to  
1709 service mortgage loans pursuant to servicing contracts in  
1710 existence at the time of the suspension or revocation for a  
1711 reasonable transition period, as determined by the commissioner,  
1712 after the date of the entry of the final decision in the case  
1713 suspending or revoking the license.

1714         **SECTION 27.** Section 81-18-43, Mississippi Code of 1972, is  
1715 reenacted as follows:

1716             81-18-43. (1) In order to ensure the effective supervision  
1717 and enforcement of this chapter, the commissioner may:

1718                 (a) Deny, suspend, revoke, condition or decline to  
1719 renew a license for a violation of this chapter, rules or  
1720 regulations issued under this chapter or order or directive  
1721 entered under this chapter.

1722                 (b) Deny, suspend, revoke, condition or decline to  
1723 renew a license if an applicant or licensee fails at any time to  
1724 meet the requirements of Section 81-18-9(4) or 81-18-15(2), or  
1725 withholds information or makes a material misstatement in an  
1726 application for a license or renewal of a license.



1727 (c) Order restitution against persons subject to this  
1728 chapter for violations of this chapter.

1729 (d) Impose civil penalties on persons subject to this  
1730 chapter under subsections (2) and (3) of this section.

1731 (e) Issue orders or directives under this chapter as  
1732 follows:

1733 (i) Order or direct persons subject to this  
1734 chapter to cease and desist from conducting business, including  
1735 immediate temporary orders to cease and desist.

1736 (ii) Order or direct persons subject to this  
1737 chapter to cease any harmful activities or violations of this  
1738 chapter, including immediate temporary orders to cease and desist.

1739 (iii) Enter immediate temporary orders to cease  
1740 business under a license issued under the authority granted under  
1741 Section 81-18-7(6) if the commissioner determines that the license  
1742 was erroneously granted or the licensee is currently in violation  
1743 of this chapter.

1744 (iv) Order or direct such other affirmative action  
1745 as the commissioner deems necessary.

1746 (2) The commissioner may impose a civil penalty on a  
1747 mortgage loan originator or person subject to this chapter, if the  
1748 commissioner finds, on the record after notice and opportunity for  
1749 hearing, that the mortgage loan originator or person subject to  
1750 this chapter has violated or failed to comply with any requirement  
1751 of this chapter or any regulation prescribed by the commissioner



1752 under this chapter or order issued under authority of this  
1753 chapter. The maximum amount of penalty for each act or omission  
1754 described in this subsection shall be Twenty-five Thousand Dollars  
1755 (\$25,000.00).

1756 (3) Each violation or failure to comply with any directive  
1757 or order of the commissioner is a separate and distinct violation  
1758 or failure.

1759 (4) For a first offense, the licensee, person required to be  
1760 licensed, or employee may be found guilty of a misdemeanor and,  
1761 upon conviction thereof, shall be punishable by imprisonment in  
1762 the county jail for not more than one (1) year.

1763 (5) For a second or subsequent offense, the licensee, person  
1764 required to be licensed, or employee shall be guilty of a felony  
1765 and, upon conviction thereof, may be punished by imprisonment in  
1766 the custody of the State Department of Corrections for a term not  
1767 less than one (1) year nor more than five (5) years.

1768 (6) Compliance with the criminal provisions of this section  
1769 shall be enforced by the appropriate law enforcement agency, which  
1770 may exercise for that purpose any authority conferred upon the  
1771 agency by law.

1772 (7) The commissioner shall report regularly violations of  
1773 this chapter, as well as enforcement actions and other relevant  
1774 information, to the Nationwide Mortgage Licensing System and  
1775 Registry subject to the provisions contained in Section 81-18-63.





1776 (8) The state may enforce its rights under the surety bond  
1777 as required in Section 81-18-11 as an available remedy for the  
1778 collection of any civil penalties, criminal fines or costs of  
1779 investigation and/or prosecution incurred.

1780 (9) Any person assessed a penalty as provided in this  
1781 section shall have the right to request a hearing on the amount of  
1782 the penalty within ten (10) days after receiving notification of  
1783 the assessment. If no hearing is requested within ten (10) days  
1784 of the receipt of the notice, the penalty shall be final except as  
1785 to judicial review in the Chancery Court of the First Judicial  
1786 District of Hinds County. Upon the filing of a petition for  
1787 judicial review, the court shall issue an order to the licensee  
1788 requiring the licensee to show cause why it should not be entered.  
1789 If the court determines, after a hearing upon the merits or after  
1790 failure of the person to appear when so ordered, that the order of  
1791 the department was properly issued, it shall grant the penalty  
1792 sought by the department.

1793 **SECTION 28.** Section 81-18-45, Mississippi Code of 1972, is  
1794 reenacted as follows:

1795 81-18-45. The commissioner may employ the necessary  
1796 full-time employees above the number of permanent full-time  
1797 employees authorized for the department for the fiscal year 2001,  
1798 to carry out and enforce the provisions of this chapter. The  
1799 commissioner also may expend the necessary funds and equip and  
1800 provide necessary travel expenses for those employees.



1801           **SECTION 29.** Section 81-18-47, Mississippi Code of 1972, is  
1802 reenacted as follows:

1803           81-18-47. (1) A licensee under this chapter shall have no  
1804 liability for any act or practice done or omitted in conformity  
1805 with (a) any rule or regulation of the commissioner, or (b) any  
1806 rule, regulation, interpretation or approval of any other state or  
1807 federal agency or any opinion of the Attorney General,  
1808 notwithstanding that after such act or omission has occurred the  
1809 rule, regulation, interpretation, approval or opinion is amended,  
1810 rescinded, or determined by judicial or other authority to be  
1811 invalid for any reason.

1812           (2) A licensee under this chapter, acting in conformity with  
1813 a written interpretation or approval by an official or employee of  
1814 any state or federal agency or department, shall be presumed to  
1815 have acted in accordance with applicable law, notwithstanding that  
1816 after such act has occurred, the interpretation or approval is  
1817 amended, rescinded, or determined by judicial or other authority  
1818 to be incorrect or invalid for any reason.

1819           **SECTION 30.** Section 81-18-49, Mississippi Code of 1972, is  
1820 reenacted as follows:

1821           81-18-49. Notwithstanding any provisions of this chapter to  
1822 the contrary, mortgage companies engaging in business on or before  
1823 June 1, 2000, shall be duly licensed by the department after  
1824 submitting not later than January 1, 2001, the required documents  
1825 and fees provided in Sections 81-18-9 and 81-18-15. However, upon



1826 the expiration of the initial licenses for such mortgage  
1827 companies, the department shall renew the licenses only if the  
1828 mortgage companies satisfy all of the provisions of this chapter.

1829 **SECTION 31.** Section 81-18-51, Mississippi Code of 1972, is  
1830 reenacted and amended as follows:

1831 81-18-51. Sections 81-18-1 through 81-18-63 shall stand  
1832 repealed on July 1, \* \* \* 2020.

1833 **SECTION 32.** Section 81-18-53, Mississippi Code of 1972, is  
1834 reenacted as follows:

1835 81-18-53. The provisions of this chapter shall apply to the  
1836 activities of retail sellers of manufactured homes to the extent  
1837 as determined by the United States Department of Housing and Urban  
1838 Development through guidelines, rules, regulations or interpretive  
1839 letters or the United States Consumer Financial Protection Bureau.

1840 **SECTION 33.** Section 81-18-55, Mississippi Code of 1972, is  
1841 reenacted and amended as follows:

1842 81-18-55. (1) In addition to the activities prohibited  
1843 under other provisions of this chapter, it shall be unlawful in  
1844 the course of any residential mortgage loan transaction:

1845 (a) For any person to fail to comply with the mortgage  
1846 loan servicing transfer, escrow account administration, or  
1847 borrower inquiry response requirements imposed by Sections 6 and  
1848 10 of the Real Estate Settlement Procedures Act (RESPA) and  
1849 regulations adopted thereunder;



1850           (b) For a mortgage lender to fail to provide written  
1851 notice to a borrower upon taking action to place hazard,  
1852 homeowners, or flood insurance on the mortgaged property or to  
1853 place such insurance when the mortgage lender knows or has reason  
1854 to know that the insurance is in effect;

1855           (c) For a mortgage lender to place hazard, homeowners  
1856 or flood insurance on a mortgaged property for an amount that  
1857 exceeds either the value of the insurable improvements or the  
1858 last-known coverage amount of insurance;

1859           (d) For a mortgage lender to fail to provide to the  
1860 borrower a refund or earned premiums paid by a borrower or charged  
1861 to the borrower for hazard, homeowners, or flood insurance placed  
1862 by a mortgage lender if the borrower provides reasonable proof  
1863 that the borrower has obtained coverage such that the forced  
1864 placement is no longer necessary and the property is insured. If  
1865 the borrower provides reasonable proof within twelve (12) months  
1866 of the placement that no lapse in coverage occurred such that the  
1867 forced placement was not necessary, the mortgage lender shall  
1868 refund the entire premium;

1869           (e) For a mortgage lender to refuse to reinstate a  
1870 delinquent loan upon a tender of payment made timely under the  
1871 contract which is sufficient in amount, based upon the last  
1872 written statement received by the borrower, to pay all past-due  
1873 amounts, outstanding or overdue charges, and restore the loan to a



1874 nondelinquent status, but his reinstatement shall be available to  
1875 a borrower no more than twice in any twenty-four-month period;

1876 (f) For a mortgage lender to fail to mail, at least  
1877 forty-five (45) days before the power-of-sale foreclosure auction  
1878 is \* \* \* conducted, a notice addressed to the borrower at the  
1879 borrower's last-known address with the following information:

1880 (i) An itemization of all past-due amounts causing  
1881 the loan to be in default;

1882 (ii) An itemization of any other charges that must  
1883 be paid in order to bring the loan current;

1884 (iii) A statement that the borrower may have  
1885 options available other than foreclosure and that the borrower may  
1886 discuss the options with the mortgage lender, or a counselor  
1887 approved by the U.S. Department of Housing and Urban Development  
1888 (HUD);

1889 (iv) The address, telephone number, and other  
1890 contact information for the mortgage lender or the agent for the  
1891 mortgage lender who is authorized to attempt to work with the  
1892 borrower to avoid foreclosure;

1893 (v) The name, address, telephone number, and other  
1894 contact information for one or more HUD-approved counseling  
1895 agencies operating to assist borrowers in Mississippi to avoid  
1896 foreclosure; and



1897 (vi) The address, telephone number, and other  
1898 contact information for the consumer complaint section of the  
1899 Mississippi Department of Banking and Consumer Finance;

1900 (g) For a mortgage lender to fail to make all payments  
1901 from any escrow account held for the borrower for insurance, taxes  
1902 and other charges with respect to the property in a timely manner  
1903 so as to ensure that no late penalties are assessed or other  
1904 negative consequences result regardless of whether the loan is  
1905 delinquent, unless there are not sufficient funds in the account  
1906 to cover the payments and the mortgage lender has a reasonable  
1907 basis to believe that recovery of the funds will not be possible.

1908 (2) The mortgage lender shall make reasonable attempts to  
1909 comply with a borrower's request for information about the home  
1910 loan account and to respond to any dispute initiated by the  
1911 borrower about the loan account, as provided in this section. The  
1912 mortgage lender shall maintain, until the home loan is paid in  
1913 full, otherwise satisfied, or sold, written or electronic records  
1914 of each written request for information regarding a dispute or  
1915 error involving the borrower's account. Specifically, the  
1916 mortgage lender is required to do all of the following:

1917 (a) Provide a written statement to the borrower within  
1918 ten (10) business days of receipt of a written request from the  
1919 borrower that includes or otherwise enables the mortgage lender to  
1920 identify the name and account of the borrower and includes a  
1921 statement that the account is or may be in error or otherwise



1922 provides sufficient detail to the mortgage lender regarding  
1923 information sought by the borrower. The borrower is entitled to  
1924 one such statement in any six-month period free of charge, and  
1925 additional statements shall be provided if the borrower pays the  
1926 mortgage lender a reasonable charge for preparing and furnishing  
1927 the statement not to exceed Twenty-five Dollars (\$25.00). The  
1928 statement shall include the following information if requested:

1929 (i) Whether the account is current or, if the  
1930 account is not current, an explanation of the default and the date  
1931 the account went into default;

1932 (ii) The current balance due on the loan,  
1933 including the principal due, the amount of funds (if any) held in  
1934 a suspense account, the amount of the escrow balance (if any)  
1935 known to the mortgage lender, and whether there are any escrow  
1936 deficiencies or shortages known to the mortgage lender;

1937 (iii) The identity, address and other relevant  
1938 information about the current holder, owner or assignee of the  
1939 loan; and

1940 (iv) The telephone number and mailing address of a  
1941 mortgage lender representative with the information and authority  
1942 to answer questions and resolve disputes;

1943 (b) Provide the following information and/or documents  
1944 within twenty-five (25) business days of receipt of a written  
1945 request from the borrower that includes or otherwise enables the  
1946 mortgage lender to identify the name and account of the borrower



1947 and includes a statement that the account is or may be in error or  
1948 otherwise provides sufficient detail to the mortgage lender  
1949 regarding information sought by the borrower:

1950 (i) A copy of the original note, or if  
1951 unavailable, an affidavit of the lost note;

1952 (ii) A statement that identifies and itemizes all  
1953 fees and charges assessed under the loan transaction and provides  
1954 a full payment history identifying in a clear and conspicuous  
1955 manner all of the debits, credits, application of and disbursement  
1956 of all payments received from or for the benefit of the borrower,  
1957 and other activity on the home loan including escrow account  
1958 activity and suspense account activity, if any. The period of the  
1959 account history shall cover at a minimum the two-year period prior  
1960 to the date of the receipt of the request for information. If the  
1961 mortgage lender has not serviced the home loan for the entire  
1962 two-year time period the mortgage lender shall provide the  
1963 information going back to the date on which the mortgage lender  
1964 began servicing the home loan. For purposes of this subsection,  
1965 the date of the request for the information shall be presumed to  
1966 be no later than thirty (30) days from the date of the receipt of  
1967 the request. If the mortgage lender claims that any delinquent or  
1968 outstanding sums are owed on the home loan prior to the two-year  
1969 period or the period during which the mortgage lender has serviced  
1970 the loan, the mortgage lender shall provide an account history  
1971 beginning with the month that the mortgage lender claims any





1972 outstanding sums are owed on the loan up to the date of the  
1973 request for the information. The borrower is entitled to one (1)  
1974 such statement in any six-month period free of charge. Additional  
1975 statements shall be provided if the borrower pays the mortgage  
1976 lender a reasonable charge for preparing and furnishing the  
1977 statement not to exceed Fifty Dollars (\$50.00); and

1978 (c) Promptly correct errors relating to the allocation  
1979 of payments, the statement of account, or the payoff balance  
1980 identified in any notice from the borrower provided in accordance  
1981 with paragraph (b) of this subsection, or discovered through the  
1982 due diligence of the mortgage lender or other means.

1983 (3) A mortgage lender must comply as to every residential  
1984 mortgage loan, regardless of whether the loan is considered in  
1985 default or the borrower is in bankruptcy or the borrower has been  
1986 in bankruptcy, with the following requirements:

1987 (a) Any fee that is incurred by a mortgage lender shall  
1988 be both:

1989 (i) Assessed within forty-five (45) days of the  
1990 date on which the fee was incurred. Provided, however, that  
1991 attorney or trustee fees and costs incurred as a result of a  
1992 foreclosure action shall be assessed within forty-five (45) days  
1993 of the date they are charged by either the attorney or trustee to  
1994 the mortgage lender; and

1995 (ii) Explained clearly and conspicuously in a  
1996 statement mailed to the borrower at the borrower's last-known



1997 address within thirty (30) days after assessing the fee, provided  
1998 the mortgage lender shall not be required to take any action in  
1999 violation of the provisions of the federal bankruptcy code. The  
2000 mortgage lender shall not be required to send such a statement for  
2001 a fee that: results from a service that is affirmatively  
2002 requested by the borrower, is paid for by the borrower at the time  
2003 the service is provided, and is not charged to the borrower's loan  
2004 account.

2005 (b) All amounts received by a mortgage lender on a home  
2006 loan at the address where the borrower has been instructed to make  
2007 payments shall be accepted and credited, or treated as credited,  
2008 within one (1) business day of the date received, provided that  
2009 the borrower has made the full contractual payment and has  
2010 provided sufficient information to credit the account. If a  
2011 mortgage lender uses the scheduled method of accounting, any  
2012 regularly scheduled payment made prior to the scheduled due date  
2013 shall be credited no later than the due date. Provided, however,  
2014 that if any payment is received and not credited, or treated as  
2015 credited, the borrower shall be notified within ten (10) business  
2016 days by mail at the borrower's last-known address of the  
2017 disposition of the payment, the reason the payment was not  
2018 credited, or treated as credited to the account, and any actions  
2019 necessary by the borrower to make the loan current.

2020 (c) The notification required by paragraph (b) of this  
2021 subsection is not necessary if the mortgage lender complies with



2022 the terms of any agreement or plan made with the borrower and has  
2023 applied and credited payments received in the manner required, and  
2024 the mortgage lender is applying and crediting payments to the  
2025 borrower's account in compliance with all applicable state and  
2026 federal laws, including bankruptcy laws, and if at least one (1)  
2027 of the following occurs:

2028 (i) The borrower has entered into written loss  
2029 mitigation, loan modification, or forbearance agreement with the  
2030 mortgage lender that itemizes all amounts due and specifies how  
2031 payments will be applied and credited;

2032 (ii) The borrower has elected to participate in an  
2033 alternative payment plan, such as a biweekly payment plan, that  
2034 specifies as part of a written agreement how payments will be  
2035 applied and credited; or

2036 (iii) The borrower is making payments pursuant to  
2037 a bankruptcy plan.

2038 (d) Failure to charge the fee or provide the  
2039 information within the allowable time and in the manner required  
2040 under subsection (3)(a)(i) of this section constitutes a waiver of  
2041 such fee.

2042 (e) All fees charged by a mortgage lender must be  
2043 otherwise permitted under applicable law and the contracts between  
2044 the parties. Nothing herein is intended to permit the application  
2045 of payments or method of charging interest which is less



2046 protective of the borrower than the contracts between the parties  
2047 and other applicable law.

2048 (f) A mortgage lender shall charge a sum or prepayment  
2049 penalty for the prepayment of any residential mortgage loan only  
2050 as authorized by Section 75-17-31.

2051 (g) A mortgage lender shall charge a late payment  
2052 charge only as authorized by Section 75-17-27.

2053 (h) The costs of collection and reasonable attorney  
2054 fees may not be in excess of twenty-five percent (25%) of the  
2055 unpaid debt after default, when the debt has been referred to an  
2056 attorney for collection.

2057 (i) Charges or premiums for credit life insurance  
2058 actually written on the life of the borrower or endorser in an  
2059 amount not to exceed the total sum payable under the residential  
2060 mortgage loan, including all interest, fees, costs and charges.

2061 **SECTION 34.** Section 81-18-61, Mississippi Code of 1972, is  
2062 reenacted and amended as follows:

2063 81-18-61. (1) In addition to any other duties imposed upon  
2064 the commissioner by law, the commissioner shall require mortgage  
2065 loan originators to be licensed \* \* \* through the Nationwide  
2066 Mortgage Licensing System and Registry. In order to carry out  
2067 this requirement, the commissioner is authorized to participate in  
2068 the Nationwide Mortgage Licensing System and Registry. For this  
2069 purpose, the commissioner may establish, by rule, regulation or  
2070 order, requirements as necessary, including, but not limited to:



2071 (a) Background checks for:  
2072 (i) Criminal history through fingerprint or other  
2073 databases;  
2074 (ii) Civil or administrative records;  
2075 (iii) Credit history; or  
2076 (iv) Any other information as deemed necessary by  
2077 the Nationwide Mortgage Licensing System and Registry;  
2078 (b) The payment of fees to apply for or renew licenses  
2079 through the Nationwide Mortgage Licensing System and Registry;  
2080 (c) The setting or resetting as necessary of renewal or  
2081 reporting dates; and  
2082 (d) Requirements for amending or surrendering a license  
2083 or any other such activities as the commissioner deems necessary  
2084 for participation in the Nationwide Mortgage Licensing System and  
2085 Registry.  
2086 (2) The commissioner shall establish a process by which  
2087 mortgage loan originators may challenge information entered into  
2088 the Nationwide Mortgage Licensing System and Registry by the  
2089 commissioner.  
2090 (3) In order to fulfill the purposes of this chapter, the  
2091 commissioner is authorized to establish relationships or contracts  
2092 with the Nationwide Mortgage Licensing System and Registry or  
2093 other entities designated by the Nationwide Mortgage Licensing  
2094 System and Registry to collect and maintain records and process



2095 transaction fees or other fees related to licensees or other  
2096 persons subject to this chapter.

2097 (4) A loan processor or underwriter who is an independent  
2098 contractor may not engage in the activities of a loan processor or  
2099 underwriter unless the independent contractor loan processor or  
2100 underwriter obtains and maintains a license under Section  
2101 81-18-7(4). Each independent contractor loan processor or  
2102 underwriter licensed as a mortgage loan originator must have and  
2103 maintain a valid unique identifier issued by the Nationwide  
2104 Mortgage Licensing System and Registry.

2105 **SECTION 35.** Section 81-18-63, Mississippi Code of 1972, is  
2106 reenacted as follows:

2107 81-18-63. (1) Except as otherwise provided in Public Law  
2108 110-289, Section 1512, the requirements under any federal law or  
2109 applicable state law regarding the privacy or confidentiality of  
2110 any information or material provided to the Nationwide Mortgage  
2111 Licensing System and Registry, and any privilege arising under  
2112 federal or state law (including the rules of any federal or state  
2113 court) with respect to that information or material, shall  
2114 continue to apply to the information or material after the  
2115 information or material has been disclosed to the Nationwide  
2116 Mortgage Licensing System and Registry. The information and  
2117 material may be shared with all state and federal regulatory  
2118 officials with mortgage industry oversight authority without the



2119 loss of privilege or the loss of confidentiality protections  
2120 provided by federal law or applicable state law.

2121 (2) In order to promote more effective regulation and reduce  
2122 regulatory burden through supervisory information sharing, the  
2123 commissioner is authorized to enter agreements or sharing  
2124 arrangements with other governmental agencies, the Conference of  
2125 State Bank Supervisors, the American Association of Residential  
2126 Mortgage Regulators or other associations representing  
2127 governmental agencies as established by rule, regulation or order  
2128 of the commissioner.

2129 (3) Information or material that is subject to a privilege  
2130 or confidentiality under subsection (1) of this section shall not  
2131 be subject to:

2132 (a) Disclosure under any federal or state law governing  
2133 the disclosure to the public of information held by an officer or  
2134 an agency of the federal government or the respective state; or

2135 (b) Subpoena or discovery, or admission into evidence,  
2136 in any private civil action or administrative process, unless with  
2137 respect to any privilege held by the Nationwide Mortgage Licensing  
2138 System and Registry with respect to that information or material,  
2139 the person to whom the information or material pertains waives, in  
2140 whole or in part, in the discretion of the person, that privilege.

2141 (4) Any applicable state law relating to the disclosure of  
2142 confidential supervisory information or any information or  
2143 material described in subsection (1) of this section that is



2144 inconsistent with subsection (1) shall be superseded by the  
2145 requirements of this section.

2146 (5) This section shall not apply with respect to the  
2147 information or material relating to the employment history of, and  
2148 publicly adjudicated disciplinary and enforcement actions against,  
2149 mortgage loan originators that is included in the Nationwide  
2150 Mortgage Licensing System and Registry for access by the public.

2151 **SECTION 36.** This act shall take effect and be in force from  
2152 and after July 1, 2016.

