

**CS FOR SENATE BILL NO. 279(FIN)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

**BY THE SENATE FINANCE COMMITTEE**

**Offered: 3/29/10**

**Referred: Rules**

**Sponsor(s): SENATOR PASKVAN**

**REPRESENTATIVE Fairclough**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to regulation of residential mortgage lending, including the licensing of**  
2 **mortgage lenders, mortgage brokers, and mortgage loan originators, and compliance**  
3 **with certain federal laws relating to residential mortgage lending; and providing for an**  
4 **effective date."**

5 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

6 **\* Section 1.** AS 06.01.050(3) is amended to read:

7 (3) "financial institution" means an institution subject to the regulation  
8 of the department under this title; in this paragraph, "institution" includes a  
9 commercial bank, savings bank, credit union, premium finance company, small loan  
10 company, bank holding company, financial holding company, trust company, savings  
11 and loan association, deferred deposit advance licensee under AS 06.50, **and** a  
12 licensee under AS 06.60 [, A SMALL MORTGAGE LENDER UNDER AS 06.60,  
13 AND AN ORIGINATOR UNDER AS 06.60 WHO IS EMPLOYED BY OR WORKS  
14 UNDER EXCLUSIVE CONTRACT FOR A SMALL MORTGAGE LENDER; IN

1 THIS PARAGRAPH,

2 (A) "LICENSEE UNDER AS 06.60" HAS THE MEANING  
3 GIVEN TO "LICENSEE" IN AS 06.60.990;

4 (B) "ORIGINATOR UNDER AS 06.60" HAS THE  
5 MEANING GIVEN TO "ORIGINATOR" IN AS 06.60.990;

6 (C) "SMALL MORTGAGE LENDER UNDER AS 06.60"  
7 HAS THE MEANING GIVEN TO "SMALL MORTGAGE LENDER" IN  
8 AS 06.60.990];

9 \* **Sec. 2.** AS 06.60.010 is repealed and reenacted to read:

10 **Sec. 06.60.010. Mortgage lender or mortgage broker license required.** (a)

11 Unless exempt under AS 06.60.015, a person may not operate in the state as a  
12 mortgage lender or mortgage broker with respect to a dwelling located in the state  
13 unless the person is licensed as a mortgage lender or mortgage broker under this  
14 chapter.

15 (b) A mortgage lender or mortgage broker required to be licensed under this  
16 chapter shall register with the registry and maintain a valid unique identifier issued by  
17 the registry.

18 (c) A mortgage license may cover more than one location of a mortgage  
19 licensee.

20 (d) A person who operates as both a mortgage lender and a mortgage broker is  
21 only required to obtain one mortgage license.

22 \* **Sec. 3.** AS 06.60 is amended by adding new sections to read:

23 **Sec. 06.60.012. Mortgage loan originator license required.** (a) Unless  
24 exempt under AS 06.60.015, an individual may not operate in the state as a mortgage  
25 loan originator with respect to a dwelling located in the state unless the individual is  
26 licensed as a mortgage loan originator under this chapter.

27 (b) An individual required to be licensed as a mortgage loan originator shall

28 (1) register with the registry and maintain a valid unique identifier  
29 issued by the registry;

30 (2) work under exclusive contract for, or as an employee of, a  
31 mortgage licensee; and

1 (3) be sponsored in the registry by a mortgage licensee under a  
 2 sponsorship approved in the registry by the department; in this paragraph, "sponsored"  
 3 means authorized to conduct business as a mortgage loan originator under the  
 4 supervision of a mortgage licensee.

5 **Sec. 06.60.013. Loan processors or underwriters.** (a) A loan processor or  
 6 underwriter who is an independent contractor may not operate as a loan processor or  
 7 underwriter unless the independent contractor loan processor or underwriter is  
 8 licensed as a mortgage loan originator under this chapter. An independent contractor  
 9 loan processor or underwriter licensed as a mortgage loan originator shall register with  
 10 the registry and maintain a valid unique identifier issued by the registry.

11 (b) An individual engaged solely in loan processor or underwriter activities  
 12 who is not an independent contractor is not required to be licensed as a mortgage loan  
 13 originator under this chapter if the individual does not represent to the public, through  
 14 advertising or other means of communicating or providing information, including the  
 15 use of the Internet, business cards, stationery, brochures, signs, rate lists, or other  
 16 promotional items, that the individual can or will perform any of the activities of a  
 17 mortgage loan originator.

18 \* **Sec. 4.** AS 06.60.015 is repealed and reenacted to read:

19 **Sec. 06.60.015. Exemptions.** (a) The following persons are exempt from the  
 20 mortgage lender or mortgage broker licensing requirements of this chapter:

- 21 (1) a depository institution;
- 22 (2) a subsidiary that is
  - 23 (A) owned and controlled by a depository institution; and
  - 24 (B) regulated by a federal banking agency; or
- 25 (3) an institution regulated by the Farm Credit Administration.

26 (b) The following individuals are exempt from the mortgage loan originator  
 27 licensing requirements of this chapter:

- 28 (1) a registered mortgage loan originator, when acting for an entity  
 29 described in (a)(1), (2), or (3) of this section;
- 30 (2) an individual who offers or negotiates terms of a residential  
 31 mortgage loan with or on behalf of an immediate family member of the individual; in

1 this paragraph, "immediate family member" means a spouse, child, stepchild, sibling,  
2 stepsibling, parent, stepparent, grandparent, or grandchild;

3 (3) an individual seller who offers or negotiates terms of a residential  
4 mortgage loan secured by a dwelling that serves as the individual's residence;

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

10 \* **Sec. 5.** AS 06.60 is amended by adding a new section to read:

11 **Sec. 06.60.016. Registry.** (a) The department may participate in the registry  
12 and pay the fees required for participation in the registry.

13 (b) The department

14 (1) may establish relationships or contracts with the registry or other  
15 entities designated by the registry to collect and maintain records and process  
16 transaction fees or other fees related to licensees or other persons subject to this  
17 chapter;

18 (2) shall require mortgage licensees and mortgage loan originators to  
19 register with the registry; and

20 (3) shall establish by regulation a process that allows mortgage  
21 licensees and mortgage loan originators to challenge information entered into the  
22 registry by the department.

23 (c) The department may adopt emergency regulations under AS 44.62  
24 (Administrative Procedure Act) to implement this section, including emergency  
25 regulations for the assessment of fees.

26 \* **Sec. 6.** AS 06.60.020 is repealed and reenacted to read:

27 **Sec. 06.60.020. Application for license.** (a) An application for a license under  
28 this chapter must

29 (1) be on the form prescribed by the department and the registry;

30 (2) contain complete information regarding the applicant;

31 (3) include fingerprints of the applicant, as needed to conduct a

1 background check; and

2 (4) contain other information or supporting material that the  
3 department may require concerning the applicant, including the organization and  
4 operations of an applicant for a mortgage license and the financial responsibility,  
5 background, experience, and activities of the applicant.

6 (b) In this section, "applicant" includes a control person of an applicant for a  
7 mortgage license.

8 \* **Sec. 7.** AS 06.60.026 is amended to read:

9 **Sec. 06.60.026. Transfer of mortgage loan originator license.** A person who  
10 holds a mortgage loan [AN] originator license may not transfer or assign the  
11 mortgage loan originator license.

12 \* **Sec. 8.** AS 06.60.027 is repealed and reenacted to read:

13 **Sec. 06.60.027. Background checks.** (a) To apply for a mortgage loan  
14 originator license or a mortgage license, the applicant shall, at a minimum, furnish  
15 information concerning the applicant's identity to the registry or the department,  
16 including

17 (1) fingerprints for submission to the Federal Bureau of Investigation  
18 and any governmental agency or entity authorized to receive that information for a  
19 state, national, and international criminal history background check; and

20 (2) personal history and experience in a form prescribed by the registry  
21 and authorization for the registry and the department to obtain

22 (A) an independent credit report from a consumer reporting  
23 agency; and

24 (B) information related to administrative, civil, or criminal  
25 findings by a governmental jurisdiction.

26 (b) For the purposes of this section, the department may use the registry as an  
27 agent for requesting information from and distributing information to the United States  
28 Department of Justice, another governmental agency, or another source directed by the  
29 department.

30 (c) As part of the investigation of an application for a license under this  
31 chapter, the department or the registry shall

1 (1) submit fingerprints of the applicant and a control person of the  
 2 applicant to the governmental agency or entity authorized to receive the fingerprints  
 3 for a state, national, or international criminal history background check under (a)(1) of  
 4 this section; and

5 (2) obtain an independent credit report and other information related to  
 6 administrative, civil, or criminal findings regarding the applicant and each control  
 7 person of the applicant under (a)(2) of this section.

8 \* **Sec. 9.** AS 06.60.035(a) is amended to read:

9 (a) **When** [EXCEPT AS PROVIDED BY (c) OF THIS SECTION, WHEN]  
 10 an applicant submits an application for a license under this chapter to the department,  
 11 the applicant shall pay to the department

12 (1) **an** [A NONREFUNDABLE] application fee [OF \$250] in partial  
 13 payment of those investigation expenses incurred by the department; and

14 (2) **an annual** [A BIENNIAL] license fee [OF \$500] for the period  
 15 that terminates **on December 31** [TWO YEARS] after the date the license is issued;  
 16 after this payment, the **annual** [BIENNIAL] license fee is due every **year, subject to**  
 17 **renewal by the department** [TWO YEARS ON THE ANNIVERSARY DATE OF  
 18 THE ORIGINAL ISSUANCE OF THE LICENSE].

19 \* **Sec. 10.** AS 06.60.035(c) is repealed and reenacted to read:

20 (c) The fees imposed by this section are in addition to the fees charged by the  
 21 registry and the business license fees assessed under AS 43.70 (Alaska Business  
 22 License Act).

23 \* **Sec. 11.** AS 06.60.035 is amended by adding a new subsection to read:

24 (d) The department may establish by regulation the amount and manner of  
 25 payment of application fees, examination fees, license fees, permit fees, investigation  
 26 fees, and all administrative or other fees or penalties under this chapter. The fees  
 27 established under this chapter are nonrefundable.

28 \* **Sec. 12.** AS 06.60 is amended by adding a new section to read:

29 **Sec. 06.60.038. Prelicensing and relicensing education of mortgage loan**  
 30 **originators.** (a) Before being licensed as a mortgage loan originator, an individual  
 31 shall complete at least 20 hours of education approved under (b) of this section. At a

1 minimum, the education must include

2 (1) three hours of instruction in federal statutes and regulations relating  
3 to mortgage origination, fraud prevention, consumer protection, the nontraditional  
4 mortgage marketplace, and fair lending.;

5 (2) three hours of instruction in ethics, including instruction on issues  
6 related to fraud prevention, consumer protection, and fair lending; and

7 (3) two hours of training related to lending standards for the  
8 nontraditional mortgage product marketplace.

9 (b) For the purposes of (a) of this section, a prelicensing education course  
10 must be approved under 12 U.S.C. 5104(c)(2) (Secure and Fair Enforcement for  
11 Mortgage Licensing Act of 2008). Review and approval of a prelicensing education  
12 course includes review and approval of the course provider.

13 (c) Nothing in this section precludes a prelicensing education course that is  
14 approved under (b) of this section and that is provided by the employer of the  
15 applicant, an entity affiliated with the applicant, or a subsidiary or affiliate of an  
16 employer or entity affiliated with the applicant.

17 (d) Prelicensing education may be offered in a classroom, on-line, or by other  
18 means approved under 12 U.S.C. 5104(c)(2) (Secure and Fair Enforcement for  
19 Mortgage Licensing Act of 2008).

20 \* **Sec. 13.** AS 06.60.040 is repealed and reenacted to read:

21 **Sec. 06.60.040. Testing of mortgage loan originators.** (a) Before being  
22 licensed as a mortgage loan originator, an individual shall pass, under the standards  
23 established by this section, a qualified written test on appropriate subject areas,  
24 including federal and state law, under 12 U.S.C. 5104(d) (Secure and Fair  
25 Enforcement for Mortgage Licensing Act of 2008).

26 (b) The department shall treat a written test as a qualified written test for  
27 purposes of (a) of this section if the department finds that the test adequately measures  
28 the applicant's knowledge and comprehension in appropriate subject areas, including

29 (1) ethics; and

30 (2) federal and state statutes and regulations relating to mortgage  
31 origination, fraud prevention, consumer protection, the nontraditional mortgage

1 marketplace, and fair lending.

2 (c) This section does not prohibit a test provider approved by the registry from  
3 providing a test at the location of the employer of the applicant, the location of a  
4 subsidiary or affiliate of the employer of the applicant, or the location of an entity with  
5 which the applicant holds an exclusive arrangement to conduct the business of a  
6 mortgage loan originator.

7 (d) To pass a qualified written test, an applicant must answer at least 75  
8 percent of the questions correctly.

9 (e) An individual may retake a test three consecutive times, but each  
10 consecutive taking of a test must occur at least 30 days after taking the preceding test.

11 (f) After failing three consecutive takings of the same test, an individual shall  
12 wait at least six months before retaking the test.

13 (g) A licensed mortgage loan originator who fails to maintain a valid license  
14 for a period of five years or longer shall retake the test. The period without a valid  
15 license under this subsection does not include the time the individual is a registered  
16 mortgage loan originator.

17 (h) The department may assess a fee for each administration of a qualified  
18 written test.

19 \* **Sec. 14.** AS 06.60.045(a) is amended to read:

20 (a) An applicant for a mortgage license shall file with the application  
21 submitted to the department under AS 06.60.020 a bond with one or more sureties,  
22 **The department shall establish by regulation the amount of the required bond**  
23 **and the standards and procedures for recovery on the bond** [IN THE AMOUNT  
24 OF \$25,000 UNDER WHICH THE APPLICANT IS THE OBLIGOR]. The bond  
25 must be satisfactory to the department.

26 \* **Sec. 15.** AS 06.60.045(d) is amended to read:

27 (d) The bond required under (a) of this section must be continuous until **three**  
28 **years after** the department revokes or otherwise terminates the license.

29 \* **Sec. 16.** AS 06.60.050(a) is amended to read:

30 (a) Within 30 days after the date the department determines that it has  
31 received a complete application under **AS 06.60.020** [AS 06.60.020 OR 06.60.025],

1 the required bond if the application is for a mortgage license, and any required fees  
2 and investigative costs, the department shall either grant or deny the license.

3 \* **Sec. 17.** AS 06.60.060 is repealed and reenacted to read:

4 **Sec. 06.60.060. Determinations before licensing.** Before granting a license  
5 under this chapter, the department shall determine, at a minimum, that

6 (1) the applicant has complied with the requirements of this chapter for  
7 obtaining the license;

8 (2) the applicant, including a control person of the applicant, has

9 (A) never had a mortgage lender, mortgage broker, or mortgage  
10 loan originator license revoked by a governmental jurisdiction, except that, if a  
11 revocation has been formally vacated, the revocation is not considered a  
12 revocation under this paragraph; in this paragraph,

13 (i) a control person of an applicant for a mortgage  
14 license includes an entity over which the control person exercised  
15 control at the time of the revocation; and

16 (ii) an applicant for a mortgage loan originator license  
17 includes an entity over which the applicant exercised control at the time  
18 of the revocation;

19 (B) not been convicted of, or pled guilty or no contest to, a  
20 felony in a domestic, foreign, or military court during the seven-year period  
21 preceding the date of the application, or at any time preceding the date of  
22 application if the felony involved an act of fraud, dishonesty, a breach of trust,  
23 or money laundering; however, if the applicant has been pardoned for the  
24 conviction, the conviction is not considered a conviction under this  
25 subparagraph;

26 (C) demonstrated financial responsibility, character, and  
27 general fitness sufficient to command the confidence of the community and to  
28 warrant a determination that the applicant will operate honestly, fairly, and  
29 efficiently within the purposes of this chapter; under this subparagraph,

30 (i) an applicant does not show financial responsibility if  
31 the applicant has shown inattention to or neglect of the management of

1 the person's own financial condition;

2 (ii) a determination that an applicant has not shown  
3 financial responsibility may include current outstanding judgments  
4 against the applicant, except judgments related solely to a claim related  
5 to medical expenses; current outstanding tax liens or other government  
6 liens and filings against the applicant; foreclosures of the applicant's  
7 property within the three years preceding the date of the application;  
8 and a pattern by the applicant of seriously delinquent accounts within  
9 the three years preceding the date of the application;

10 (3) the applicant for a mortgage loan originator license

11 (A) has completed the preclicensing education requirement  
12 described in AS 06.60.038;

13 (B) has passed a test that meets the requirements described in  
14 AS 06.60.040; and

15 (C) has paid the fund fee as required by AS 06.60.550; and

16 (4) the applicant for a mortgage license has provided a bond as  
17 required by AS 06.60.045.

18 \* **Sec. 18.** AS 06.60 is amended by adding a new section to article 1 to read:

19 **Sec. 06.60.077. Authority to issue provisional license.** (a) Subject to (b) of  
20 this section, the department may issue a provisional license to an applicant for a  
21 mortgage license if the department has made all determinations under AS 06.60.060  
22 necessary for licensure except those determinations based on the criminal history  
23 background check required by AS 06.60.027.

24 (b) A provisional license may be granted under this section if the

25 (1) receipt by the department of the results of the criminal history  
26 background check is delayed more than 60 days after the date the fingerprints are  
27 submitted to the governmental agency that conducts the criminal history background  
28 check; and

29 (2) delay described in (1) of this subsection is not caused by the  
30 applicant.

31 (c) The duration of a provisional license issued under this section may not

1 exceed 90 days.

2 \* **Sec. 19.** AS 06.60.080 is amended to read:

3 **Sec. 06.60.080. Duration of license.** Except for a provisional license issued  
 4 under AS 06.60.077, a [A] license issued under this chapter remains in effect until  
 5 December 31 of the year in which [FOR TWO YEARS AFTER] the license is  
 6 issued, unless the license is revoked, is suspended, is surrendered, or becomes  
 7 [BECOMING] inactive under this chapter.

8 \* **Sec. 20.** AS 06.60.085 is repealed and reenacted to read:

9 **Sec. 06.60.085. Renewal of license.** (a) If a licensee intends to renew a license,  
 10 the licensee shall submit to the department

11 (1) a renewal application at a time and in the form and manner  
 12 established by the department and the registry;

13 (2) the annual license fee;

14 (3) if the renewal is for a mortgage license,

15 (A) a report, as required by regulation, identifying any changes  
 16 in the information provided to the department; and

17 (B) current information indicating that the mortgage licensee  
 18 continues to meet the minimum standards for license issuance;

19 (4) if the renewal is for a mortgage loan originator license,

20 (A) a report, as required by regulation, identifying any changes  
 21 in the information provided to the department;

22 (B) current information indicating that the mortgage loan  
 23 originator continues to meet the minimum standards for license issuance;

24 (C) certificates or other documents showing the mortgage loan  
 25 originator has satisfied the annual continuing education requirements of  
 26 AS 06.60.160; and

27 (D) the fund fee required by AS 06.60.550; and

28 (5) payment of any other required fees for renewal of the license.

29 (b) The department may adopt by regulation procedures and deadlines  
 30 regarding the filing of an application for renewal of a license and the assessment of a  
 31 penalty or other consequence for late filing, consistent with the requirements of the

1 registry.

2 (c) The department shall approve or deny the application for renewal of a  
3 license not later than 60 days after the renewal application is filed.

4 \* **Sec. 21.** AS 06.60 is amended by adding a new section to read:

5 **Sec. 06.60.087. Standards for license renewal.** (a) After a licensee complies  
6 with AS 06.60.085, the department may renew the licensee's license if

7 (1) the licensee continues to meet the standards for license issuance  
8 under AS 06.60.060;

9 (2) in the case of a mortgage loan originator license, the mortgage loan  
10 originator licensee has satisfied the annual continuing education requirements of  
11 AS 06.60.160;

12 (3) the licensee has paid all required fees for renewal of the license;  
13 and

14 (4) the licensee is in compliance with the requirements of this chapter  
15 and regulations adopted and orders issued under this chapter.

16 (b) If a licensee fails to satisfy (a) of this section, the license expires at the end  
17 of the period for which the license was issued. The department may adopt by  
18 regulation procedures for the reinstatement of expired licenses. The procedures must  
19 be consistent with the standards established by the registry.

20 \* **Sec. 22.** AS 06.60.090(c) is amended to read:

21 (c) For a license to become inactive, a licensee shall provide the department  
22 with a written request that the license become inactive [AND RETURN THE  
23 LICENSE CERTIFICATE TO THE DEPARTMENT]. The request must include the  
24 licensee's name, the licensee's address, and other information [THAT] the department  
25 requires to process the request. **If the request is made by mortgage licensee, the**  
26 **request must include** [AND] a statement by the mortgage licensee that all mortgage  
27 loans of the mortgage licensee have been paid in full or sold.

28 \* **Sec. 23.** AS 06.60.090(e) is amended to read:

29 (e) If a person holds a license that becomes inactive under this section, the  
30 person may not operate as a mortgage lender, mortgage broker, or mortgage loan  
31 originator under the license in this state until the license is reactivated.

1 \* **Sec. 24.** AS 06.60.090(f) is amended to read:

2 (f) If a license becomes inactive under this section, the license remains  
3 inactive until the license expires, the person surrenders the license, or the **department**  
4 **approves the reactivation of the license, whichever event occurs first** [PERSON  
5 WHO HOLDS THE INACTIVE LICENSE PROVIDES THE DEPARTMENT WITH  
6 A WRITTEN REQUEST THAT THE LICENSE BE REACTIVATED]. The  
7 **licensee's** request **for reactivation** must include the information that the department  
8 requires to process the request.

9 \* **Sec. 25.** AS 06.60.090(g) is repealed and reenacted to read:

10 (g) While a license is inactive under this section, the person holding the  
11 inactive license shall

12 (1) pay the annual license fee as required by AS 06.60.035;

13 (2) inform the department of any change that occurs in the name and  
14 address of the person, the location of the person's business, or the business operations  
15 or control of the person;

16 (3) maintain the bond required by AS 06.60.045; and

17 (4) file the annual report required by AS 06.60.100(a).

18 \* **Sec. 26.** AS 06.60.095 is repealed and reenacted to read:

19 **Sec. 06.60.095. Reactivation of inactive license.** (a) A person who has an  
20 inactive license certificate under AS 06.60.090 may apply to the department for an  
21 active license and pay the required fees. To be eligible for license reactivation, the  
22 applicant shall comply with all requirements for licensure in effect at the time of  
23 reactivation.

24 (b) If the department reactivates a license under this section, the license  
25 expires on December 31 of the year in which it is issued.

26 \* **Sec. 27.** AS 06.60.100(a) is amended to read:

27 (a) **Annually, on** [ON] or before **a** [MARCH 15, OR ON ANOTHER] date  
28 established by the department by regulation, [OF EACH YEAR] a mortgage licensee  
29 shall file a report with the department **providing** [GIVING] relevant information that  
30 the department requires concerning the business and operations of [EACH  
31 LOCATION IN THIS STATE WHERE] the mortgage licensee [CONDUCTS

1 BUSINESS IN THIS STATE DURING THE PRECEDING CALENDAR YEAR].  
 2 The mortgage licensee shall make the report under oath or on affirmation. The content  
 3 and form of the report shall be established by the department by regulation.

4 \* **Sec. 28.** AS 06.60.100 is amended by adding a new subsection to read:

5 (c) A mortgage licensee shall submit to the registry, as required by the  
 6 registry, reports of the condition of the licensee, which must be in the form and  
 7 contain the information that the registry may require.

8 \* **Sec. 29.** AS 06.60 is amended by adding a new section to read:

9 **Sec. 06.60.112. Branch office application.** A mortgage licensee shall submit  
 10 an application to register a branch office to the department through the registry. The  
 11 department may adopt by regulation procedures and fees for the submission of an  
 12 application to register a branch office, consistent with the requirements of the registry.  
 13 The department may adopt by regulation fees and other requirements for renewal of a  
 14 branch office registration that are consistent with the requirements of the registry.

15 \* **Sec. 30.** AS 06.60.130(a) is amended to read:

16 (a) The prior [WRITTEN] approval of the department **that is made in a**  
 17 **record** is required for the continued operation of a mortgage licensee's business when  
 18 a change in control of the mortgage licensee is proposed. The department may require  
 19 the information it considers necessary to determine whether a new application is  
 20 required. The mortgage licensee requesting approval of the change in control shall pay  
 21 all reasonable expenses incurred by the department to investigate and approve or deny  
 22 the change in control. **The department may establish by regulation the fees and**  
 23 **other requirements for requesting approval of a change in control that are**  
 24 **consistent with the requirements of the registry.**

25 \* **Sec. 31.** AS 06.60.140 is amended to read:

26 **Sec. 06.60.140. Availability of out-of-state records.** A mortgage licensee  
 27 who operates an office or other place of business outside this state shall, at the request  
 28 of the department,

29 (1) make the records of the office or place of business available to the  
 30 department at a location within this state; or

31 (2) reimburse the department its reasonable costs, as provided in

1           **AS 06.60.250(k)** [AS 06.60.250(f)], that are incurred by the department in conjunction  
 2           with an investigation or examination conducted at the office or place of business.

3           \* **Sec. 32.** AS 06.60.155 is amended to read:

4                   **Sec. 06.60.155. Restriction on mortgage loan originator licensee's**  
 5                   **[LICENSEE] work. A mortgage loan** [AN] originator licensee may only work as **a**  
 6                   **mortgage loan** [AN] originator licensee under contract for, or as an employee of, one  
 7                   mortgage licensee.

8           \* **Sec. 33.** AS 06.60.157 is amended to read:

9                   **Sec. 06.60.157. Restrictions** [MORTGAGE LICENSEE RESTRICTIONS]  
 10                   **on mortgage licensee's performance of mortgage loan originator activities.** A  
 11                   mortgage licensee may not perform **mortgage loan** originator activities except  
 12                   through a licensed **mortgage loan** originator who is an employee of or under  
 13                   exclusive contract with a mortgage licensee.

14           \* **Sec. 34.** AS 06.60.159 is amended to read:

15                   **Sec. 06.60.159. Mortgage licensee's [LICENSEE] employment of, contract**  
 16                   **with, and liability for mortgage loan originator.** (a) A mortgage licensee may not  
 17                   employ or enter into a contract with a person who acts as **a mortgage loan** [AN]  
 18                   originator for the mortgage licensee unless the person has **a mortgage loan** [AN]  
 19                   originator license.

20                   (b) A mortgage licensee is liable for the conduct of a person acting as **a**  
 21                   **mortgage loan** [AN] originator if the mortgage licensee knows or should have known  
 22                   that the person's conduct violates this chapter and the person is employed by or is  
 23                   under contract with the mortgage licensee to act as **a mortgage loan** [AN] originator.

24           \* **Sec. 35.** AS 06.60.160 is repealed and reenacted to read:

25                   **Sec. 06.60.160. Continuing education requirements for mortgage loan**  
 26                   **originators.** (a) Each calendar year, a licensed mortgage loan originator shall  
 27                   complete at least eight hours of education approved under (b) of this section. At a  
 28                   minimum, these hours must include

29                               (1) three hours of instruction in federal statutes and regulations;

30                               (2) two hours of instruction in ethics, including instruction on issues  
 31                   related to fraud prevention, consumer protection, and fair lending; and

1                   (3) two hours of training related to lending standards for the  
2 nontraditional mortgage product marketplace.

3                   (b) For the purposes of (a) of this section, a continuing education course must  
4 be approved under 12 U.S.C. 5105(b)(2) (Secure and Fair Enforcement for Mortgage  
5 Licensing Act of 2008). Review and approval of a continuing education course  
6 includes review and approval of the course provider.

7                   (c) Nothing in this section precludes a continuing education course that is  
8 approved under (b) of this section and that is provided by the employer of the  
9 applicant, an entity affiliated with the applicant, or a subsidiary or affiliate of an  
10 employer or entity affiliated with the applicant.

11                   (d) Continuing education may be offered in a classroom, on-line, or by other  
12 means approved under 12 U.S.C. 5105(b)(2) (Secure and Fair Enforcement for  
13 Mortgage Licensing Act of 2008).

14                   (e) A licensed mortgage loan originator

15                         (1) except as provided by (i) of this section, may only receive credit for  
16 a continuing education course in the calendar year in which the course is taken; and

17                         (2) may not retake an approved course in the same or successive  
18 calendar years if the mortgage loan originator has previously taken the course to meet  
19 the annual requirements for continuing education.

20                   (f) A licensed mortgage loan originator who is an approved instructor of an  
21 approved continuing education course may receive credit for the licensed mortgage  
22 loan originator's own annual continuing education requirement at the rate of two hours  
23 of credit for each one hour taught.

24                   (g) Successful completion of a continuing education course approved for  
25 another state by the registry shall be accepted as credit toward completion of  
26 continuing education requirements in this state.

27                   (h) Before a new or renewed license may be issued to a licensed mortgage  
28 loan originator who has become unlicensed, the mortgage loan originator shall  
29 complete the continuing education requirements for the last calendar year in which the  
30 mortgage loan originator's license was valid.

31                   (i) A person meeting the requirements of AS 06.60.087, other than the

1 continuing education requirement of AS 06.60.087(a)(2), may make up a deficiency in  
2 continuing education in a manner established by regulation.

3 \* **Sec. 36.** AS 06.60.200 is repealed and reenacted to read:

4 **Sec. 06.60.200. Disciplinary action.** (a) In addition to other disciplinary action  
5 allowed under this chapter or under AS 06.01, the department may deny, suspend,  
6 revoke, condition, or decline to renew a license or take other disciplinary action  
7 against a person subject to this chapter, including action under a regulation adopted  
8 under this chapter, if the department finds that the person

9 (1) fails to comply with an applicable provision of this title, an  
10 applicable regulation adopted under this title, a lawful demand, ruling, order, or  
11 requirement of the department, or other state or federal statute or regulation applicable  
12 to the conduct of the licensee's business;

13 (2) fails to meet the minimum standards for issuance or renewal of a  
14 license; or

15 (3) knowingly withholds material information or negligently makes a  
16 material misstatement in an application for or renewal of a license.

17 (b) The department may

18 (1) order a person subject to this chapter to cease and desist from  
19 conducting business, including an immediate temporary order to cease and desist;

20 (2) order a person subject to this chapter to cease and desist from  
21 violating this chapter, including an immediate temporary order to cease and desist;

22 (3) impose a fine on a person subject to this chapter under  
23 AS 06.60.420;

24 (4) issue an order of rescission, restitution, or disgorgement directed to  
25 a person subject to this chapter for a violation of this chapter;

26 (5) order other affirmative action that the department considers  
27 necessary, including an accounting, an asset freeze, or the appointment of a receiver.

28 (c) A disciplinary action under this section may be taken by itself or in  
29 conjunction with one or more other disciplinary actions under this chapter or under  
30 AS 06.01.

31 \* **Sec. 37.** AS 06.60.210 is amended to read:

1                   **Sec. 06.60.210. Suspension, [OR] revocation, or renewal related to fund.**

2                   (a) When an award is made from the fund, the department may suspend, [OR] revoke,  
3                   or decline to renew the license of the mortgage loan originator licensee whose  
4                   actions formed the basis of the award.

5                   (b) The department shall lift a suspension made under (a) of this section if the  
6                   mortgage loan originator licensee reaches an agreement with the department on terms  
7                   and conditions for the repayment to the fund of the money awarded to the claimant  
8                   and the costs of hearing the fund claim. The department may reimpose the suspension  
9                   if the mortgage loan originator licensee violates the terms of a repayment agreement  
10                  entered into under this subsection.

11                  \* **Sec. 38.** AS 06.60.230 is amended to read:

12                   **Sec. 06.60.230. Divestment.** If the department revokes a mortgage license [OR  
13                   A REGISTRATION OF A SMALL MORTGAGE LENDER], the mortgage licensee  
14                   [OR THE SMALL MORTGAGE LENDER] shall divest itself of all outstanding loans  
15                   that were issued under this chapter by selling or assigning them to another mortgage  
16                   licensee [OR SMALL MORTGAGE LENDER]. Divestment under this section must  
17                   be approved by the department.

18                  \* **Sec. 39.** AS 06.60.240 is amended to read:

19                   **Sec. 06.60.240. Reinstatement.** The department may reinstate a suspended  
20                   [REVOKED] license [OR REGISTRATION UNDER AS 06.60.017] if the licensee  
21                   [OR SMALL MORTGAGE LENDER] complies with this chapter or with a demand,  
22                   ruling, or requirement made by the department under this chapter. Before  
23                   reinstatement of a license [OR REGISTRATION UNDER AS 06.60.017], the licensee  
24                   [OR SMALL MORTGAGE LENDER] shall pay any fees, restitution, and civil  
25                   penalties owing under this chapter.

26                  \* **Sec. 40.** AS 06.60.250 is repealed and reenacted to read:

27                   **Sec. 06.60.250. Investigation and examination authority.** (a) For the purpose  
28                   of initial licensing, license renewal, license suspension, license conditioning, license  
29                   revocation, license termination, or general or specific inquiry or investigation to  
30                   determine compliance with this chapter, the department may access, receive, use, and  
31                   copy any books, accounts, records, files, documents, information, or evidence,

1 including

2 (1) criminal, civil, and administrative history information, including  
3 nonconviction information; in this paragraph, "nonconviction information" has the  
4 meaning given in AS 12.62.900;

5 (2) personal history and experience information, including independent  
6 credit reports obtained from a consumer reporting agency; and

7 (3) other documents, information, and evidence the department  
8 considers relevant to the inquiry or investigation, regardless of the location,  
9 possession, or custody of the documents, information, or evidence.

10 (b) Notwithstanding AS 06.01.015, for the purpose of investigating violations  
11 or complaints arising under this chapter, or for the purpose of examination, the  
12 department may review, investigate, or examine an applicant, licensee, or another  
13 person subject to this chapter as often as necessary to carry out the purposes of this  
14 chapter. The department may conduct an examination without prior notice to the  
15 licensee.

16 (c) A licensee or other person subject to this chapter shall make available to  
17 the department, on request, the place of business, books, records, accounts, safes, and  
18 vaults relating to the operations of the licensee or other person subject to this chapter.  
19 The department may interview the officers, principals, mortgage loan originators,  
20 employees, independent contractors, agents, and customers of the licensee or other  
21 person subject to this chapter concerning the licensee's or other person's business.

22 (d) For the purpose of hearings, investigations, or other proceedings under this  
23 chapter, the department or an officer designated by the department may administer  
24 oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take  
25 evidence, and require the production of books, papers, correspondence, memoranda,  
26 agreements, or other documents or records that the department considers relevant or  
27 material to the matter.

28 (e) If a person refuses to comply with a subpoena, the superior court, on  
29 application by the department, may issue to the person an order requiring the person to  
30 appear before the department to produce documentary evidence or to give evidence  
31 regarding the matter under investigation or in question.

1 (f) A licensee or other person subject to this chapter shall make or compile  
2 reports or prepare other information as directed by the department to carry out the  
3 purposes of this section, including

- 4 (1) accounting compilations;  
5 (2) information lists and data concerning loan transactions in a format  
6 prescribed by the department; and  
7 (3) other information considered necessary to carry out the purposes of  
8 this chapter.

9 (g) In making an examination or investigation authorized by this chapter, the  
10 department may control access to documents and records of the licensee or other  
11 person under examination or investigation. The department may take possession of the  
12 documents and records or place a person in exclusive charge of the documents and  
13 records in the place where they are usually kept. During the period of control, a person  
14 may not remove or attempt to remove any of the documents and records except under  
15 a court order or with the consent of the department. In this subsection, "control" does  
16 not have the meaning given in AS 06.60.990.

17 (h) To carry out the purposes of this section, the department may

- 18 (1) retain attorneys, accountants, or other professionals and specialists,  
19 including examiners, auditors, or investigators, to conduct or assist in the conduct of  
20 examinations or investigations;  
21 (2) enter into agreements or relationships with other government  
22 officials or regulatory associations to improve efficiency and reduce the regulatory  
23 burden by sharing resources, standardized or uniform methods or procedures, and  
24 documents, records, information, and evidence obtained under this section;  
25 (3) use, hire, contract, or employ public or privately available  
26 analytical systems, methods, or electronic software to examine or investigate the  
27 licensee, individual, or other person subject to this chapter;  
28 (4) accept and rely on examination or investigation reports made by  
29 other government officials in this or another state;  
30 (5) share information received or collected during an examination,  
31 investigation, or other proceeding with other law enforcement agencies; or

1 (6) accept an audit report prepared by an independent certified public  
2 accountant for the licensee or other person subject to this chapter and may incorporate  
3 an audit report in the report of the examination or other writing of the department.

4 (i) The authority under this section remains in effect, whether or not a licensee  
5 or other person subject to this chapter acts or claims to act under a licensing or  
6 registration law of the state or claims to act without the authority of a licensing or  
7 registration law of the state.

8 (j) A licensee or other person subject to investigation or examination under  
9 this section may not knowingly withhold, abstract, remove, mutilate, destroy, or  
10 secrete any books, records, computer records, or other information.

11 (k) A person shall reimburse the department for reasonable costs incurred by  
12 the department to conduct an examination or investigation under this section. The  
13 reimbursement under this subsection may not exceed the rate of \$75 an hour for the  
14 examination or investigation, plus travel costs, including a per diem allowance that  
15 does not exceed the per diem allowance for employees of the state under  
16 AS 39.20.110.

17 \* **Sec. 41.** AS 06.60.260 is amended to read:

18 **Sec. 06.60.260. Revocation, removal, or suspension of mortgage loan**  
19 **originator licensee.** If the department finds that **a mortgage loan** [AN] originator  
20 licensee is dishonest, reckless, or incompetent when operating as **a mortgage loan**  
21 [AN] originator or fails to comply with applicable law, with regulations or orders of  
22 the department, or with written requirements or instructions of the department relating  
23 to the **mortgage loan** originator license, the department may revoke or suspend the  
24 **mortgage loan** originator license, remove the **mortgage loan** originator licensee from  
25 operating as **a mortgage loan** [AN] originator in the state, or order a person licensed  
26 under this title to remove the **mortgage loan** originator licensee from operating as **a**  
27 **mortgage loan** [AN] originator for the person.

28 \* **Sec. 42.** AS 06.60.270 is amended to read:

29 **Sec. 06.60.270. Removal by entity.** A mortgage licensee shall remove **a**  
30 **mortgage loan** [AN] originator licensee from acting as **a mortgage loan** [AN]  
31 originator for the mortgage licensee if the department directs the mortgage licensee to

1 remove the **mortgage loan** originator licensee under AS 06.60.260.

2 \* **Sec. 43.** AS 06.60 is amended by adding a new section to article 4 to read:

3 **Sec. 06.60.290. Report to the registry.** Notwithstanding AS 06.01.025, the  
4 department shall regularly report violations of this chapter, as well as enforcement  
5 actions and other relevant information, to the registry, subject to provisions established  
6 by the department by regulation.

7 \* **Sec. 44.** AS 06.60.320 is amended to read:

8 **Sec. 06.60.320. False, misleading, or deceptive advertising prohibited.** A  
9 person [, INCLUDING A SMALL MORTGAGE LENDER,] may not advertise, print,  
10 display, publish, distribute, broadcast, or cause or permit to be advertised, printed,  
11 displayed, published, distributed, or broadcast, in any manner a statement or  
12 representation with regard to the rates, terms, or conditions for a mortgage loan that is  
13 false, misleading, or deceptive.

14 \* **Sec. 45.** AS 06.60 is amended by adding a new section to read:

15 **Sec. 06.60.325. Display of unique identifier.** A person operating as a  
16 mortgage lender, mortgage broker, or mortgage loan originator shall clearly display  
17 the unique identifier assigned to the person by the registry on all residential mortgage  
18 loan application forms, solicitations, and advertisements, including business cards or  
19 websites, and any other documents as established by regulation or order of the  
20 department.

21 \* **Sec. 46.** AS 06.60.330 is amended to read:

22 **Sec. 06.60.330. Compliance with federal requirements.** A person [,  
23 INCLUDING A SMALL MORTGAGE LENDER,] subject to this chapter shall  
24 conduct the person's mortgage loan activities in compliance with [12 CFR PART 226  
25 AND OTHER REGULATIONS ADOPTED BY THE FEDERAL GOVERNMENT  
26 UNDER]

27 (1) 12 U.S.C. 2601 - 2617 (Real Estate Settlement Procedures Act of  
28 1974);

29 (2) 12 U.S.C. 2801 - 2810 (Home Mortgage Disclosure Act of 1975);

30 (3) 12 U.S.C. 2901 - 2908 (Community Reinvestment Act of 1977);

31 (4) **12 U.S.C. 5101 - 5116 (Secure and Fair Enforcement for**

1 **Mortgage Licensing Act of 2008**;

2 **(5)** 15 U.S.C. 1601 - 1666j and 1671 - 1693r (Consumer Credit  
3 Protection Act);

4 **(6)** [(5)] 42 U.S.C. 3601 - 3631 (Fair Housing Act of 1968);

5 **(7)** [AND (6)] any other federal **statute the purpose of which is to**  
6 **regulate residential mortgage lending; and**

7 **(8) regulations adopted under the statutes identified in (1) - (7) of**  
8 **this section** [LAW OR REGULATION].

9 \* **Sec. 47.** AS 06.60.340 is repealed and reenacted to read:

10 **Sec. 06.60.340. Prohibited activities.** In addition to activities prohibited  
11 elsewhere in this chapter or by other law, a person who is a licensee, a person who is  
12 required to be licensed under this chapter, and a person who is licensed under  
13 AS 06.20 may not, in connection with a mortgage loan transaction,

14 (1) misrepresent or conceal a material fact or make a false promise  
15 likely to influence, persuade, or induce an applicant for a mortgage loan or a borrower  
16 to enter into a mortgage loan transaction;

17 (2) pursue a course of misrepresentation through an agent;

18 (3) directly or indirectly employ any scheme, device, or artifice to  
19 defraud or mislead a borrower or lender or to defraud a person;

20 (4) engage in any unfair or deceptive act or practice toward any  
21 person;

22 (5) obtain property by fraud or misrepresentation;

23 (6) solicit or enter into a contract with a borrower that provides, in  
24 substance, that the person subject to this chapter may earn a fee or commission  
25 through using the person's best efforts to obtain a loan, even though a loan is not  
26 actually obtained for the borrower;

27 (7) solicit, advertise, or enter into a contract for specific interest rates,  
28 points, or other financing terms unless the terms are actually available at the time of  
29 soliciting, advertising, or contracting;

30 (8) conduct a business covered by this chapter without holding a valid  
31 license as required under this chapter, or assist a person in the conduct of business

1 under this chapter without a valid license as required under this chapter;

2 (9) fail to make disclosures as required by this chapter or by another  
3 applicable state or federal statute, including regulations adopted under the statute;

4 (10) fail to comply with this chapter or regulations adopted under this  
5 chapter or fail to comply with another state or federal statute, including regulations  
6 adopted under the statute, applicable to a business authorized or conducted under this  
7 chapter;

8 (11) make, in any manner, false or deceptive statements or  
9 representations, including statements or representations about rates, points, or other  
10 financing terms or conditions, or engage in bait and switch advertising;

11 (12) negligently make a false statement or knowingly omit a material  
12 fact in connection with information or reports filed with the department or the registry  
13 or in connection with an investigation conducted by the department;

14 (13) make a payment, threat, or promise, directly or indirectly, to a  
15 person for the purposes of influencing the independent judgment of the person in  
16 connection with a mortgage loan, or make a payment, threat, or promise, directly or  
17 indirectly, to an appraiser of a property, for the purpose of influencing the independent  
18 judgment of the appraiser with respect to the value of the property;

19 (14) collect, charge, attempt to collect, attempt to charge, or use or  
20 propose an agreement purporting to collect or charge a fee prohibited by this chapter;

21 (15) cause or require a borrower to obtain property insurance coverage  
22 in an amount that exceeds the replacement cost, as established by the property insurer,  
23 of the improvements;

24 (16) improperly refuse to issue a satisfaction of a mortgage loan;

25 (17) fail to account for or deliver to a person money, a document, or  
26 another thing of value obtained in connection with a mortgage loan, including money  
27 provided for a real estate appraisal or a credit report, if the person is not entitled to  
28 retain the money under the circumstances;

29 (18) pay, receive, or collect, in whole or in part, a commission, fee, or  
30 other compensation for brokering a mortgage loan in violation of this chapter,  
31 including a mortgage loan brokered by an unlicensed person;

1 (19) fail to disburse money in accordance with a written commitment  
2 or agreement to make a mortgage loan;

3 (20) engage in a transaction, practice, or course of business that is not  
4 engaged in by the person in good faith or fair dealing or that constitutes a fraud on a  
5 person in connection with the brokering, making, purchase, or sale of a mortgage loan;

6 (21) influence or attempt to influence, through coercion, extortion, or  
7 bribery, the development, reporting, result, or review of a real estate appraisal sought  
8 in connection with a mortgage loan; this paragraph does not prohibit a person from  
9 asking an appraiser to

10 (A) consider additional appropriate property information;

11 (B) provide further detail, substantiation, or explanation for the  
12 appraiser's value determination; or

13 (C) correct errors in the appraisal report;

14 (22) make a false or misleading statement in a mortgage loan  
15 commitment or prequalification letter, or omit material information necessary to make  
16 the statements made not misleading, if the person knew or reasonably should have  
17 known the statement was false or misleading or the omission consisted of material  
18 information necessary to make the statements made not misleading;

19 (23) engage in a practice or course of business in which the ultimate  
20 rates, terms, or costs of mortgage loans are materially worse for the borrower than  
21 they are represented to be in the first good faith estimates the person provides to the  
22 borrower, unless

23 (A) the person's generally published or advertised rates, terms,  
24 or costs, if any, change for a borrower's loan program; or

25 (B) new or changed information from the borrower makes it  
26 necessary to change the loan program offered to the borrower;

27 (24) represent that the person has a license, registration, title,  
28 certification, sponsorship, approval, status, affiliation, or connection that the person  
29 does not have;

30 (25) engage in unfair, deceptive, or fraudulent advertising; or

31 (26) authorize, direct, plan, or aid in the publishing, distribution, or

1 circulation of a materially false statement or a material misrepresentation concerning  
 2 the licensee's business or concerning mortgage loans originated in the course of the  
 3 licensee's business in this or another state.

4 \* **Sec. 48.** AS 06.60.360 is amended by adding a new subsection to read:

5 (f) In this section, "escrow account" means an account

6 (1) to which a borrower makes payments for obligations related to the  
 7 real property that is the subject of a residential mortgage loan of the borrower;

8 (2) held by a third person; and

9 (3) from which the third person identified in (2) of this subsection  
 10 disburses money in accordance with a written agreement to pay obligations related to  
 11 the real property that is the subject of a residential mortgage loan of the borrower.

12 \* **Sec. 49.** AS 06.60.370 is amended to read:

13 **Sec. 06.60.370. Criminal penalties [LIABILITY OF LICENSEE OR**  
 14 **SMALL MORTGAGE LENDER].** (a) The department may report **a violation**  
 15 [VIOLATIONS] of (b) - (e) of this section to the attorney general, who may institute  
 16 the proper proceedings to enforce the criminal penalties provided in (b) - (e) of this  
 17 section.

18 (b) A person [, INCLUDING A SMALL MORTGAGE LENDER,] who  
 19 knowingly provides false or misleading information to the department that is material  
 20 under this chapter is guilty of a class A misdemeanor.

21 (c) A [LICENSEE, PERSON WHO IS A SMALL MORTGAGE LENDER,  
 22 OR] person [WHO IS EXEMPT UNDER AS 06.60.015] who knowingly fails to  
 23 account for or deliver to a person money, deposits, or checks or other forms of  
 24 negotiable instruments in violation of the provisions of this chapter is guilty of a class  
 25 A misdemeanor.

26 (d) A licensee [OR A SMALL MORTGAGE LENDER] who knowingly fails  
 27 to disburse money belonging to the borrower without just cause is guilty of a class A  
 28 misdemeanor.

29 (e) **Unless the person is exempt from licensing under this chapter, a**  
 30 **person** [A MORTGAGE LENDER, MORTGAGE BROKER, OR ORIGINATOR]  
 31 who knowingly operates **in this state as a mortgage lender, mortgage broker, or**

1        **mortgage loan originator** without a license **issued under this chapter** [OR  
2        WITHOUT BEING REGISTERED UNDER AS 06.60.017 AND IS NOT EXEMPT  
3        UNDER AS 06.60.015] is guilty of a class A misdemeanor.

4        \* **Sec. 50.** AS 06.60.400 is repealed and reenacted to read:

5                **Sec. 06.60.400. Cease and desist proceedings.** (a) Notwithstanding  
6        AS 06.01.030(d) and (e), if the department finds, after notice and opportunity for a  
7        hearing, that a person has violated, is violating, or is about to violate any provision of  
8        this chapter, a regulation adopted under this chapter, or an order issued under this  
9        chapter, the department may publish findings and enter an order requiring the person  
10       to cease and desist from committing or causing the violation and any future violation  
11       of the same provision or regulation. An order may, in addition to requiring a person to  
12       cease and desist from committing or causing a violation, require the person to comply,  
13       or to take steps to effect compliance, with a provision or regulation, on terms and  
14       conditions and within a time, as the department may specify in the order. An order  
15       may require future compliance or steps to result in future compliance, either  
16       permanently or for a period of time, as the department may specify.

17               (b) Notwithstanding AS 06.01.030(d) and (e), if the department determines  
18       that the alleged violation or threatened violation is likely to result in significant  
19       dissipation or conversion of assets, significant harm to consumers, or substantial harm  
20       to the public interest before the completion of cease and desist proceedings, the  
21       department may enter a temporary order requiring the respondent to cease and desist  
22       from the violation or threatened violation and to take action to prevent the violation or  
23       threatened violation and to prevent dissipation or conversion of assets, significant  
24       harm to consumers, or substantial harm to the public interest as the department  
25       determines appropriate pending completion of the proceedings. A temporary order  
26       may be entered only after notice and opportunity for a hearing, unless the department  
27       determines that notice and hearing before entry would be impracticable or contrary to  
28       the public interest. A temporary order becomes effective on service on the respondent  
29       and, unless set aside, limited, or suspended by the department or a court of competent  
30       jurisdiction, remains effective and enforceable pending the completion of the cease  
31       and desist proceedings.

1 \* **Sec. 51.** AS 06.60 is amended by adding a new section to read:

2           **Sec. 06.60.405. Review of temporary cease and desist orders.** (a) At any  
3 time after the respondent has been served with a temporary cease and desist order  
4 under AS 06.60.400(b), the respondent may apply to the department to have the order  
5 set aside, limited, or suspended. If the respondent has been served with a temporary  
6 cease and desist order entered without a prior hearing, the respondent may, within 10  
7 days after the date on which the order was served, request a hearing on the application,  
8 and the office of administrative hearings shall hold a hearing and render a decision on  
9 the application under AS 44.64.060. A respondent served with a temporary cease and  
10 desist order entered without a prior hearing may not apply to the court except after  
11 hearing and decision by the department on the respondent's application under this  
12 subsection.

13           (b) The commencement of proceedings under this section does not, unless  
14 specifically ordered by the court, operate as a stay of the department's order.

15           (c) In a cease and desist proceeding under this section, the department may  
16 issue an order to prohibit, conditionally or unconditionally, permanently or for a  
17 period of time the department determines, a person who has violated this chapter from  
18 operating as a mortgage lender, mortgage broker, or mortgage loan originator if the  
19 conduct of that person demonstrates unfitness to operate as a mortgage lender,  
20 mortgage broker, or mortgage loan originator.

21 \* **Sec. 52.** AS 06.60.410 is amended to read:

22           **Sec. 06.60.410. Censure, suspension, or bar.** (a) In addition to any other  
23 remedy provided under this chapter, the department may, by order after appropriate  
24 notice and opportunity for a hearing, censure a person, suspend the license of a person  
25 for a period not to exceed 12 months, [SUSPEND THE REGISTRATION OF A  
26 SMALL MORTGAGE LENDER FOR A PERIOD NOT TO EXCEED 12  
27 MONTHS,] or bar a person from a position of employment, management, or control  
28 of a licensee [OR A SMALL MORTGAGE LENDER] if the department finds that

29                   (1) the censure, suspension, or bar is in the public interest;

30                   (2) the person has knowingly committed or caused a violation of this  
31 chapter or a regulation adopted under this chapter; and

1 (3) the violation has caused material damage to the licensee [, TO THE  
2 SMALL MORTGAGE LENDER,] or to the public.

3 (b) When a person who is the subject of a proposed order under this section  
4 receives a notice of the department's intention to issue an order under this section, the  
5 person is immediately prohibited from engaging in any activities for which a license  
6 [OR REGISTRATION AS A SMALL MORTGAGE LENDER] is required under this  
7 chapter.

8 (c) A person who is suspended or barred under this section is prohibited from  
9 participating in a business activity of a licensee [OR A SMALL MORTGAGE  
10 LENDER] and from engaging in a business activity on the premises where a licensee  
11 [OR SMALL MORTGAGE LENDER] is conducting the licensee's [OR SMALL  
12 MORTGAGE LENDER'S] business. This subsection may not be construed to prohibit  
13 a suspended or barred person from having the person's personal transactions processed  
14 by a licensee [OR A SMALL MORTGAGE LENDER].

15 \* **Sec. 53.** AS 06.60.420 is amended to read:

16 **Sec. 06.60.420. Civil penalty for violations.** (a) **Notwithstanding**  
17 **AS 06.01.035, a** [A] person [, INCLUDING A SMALL MORTGAGE LENDER,]  
18 who violates a provision of this chapter, or a regulation adopted **or an order issued**  
19 under this chapter, is liable for a civil penalty not to exceed \$10,000 for each violation.

20 (b) The remedies provided by this section and by other sections of this chapter  
21 are not exclusive and may be **sought** [APPLIED] in combination with other remedies  
22 to enforce the provisions of this chapter.

23 \* **Sec. 54.** AS 06.60.430(a) is amended to read:

24 (a) The department may treat a licensee [OR A SMALL MORTGAGE  
25 LENDER] as a financial institution under AS 06.01 when applying the enforcement  
26 provisions of AS 06.01.

27 \* **Sec. 55.** AS 06.60.430(c) is amended to read:

28 (c) If the department determines that a licensee [, A SMALL MORTGAGE  
29 LENDER,] or a person acting on behalf of the licensee [OR SMALL MORTGAGE  
30 LENDER] is in violation of, or has violated, a provision of this chapter, the  
31 department may refer the information to the attorney general and request that the

1 attorney general investigate the violation under AS 45.50.495. The attorney general  
2 may enjoin a violation of this chapter and may seek restitution, rescission, and other  
3 relief as allowed by law.

4 \* **Sec. 56.** AS 06.60.500 is amended to read:

5 **Sec. 06.60.500. Mortgage loan originator [ORIGINATOR] surety fund.**

6 The mortgage loan originator surety fund is established as a separate account in the  
7 general fund. **The purpose of the fund is to pay fund claims against mortgage loan**  
8 **originator licensees.**

9 \* **Sec. 57.** AS 06.60.510 is amended to read:

10 **Sec. 06.60.510. Composition of fund.** The fund consists of appropriations of

11 payments made by mortgage loan originator licensees under AS 06.60.550, filing fees  
12 **for fund claims** retained under AS 06.60.620, income earned on the investment of the  
13 money in the fund, and money deposited in the fund by the department under  
14 AS 06.60.740.

15 \* **Sec. 58.** AS 06.60.550(a) is amended to read:

16 (a) A person who applies for or renews a mortgage loan [AN] originator  
17 license shall pay to the department, in addition to the fees required by AS 06.60.035, a  
18 fund fee **established by the department** [NOT TO EXCEED \$150].

19 \* **Sec. 59.** AS 06.60.550(d) is amended to read:

20 (d) Notwithstanding (a) of this section, a mortgage loan [AN] originator  
21 licensee who obtains an initial mortgage loan originator license when the department  
22 has reduced the fund fee to nothing shall nonetheless pay the [A] fund fee **established**  
23 **by regulation** [OF \$150] to the department for the first year of the mortgage loan  
24 originator license [OR, FOR A MORTGAGE LICENSEE, OF OPERATING AS AN  
25 ORIGINATOR].

26 \* **Sec. 60.** AS 06.60.560 is amended to read:

27 **Sec. 06.60.560. Claim for reimbursement.** In addition to any other remedies  
28 available to the person, a person may seek reimbursement for a loss suffered in a  
29 mortgage loan transaction as a result of fraud, misrepresentation, deceit, or the  
30 wrongful conversion of money by a mortgage loan [AN] originator licensee and is  
31 eligible to be reimbursed under AS 06.60.500 - 06.60.750 for the loss from money

1 appropriated for that purpose.

2 \* **Sec. 61.** AS 06.60.580 is amended to read:

3 **Sec. 06.60.580. Form and contents of fund claim.** The form for a fund claim  
4 shall be executed under penalty of unsworn falsification in the second degree and  
5 must include

6 (1) the name and address of each mortgage loan originator licensee  
7 involved;

8 (2) the amount of the alleged loss;

9 (3) the date or period of time during which the alleged loss occurred;

10 (4) the date when the alleged loss was discovered;

11 (5) the name and address of the claimant; and

12 (6) a general statement of the facts related to the fund claim.

13 \* **Sec. 62.** AS 06.60.600 is amended to read:

14 **Sec. 06.60.600. Filing and distribution of claim.** At least 20 days before a  
15 hearing is held on the fund claim by the office of administrative hearings  
16 (AS 44.64.010), the department shall send a copy of the claim filed with the  
17 department to

18 (1) each mortgage loan originator licensee alleged to have committed  
19 the misconduct resulting in the alleged loss;

20 (2) the employer of the mortgage loan originator licensee described in  
21 (1) of this section; and

22 (3) any other parties involved in the mortgage loan transaction that is  
23 the subject of the fund claim.

24 \* **Sec. 63.** AS 06.60.610(a) is amended to read:

25 (a) Within 30 [SEVEN] days after receiving a copy of a fund claim under  
26 AS 06.60.600, a mortgage loan [EACH] originator licensee against whom a [THE]  
27 claim is made may elect to defend the fund claim as a small claims action in district  
28 court under District Court Rules of Civil Procedure if the claim does not exceed the  
29 small claims jurisdictional limit.

30 \* **Sec. 64.** AS 06.60.610(b) is amended to read:

31 (b) A mortgage loan [AN] originator licensee who elects under (a) of this

1 section to defend a fund claim in district court under the small claims rules may not  
2 revoke the election without the consent of the person who filed the fund claim.

3 \* **Sec. 65.** AS 06.60.640 is amended to read:

4 **Sec. 06.60.640. Defense of claim.** When the department receives a fund claim,  
5 the department shall allow each mortgage loan originator licensee against whom the  
6 claim is made an opportunity to file with the department, within seven days after  
7 receipt of notification of the fund claim under AS 06.60.600, a written statement in  
8 opposition to the fund claim and a request for a hearing.

9 \* **Sec. 66.** AS 06.60.650 is amended to read:

10 **Sec. 06.60.650. Standard of proof.** A person who submits a fund claim under  
11 AS 06.60.570 bears the burden of establishing by a preponderance of the evidence that  
12 the person suffered a loss in a mortgage loan transaction as a result of fraud,  
13 misrepresentation, deceit, or the conversion of trust funds by a mortgage loan [AN]  
14 originator licensee and the extent of those losses.

15 \* **Sec. 67.** AS 06.60.680(b) is amended to read:

16 (b) If the department determines that the claimant has suffered a loss in a  
17 mortgage loan transaction as a result of fraud, misrepresentation, deceit, or the  
18 wrongful conversion of money by a mortgage loan [AN] originator licensee, the  
19 department may award the person who filed the fund claim reimbursement from  
20 money appropriated to the fund.

21 \* **Sec. 68.** AS 06.60.690 is amended to read:

22 **Sec. 06.60.690. Fund operations.** The department shall deposit into the fund  
23 money that the department recovers from a mortgage loan [AN] originator licensee  
24 under AS 06.60.745. The department may not consider amounts paid from the fund for  
25 hearing or legal expenses when determining the maximum reimbursement to be  
26 awarded under AS 06.60.710 or the maximum liability for fund claims under  
27 AS 06.60.710.

28 \* **Sec. 69.** AS 06.60.700(a) is amended to read:

29 (a) If a fund claim dismissed under AS 06.60.610 results in a monetary award  
30 against a mortgage loan [AN] originator licensee, the department may pay, subject to  
31 AS 06.60.710 and 06.60.720, any outstanding portion of the small claims judgment

1 from money appropriated to the department for the purpose.

2 \* **Sec. 70.** AS 06.60.700(b) is amended to read:

3 (b) Before making payment under (a) of this section, the person who received  
4 the award shall file with the department a copy of the final judgment and an affidavit  
5 stating that more than 30 days have elapsed since the judgment became final and that  
6 the judgment has not yet been satisfied by the **mortgage loan** originator licensee  
7 against whom the award was made.

8 \* **Sec. 71.** AS 06.60.710(b) is amended to read:

9 (b) The maximum liability for fund claims against one **mortgage loan**  
10 originator licensee may not exceed \$50,000.

11 \* **Sec. 72.** AS 06.60.710(c) is amended to read:

12 (c) If the \$50,000 liability **limit** under (b) of this section is insufficient to pay  
13 in full the valid fund claims of all persons who have filed fund claims against one  
14 **mortgage loan** originator licensee, the \$50,000 shall be distributed among the  
15 claimants in the ratio that their individual fund claims bear to the aggregate of valid  
16 fund claims against that **mortgage loan** originator licensee. The department shall  
17 distribute the money among the persons entitled to share in the recovery without  
18 regard to the order in which their fund claims were filed.

19 \* **Sec. 73.** AS 06.60 is amended by adding a new section to read:

20 **Sec. 06.60.715. Other rights of claimant.** The rights granted to a claimant  
21 under AS 06.60.500 - 06.60.750 do not limit any other cause of action the claimant  
22 may have against a mortgage loan originator.

23 \* **Sec. 74.** AS 06.60.745 is amended to read:

24 **Sec. 06.60.745. Reimbursement for expenses.** If the department pays all or a  
25 portion of a fund claim against **a mortgage loan** [AN] originator licensee under  
26 AS 06.60.680 or 06.60.700, the department may recover from the **mortgage loan**  
27 originator licensee, in addition to the payment of the fund claim, the expenses incurred  
28 by the department to process and otherwise handle the fund claim.

29 \* **Sec. 75.** AS 06.60.750 is amended to read:

30 **Sec. 06.60.750. Disciplinary action against a mortgage loan [AN]**  
31 **originator licensee.** Repayment in full of all obligations to the fund does not nullify or

1 modify the effect of disciplinary proceedings brought against **a mortgage loan** [AN]  
 2 originator licensee under this chapter.

3 \* **Sec. 76.** AS 06.60.800 is amended by adding a new subsection to read:

4 (e) The program administration fees collected under this section shall be  
 5 separately accounted for and may be appropriated by the legislature to the department  
 6 for the operation of this chapter.

7 \* **Sec. 77.** AS 06.60.850 is amended to read:

8 **Sec. 06.60.850. Publication of disciplinary action.** The department may  
 9 release, **through the Internet, the registry, or other** [FOR] publication, [IN A  
 10 NEWSPAPER OF GENERAL CIRCULATION IN THE LOCALE OF A  
 11 LICENSEE'S PRINCIPAL OFFICE] notice of disciplinary action taken by the  
 12 department against **a person required to be licensed under this chapter** [THE  
 13 LICENSEE].

14 \* **Sec. 78.** AS 06.60.890 is amended to read:

15 **Sec. 06.60.890. Application to Internet activities.** This chapter applies to a  
 16 person [, INCLUDING A SMALL MORTGAGE LENDER TO THE EXTENT THIS  
 17 CHAPTER APPLIES TO A SMALL MORTGAGE LENDER,] even if the person is  
 18 engaging in the activities regulated by this chapter by using an Internet website from  
 19 within or outside the state.

20 \* **Sec. 79.** AS 06.60.900 is amended to read:

21 **Sec. 06.60.900. Applicability of administrative procedures.**  
 22 **Notwithstanding AS 06.01.030(f), the** [THE] provisions of AS 44.62 (Administrative  
 23 Procedure Act) apply to an action of the department to deny, revoke, or suspend a  
 24 license under this chapter, to censure, suspend, or bar a person under AS 06.60.410, to  
 25 take other disciplinary action under this chapter, to hold **disciplinary** hearings, and to  
 26 issue **disciplinary** orders.

27 \* **Sec. 80.** AS 06.60.905 is amended to read:

28 **Sec. 06.60.905. Untrue, misleading, or false statements.** A person [,  
 29 INCLUDING A SMALL MORTGAGE LENDER,] may not, in a document filed with  
 30 the department or in an examination, an investigation, a hearing, or another proceeding  
 31 under this chapter, make or cause to be made an untrue statement of a material fact, or

1 omit to state a material fact necessary in order to make the statement made, in the light  
2 of the circumstances under which it is made, not misleading or false.

3 \* **Sec. 81.** AS 06.60.990 is repealed and reenacted to read:

4 **Sec. 06.60.990. Definitions.** In this chapter, unless the context otherwise  
5 requires,

6 (1) "borrower" means an individual who receives a mortgage loan;

7 (2) "consumer reporting agency" means a consumer reporting agency  
8 that compiles and maintains files on consumers on a nationwide basis; in this  
9 paragraph, "consumer reporting agency that compiles and maintains files on  
10 consumers on a nationwide basis" has the meaning given in 15 U.S.C. 1681a(p) (Fair  
11 Credit Reporting Act);

12 (3) "control" means the power, directly or indirectly, to direct the  
13 management or policies of a company, whether through ownership of securities, by  
14 contract, or otherwise; an individual is presumed to control a company if the  
15 individual

16 (A) is a director, general partner, or executive officer, including  
17 chief executive officer, chief financial officer, chief operations officer, chief  
18 legal officer, chief credit officer, or chief compliance officer, or occupies a  
19 similar position or performs a similar function;

20 (B) directly or indirectly, has the right to vote 10 percent or  
21 more of a class of voting security or has the power to sell or direct the sale of  
22 10 percent or more of a class of voting securities;

23 (C) in the case of a limited liability company,

24 (i) is a managing member;

25 (ii) is a member who has the right to receive on  
26 dissolution, or has contributed, 10 percent or more of the capital of the  
27 limited liability company; or

28 (iii) if the limited liability company is managed by  
29 elected or appointed managers, is an elected or appointed manager; or

30 (D) in the case of a partnership, has the right to receive on  
31 dissolution, or has contributed, 10 percent or more of the capital;

1 (4) "control person" means an individual described in the uniform  
2 mortgage lender and mortgage broker application form of the registry who directly or  
3 indirectly exercises control over the applicant;

4 (5) "department" means the Department of Commerce, Community,  
5 and Economic Development;

6 (6) "depository institution" has the meaning given in 12 U.S.C. 1813  
7 (Federal Deposit Insurance Act) and includes a credit union;

8 (7) "dwelling" means a residential structure or mobile home that  
9 contains one to four family housing units, or the individual units of condominiums or  
10 cooperatives;

11 (8) "federal banking agency" means the Board of Governors of the  
12 Federal Reserve System, the Comptroller of the Currency, the director of the Office of  
13 Thrift Supervision, the National Credit Union Administration, and the Federal Deposit  
14 Insurance Corporation;

15 (9) "fund" means the mortgage loan originator surety fund established  
16 under AS 06.60.500;

17 (10) "fund claim" means a claim against the fund;

18 (11) "fund fee" means the fee required to be paid by AS 06.60.550;

19 (12) "individual" means a natural person;

20 (13) "knowingly" has the meaning given in AS 11.81.900(a);

21 (14) "license" means a license issued under this chapter;

22 (15) "licensed mortgage loan originator" means a person who holds a  
23 mortgage loan originator license issued under this chapter;

24 (16) "licensee" means a person who holds a license issued under this  
25 chapter;

26 (17) "loan processor or underwriter" means an individual who  
27 performs clerical or support duties as an employee at the direction of and subject to the  
28 supervision and instruction of a person required to be licensed or exempt from  
29 licensing under this chapter; in this paragraph, "clerical or support duties" includes,  
30 subsequent to the receipt of an application,

31 (A) the receipt, collection, distribution, and analysis of

1 information common for the processing or underwriting of a mortgage loan;  
2 and

3 (B) communicating with a consumer to obtain the information  
4 necessary for the processing or underwriting of a loan, to the extent that the  
5 communication does not include offering or negotiating loan rates or terms or  
6 counseling consumers about mortgage loan rates or terms;

7 (18) "mortgage broker" means a person who, for compensation or gain,  
8 or in the expectation of compensation or gain, directly or indirectly, by telephone, by  
9 electronic means, by mail, through the Internet, in person, or by the person itself or a  
10 mortgage loan originator,

11 (A) arranges with a variety of lending sources, including  
12 private lenders, institutional investors, or wholesale lenders, to provide  
13 financing for mortgage loans; or

14 (B) assists or offers to assist a borrower or potential borrower  
15 to obtain financing for a mortgage loan;

16 (19) "mortgage lender"

17 (A) means a person who consummates and funds a mortgage  
18 loan and who is named as the payee in the promissory note and as the  
19 beneficiary of the deed of trust;

20 (B) does not include a subsequent purchaser of a mortgage loan  
21 or an interest in a mortgage loan that is originated by a licensee under this  
22 chapter;

23 (20) "mortgage license" means a license issued under this chapter to  
24 operate as a mortgage lender or a mortgage broker;

25 (21) "mortgage licensee" means a person who holds a mortgage  
26 license;

27 (22) "mortgage loan" means a residential mortgage loan;

28 (23) "mortgage loan originator"

29 (A) means an individual who, for compensation or gain, or in  
30 the expectation of compensation or gain,

31 (i) takes a mortgage loan application; or

1 (ii) offers or negotiates terms of a mortgage loan;

2 (B) does not include an individual who is not otherwise  
3 described in (A) of this paragraph and who is engaged solely as a loan  
4 processor or underwriter on behalf of a person described in (A) of this  
5 paragraph, except as provided in AS 06.60.013;

6 (C) does not include an individual who only performs real  
7 estate brokerage activities and is licensed or registered under applicable state  
8 law, unless the individual is compensated by a lender, a mortgage broker, or  
9 another mortgage loan originator, or by an agent of the lender, mortgage  
10 broker, or other mortgage loan originator; in this subparagraph, "real estate  
11 brokerage activity" means an activity that involves offering or providing real  
12 estate brokerage services to the public, including

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

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

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

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

24 (v) offering to engage in an activity, or act in a capacity,  
25 described in (i), (ii), (iii), or (iv) of this subparagraph; and

26 (D) does not include a person solely involved in extensions of  
27 credit relating to timeshare plans; in this subparagraph, "timeshare plan" has  
28 the meaning given in 11 U.S.C. 101 (Bankruptcy Code);

29 (24) "mortgage loan originator license" means a license issued to a  
30 person to operate as a mortgage loan originator;

31 (25) "Nationwide Mortgage Licensing System and Registry" has the

1 meaning given in 12 U.S.C. 5102 (Secure and Fair Enforcement for Mortgage  
2 Licensing Act of 2008);

3 (26) "nontraditional mortgage product" means a mortgage product  
4 other than a 30-year fixed-rate mortgage;

5 (27) "operate" means hold out, do business, offer to provide services,  
6 or provide services; in this paragraph, "hold out" means to represent to the public,  
7 through advertising or other means of communicating or providing information,  
8 including the use of business cards, stationery, brochures, signs, rate lists, or other  
9 promotional items, that the person can or will perform an activity for which a license  
10 is required under this chapter;

11 (28) "operate in the state" includes operating in the state from a  
12 location outside the state or from an Internet website that originates inside or outside  
13 the state;

14 (29) "program administration fee" means the fee described under  
15 AS 06.60.800(a);

16 (30) "record" means information that is inscribed on a tangible  
17 medium or that is stored in an electronic or other medium and is retrievable in  
18 perceivable form;

19 (31) "registered mortgage loan originator" means an individual who

20 (A) is a mortgage loan originator and is an employee of

21 (i) a depository institution;

22 (ii) a subsidiary that is owned and controlled by a  
23 depository institution and regulated by a federal banking agency; or

24 (iii) an institution regulated by the Farm Credit  
25 Administration; and

26 (B) is registered with the registry and maintains a unique  
27 identifier with the registry;

28 (32) "registry" means the Nationwide Mortgage Licensing System and  
29 Registry;

30 (33) "residential mortgage loan" means a loan that is primarily for  
31 personal, family, or household use and that is secured by a mortgage, deed of trust, or

1 other equivalent consensual security interest on a dwelling or residential real estate  
 2 located in the state; in this paragraph, "residential real estate" means real property on  
 3 which a dwelling is constructed or intended to be constructed;

4 (34) "unique identifier" means a number or other identifier assigned to  
 5 a licensee by protocols established by the registry.

6 \* **Sec. 82.** AS 06.60.995 is amended to read:

7 **Sec. 06.60.995. Short title.** This chapter may be known as the Alaska Secure  
 8 and Fair Enforcement for Mortgage Licensing Act of 2010 [MORTGAGE  
 9 LENDING REGULATION ACT].

10 \* **Sec. 83.** AS 12.62.400 is amended to read:

11 **Sec. 12.62.400. National criminal history record checks for employment,**  
 12 **licensing, and other noncriminal justice purposes.** To obtain a national criminal  
 13 history record check for determining a person's qualifications for a license, permit,  
 14 registration, employment, or position, a person shall submit the person's fingerprints to  
 15 the department with the fee established by AS 12.62.160. The department may submit  
 16 the fingerprints to the Federal Bureau of Investigation to obtain a national criminal  
 17 history record check of the person for the purpose of evaluating a person's  
 18 qualifications for

19 (1) a license or conditional contractor's permit to manufacture, sell,  
 20 offer for sale, possess for sale or barter, traffic in, or barter an alcoholic beverage  
 21 under AS 04.11;

22 (2) licensure as a mortgage lender, a mortgage broker, or a mortgage  
 23 loan [AN] originator under AS 06.60;

24 (3) admission to the Alaska Bar Association under AS 08.08;

25 (4) licensure as a collection agency operator under AS 08.24;

26 (5) a certificate of fitness to handle explosives under AS 08.52;

27 (6) licensure to practice nursing or certification as a nurse aide under  
 28 AS 08.68;

29 (7) a position involving supervisory or disciplinary power over a minor  
 30 or dependent adult for which criminal justice information may be released under  
 31 AS 12.62.160(b)(9);

- 1 (8) a teacher certificate under AS 14.20;
- 2 (9) licensure as a security guard under AS 18.65.400 - 18.65.490;
- 3 (10) a concealed handgun permit under AS 18.65.700 - 18.65.790;
- 4 (11) licensure as an insurance producer, managing general agent,  
5 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines  
6 broker, or independent adjuster under AS 21.27;
- 7 (12) serving and executing process issued by a court by a person  
8 designated under AS 22.20.130;
- 9 (13) a school bus driver license under AS 28.15.046;
- 10 (14) licensure as an operator or an instructor for a commercial driver  
11 training school under AS 28.17;
- 12 (15) registration as a broker-dealer, agent, investment adviser  
13 representative, or state investment adviser under AS 45.55.030 - 45.55.060.

14 \* **Sec. 84.** AS 12.62.400 is amended by adding a new subsection to read:

15 (b) Notwithstanding (a) of this section, an applicant for a license under  
16 AS 06.60 may submit the applicant's fingerprints to the Nationwide Mortgage  
17 Licensing System and Registry. In this subsection, "Nationwide Mortgage Licensing  
18 System and Registry" has the meaning given in 12 U.S.C. 5102.

19 \* **Sec. 85.** AS 06.60.017, 06.60.025, 06.60.065, 06.60.070, 06.60.075, 06.60.090(i),  
20 06.60.097(b), 06.60.105, 06.60.145, 06.60.150, 06.60.440, 06.60.540, 06.60.810, and  
21 06.60.870 are repealed.

22 \* **Sec. 86.** The uncodified law of the State of Alaska is amended by adding a new section to  
23 read:

24 **TRANSITION: EXISTING LICENSES ISSUED UNDER FORMER AS 06.60;**  
25 **LICENSES AFTER JULY 1, 2010.** (a) A person holding a valid license issued under former  
26 AS 06.60, on or before July 1, 2010, may continue to operate under that license until the  
27 license expires, is revoked, or is suspended, and, except as provided by (c) of this section, this  
28 Act, including its provisions on expiration, renewal, prohibitions, revocation, suspension, and  
29 enforcement, applies to the license and to the person's operation under the license.

30 (b) A person who is not licensed under former AS 06.60 before July 1, 2010, and files  
31 an application for licensing under this Act on or after July 1, 2010, shall comply with the

1 requirements of this Act to receive a license under this Act.

2 (c) AS 06.60.027, as repealed and reenacted by sec. 8 of this Act, does not apply to  
3 the renewal of a mortgage license valid on July 1, 2010, except for a mortgage license  
4 application amendment submitted on or after July 1, 2010, requesting approval of a change of  
5 a control person. In this subsection, "control person" and "mortgage license" have the  
6 meanings given in AS 06.60.990.

7 \* **Sec. 87.** The uncodified law of the State of Alaska is amended by adding a new section to  
8 read:

9 TRANSITION: TEMPORARY FEES AND BOND AMOUNT. (a) If the regulations  
10 adopted by the Department of Commerce, Community, and Economic Development under  
11 sec. 88 of this Act do not take effect July 1, 2010, then, during the period of July 1, 2010,  
12 until the effective date of the regulations adopted under sec. 88 of this Act,

13 (1) notwithstanding AS 06.60.035(a), as amended by sec. 9 of this Act, the  
14 application fee under AS 06.60.035(a)(1), as amended by sec. 9 of this Act, shall be \$250, and  
15 the license fee under AS 06.60.035(a)(2), as amended by sec. 9 of this Act, shall be \$500;

16 (2) notwithstanding AS 06.60.045(a), as amended by sec. 14 of this Act, the  
17 amount of the bond under AS 06.60.045(a), as amended by sec. 14 of this Act, shall be  
18 \$25,000;

19 (3) notwithstanding AS 06.60.550(a), as amended by sec. 58 of this Act, the  
20 amount of the fund fee under AS 06.60.550(a), as amended by sec. 58 of this Act, shall be  
21 \$150; and

22 (4) notwithstanding AS 06.60.550(d), as amended by sec. 59 of this Act, the  
23 amount of the fund fee under AS 06.60.550(d), as amended by sec. 59 of this Act, shall be  
24 \$150.

25 \* **Sec. 88.** The uncodified law of the State of Alaska is amended by adding a new section to  
26 read:

27 TRANSITION: REGULATIONS. (a) The Department of Commerce, Community,  
28 and Economic Development may adopt regulations necessary to implement this Act. The  
29 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before July 1,  
30 2010.

31 (b) The department shall notify the revisor of statutes of the date on which the

1 regulations take effect.

2 \* **Sec. 89.** Section 88 of this Act takes effect immediately under AS 01.10.070(c).

3 \* **Sec. 90.** Except as provided in sec. 89 of this Act, this Act takes effect July 1, 2010.