

**HOUSE CS FOR CS FOR SENATE BILL NO. 279(L&C)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - SECOND SESSION

BY THE HOUSE LABOR AND COMMERCE COMMITTEE

Offered: 4/10/10

Referred: Finance

Sponsor(s): SENATOR PASKVAN

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

8 LEGISLATIVE INTENT FOR REPEAL OF AS 45.50.471(b)(52). With regard to the  
9 repeal of AS 45.50.471(b)(52) by sec. 86 of this Act, it is the intent of the legislature that

10 (1) the repeal is to prevent liability under AS 45.50.471 - 45.50.561 for  
11 conduct that violates AS 06.60, as amended by this Act, but that does not affect borrowers or  
12 potential borrowers;

13 (2) a person, including existing licensees under sec. 87 of this Act, who is  
14 required to be licensed under AS 06.60, as amended by this Act, and who engages in conduct

1 prohibited by AS 45.50.471 - 45.50.561 remain subject to the provisions of AS 45.50.471 -  
2 45.50.561, including the provisions for private and class actions under AS 45.50.531; and

3 (3) the repeal not limit or prevent an action by the attorney general, or by  
4 another person or class of persons, based on AS 45.50.471.

5 \* **Sec. 2.** AS 06.01.050(3) is amended to read:

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

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

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

19 (C) "SMALL MORTGAGE LENDER UNDER AS 06.60"  
20 HAS THE MEANING GIVEN TO "SMALL MORTGAGE LENDER" IN  
21 AS 06.60.990];

22 \* **Sec. 3.** AS 06.60.010 is repealed and reenacted to read:

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

24 Unless exempt under AS 06.60.015, a person may not operate in the state as a  
25 mortgage lender or mortgage broker with respect to a dwelling located in the state  
26 unless the person is licensed as a mortgage lender or mortgage broker under this  
27 chapter.

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

31 (c) A mortgage license may cover more than one location of a mortgage

1 licensee.

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

4 \* **Sec. 4.** AS 06.60 is amended by adding new sections to read:

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

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

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

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

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

18 **Sec. 06.60.013. Loan processors or underwriters.** (a) A loan processor or  
19 underwriter who is an independent contractor may not operate as a loan processor or  
20 underwriter unless the independent contractor loan processor or underwriter is  
21 licensed as a mortgage loan originator under this chapter. An independent contractor  
22 loan processor or underwriter licensed as a mortgage loan originator shall register with  
23 the registry and maintain a valid unique identifier issued by the registry.

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

31 \* **Sec. 5.** AS 06.60.015 is repealed and reenacted to read:

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

- 3                   (1) a depository institution;  
4                   (2) a subsidiary that is  
5                         (A) owned and controlled by a depository institution; and  
6                         (B) regulated by a federal banking agency; or  
7                   (3) an institution regulated by the Farm Credit Administration.

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

- 10                   (1) a registered mortgage loan originator, when acting for an entity  
11 described in (a)(1), (2), or (3) of this section;  
12                   (2) an individual who offers or negotiates terms of a residential  
13 mortgage loan with or on behalf of an immediate family member of the individual; in  
14 this paragraph, "immediate family member" means a spouse, child, stepchild, sibling,  
15 stepsibling, parent, stepparent, grandparent, or grandchild;  
16                   (3) an individual seller who offers or negotiates terms of a residential  
17 mortgage loan secured by a dwelling that serves as the individual's residence;  
18                   (4) a licensed attorney who negotiates the terms of a residential  
19 mortgage loan on behalf of a client as an ancillary matter to the attorney's  
20 representation of the client, unless the attorney is compensated by a lender, a mortgage  
21 broker, or another mortgage loan originator or by an agent of a lender, a mortgage  
22 broker, or another mortgage loan originator.

23 \* **Sec. 6.** AS 06.60 is amended by adding a new section to read:

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

26           (b) The department

- 27                   (1) may establish relationships or contracts with the registry or other  
28 entities designated by the registry to collect and maintain records and process  
29 transaction fees or other fees related to licensees or other persons subject to this  
30 chapter;  
31                   (2) shall require mortgage licensees and mortgage loan originators to

1 register with the registry; and

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

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

8 \* **Sec. 7.** AS 06.60.020 is repealed and reenacted to read:

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

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

12 (2) contain complete information regarding the applicant;

13 (3) include fingerprints of the applicant, as needed to conduct a  
14 background check; and

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

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

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

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

25 \* **Sec. 9.** AS 06.60.027 is repealed and reenacted to read:

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

30 (1) fingerprints for submission to the Federal Bureau of Investigation  
31 and any governmental agency or entity authorized to receive that information for a

1 state, national, and international criminal history background check; and

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

4 (A) an independent credit report from a consumer reporting  
5 agency; and

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

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

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

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

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

21 \* **Sec. 10.** AS 06.60.035(a) is amended to read:

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

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

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

1 \* **Sec. 11.** AS 06.60.035(c) is repealed and reenacted to read:

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

5 \* **Sec. 12.** AS 06.60.035 is amended by adding a new subsection to read:

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

10 \* **Sec. 13.** AS 06.60 is amended by adding a new section to read:

11 **Sec. 06.60.038. Prelicensing and relicensing education of mortgage loan**  
12 **originators.** (a) Before being licensed as a mortgage loan originator, an individual  
13 shall complete at least 20 hours of education approved under (b) of this section. At a  
14 minimum, the education must include

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

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

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

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

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

30 (d) Prelicensing education may be offered in a classroom, on-line, or by other  
31 means approved under 12 U.S.C. 5104(c)(2) (Secure and Fair Enforcement for

1 Mortgage Licensing Act of 2008).

2 \* **Sec. 14.** AS 06.60.040 is repealed and reenacted to read:

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

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

11 (1) ethics; and

12 (2) federal and state statutes and regulations relating to mortgage  
13 origination, fraud prevention, consumer protection, the nontraditional mortgage  
14 marketplace, and fair lending.

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

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

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

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

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

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

1 \* **Sec. 15.** AS 06.60.045(a) is amended to read:

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

8 \* **Sec. 16.** AS 06.60.045(d) is amended to read:

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

11 \* **Sec. 17.** AS 06.60.050(a) is amended to read:

12 (a) Within 30 days after the date the department determines that it has  
13 received a complete application under **AS 06.60.020** [AS 06.60.020 OR 06.60.025],  
14 the required bond if the application is for a mortgage license, and any required fees  
15 and investigative costs, the department shall either grant or deny the license.

16 \* **Sec. 18.** AS 06.60.060 is repealed and reenacted to read:

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

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

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

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

26 (i) a control person of an applicant for a mortgage  
27 license includes an entity over which the control person exercised  
28 control at the time of the revocation; and

29 (ii) an applicant for a mortgage loan originator license  
30 includes an entity over which the applicant exercised control at the time  
31 of the revocation;

1 (B) not been convicted of, or pled guilty or no contest to, a  
 2 felony in a domestic, foreign, or military court during the seven-year period  
 3 preceding the date of the application, or at any time preceding the date of  
 4 application if the felony involved an act of fraud, dishonesty, a breach of trust,  
 5 or money laundering; however, if the applicant has been pardoned for the  
 6 conviction, the conviction is not considered a conviction under this  
 7 subparagraph;

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

12 (i) an applicant does not show financial responsibility if  
 13 the applicant has shown inattention to or neglect of the management of  
 14 the person's own financial condition;

15 (ii) a determination that an applicant has not shown  
 16 financial responsibility may include current outstanding judgments  
 17 against the applicant, except judgments related solely to a claim related  
 18 to medical expenses; current outstanding tax liens or other government  
 19 liens and filings against the applicant; foreclosures of the applicant's  
 20 property within the three years preceding the date of the application;  
 21 and a pattern by the applicant of seriously delinquent accounts within  
 22 the three years preceding the date of the application;

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

24 (A) has completed the preclicensing education requirement  
 25 described in AS 06.60.038;

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

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

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

31 \* **Sec. 19.** AS 06.60 is amended by adding a new section to article 1 to read:

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

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

7                   (1) receipt by the department of the results of the criminal history  
 8 background check is delayed more than 60 days after the date the fingerprints are  
 9 submitted to the governmental agency that conducts the criminal history background  
 10 check; and

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

13           (c) The duration of a provisional license issued under this section may not  
 14 exceed 90 days.

15 \* **Sec. 20.** AS 06.60.080 is amended to read:

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

21 \* **Sec. 21.** AS 06.60.085 is repealed and reenacted to read:

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

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

26                   (2) the annual license fee;

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

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

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

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

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

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

6 (C) certificates or other documents showing the mortgage loan  
7 originator has satisfied the annual continuing education requirements of  
8 AS 06.60.160; and

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

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

11 (b) The department may adopt by regulation procedures and deadlines  
12 regarding the filing of an application for renewal of a license and the assessment of a  
13 penalty or other consequence for late filing, consistent with the requirements of the  
14 registry.

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

17 \* **Sec. 22.** AS 06.60 is amended by adding a new section to read:

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

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

22 (2) in the case of a mortgage loan originator license, the mortgage loan  
23 originator licensee has satisfied the annual continuing education requirements of  
24 AS 06.60.160;

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

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

29 (b) If a licensee fails to satisfy (a) of this section, the license expires at the end  
30 of the period for which the license was issued. The department may adopt by  
31 regulation procedures for the reinstatement of expired licenses. The procedures must

1 be consistent with the standards established by the registry.

2 \* **Sec. 23.** AS 06.60.090(c) is amended to read:

3 (c) For a license to become inactive, a licensee shall provide the department  
4 with a written request that the license become inactive [AND RETURN THE  
5 LICENSE CERTIFICATE TO THE DEPARTMENT]. The request must include the  
6 licensee's name, the licensee's address, and other information [THAT] the department  
7 requires to process the request. If the request is made by mortgage licensee, the  
8 request must include [AND] a statement by the mortgage licensee that all mortgage  
9 loans of the mortgage licensee have been paid in full or sold.

10 \* **Sec. 24.** AS 06.60.090(e) is amended to read:

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

14 \* **Sec. 25.** AS 06.60.090(f) is amended to read:

15 (f) If a license becomes inactive under this section, the license remains  
16 inactive until the license expires, the person surrenders the license, or the department  
17 approves the reactivation of the license, whichever event occurs first [PERSON  
18 WHO HOLDS THE INACTIVE LICENSE PROVIDES THE DEPARTMENT WITH  
19 A WRITTEN REQUEST THAT THE LICENSE BE REACTIVATED]. The  
20 licensee's request for reactivation must include the information that the department  
21 requires to process the request.

22 \* **Sec. 26.** AS 06.60.090(g) is repealed and reenacted to read:

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

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

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

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

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

31 \* **Sec. 27.** AS 06.60.095 is repealed and reenacted to read:

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

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

8 \* **Sec. 28.** AS 06.60.100(a) is amended to read:

9           (a) **Annually, on** [ON] or before **a** [MARCH 15, OR ON ANOTHER] date  
 10 established by the department by regulation, [OF EACH YEAR] a mortgage licensee  
 11 shall file a report with the department **providing** [GIVING] relevant information that  
 12 the department requires concerning the business and operations of [EACH  
 13 LOCATION IN THIS STATE WHERE] the mortgage licensee [CONDUCTS  
 14 BUSINESS IN THIS STATE DURING THE PRECEDING CALENDAR YEAR].  
 15 The mortgage licensee shall make the report under oath or on affirmation. The content  
 16 and form of the report shall be established by the department by regulation.

17 \* **Sec. 29.** AS 06.60.100 is amended by adding a new subsection to read:

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

21 \* **Sec. 30.** AS 06.60 is amended by adding a new section to read:

22           **Sec. 06.60.112. Branch office application.** A mortgage licensee shall submit  
 23 an application to register a branch office to the department through the registry. The  
 24 department may adopt by regulation procedures and fees for the submission of an  
 25 application to register a branch office, consistent with the requirements of the registry.  
 26 The department may adopt by regulation fees and other requirements for renewal of a  
 27 branch office registration that are consistent with the requirements of the registry.

28 \* **Sec. 31.** AS 06.60.130(a) is amended to read:

29           (a) The prior [WRITTEN] approval of the department **that is made in a**  
 30 **record** is required for the continued operation of a mortgage licensee's business when  
 31 a change in control of the mortgage licensee is proposed. The department may require

1 the information it considers necessary to determine whether a new application is  
 2 required. The mortgage licensee requesting approval of the change in control shall pay  
 3 all reasonable expenses incurred by the department to investigate and approve or deny  
 4 the change in control. **The department may establish by regulation the fees and**  
 5 **other requirements for requesting approval of a change in control that are**  
 6 **consistent with the requirements of the registry.**

7 \* **Sec. 32.** AS 06.60.140 is amended to read:

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

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

13 (2) reimburse the department its reasonable costs, as provided in  
 14 **AS 06.60.250(k)** [AS 06.60.250(f)], that are incurred by the department in conjunction  
 15 with an investigation or examination conducted at the office or place of business.

16 \* **Sec. 33.** AS 06.60.155 is amended to read:

17 **Sec. 06.60.155. Restriction on mortgage loan originator licensee's**  
 18 **[LICENSEE] work. A mortgage loan [AN] originator licensee may only work as a**  
 19 **mortgage loan [AN] originator licensee under contract for, or as an employee of, one**  
 20 **mortgage licensee.**

21 \* **Sec. 34.** AS 06.60.157 is amended to read:

22 **Sec. 06.60.157. Restrictions [MORTGAGE LICENSEE RESTRICTIONS]**  
 23 **on mortgage licensee's performance of mortgage loan originator activities.** A  
 24 mortgage licensee may not perform mortgage loan originator activities except  
 25 through a licensed mortgage loan originator who is an employee of or under  
 26 exclusive contract with a mortgage licensee.

27 \* **Sec. 35.** AS 06.60.159 is amended to read:

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

1 originator license.

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

6 \* **Sec. 36.** AS 06.60.160 is repealed and reenacted to read:

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

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

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

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

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

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

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

27 (e) A licensed mortgage loan originator

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

30 (2) may not retake an approved course in the same or successive  
 31 calendar years if the mortgage loan originator has previously taken the course to meet

1 the annual requirements for continuing education.

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

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

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

13 (i) A person meeting the requirements of AS 06.60.087,  
14 other than the continuing education requirement of AS 06.60.087(a)(2),  
15 may make up a deficiency in continuing education in a manner  
16 established by regulation.

17 \* **Sec. 37.** AS 06.60.200 is repealed and reenacted to read:

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

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

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

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

31 (b) The department may

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

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

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

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

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

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

14 \* **Sec. 38.** AS 06.60.210 is amended to read:

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

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

19 (b) The department shall lift a suspension made under (a) of this section if the  
20 **mortgage loan** originator licensee reaches an agreement with the department on terms  
21 and conditions for the repayment to the fund of the money awarded to the claimant  
22 and the costs of hearing the fund claim. The department may reimpose the suspension  
23 if the **mortgage loan** originator licensee violates the terms of a repayment agreement  
24 entered into under this subsection.

25 \* **Sec. 39.** AS 06.60.230 is amended to read:

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

1 \* **Sec. 40.** AS 06.60.240 is amended to read:

2           **Sec. 06.60.240. Reinstatement.** The department may reinstate a suspended  
 3 [REVOKED] license [OR REGISTRATION UNDER AS 06.60.017] if the licensee  
 4 [OR SMALL MORTGAGE LENDER] complies with this chapter or with a demand,  
 5 ruling, or requirement made by the department under this chapter. Before  
 6 reinstatement of a license [OR REGISTRATION UNDER AS 06.60.017], the licensee  
 7 [OR SMALL MORTGAGE LENDER] shall pay any fees, restitution, and civil  
 8 penalties owing under this chapter.

9 \* **Sec. 41.** AS 06.60.250 is repealed and reenacted to read:

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

16                   (1) criminal, civil, and administrative history information, including  
 17 nonconviction information; in this paragraph, "nonconviction information" has the  
 18 meaning given in AS 12.62.900;

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

21                   (3) other documents, information, and evidence the department  
 22 considers relevant to the inquiry or investigation, regardless of the location,  
 23 possession, or custody of the documents, information, or evidence.

24           (b) Notwithstanding AS 06.01.015, for the purpose of investigating violations  
 25 or complaints arising under this chapter, or for the purpose of examination, the  
 26 department may review, investigate, or examine an applicant, licensee, or another  
 27 person subject to this chapter as often as necessary to carry out the purposes of this  
 28 chapter. The department may conduct an examination without prior notice to the  
 29 licensee.

30           (c) A licensee or other person subject to this chapter shall make available to  
 31 the department, on request, the place of business, books, records, accounts, safes, and

1 vaults relating to the operations of the licensee or other person subject to this chapter.  
2 The department may interview the officers, principals, mortgage loan originators,  
3 employees, independent contractors, agents, and customers of the licensee or other  
4 person subject to this chapter concerning the licensee's or other person's business.

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

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

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

18 (1) accounting compilations;

19 (2) information lists and data concerning loan transactions in a format  
20 prescribed by the department; and

21 (3) other information considered necessary to carry out the purposes of  
22 this chapter.

23 (g) In making an examination or investigation authorized by this chapter, the  
24 department may control access to documents and records of the licensee or other  
25 person under examination or investigation. The department may take possession of the  
26 documents and records or place a person in exclusive charge of the documents and  
27 records in the place where they are usually kept. During the period of control, a person  
28 may not remove or attempt to remove any of the documents and records except under  
29 a court order or with the consent of the department. In this subsection, "control" does  
30 not have the meaning given in AS 06.60.990.

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

1 (1) retain attorneys, accountants, or other professionals and specialists,  
2 including examiners, auditors, or investigators, to conduct or assist in the conduct of  
3 examinations or investigations;

4 (2) enter into agreements or relationships with other government  
5 officials or regulatory associations to improve efficiency and reduce the regulatory  
6 burden by sharing resources, standardized or uniform methods or procedures, and  
7 documents, records, information, and evidence obtained under this section;

8 (3) use, hire, contract, or employ public or privately available  
9 analytical systems, methods, or electronic software to examine or investigate the  
10 licensee, individual, or other person subject to this chapter;

11 (4) accept and rely on examination or investigation reports made by  
12 other government officials in this or another state;

13 (5) share information received or collected during an examination,  
14 investigation, or other proceeding with other law enforcement agencies; or

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

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

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

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

31 \* **Sec. 42.** AS 06.60.260 is amended to read:

1           **Sec. 06.60.260. Revocation, removal, or suspension of mortgage loan**  
 2 **originator licensee.** If the department finds that **a mortgage loan** [AN] originator  
 3 licensee is dishonest, reckless, or incompetent when operating as **a mortgage loan**  
 4 [AN] originator or fails to comply with applicable law, with regulations or orders of  
 5 the department, or with written requirements or instructions of the department relating  
 6 to the **mortgage loan** originator license, the department may revoke or suspend the  
 7 **mortgage loan** originator license, remove the **mortgage loan** originator licensee from  
 8 operating as **a mortgage loan** [AN] originator in the state, or order a person licensed  
 9 under this title to remove the **mortgage loan** originator licensee from operating as **a**  
 10 **mortgage loan** [AN] originator for the person.

11 \* **Sec. 43.** AS 06.60.270 is amended to read:

12           **Sec. 06.60.270. Removal by entity.** A mortgage licensee shall remove **a**  
 13 **mortgage loan** [AN] originator licensee from acting as **a mortgage loan** [AN]  
 14 originator for the mortgage licensee if the department directs the mortgage licensee to  
 15 remove the **mortgage loan** originator licensee under AS 06.60.260.

16 \* **Sec. 44.** AS 06.60 is amended by adding a new section to article 4 to read:

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

21 \* **Sec. 45.** AS 06.60.320 is amended to read:

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

28 \* **Sec. 46.** AS 06.60 is amended by adding a new section to read:

29           **Sec. 06.60.325. Display of unique identifier.** A person operating as a  
 30 mortgage lender, mortgage broker, or mortgage loan originator shall clearly display  
 31 the unique identifier assigned to the person by the registry on all residential mortgage

1 loan application forms, solicitations, and advertisements, including business cards or  
 2 websites, and any other documents as established by regulation or order of the  
 3 department.

4 \* **Sec. 47.** AS 06.60.330 is amended to read:

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

10 (1) 12 U.S.C. 2601 - 2617 (Real Estate Settlement Procedures Act of  
 11 1974);

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

13 (3) 12 U.S.C. 2901 - 2908 (Community Reinvestment Act of 1977);

14 (4) **12 U.S.C. 5101 - 5116 (Secure and Fair Enforcement for**  
 15 **Mortgage Licensing Act of 2008);**

16 **(5)** 15 U.S.C. 1601 - 1666j and 1671 - 1693r (Consumer Credit  
 17 Protection Act);

18 **(6)** [(5)] 42 U.S.C. 3601 - 3631 (Fair Housing Act of 1968);

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

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

23 \* **Sec. 48.** AS 06.60.340 is repealed and reenacted to read:

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

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

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

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

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

5 (5) obtain property by fraud or misrepresentation;

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

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

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

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

18 (10) fail to comply with this chapter or regulations adopted under this  
19 chapter or fail to comply with another state or federal statute, including regulations  
20 adopted under the statute, applicable to a business authorized or conducted under this  
21 chapter;

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

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

28 (13) make a payment, threat, or promise, directly or indirectly, to a  
29 person for the purposes of influencing the independent judgment of the person in  
30 connection with a mortgage loan, or make a payment, threat, or promise, directly or  
31 indirectly, to an appraiser of a property, for the purpose of influencing the independent

1 judgment of the appraiser with respect to the value of the property;

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

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

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

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

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

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

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

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

24 (A) consider additional appropriate property information;

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

27 (C) correct errors in the appraisal report;

28 (22) make a false or misleading statement in a mortgage loan  
29 commitment or prequalification letter, or omit material information necessary to make  
30 the statements made not misleading, if the person knew or reasonably should have  
31 known the statement was false or misleading or the omission consisted of material

1 information necessary to make the statements made not misleading;

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

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

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

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

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

14 (26) authorize, direct, plan, or aid in the publishing, distribution, or  
15 circulation of a materially false statement or a material misrepresentation concerning  
16 the licensee's business or concerning mortgage loans originated in the course of the  
17 licensee's business in this or another state.

18 \* **Sec. 49.** AS 06.60.360 is amended by adding a new subsection to read:

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

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

22 (2) held by a third person; and

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

26 \* **Sec. 50.** AS 06.60.370 is amended to read:

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

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

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

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

12 (e) Unless the person is exempt from licensing under this chapter, a  
 13 person [A MORTGAGE LENDER, MORTGAGE BROKER, OR ORIGINATOR]  
 14 who knowingly operates in this state as a mortgage lender, mortgage broker, or  
 15 mortgage loan originator without a license issued under this chapter [OR  
 16 WITHOUT BEING REGISTERED UNDER AS 06.60.017 AND IS NOT EXEMPT  
 17 UNDER AS 06.60.015] is guilty of a class A misdemeanor.

18 \* **Sec. 51.** AS 06.60.400 is repealed and reenacted to read:

19 **Sec. 06.60.400. Cease and desist proceedings.** (a) Notwithstanding  
 20 AS 06.01.030(d) and (e), if the department finds, after notice and opportunity for a  
 21 hearing, that a person has violated, is violating, or is about to violate any provision of  
 22 this chapter, a regulation adopted under this chapter, or an order issued under this  
 23 chapter, the department may publish findings and enter an order requiring the person  
 24 to cease and desist from committing or causing the violation and any future violation  
 25 of the same provision or regulation. An order may, in addition to requiring a person to  
 26 cease and desist from committing or causing a violation, require the person to comply,  
 27 or to take steps to effect compliance, with a provision or regulation, on terms and  
 28 conditions and within a time, as the department may specify in the order. An order  
 29 may require future compliance or steps to result in future compliance, either  
 30 permanently or for a period of time, as the department may specify.

31 (b) Notwithstanding AS 06.01.030(d) and (e), if the department determines

1 that the alleged violation or threatened violation is likely to result in significant  
 2 dissipation or conversion of assets, significant harm to consumers, or substantial harm  
 3 to the public interest before the completion of cease and desist proceedings, the  
 4 department may enter a temporary order requiring the respondent to cease and desist  
 5 from the violation or threatened violation and to take action to prevent the violation or  
 6 threatened violation and to prevent dissipation or conversion of assets, significant  
 7 harm to consumers, or substantial harm to the public interest as the department  
 8 determines appropriate pending completion of the proceedings. A temporary order  
 9 may be entered only after notice and opportunity for a hearing, unless the department  
 10 determines that notice and hearing before entry would be impracticable or contrary to  
 11 the public interest. A temporary order becomes effective on service on the respondent  
 12 and, unless set aside, limited, or suspended by the department or a court of competent  
 13 jurisdiction, remains effective and enforceable pending the completion of the cease  
 14 and desist proceedings.

15 \* **Sec. 52.** AS 06.60 is amended by adding a new section to read:

16 **Sec. 06.60.405. Review of temporary cease and desist orders.** (a) At any  
 17 time after the respondent has been served with a temporary cease and desist order  
 18 under AS 06.60.400(b), the respondent may apply to the department to have the order  
 19 set aside, limited, or suspended. If the respondent has been served with a temporary  
 20 cease and desist order entered without a prior hearing, the respondent may, within 10  
 21 days after the date on which the order was served, request a hearing on the application,  
 22 and the office of administrative hearings shall hold a hearing and render a decision on  
 23 the application under AS 44.64.060. A respondent served with a temporary cease and  
 24 desist order entered without a prior hearing may not apply to the court except after  
 25 hearing and decision by the department on the respondent's application under this  
 26 subsection.

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

29 (c) In a cease and desist proceeding under this section, the department may  
 30 issue an order to prohibit, conditionally or unconditionally, permanently or for a  
 31 period of time the department determines, a person who has violated this chapter from

1 operating as a mortgage lender, mortgage broker, or mortgage loan originator if the  
 2 conduct of that person demonstrates unfitness to operate as a mortgage lender,  
 3 mortgage broker, or mortgage loan originator.

4 \* **Sec. 53.** AS 06.60.410 is amended to read:

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

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

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

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

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

22 (c) A person who is suspended or barred under this section is prohibited from  
 23 participating in a business activity of a licensee [OR A SMALL MORTGAGE  
 24 LENDER] and from engaging in a business activity on the premises where a licensee  
 25 [OR SMALL MORTGAGE LENDER] is conducting the licensee's [OR SMALL  
 26 MORTGAGE LENDER'S] business. This subsection may not be construed to prohibit  
 27 a suspended or barred person from having the person's personal transactions processed  
 28 by a licensee [OR A SMALL MORTGAGE LENDER].

29 \* **Sec. 54.** AS 06.60.420 is amended to read:

30 **Sec. 06.60.420. Civil penalty for violations.** (a) **Notwithstanding**  
 31 **AS 06.01.035, a** [A] person [, INCLUDING A SMALL MORTGAGE LENDER,]

1 who violates a provision of this chapter, or a regulation adopted **or an order issued**  
 2 under this chapter, is liable for a civil penalty not to exceed \$10,000 for each violation.

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

6 \* **Sec. 55.** AS 06.60.430(a) is amended to read:

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

10 \* **Sec. 56.** AS 06.60.430(c) is amended to read:

11 (c) If the department determines that a licensee [, A SMALL MORTGAGE  
 12 LENDER,] or a person acting on behalf of the licensee [OR SMALL MORTGAGE  
 13 LENDER] is in violation of, or has violated, a provision of this chapter, the  
 14 department may refer the information to the attorney general and request that the  
 15 attorney general investigate the violation under AS 45.50.495. The attorney general  
 16 may enjoin a violation of this chapter and may seek restitution, rescission, and other  
 17 relief as allowed by law.

18 \* **Sec. 57.** AS 06.60.500 is amended to read:

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

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

23 \* **Sec. 58.** AS 06.60.510 is amended to read:

24 **Sec. 06.60.510. Composition of fund.** The fund consists of **appropriations of**  
 25 payments made by **mortgage loan** originator licensees under AS 06.60.550, filing fees  
 26 **for fund claims** retained under AS 06.60.620, income earned on the investment of the  
 27 money in the fund, and money deposited in the fund by the department under  
 28 AS 06.60.740.

29 \* **Sec. 59.** AS 06.60.550(a) is amended to read:

30 (a) A person who applies for or renews **a mortgage loan** [AN] originator  
 31 license shall pay to the department, in addition to the fees required by AS 06.60.035, a

1 fund fee **established by the department** [NOT TO EXCEED \$150].

2 \* **Sec. 60.** AS 06.60.550(d) is amended to read:

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

9 \* **Sec. 61.** AS 06.60.560 is amended to read:

10 **Sec. 06.60.560. Claim for reimbursement.** In addition to any other remedies  
11 available to the person, a person may seek reimbursement for a loss suffered in a  
12 mortgage loan transaction as a result of fraud, misrepresentation, deceit, or the  
13 wrongful conversion of money by **a mortgage loan** [AN] originator licensee and is  
14 eligible to be reimbursed under AS 06.60.500 - 06.60.750 for the loss from money  
15 appropriated for that purpose.

16 \* **Sec. 62.** AS 06.60.580 is amended to read:

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

- 20 (1) the name and address of each **mortgage loan** originator licensee  
21 involved;
- 22 (2) the amount of the alleged loss;
- 23 (3) the date or period of time during which the alleged loss occurred;
- 24 (4) the date when the alleged loss was discovered;
- 25 (5) the name and address of the claimant; and
- 26 (6) a general statement of the facts related to the fund claim.

27 \* **Sec. 63.** AS 06.60.600 is amended to read:

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

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

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

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

7 \* **Sec. 64.** AS 06.60.610(a) is amended to read:

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

13 \* **Sec. 65.** AS 06.60.610(b) is amended to read:

14 (b) A mortgage loan [AN] originator licensee who elects under (a) of this  
15 section to defend a fund claim in district court under the small claims rules may not  
16 revoke the election without the consent of the person who filed the fund claim.

17 \* **Sec. 66.** AS 06.60.640 is amended to read:

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

23 \* **Sec. 67.** AS 06.60.650 is amended to read:

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

29 \* **Sec. 68.** AS 06.60.680(b) is amended to read:

30 (b) If the department determines that the claimant has suffered a loss in a  
31 mortgage loan transaction as a result of fraud, misrepresentation, deceit, or the

1 wrongful conversion of money by a mortgage loan [AN] originator licensee, the  
 2 department may award the person who filed the fund claim reimbursement from  
 3 money appropriated to the fund.

4 \* **Sec. 69.** AS 06.60.690 is amended to read:

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

11 \* **Sec. 70.** AS 06.60.700(a) is amended to read:

12 (a) If a fund claim dismissed under AS 06.60.610 results in a monetary award  
 13 against a mortgage loan [AN] originator licensee, the department may pay, subject to  
 14 AS 06.60.710 and 06.60.720, any outstanding portion of the small claims judgment  
 15 from money appropriated to the department for the purpose.

16 \* **Sec. 71.** AS 06.60.700(b) is amended to read:

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

22 \* **Sec. 72.** AS 06.60.710(b) is amended to read:

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

25 \* **Sec. 73.** AS 06.60.710(c) is amended to read:

26 (c) If the \$50,000 liability limit under (b) of this section is insufficient to pay  
 27 in full the valid fund claims of all persons who have filed fund claims against one  
 28 mortgage loan originator licensee, the \$50,000 shall be distributed among the  
 29 claimants in the ratio that their individual fund claims bear to the aggregate of valid  
 30 fund claims against that mortgage loan originator licensee. The department shall  
 31 distribute the money among the persons entitled to share in the recovery without

1 regard to the order in which their fund claims were filed.

2 \* **Sec. 74.** AS 06.60 is amended by adding a new section to read:

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

6 \* **Sec. 75.** AS 06.60.745 is amended to read:

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

12 \* **Sec. 76.** AS 06.60.750 is amended to read:

13 **Sec. 06.60.750. Disciplinary action against a mortgage loan [AN]**  
14 **originator licensee.** Repayment in full of all obligations to the fund does not nullify or  
15 modify the effect of disciplinary proceedings brought against a mortgage loan [AN]  
16 originator licensee under this chapter.

17 \* **Sec. 77.** AS 06.60.800 is amended by adding a new subsection to read:

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

21 \* **Sec. 78.** AS 06.60.850 is amended to read:

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

28 \* **Sec. 79.** AS 06.60.890 is amended to read:

29 **Sec. 06.60.890. Application to Internet activities.** This chapter applies to a  
30 person [, INCLUDING A SMALL MORTGAGE LENDER TO THE EXTENT THIS  
31 CHAPTER APPLIES TO A SMALL MORTGAGE LENDER,] even if the person is

1 engaging in the activities regulated by this chapter by using an Internet website from  
2 within or outside the state.

3 \* **Sec. 80.** AS 06.60.900 is amended to read:

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

10 \* **Sec. 81.** AS 06.60.905 is amended to read:

11 **Sec. 06.60.905. Untrue, misleading, or false statements.** A person [,  
12 INCLUDING A SMALL MORTGAGE LENDER,] may not, in a document filed with  
13 the department or in an examination, an investigation, a hearing, or another proceeding  
14 under this chapter, make or cause to be made an untrue statement of a material fact, or  
15 omit to state a material fact necessary in order to make the statement made, in the light  
16 of the circumstances under which it is made, not misleading or false.

17 \* **Sec. 82.** AS 06.60.990 is repealed and reenacted to read:

18 **Sec. 06.60.990. Definitions.** In this chapter, unless the context otherwise  
19 requires,

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

21 (2) "consumer reporting agency" means a consumer reporting agency  
22 that compiles and maintains files on consumers on a nationwide basis; in this  
23 paragraph, "consumer reporting agency that compiles and maintains files on  
24 consumers on a nationwide basis" has the meaning given in 15 U.S.C. 1681a(p) (Fair  
25 Credit Reporting Act);

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

30 (A) is a director, general partner, or executive officer, including  
31 chief executive officer, chief financial officer, chief operations officer, chief

1 legal officer, chief credit officer, or chief compliance officer, or occupies a  
2 similar position or performs a similar function;

3 (B) directly or indirectly, has the right to vote 10 percent or  
4 more of a class of voting security or has the power to sell or direct the sale of  
5 10 percent or more of a class of voting securities;

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

7 (i) is a managing member;

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

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

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

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

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

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

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

25 (8) "federal banking agency" means the Board of Governors of the  
26 Federal Reserve System, the Comptroller of the Currency, the director of the Office of  
27 Thrift Supervision, the National Credit Union Administration, and the Federal Deposit  
28 Insurance Corporation;

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

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

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

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

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

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

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

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

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

14 (A) the receipt, collection, distribution, and analysis of  
15 information common for the processing or underwriting of a mortgage loan;  
16 and

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

21 (18) "mortgage broker" means a person who, for compensation or gain,  
22 or in the expectation of compensation or gain, directly or indirectly, by telephone, by  
23 electronic means, by mail, through the Internet, in person, or by the person itself or a  
24 mortgage loan originator,

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

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

30 (19) "mortgage lender"

31 (A) means a person who consummates and funds a mortgage

1 loan and who is named as the payee in the promissory note and as the  
2 beneficiary of the deed of trust;

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

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

8 (21) "mortgage licensee" means a person who holds a mortgage  
9 license;

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

11 (23) "mortgage loan originator"

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

14 (i) takes a mortgage loan application; or

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

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

20 (C) does not include an individual who only performs real  
21 estate brokerage activities and is licensed or registered under applicable state  
22 law, unless the individual is compensated by a lender, a mortgage broker, or  
23 another mortgage loan originator, or by an agent of the lender, mortgage  
24 broker, or other mortgage loan originator; in this subparagraph, "real estate  
25 brokerage activity" means an activity that involves offering or providing real  
26 estate brokerage services to the public, including

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

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

31 (iii) negotiating, on behalf of a party, a portion of a

1 contract relating to the sale, purchase, lease, rental, or exchange of real  
 2 property other than in connection with providing financing with respect  
 3 to the transaction;

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

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

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

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

14 (25) "Nationwide Mortgage Licensing System and Registry" has the  
 15 meaning given in 12 U.S.C. 5102 (Secure and Fair Enforcement for Mortgage  
 16 Licensing Act of 2008);

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

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

25 (28) "operate in the state" includes operating in the state from a  
 26 location outside the state or from an Internet website that originates inside or outside  
 27 the state;

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

30 (30) "record" means information that is inscribed on a tangible  
 31 medium or that is stored in an electronic or other medium and is retrievable in

1 perceivable form;

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

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

4 (i) a depository institution;

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

7 (iii) an institution regulated by the Farm Credit  
8 Administration; and

9 (B) is registered with the registry and maintains a unique  
10 identifier with the registry;

11 (32) "registry" means the Nationwide Mortgage Licensing System and  
12 Registry;

13 (33) "residential mortgage loan" means a loan that is primarily for  
14 personal, family, or household use and that is secured by a mortgage, deed of trust, or  
15 other equivalent consensual security interest on a dwelling or residential real estate  
16 located in the state; in this paragraph, "residential real estate" means real property on  
17 which a dwelling is constructed or intended to be constructed;

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

20 \* **Sec. 83.** AS 06.60.995 is amended to read:

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

24 \* **Sec. 84.** AS 12.62.400 is amended to read:

25 **Sec. 12.62.400. National criminal history record checks for employment,**  
26 **licensing, and other noncriminal justice purposes.** To obtain a national criminal  
27 history record check for determining a person's qualifications for a license, permit,  
28 registration, employment, or position, a person shall submit the person's fingerprints to  
29 the department with the fee established by AS 12.62.160. The department may submit  
30 the fingerprints to the Federal Bureau of Investigation to obtain a national criminal  
31 history record check of the person for the purpose of evaluating a person's

1 qualifications for

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

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

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

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

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

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

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

15 (8) a teacher certificate under AS 14.20;

16 (9) licensure as a security guard under AS 18.65.400 - 18.65.490;

17 (10) a concealed handgun permit under AS 18.65.700 - 18.65.790;

18 (11) licensure as an insurance producer, managing general agent,  
19 reinsurance intermediary broker, reinsurance intermediary manager, surplus lines  
20 broker, or independent adjuster under AS 21.27;

21 (12) serving and executing process issued by a court by a person  
22 designated under AS 22.20.130;

23 (13) a school bus driver license under AS 28.15.046;

24 (14) licensure as an operator or an instructor for a commercial driver  
25 training school under AS 28.17;

26 (15) registration as a broker-dealer, agent, investment adviser  
27 representative, or state investment adviser under AS 45.55.030 - 45.55.060.

28 \* **Sec. 85.** AS 12.62.400 is amended by adding a new subsection to read:

29 (b) Notwithstanding (a) of this section, an applicant for a license under  
30 AS 06.60 may submit the applicant's fingerprints to the Nationwide Mortgage  
31 Licensing System and Registry. In this subsection, "Nationwide Mortgage Licensing

1 System and Registry" has the meaning given in 12 U.S.C. 5102.

2 \* **Sec. 86.** AS 06.60.017, 06.60.025, 06.60.065, 06.60.070, 06.60.075, 06.60.090(i),  
3 06.60.097(b), 06.60.105, 06.60.145, 06.60.150, 06.60.440, 06.60.540, 06.60.810, 06.60.870;  
4 and AS 45.50.471(b)(52) are repealed.

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

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

13 (b) A person who is not licensed under former AS 06.60 before July 1, 2010, and files  
14 an application for licensing under this Act on or after July 1, 2010, shall comply with the  
15 requirements of this Act to receive a license under this Act.

16 (c) AS 06.60.027, as repealed and reenacted by sec. 9 of this Act, does not apply to  
17 the renewal of a mortgage license valid on July 1, 2010, except for a mortgage license  
18 application amendment submitted on or after July 1, 2010, requesting approval of a change of  
19 a control person. In this subsection, "control person" and "mortgage license" have the  
20 meanings given in AS 06.60.990.

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

23 TRANSITION: TEMPORARY FEES AND BOND AMOUNT. (a) If the regulations  
24 adopted by the Department of Commerce, Community, and Economic Development under  
25 sec. 89 of this Act do not take effect July 1, 2010, then, during the period of July 1, 2010,  
26 until the effective date of the regulations adopted under sec. 89 of this Act,

27 (1) notwithstanding AS 06.60.035(a), as amended by sec. 10 of this Act, the  
28 application fee under AS 06.60.035(a)(1), as amended by sec. 10 of this Act, shall be \$250,  
29 and the license fee under AS 06.60.035(a)(2), as amended by sec. 10 of this Act, shall be  
30 \$500;

31 (2) notwithstanding AS 06.60.045(a), as amended by sec. 15 of this Act, the

1 amount of the bond under AS 06.60.045(a), as amended by sec. 15 of this Act, shall be  
2 \$25,000;

3 (3) notwithstanding AS 06.60.550(a), as amended by sec. 59 of this Act, the  
4 amount of the fund fee under AS 06.60.550(a), as amended by sec. 59 of this Act, shall be  
5 \$150; and

6 (4) notwithstanding AS 06.60.550(d), as amended by sec. 60 of this Act, the  
7 amount of the fund fee under AS 06.60.550(d), as amended by sec. 60 of this Act, shall be  
8 \$150.

9 \* **Sec. 89.** The uncodified law of the State of Alaska is amended by adding a new section to  
10 read:

11 TRANSITION: REGULATIONS. (a) The Department of Commerce, Community,  
12 and Economic Development may adopt regulations necessary to implement this Act. The  
13 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before July 1,  
14 2010.

15 (b) The department shall notify the revisor of statutes of the date on which the  
16 regulations take effect.

17 \* **Sec. 90.** Section 89 of this Act takes effect immediately under AS 01.10.070(c).

18 \* **Sec. 91.** Except as provided in sec. 90 of this Act, this Act takes effect July 1, 2010.