

HB

162

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

REPORTED OUT
 MAY 12 2007
 SENATE FINANCE COMMITTEE

DATE: 5/7/07

FURTHER:

 DATE TURNED
 IN TO OFFICE: 12 May 2007

Finance Committee considered CS FOR HOUSE BILL NO. 162(L&C)

HB 162 MORTGAGE LENDING

"An Act relating to mortgage lenders, mortgage brokers, mortgage originators, state agents who collect program administration fees, and other persons who engage in activities relating to mortgage lending; relating to mortgage loan activities; relating to an originator fund; relating to fees for mortgage loan transactions; making certain violations unfair trade practices; relating to persons who are licensed under the Alaska Small Loans Act; and providing for an effective date."

and recommends:

- be replaced with SCS or CS CS HB 162 (FIN)
 adopt previous SCS or CS CS forthcoming
 attached amendment(s)
 adopt _____ Letter of Intent
 further referral to _____ Committee

SENATE BILL:
 Same Title
 New Title

HOUSE BILL:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

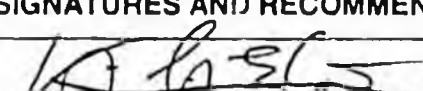


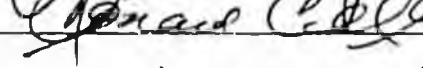


NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LAW	3/15/07			✓	#1
Admin.	4/16/07	✓			#2
Commerce	4/16/07	377.5			#3

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	PRINTED LAST NAME	DO PASS	DO NOT PASS	NO REC	AMEND
	Elton	✓			
	Thomas	✓			
	Huggins	✓			
	Olson			✓	
CO-CHAIR: 	Hoffman			✓	
CO-CHAIR: 	Stedman	✓			

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: HB162CS(L&C)-COM-BS-05-09 07
 Bill Version: CSHB 162(L&C)
 () Publish Date: _____

Revision Date/Time (Note if correction): 5/9/2007 Dept. Affected: Commerce
 Title: Mortgage Lending RDU: Banking & Securities (536)
 Component: Banking & Securities
 Sponsor: Lynn
 Requester: Senate Finance Component No.: 2808

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	150.5	333.5	333.5	333.5	333.5
Travel	0.0	25.0	50.0	50.0	50.0	50.0
Contractual	0.0	94.0	92.0	92.0	92.0	92.0
Supplies	0.0	6.0	8.0	8.0	8.0	8.0
Equipment	0.0	10.0	10.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	285.5	493.5	483.5	483.5	483.5

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (1156)	0.0	782.5	430.0	730.0	455.0	530.0
------------------------------------	------------	--------------	--------------	--------------	--------------	--------------

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
1156 Receipt Supported Services	0.0	285.5	488.5	483.5	483.5	483.5
TOTAL	0.0	285.5	488.5	483.5	483.5	483.5

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time	0	2	4	4	4	4
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would require the licensing and regulation of people and companies originating, lending or brokering mortgage loans. Effective immediately upon passage, the department would be authorized to develop and adopt regulations necessary to implement changes made by this legislation. These regulations would not take effect before 1 July 2008. The division anticipates no new resources would be needed to accomplish this.

Beginning in FY09, the division estimates needing two additional staff (1 Business Registration Officer and 1 Financial Institution Examiner) to begin implementing the licensing program and collecting fees on an estimated 22,000 mortgage documents filed each year in Alaska.

Prepared by: Mark Davis, Director Phone: 907.269.8144
 Division: Banking and Securities Date/Time: 5/9/07 8 20 PM
 Approved by: Emil Notti, Commissioner Date: 5/9/2007
 Agency: Commerce, Community, and Economic Development

ANALYSIS CONTINUATION

Beginning in FY 10, two additional Financial Institution Examiners would be added to implement the provision that licensees may begin to be examined every three years.

Travel funds will cover the cost of examining both in-state and out-of-state licensees. Contractual expenses include funds for the Department of Law to draft legal documents, represent the division at administrative hearings resulting from licensing revocations/disciplinary actions, and enforce orders resulting from investigations; and for staff training.

Revenue:

Beginning in FY09 new businesses, and new and existing originators would be required to have a biennial license that would cost \$500.00. Existing mortgage brokers or mortgage lender businesses would not be required to be licensed until March 1, 2009. A one-time nonrefundable application fee would be collected from each new licensee in partial payment of investigation expenses incurred by the department.

The division estimates collecting a total of \$782.5 in receipt supported services in FY09. This is the result of five sources of revenue. First, the division estimates collecting \$187.5 in nonrefundable application fees from 100 new brokers, 500 originators and 150 existing brokers/businesses. Second, the division estimates collecting \$50.0 for licensing 100 new brokers. Third, the division estimates collecting \$75.0 from 150 existing brokers. Fourth, the division estimates collecting \$250.0 from 500 newly licensed originators. Fourth, the division estimates collecting \$220.0 in mortgage document fees of \$10 per document. The estimated number of documents is based upon a review of the number of recorded real estate documents.

In FY2010, the division anticipates generating a total of \$480.0. In addition to collecting nonrefundable application fees and biennial license fees for 200 new brokers and new originator, and \$220.0 in mortgage document fees, the division would begin collecting \$60.0 as a result of conducting 100 examinations at the average cost of \$600.00 per examination.

In FY2011, the division anticipates generating a total of \$730.0 in nonrefundable fees, licensing fees, mortgage document fees and examinations.

In FY2012, the division anticipates generating a total of \$455.0 in nonrefundable fees, licensing fees, mortgage document fees and examinations.

In FY2013, the division anticipates generating a total of \$530.0 in nonrefundable fees, licensing fees, mortgage document fees and examinations.

The division has no way of estimating the number of individuals who would fail the competency test and may be charged an additional \$150 fee for each test provided to the person.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: CSHB 162(L&C)
(H) Publish Date: 4/20/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title: An Act relating to mortgage lending RDU: Civil
Component: Commercial & Fair Business
Sponsor: REPRESENTATIVE(s) LYNN
Requester: House Labor & Commerce Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2007) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The bill would establish new statute to further regulate mortgage lending. Under the bill people who act as mortgage brokers, lenders and originators will be required to obtain a license issued through the Department of Commerce, Community and Economic Development ("DCCED"). The bill also imposes certain conduct requirements on the licensees, includes a prohibited practices section, and authorizes DCCED to impose disciplinary sanctions on licensees for violations of the requirements of the new law. Enactment of the bill will not fiscally impact the Department of Law.

Prepared by: Robert Meiners, Acting Director
Division: Administrative Services Division
Approved by: Robert Meiners for Talis Colberg, Attorney General
Agency: Department of Law

Phone: 465-5427
Date/Time: 3/15/07 4:12 PM
Date: 3/15/2007

FISCAL NOTE

REPORTED OUT
 MAY 12 2007
 SENATE FINANCE COMMITTEE

STATE OF ALASKA
 2007 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 162(L&C)
 (H) Publish Date: 4/20/07

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act relating to mortgage lenders RDU Centralized Administrative Services
 Component Office of Administrative Hearings
 Sponsor Representative Lynn
 Requester House Labor & Commerce Component No. 2771

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	35.0	35.0	35.0	35.0	35.0
Travel	0.0	2.0	2.0	2.0	2.0	2.0
Contractual	0.0	4.0	4.0	4.0	4.0	4.0
Supplies	0.0	1.0	1.0	1.0	1.0	1.0
Equipment	0.0	2.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	44.0	42.0	42.0	42.0	42.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
-----------------------------	-----	-----	-----	-----	-----	-----

CHANCE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (Interagency receipts)	0.0	44.0	42.0	42.0	42.0	42.0
TOTAL	0.0	44.0	42.0	42.0	42.0	42.0

Estimate of any current year (FY2007) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time	0	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill provides for licensing of persons who would be entitled to a hearing if licensure is denied or if disciplinary action is taken against them. Under AS 44.64.030(a)(5), the Office of Administrative Hearings (OAH) would conduct the hearings in these matters for the Department of Commerce, Community and Economic Development (DCCED). This bill also provides for OAH to hear originator surety fund claims. Based on DCCED's updated projection of probable caseload, OAH likely could not handle all of these cases without adding personnel unless OAH experiences a downturn in other parts of its caseload. OAH estimates needing a one-quarter time administrative law judge position in FY09, which the bill would take effect, and recovering the cost from DCCED through interagency receipts under OAH's cost allocation plan.

Prepared by: Terry L. Thurbon, Chief Administrative Law Judge
 Division: Office of Administrative Hearings
 Approved by: Kevin Brooks
 Agency: Department of Administration

Phone 465-1886
 Date/Time 04/16/2007 4:42 p.m.
 Date 4/16/2007

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR HUGGINS

TO: CSHB 162(), Draft Version "T"

1 Page 1, line 13, through page 2, line 2:

2 Delete "and licensee under AS 06.60; in this paragraph. "licensee under
3 AS 06.60" has the meaning given to "licensee" in AS 06.60.990"

4 Insert "a licensee under AS 06.60, a small mortgage lender under AS 06.60, and
5 an originator under AS 06.60 who is employed by or works under exclusive contract for
6 a small mortgage lender; in this paragraph,

7 (A) "licensee under AS 06.60" has the meaning given to
8 "licensee" in AS 06.60.990;

9 (B) "originator under AS 06.60" has the meaning given to
10 "originator" in AS 06.60.990;

11 (B) "small mortgage lender under AS 06.60" has the
12 meaning given to "small mortgage lender" in AS 06.60.990;"

13
14 Page 2, line 10:

15 Delete "A"

16 Insert "Except as provided by AS 06.60.017, a"

17
18 Page 3, following line 30:

19 Insert a new section to read:

20 "Sec. 06.60.017. Small mortgage lenders and originators. (a)

21 Notwithstanding AS 06.60.010, the department may register

22 (1) a person to operate as a small mortgage lender;

23 (2) a natural person to operate as an originator for a small mortgage

1 lender if the person is an employee of, or working under exclusive contract for, the
2 small mortgage lender.

3 (b) To qualify for registration as a small mortgage lender, a person shall

4 (1) submit an application on a form established by the department;

5 (2) pay a fee of \$150;

6 (3) certify that all money used in the operation of the person's business
7 as a small mortgage lender belongs to the person and is not borrowed or received from
8 another person; and

9 (4) be approved by the department under (d) of this section.

10 (c) To qualify for registration as an originator under this section, a person shall

11 (1) submit an application on a form established by the department;

12 (2) pay a fee of \$75;

13 (3) be approved by the department under (d) of this section.

14 (d) Before approving an application of a person under this section, the
15 department shall determine that

16 (1) if the person is applying for registration as a small mortgage lender,
17 the financial responsibility, experience, character, and general fitness of the person,
18 and of the person's directors, officers, members, owners, and other principals, and the
19 organization and operation of the applicant indicate that the business will be operated
20 efficiently and fairly, in the public interest, and under the law; and

21 (2) the person has not

22 (A) been enjoined by a court of competent jurisdiction from
23 engaging in an aspect of the business of providing financial services to the
24 public; and

25 (B) within the previous seven years,

26 (i) been prohibited by a federal or state regulatory
27 agency from engaging in, participating in, or controlling a finance-
28 related activity that involves providing financial services to the public;

29 (ii) been convicted, including a conviction based on a
30 guilty plea or a plea of nolo contendere, of a felony or a misdemeanor
31 involving fraud, misrepresentation, or dishonesty;

1 (iii) committed an act, made an omission, or engaged in
2 a practice that constitutes a breach of a fiduciary duty;

3 (iv) made a false material statement on an application
4 submitted under this chapter; or

5 (v) violated a provision of this chapter, a regulation
6 adopted under this chapter, or an order of the department under this
7 chapter.

8 (e) A registration issued under this chapter remains in effect for two years
9 after the registration is issued.

10 (f) A small mortgage lender may renew a registration by submitting to the
11 department 30 days before the expiration of the registration

12 (1) a renewal application in the form and manner established by the
13 department;

14 (2) a biennial registration fee of \$150; and

15 (3) a report identifying any changes in the information provided under
16 (b) of this section.

17 (g) An originator may renew a registration as an originator by submitting to
18 the department 30 days before the expiration of the licensee's registration

19 (1) a renewal application in the form and manner established by the
20 department;

21 (2) a biennial registration fee of \$75; and

22 (3) a report identifying any changes in the information provided under
23 (c) of this section.

24 (h) An application under this section is considered granted unless, within 30
25 days after the department determines it has received a complete application, the
26 department notifies the applicant that the department has denied the application
27 because of the applicant's noncompliance with this section.

28 (i) The department may adopt regulations to implement this section

29 (j) In this section,

30 (1) "registration" means registration under this section;

31 (2) "small mortgage lender" means a person who is registered under

1 this section."

2

3 Page 16, line 22, following "license":

4 Insert "or a registration under AS 06.60.017"

5

6 Page 16, line 23, following "licensee":

7 Insert "or small mortgage lender"

8

9 Page 17, following line 3:

10 Insert a new paragraph to read:

11 "(2) the small mortgage lender has violated a provision of this chapter
12 applicable to the small mortgage lender;"

13

14 Renumber the following paragraphs accordingly.

15

16 Page 17, line 4, following "licensee":

17 Insert "or small mortgage lender"

18

19 Page 17, line 8, following "licensee":

20 Insert "or small mortgage lender"

21

22 Page 17, line 10, following "license":

23 Insert "or a registration under AS 06.60.017"

24

25 Page 17, line 13, following "license":

26 Insert "or the registration under AS 06.60.017"

27

28 Page 17, lines 14 - 15:

29 Delete "is not fit to engage in the activities for which the licensee was licensed"

30 Insert "or small mortgage lender is not fit to engage in the activities for which the
31 licensee was licensed or small mortgage lender was registered"

1

2 Page 17, line 18, following "business":

3 Insert "or the small mortgage lender's business"

4

5 Page 17, line 19, following "business":

6 Insert "or the small mortgage lender's business"

7

8 Page 17, line 22, following "license":

9 Insert "or the registration under AS 06.60.017"

10

11 Page 17, line 24, following "licensee":

12 Insert ", or the registration of a small mortgage lender,"

13

14 Page 17, line 27:

15 Delete ". A person whose license"

16 Insert "or registered under AS 06.60.017. A person whose license or registration under
17 AS 06.60.017"

18

19 Page 17, line 28, following "license":

20 Insert "or another registration under AS 06.60.017"

21

22 Page 18, line 11, following "license":

23 Insert "or a registration of a small mortgage lender"

24

25 Page 18, line 12, following "licensee":

26 Insert "or the small mortgage lender"

27

28 Page 18, line 13, following "licensee":

29 Insert "or small mortgage lender"

30

31 Page 18, line 15:

- 1 Delete "of revoked license"
- 2
- 3 Page 18, line 16:
- 4 Delete "if the licensee"
- 5 Insert "or registration under AS 06.60.017 if the licensee or small mortgage lender"
- 6
- 7 Page 18, line 18:
- 8 Delete ", the licensee"
- 9 Insert "or registration under AS 06.60.017, the licensee or small mortgage lender"
- 10
- 11 Page 18, line 22, following "chapter":
- 12 Insert "or a small mortgage lender"
- 13
- 14 Page 18, line 27, following "licensee":
- 15 Insert "or small mortgage lender"
- 16
- 17 Page 18, line 31, following "licensee":
- 18 Insert "or small mortgage lender"
- 19
- 20 Page 19, line 1, following "licensee":
- 21 Insert "or small mortgage lender"
- 22
- 23 Page 20, line 9, following "person":
- 24 Insert ', including a small mortgage lender,"
- 25
- 26 Page 20, line 13, following "person":
- 27 Insert ", including a small mortgage lender,"
- 28
- 29 Page 20, line 26, following "chapter,":
- 30 Insert "a person who is a small mortgage lender,"
- 31

1 Page 22, line 10, following "license,":

2 Insert "registration,"

3

4 Page 24, line 1, following "licensee":

5 Insert "or small mortgage lender"

6

7 Page 24, line 5, following "person":

8 Insert ", including a small mortgage lender,"

9

10 Page 24, line 7, following "licensee":

11 Insert ", person who is a small mortgage lender,"

12

13 Page 24, line 11, following "licensee":

14 Insert "or a small mortgage lender"

15

16 Page 24, line 14, following "license":

17 Insert "or without being registered under AS 06.60.017,"

18

19 Page 24, line 21, following "person":

20 Insert ", including a small mortgage lender,"

21

22 Page 24, line 25, following "months,":

23 Insert "suspend the registration of a small mortgage lender for a period not to exceed
24 12 months,"

25

26 Page 24, line 26, following "licensee":

27 Insert "or a small mortgage lender"

28

29 Page 24, line 30, following "licensee":

30 Insert ", to the small mortgage lender,"

31

1 Page 25, line 3, following "license":

2 Insert "or registration as a small mortgage lender"

3

4 Page 25, line 6, following "licensee":

5 Insert "or a small mortgage lender"

6

7 Page 25, line 7:

8 Delete "licensee is conducting the licensee's business"

9 Insert "licensee or small mortgage lender is conducting the licensee's or small
10 mortgage lender's business"

11

12 Page 25, line 9, following "licensee":

13 Insert "or a small mortgage lender"

14

15 Page 25, line 10, following "person":

16 Insert ", including a small mortgage lender,"

17

18 Page 25, line 17, following "licensee":

19 Insert "or a small mortgage lender"

20

21 Page 25, line 21, following "licensee":

22 Insert ", a small mortgage lender."

23

24 Page 25, line 22, following "licensee":

25 Insert "or small mortgage lender"

26

27 Page 25, following line 30:

28 Insert a new section to read:

29 "Sec. 06.60.440. Definition. In AS 06.60.400 - 06.60.440, "small mortgage
30 lender" includes a natural person who is an employee of, or working under exclusive
31 contract for, a small mortgage lender."

1

2 Page 32, line 23, following the first occurrence of "person":

3 Insert ", including a small mortgage lender,"

4

5 Page 33, line 3, following "person":

6 Insert ", including a small mortgage lender to the extent this chapter applies to a small
7 mortgage lender,"

8

9 Page 37, line 7, following "purposes":

10 Insert ":

11 (26) "small mortgage lender" means a person registered under

12 AS 06.60.017"

adopted

SENATE FINANCE
COMMITTEE

Amendment # 3

To Bill Number: HB 162

Sponsor: Elton

Date 5/11/07 logged by: Robin

AMENDMENT

Offered in the Senate Finance Committee
To: SCS HB 162

Page 21, line 27:

Delete "(A)"

Page 21, line 29:

Delete the second occurrence of "or"

Page 21, line 30 through page 22, line 1:

Delete all material.



Official Business

Alaska State Senate

Senate Finance Committee

Mail Stop 3100
State Capitol
Juneau, Alaska 99801-1182

FAX COVER SHEET

DATE: 12 May 2007 TIME: 10:30am

TO: Legal Services

NUMBER OF PAGES, INCLUDING COVER SHEET: 2

FROM: MINDY ROWLAND
SENATE FINANCE COMMITTEE SECRETARY
PHONE: 465-4935
FAX: 465-2187

NOTES: Final Please
SCS CS HB 162 (FIN) 2F-LS0070\T
Bannister 5/11/07
plus 2 amendments:
2: \T.1
3: attached

Thanks
Mindy

SENATE CS FOR CS FOR HOUSE BILL NO. 162(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVE LYNN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to mortgage lenders, mortgage brokers, mortgage originators, state
2 agents who collect program administration fees, and other persons who engage in
3 activities relating to mortgage lending; relating to mortgage loan activities; relating to
4 an originator fund; relating to fees for mortgage loan transactions; making certain
5 violations unfair trade practices; relating to persons who are licensed under the Alaska
6 Small Loans Act; and providing for an effective date."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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

9 (3) "financial institution" means an institution subject to the regulation
10 of the department under this title; in this paragraph, "institution" includes a
11 commercial bank, savings bank, credit union, premium finance company, small loan
12 company, bank holding company, financial holding company, trust company, savings
13 and loan association, [AND] deferred deposit advance licensee under AS 06.50, n

Amendment
#2
page 1
lines 2-12

licensee under AS 06.60, a small mortgage lender under AS 06.60, and an originator under AS 06.60 who is employed by or works under exclusive contract for a small mortgage lender; in this paragraph,

#2
Page 1
lines 2:12

(A) "licensee under AS 06.60" has the meaning given to "licensee" in AS 06.60.990;

(B) "originator under AS 06.60" has the meaning given to "originator" in AS 06.60.990;

(C) "small mortgage lender under AS 06.60" has the meaning given to "small mortgage lender" in AS 06.60.990;

* Sec. 2. AS 06 is amended by adding a new chapter to read:

Chapter 60. Mortgage Lending Regulation Act.

Article 1. Licensing.

Sec. 06.60.010. License required. (a) Except as provided under AS 06.60.015, a person, including a person doing business from outside this state, may not operate as a mortgage lender or mortgage broker in this state unless the person is licensed under this chapter.

(b) Except as provided by AS 06.60.017, a person may not operate as an originator in this state unless the person is a natural person who is

#2
line 16

(1) licensed as an originator under this chapter; and

(2) works under exclusive contract for, or as an employee of, a mortgage licensee.

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

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

Sec. 06.60.015. Exemptions; requirements of registration. (a) Except as provided by AS 06.60.370(c) and by (b) and (c) of this section, this chapter does not apply to a person who operates as a mortgage lender or mortgage broker if the person is

(1) a person who is authorized to engage in business as a bank, bank holding company, savings institution, savings and loan association, trust company

1 with banking powers, or credit union under the laws of this state, another state, the
2 United States, a territory of the United States, or the District of Columbia, and whose
3 mortgage loan activity is subject to the general supervision, regulation, and
4 examination of a regulatory body of this state, another state, the United States, a
5 territory of the United States, or the District of Columbia;

6 (2) a subsidiary or an operating subsidiary of a person who is identified
7 by (1) of this subsection, or of a bank holding company or savings and loan holding
8 company, if the subsidiary or operating subsidiary certifies to the department on a
9 form provided by the department that the subsidiary or operating subsidiary is exempt
10 from this chapter because of applicable federal statute or regulation;

11 (3) an employee of a person identified in (1) or (2) of this subsection;

12 (4) an exclusive agent of a person identified in (1) or (2) of this
13 section, if the person identified in (1) or (2) of this section has received a
14 determination from a regulatory body of the United States government, based on
15 applicable federal law, that the exclusive agent is exempt from this chapter;

16 (5) a nonprofit corporation that makes mortgage loans to promote
17 home ownership or home improvements; in this paragraph, "nonprofit corporation"
18 means a corporation that qualifies under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue
19 Code) for an exemption from federal income taxation;

20 (6) an agency of the federal government, a state government, a
21 municipality, or a quasi-governmental agency making or brokering mortgage loans
22 under the specific authority of the laws of a state or the United States;

23 (7) a person who acts as a fiduciary for an employee pension benefit
24 plan qualified under 26 U.S.C. (Internal Revenue Code) and who makes mortgage
25 loans solely to participants of the plan from assets of the plan;

26 (8) a person who acts in a fiduciary capacity conferred by the authority
27 of a court; or

28 (9) a person who is licensed by the United States Small Business
29 Administration as a small business investment company under 15 U.S.C. 661 - 697g
30 (Small Business Investment Act of 1958).

31 (b) A person who is listed in (a)(1) - (9) of this section shall file a registration

1 form to obtain an exemption under (a) of this section. The department shall determine
2 the form and content of the registration form.

3 (c) A person who is licensed under AS 06.20 is exempt from the requirements
4 of this chapter, except that the person is subject to AS 06.60.320 - 06.60.380.

5 (d) In this section, "bank holding company" has the meaning given in 12
6 U.S.C. 1841 (Bank Holding Company Act).

7 **Sec. 06.60.017. Small mortgage lenders and originators.** (a)
8 Notwithstanding AS 06.60.010, the department may register

9 (1) a person to operate as a small mortgage lender;
10 (2) a natural person to operate as an originator for a small mortgage
11 lender if the person is an employee of, or working under exclusive contract for, the
12 small mortgage lender.

13 (b) To qualify for registration as a small mortgage lender, a person shall
14 (1) submit an application on a form established by the department;
15 (2) pay a fee of \$150;
16 (3) certify that all money used in the operation of the person's business
17 as a small mortgage lender belongs to the person and is not borrowed or received from
18 another person; and

19 (4) be approved by the department under (d) of this section.
20 (c) To qualify for registration as an originator under this section, a person shall
21 (1) submit an application on a form established by the department;
22 (2) pay a fee of \$75;
23 (3) be approved by the department under (d) of this section.

24 (d) Before approving an application of a person under this section, the
25 department shall determine that

26 (1) if the person is applying for registration as a small mortgage lender,
27 the financial responsibility, experience, character, and general fitness of the person,
28 and of the person's directors, officers, members, owners, and other principals, and the
29 organization and operation of the applicant indicate that the business will be operated
30 efficiently and fairly, in the public interest, and under the law; and

31 (2) the person has not

2
page 1
line 20
through
page 4
line 1

1 (A) been enjoined by a court of competent jurisdiction from
2 engaging in an aspect of the business of providing financial services to the
3 public; and

4 (B) within the previous seven years,

5 (i) been prohibited by a federal or state regulatory
6 agency from engaging in, participating in, or controlling a finance-
7 related activity that involves providing financial services to the public;

8 (ii) been convicted, including a conviction based on a
9 guilty plea or a plea of nolo contendere, of a felony or a misdemeanor
10 involving fraud, misrepresentation, or dishonesty;

11 (iii) committed an act, made an omission, or engaged in
12 a practice that constitutes a breach of a fiduciary duty;

13 (iv) made a false material statement on an application
14 submitted under this chapter; or

15 (v) violated a provision of this chapter, a regulation
16 adopted under this chapter, or an order of the department under this
17 chapter.

18 (c) A registration issued under this chapter remains in effect for two years
19 after the registration is issued.

20 (f) A small mortgage lender may renew a registration by submitting to the
21 department 30 days before the expiration of the registration

22 (1) a renewal application in the form and manner established by the
23 department;

24 (2) a biennial registration fee of \$150; and

25 (3) a report identifying any changes in the information provided under
26 (b) of this section.

27 (g) An originator may renew a registration as an originator by submitting to
28 the department 30 days before the expiration of the licensee's registration

29 (1) a renewal application in the form and manner established by the
30 department;

31 (2) a biennial registration fee of \$75; and

1 (3) a report identifying any changes in the information provided under
2 (c) of this section.

3 (h) An application under this section is considered granted unless, within 30
4 days after the department determines it has received a complete application, the
5 department notifies the applicant that the department has denied the application
6 because of the applicant's noncompliance with this section.

7 (i) The department may adopt regulations to implement this section

8 (j) In this section,

9 (1) "registration" means registration under this section;

10 (2) "small mortgage lender" means a person who is registered under
11 this section.

12 **Sec. 06.60.020. Application for mortgage license.** An application for a
13 mortgage license must

14 (1) be in writing;

15 (2) be signed by the applicant and notarized;

16 (3) be on the form prescribed by the department;

17 (4) contain the name of the applicant, including the name of the
18 business, and of the natural person who is designated to obtain the originator license
19 under AS 06.60.025;

20 (5) if the applicant is a partnership or an association not covered by (6)
21 or (7) of this section, contain the name and both the residence and business addresses
22 of each partner of the partnership or member of the association;

23 (6) if the applicant is a corporation, contain the name and both the
24 residence and business addresses of each officer and director of the corporation, and a
25 shareholder holding

26 (A) 10 percent or more of the total outstanding voting shares, if
27 the corporation has fewer than 75 shareholders; or

28 (B) more than 50 percent of the outstanding voting shares in
29 the corporation, if the corporation has 75 or more shareholders;

30 (7) if the applicant is a limited liability company, contain the name and
31 both the residence and business addresses of each member of the company, and any

1 manager of the company who individually owns more than 50 percent of the limited
2 liability company;

3 (8) contain the mailing address of the applicant, the street address and
4 city, if any, for each business location that will be covered by the license, and an
5 identification of the applicant's principal office;

6 (9) if requested by the department, include a complete set of
7 fingerprints of the applicant and of the directors, officers, members, owners, and other
8 principals of the applicant as specified by the department to obtain a report of criminal
9 justice information and a national criminal history record check;

10 (10) contain other information that the department may require
11 concerning the organization and operations of the applicant and the financial
12 responsibility, background, experience, and activities of the applicant and its directors,
13 officers, members, owners, and other principals.

14 **Sec. 06.60.025. Application for originator license.** An application for an
15 originator license must

16 (1) be in writing;

17 (2) be signed by the applicant and notarized;

18 (3) be on a form prescribed by the department;

19 (4) contain the name and residence address of the applicant;

20 (5) include a complete set of fingerprints of the applicant to obtain a
21 report of criminal justice information and a national criminal history record check; and

22 (6) contain other information or supporting material that the
23 department may require concerning the applicant, including other forms of
24 identification of the applicant.

25 **Sec. 06.60.026. Transfer of originator license.** A person who holds an
26 originator license may not transfer or assign the originator license.

27 **Sec. 06.60.027. Fingerprint submissions.** The department shall submit
28 fingerprints provided under AS 06.60.020 and 06.60.025 to the Department of Public
29 Safety to obtain a report of criminal justice information under AS 12.62 and a national
30 criminal history record check under AS 12.62.400.

31 **Sec. 06.60.030. Investigation.** The department shall investigate an applicant

1 for a license to determine if the applicant satisfies the requirements of this chapter for
2 the license.

3 **Sec. 06.60.035. Fees and expenses.** (a) Except as provided by (c) of this
4 section, when an applicant submits an application for a license under this chapter to
5 the department, the applicant shall pay to the department

6 (1) a nonrefundable application fee of \$250 in partial payment of those
7 investigation expenses incurred by the department; and

8 (2) a biennial license fee of \$500 for the period that terminates two
9 years after the date the license is issued; after this payment, the biennial license fee is
10 due every two years on the anniversary date of the original issuance of the license.

11 (b) An applicant shall pay all reasonable costs and reasonable investigative
12 fees incurred by the department before the department issues a license.

13 (c) An applicant is not required to pay the application fee or the biennial
14 license fee under (a) of this section if the applicant is applying for a mortgage license
15 and an originator license, is the principal owner or legally authorized manager of the
16 mortgage license applicant, and is designated in the application under AS 06.60.020(4)
17 as the individual to receive an originator license for the mortgage licensee.

18 **Sec. 06.60.040. Competency testing.** (a) A person who applies for an
19 originator license shall pass a competency test conducted and graded by the
20 department. The department shall establish the scope, content, and minimum passing
21 score of the test by regulation.

22 (b) If an individual fails the competency test, the individual may take the
23 competency test again. The department may charge a fee of \$150 for each additional
24 competency test that the department provides to the person.

25 **Sec. 06.60.045. Bonding.** (a) An applicant for a mortgage license shall file
26 with the application submitted to the department under AS 06.60.020 a bond with one
27 or more sureties in the amount of \$25,000 under which the applicant is the obligor.
28 The bond must be satisfactory to the department.

29 (b) The bond required by (a) of this section shall be for the use of the
30 department, the Department of Law, or another person to recover for a claim for relief
31 against the obligor under this chapter. The bond must state that the obligor will

1 faithfully conform to and abide by the provisions of this chapter and all regulations
2 adopted under this chapter and will pay the department, the Department of Law, or
3 another person all money that may become due or owing to the department, the
4 Department of Law, or the other person from the obligor under this chapter.

5 (c) An applicant for a mortgage license that covers more than one location is
6 not required to file more than one bond.

7 (d) The bond required under (a) of this section must be continuous until the
8 department revokes or otherwise terminates the license.

9 (e) If the department determines that the bond required under (a) of this
10 section is unsatisfactory for any reason, the department may require the mortgage
11 licensee to file with the department, within 10 days after the receipt of a written
12 demand from the department, an additional bond that complies with the provisions of
13 this section.

14 **Sec. 06.60.050. Decision on application.** (a) Within 30 days after the date the
15 department determines that it has received a complete application under AS 06.60.020
16 or 06.60.025, the required bond if the application is for a mortgage license, and any
17 required fees and investigative costs are received by the department, the department
18 shall either grant or deny the license.

19 (b) If the department denies the license, the department shall promptly notify
20 the applicant. The notification must state the reason for the denial and that the
21 applicant is entitled to a hearing on the denial.

22 **Sec. 06.60.060. Determinations for mortgage licensing.** Before granting a
23 mortgage license, the department shall determine that

24 (1) the applicant has complied with the requirements of this chapter for
25 obtaining the mortgage license;

26 (2) the financial responsibility, experience, and general fitness of the
27 applicant, and of the applicant's directors, officers, members, owners, and other
28 principals, the character of the applicant and the applicant's directors, officers,
29 members, owners, and other principals, and the organization and operation of the
30 applicant indicate that the business will be operated efficiently and fairly, in the public
31 interest, and under the law; and

1 (3) the department has not found grounds for denial of a mortgage
2 license under AS 06.60.065.

3 **Sec. 06.60.065. Determinations for originator licensing.** Before granting an
4 originator license to a person, the department shall determine that the applicant has

5 (1) complied with the requirements of this chapter and paid all fees for
6 obtaining the originator license;

7 (2) not been enjoined by a court of competent jurisdiction from
8 engaging in an aspect of the business of providing financial services to the public; and

9 (3) not, within the previous seven years,

10 (A) been prohibited by a federal or state regulatory agency
11 from engaging in, participating in, or controlling a finance-related activity that
12 involves providing financial services to the public;

13 (B) been convicted, including a conviction based on a plea of
14 guilty, no contest, or nolo contendere, of a felony or a misdemeanor involving
15 fraud, misrepresentation, or dishonesty;

16 (C) committed an act, made an omission, or engaged in a
17 practice that constitutes a breach of a fiduciary duty;

18 (D) made a material false statement in an application submitted
19 under this chapter; or

20 (E) violated a provision of this chapter, a regulation adopted
21 under this chapter, or an order of the department under this chapter.

22 **Sec. 06.60.070. Form and contents of license.** A license must be in a form
23 established by the department and must state the full name of the licensee. A mortgage
24 license must state the address for each office of the business where the business of the
25 licensee is to be conducted. If a mortgage licensee conducts business on the Internet,
26 the mortgage license must also state the registered domain address through which the
27 mortgage licensee conducts the mortgage licensee's business and the physical location
28 of the mortgage licensee's main business office.

29 **Sec. 06.60.075. License availability.** A licensee shall provide a copy of the
30 license to a person who requests a copy.

31 **Article 2. License Duration, Renewal, Inactivity, and Surrender.**

1 **Sec. 06.60.080. Duration of license.** A license issued under this chapter
2 remains in effect for two years after the license is issued unless revoked, suspended,
3 surrendered, or becoming inactive under this chapter.

4 **Sec. 06.60.085. Renewal of license.** (a) If a licensee intends to renew a license,
5 the licensee shall submit to the department 30 days before the expiration of the
6 licensee's license

7 (1) a renewal application in the form and manner established by the
8 department;

9 (2) the biennial license fee required by AS 06.60.105;

10 (3) if the renewal is for a mortgage license, a report identifying any
11 changes in the information provided under AS 06.60.020(4) - (8);

12 (4) if the renewal is for an originator license, certificates or other
13 documents that show the continuing education requirements of AS 06.60.160 have
14 been satisfied; and

15 (5) if the renewal is for an originator license, the fund fee required by
16 AS 06.60.550.

17 (b) A renewal under (a) of this section is considered granted unless, within 30
18 days after the department determines it has received a completed renewal application
19 containing the items in (a) of this section, the department notifies the licensee that the
20 department has denied the renewal application because of the licensee's
21 noncompliance with this title.

22 **Sec. 06.60.090. Inactive license.** (a) A license may become inactive under this
23 section.

24 (b) To be eligible to have a mortgage license become inactive, all mortgage
25 loans of a licensee must have been paid in full or sold.

26 (c) For a license to become inactive, a licensee shall provide the department
27 with a written request that the license become inactive and return the license certificate
28 to the department. The request must include the licensee's name, address, and other
29 information that the department requires to process the request and a statement by the
30 licensee that all mortgage loans of the licensee have been paid in full or sold.

31 (d) The department shall issue an inactive license certificate to a person whose

1 license becomes inactive under this section.

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

5 (f) If a license becomes inactive under this section, the license remains
6 inactive until the license expires, the person surrenders the license, or the person who
7 holds the inactive license provides the department with a written request that the
8 license be reactivated. The request must include the information that the department
9 requires to process the request.

10 (g) While a license is inactive under this section, the person holding the
11 inactive license shall pay the biennial license fee as required by AS 06.60.105 and
12 inform the department of any change that occurs in the name and address of the
13 person, the location of the person's business, or in the business operations or control of
14 the person, but the person is not required to maintain the bond required by
15 AS 06.60.045 or to file the annual report required by AS 06.60.100.

16 (h) Notwithstanding AS 06.60.120, while a license is inactive under this
17 section, the person who holds the license may not transfer the license to another
18 person.

19 (i) While a license is inactive under this section, the person is not required to
20 surrender the license under AS 06.60.097(b).

21 (j) While a license is inactive under this section, the person holding the
22 inactive license shall continue to maintain records as required by AS 06.60.135 for the
23 business transactions of the person that occurred before the license became inactive.

24 (k) While a license is inactive under this section, the department may take
25 action against the license, the person holding the inactive license, or both for
26 noncompliance with this chapter before the license became inactive or for
27 noncompliance with this section while the license is inactive.

28 (l) A licensee whose license lapses under this chapter is not eligible for an
29 inactive license under this section unless the license is reactivated under
30 AS 06.60.095.

31 (m) A person holding a license that is inactive under this section may not

1 engage in activities for which the license is required, but may receive commissions or
2 other payments from a person who contracted with or employed the licensee for
3 services, if the services were performed while the licensee was actively licensed.

4 (n) Except as otherwise provided in this section and by regulations adopted by
5 the department, the provisions of this chapter do not apply to a person holding an
6 inactive license under this section.

7 **Sec. 06.60.095. Reactivation of inactive license.** (a) Except as provided in (b)
8 and (c) of this section, a person who has an inactive license certificate under
9 AS 06.60.090 may apply to the department for an active license and pay the required
10 fees.

11 (b) A person is eligible for reactivation of an inactive license if the person's
12 license has been in an inactive status for less than 24 months from the anniversary date
13 of the issuance of the initial inactive license certificate. If the person has been in an
14 inactive status for 24 months or longer, the person may obtain a license only by
15 satisfying the qualifications applicable to initial licensure.

16 (c) The department may issue an active license that has been converted from
17 inactive status under this section for the term remaining on the license before it
18 became inactive.

19 **Sec. 06.60.097. Surrender of license.** (a) A licensee may surrender a license
20 issued to the licensee by delivering written notice to the department that the licensee
21 intends to surrender the license, except that a mortgage licensee may not surrender a
22 license until all loans of that mortgage licensee have either been paid in full or sold.

23 (b) A licensee shall surrender a license issued to the licensee if the licensee
24 has not engaged in mortgage loan activity for 12 consecutive months.

25 (c) Surrender of a license under this section does not affect the licensee's civil
26 or criminal liability for acts committed before surrender of the license.

27 **Article 3. Licensee Obligations.**

28 **Sec. 06.60.100. Annual report.** (a) On or before March 15, or on another date
29 established by the department by regulation, of each year a mortgage licensee shall file
30 a report with the department giving relevant information that the department requires
31 concerning the business and operations of each location in this state where the

1 mortgage licensee conducts business in this state during the preceding calendar year.
2 The mortgage licensee shall make the report under oath or on affirmation. The content
3 and form of the report shall be established by the department by regulation.

4 (b) A mortgage licensee who fails to file a report as required by this section is
5 subject to a civil penalty of \$25 for each day's failure to file the report.

6 **Sec. 06.60.105. Biennial license fee.** (a) Except as provided by (d) of this
7 section, a licensee shall pay the department a biennial license fee of \$500.

8 (b) After payment of the initial biennial license fee under AS 06.60.035, a
9 licensee shall pay the biennial license fee every two years on or before the anniversary
10 date of the original issuance of the license, subject to renewal by the department.

11 (c) A mortgage licensee who is licensed to act as both a mortgage broker and a
12 mortgage lender is not required to pay more than one biennial license fee.

13 (d) An originator licensee is not required to pay a biennial license fee if the
14 licensee holds a mortgage license and an originator license, is the principal owner or
15 legally authorized manager of the mortgage licensee, and was designated in the
16 application under AS 06.60.020(4) as the individual to receive an originator license for
17 the mortgage licensee.

18 (e) The license fee imposed by (a) of this section is in addition to the fee
19 imposed under AS 43.70 (Alaska Business License Act).

20 **Sec. 06.60.110. Location of business.** A mortgage licensee may not maintain
21 the mortgage licensee's principal place of business or a branch office within an office,
22 suite, room, or place of business in which any other business is solicited or engaged in,
23 or in association or conjunction with another business, unless the name, ownership,
24 and business purpose of the other business is disclosed in the mortgage licensee's
25 application for a mortgage license.

26 **Sec. 06.60.115. Change of place of business.** If a mortgage licensee wishes to
27 change the mortgage licensee's place of business to another location, the mortgage
28 licensee shall submit a written notice to the department at least 10 days before
29 relocating the business. If the mortgage licensee is otherwise in compliance with this
30 chapter, the department shall issue a revised mortgage license to the mortgage licensee
31 that reflects the new location.

1 **Sec. 06.60.120. Transfer of business.** A mortgage licensee may only transfer
2 or assign the licensee's business if

3 (1) an application is made to the department to transfer or assign the
4 business to another mortgage licensee with the same type of mortgage license as the
5 transferring or assigning mortgage licensee;

6 (2) at least 30 days before the effective date of the proposed transfer or
7 assignment, the department determines it has received a complete application from the
8 proposed assignee or transferee; and

9 (3) the department determines that the proposed transferee or assignee
10 complies with AS 06.60.060.

11 **Sec. 06.60.130. Change in business control or business operations.** (a) The
12 prior written approval of the department is required for the continued operation of a
13 mortgage licensee's business when a change in control of the mortgage licensee is
14 proposed. The department may require the information it considers necessary to
15 determine whether a new application is required. The mortgage licensee requesting
16 approval of the change in control shall pay all reasonable expenses incurred by the
17 department to investigate and approve or deny the change in control.

18 (b) If there is a material change in the business operations of a mortgage
19 licensee not covered by AS 06.60.120, the mortgage licensee shall provide written
20 notice to the department at least 30 days before the effective date of the change in
21 business operations.

22 **Sec. 06.60.135. Records of mortgage licensee.** (a) The requirements of this
23 section apply to the business transactions of a mortgage licensee that occur entirely or
24 partially in this state.

25 (b) A mortgage licensee shall keep and use in the mortgage licensee's business
26 the accounting records that are in accord with generally accepted accounting
27 principles.

28 (c) A mortgage licensee shall maintain a record of the account of each
29 borrower and for each mortgage loan or mortgage loan application that is related to the
30 purchase or refinancing of an existing mortgage loan. This record must contain all
31 documents, work papers, electronic correspondence, and forms that are produced or

1 prepared for the mortgage loan by the mortgage licensee, and the mortgage licensee
2 shall retain each document, work paper, electronic correspondence, and form for 36
3 months from the date they were created.

4 (d) A mortgage licensee shall retain for at least three years after final payment
5 is made on a mortgage loan, or three years after a mortgage loan is sold, whichever
6 occurs first, the original contract for the mortgage licensee's compensation, copies of
7 the note, settlement statement, and truth-in-lending disclosure, an account of fees
8 received in connection with the loan, and other papers or records relating to the loan
9 that may be required by department order or regulation.

10 (e) If a mortgage licensee conducts business as a mortgage loan servicing
11 agent for mortgage loans that the mortgage licensee owns, or as an agent for other
12 mortgage lenders or investors, the mortgage licensee shall, in addition to complying
13 with (b) and (c) of this section, maintain a record for each mortgage loan. The record
14 of each mortgage loan must include the amount of the mortgage loan, the total amount
15 of interest and finance charges on the mortgage loan, the interest rate on the mortgage
16 loan, the amount of each payment to be made on the mortgage loan, a description of
17 the collateral taken for the mortgage loan, a history of all payments received by the
18 mortgage licensee on the mortgage loan, a detailed history of the amount of each
19 payment that is applied to the reduction of the mortgage loan principal, the interest
20 that accrues on the mortgage loan, and any other fees and charges that are related to
21 the mortgage loan, as well as other papers required by law, department order, or
22 regulation. The mortgage licensee shall retain the record required by this subsection
23 for three years after the loan is sold to another mortgage loan servicing agent or after
24 the mortgage loan is satisfied, whichever occurs first.

25 (f) In this section, "mortgage loan servicing agent" means a person who acts
26 on behalf of the owner of a mortgage loan to collect payments on the mortgage loan
27 and enforce the terms of the mortgage loan.

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

31 (1) make the records of the office or place of business available to the

1 department at a location within this state; or

2 (2) reimburse the department its reasonable costs, as provided in
3 AS 06.60.250(f), that are incurred by the department in conjunction with an
4 investigation or examination conducted at the office or place of business.

5 **Sec. 06.60.145. Disqualified persons.** (a) A disqualified person may not be an
6 officer, a director, a partner, a member, a sole proprietor, a trustee, or an employee of
7 a mortgage licensee, or hold another position with similar responsibilities, with the
8 organization of a mortgage licensee. In this subsection, "employee" means an
9 individual who negotiates an agreement with a member of the public for the mortgage
10 licensee or who has access to, or responsibility for, escrow accounts or escrow money
11 held by the mortgage licensee.

12 (b) A mortgage licensee may not permit a disqualified person to obtain an
13 ownership interest in a mortgage licensee's business without the prior written approval
14 of the department.

15 (c) Before a person may obtain an ownership interest in a mortgage licensee's
16 business, the person shall authorize the department to access the person's criminal
17 history information in any state or federal court to determine whether the person is a
18 disqualified person.

19 (d) In this section,

20 (1) "disqualified person" means a person who is not a licensee;

21 (2) "ownership interest" means an ownership interest of

22 (A) 10 percent or more, if the mortgage licensee is a
23 corporation with fewer than 75 shareholders;

24 (B) more than 50 percent, if the mortgage licensee is a
25 corporation with 75 or more shareholders or a limited liability company.

26 **Sec. 06.60.150. Posting of license.** A mortgage licensee shall conspicuously
27 post the mortgage license in each place of business of the mortgage licensee in the
28 state.

29 **Sec. 06.60.155. Restriction on originator licensee work.** An originator
30 licensee may only work as an originator licensee under contract for, or as an employee
31 of, one mortgage licensee.

1 **Sec. 06.60.157. Mortgage licensee restrictions on performance of**
2 **originator activities.** A mortgage licensee may not perform originator activities
3 except through a licensed originator who is an employee of or under exclusive contract
4 with a mortgage licensee.

5 **Sec. 06.60.159. Mortgage licensee employment of, contract with, and**
6 **liability for originator.** (a) A mortgage licensee may not employ, or enter into a
7 contract with a person who acts as an originator for the mortgage licensee unless the
8 person has an originator license.

9 (b) A mortgage licensee is liable for the conduct of a person acting as an
10 originator if the mortgage licensee knows, or should have known, that the person's
11 conduct violates this chapter and the person is employed by or is under contract with
12 the mortgage licensee to act as an originator.

13 **Sec. 06.60.160. Continuing education requirements.** (a) An originator
14 licensee shall complete and submit to the department evidence of at least 24 hours of
15 continuing education for each biennial license period. The originator licensee or
16 mortgage licensee shall submit the evidence when the originator licensee or mortgage
17 licensee submits a license renewal application or an application for reactivation under
18 AS 06.60.095. The 24 hours of continuing education must be in training programs
19 approved by the department.

20 (b) The department shall establish an education committee consisting of seven
21 members. The commissioner of commerce, community, and economic development
22 shall appoint two persons employed by the department and five licensees to serve on
23 the committee. A licensee may apply to the department to serve on the education
24 committee established under this subsection by submitting an application in the form
25 and with the content established by the department.

26 (c) The department may consider the recommendations of the education
27 committee when determining which training programs to approve for the continuing
28 education requirements.

29 (d) The department shall publish on a regular basis a listing of training
30 programs that may be used to satisfy the continuing education requirements of this
31 section.

Article 4. Discipline and Investigation.

Sec. 06.60.200. Disciplinary action. (a) In addition to any other disciplinary action allowed under this chapter, the department may suspend or revoke a license or a registration under AS 06.60.017 or take other disciplinary action against a licensee or small mortgage lender, including action under AS 06.01 or a regulation adopted under this chapter or AS 06.01, if the department finds that

#2
page 4
line 4

line 7

(1) the licensee failed to

(A) make a payment required by this chapter;

(B) maintain a bond required under AS 06.60.045, if the licensee is a mortgage licensee;

(C) satisfy the continuing education requirements, if the licensee is an originator licensee;

(D) comply with an applicable provision of this title, with an applicable regulation adopted under this title, with a lawful demand, ruling, order, or requirement of the department, or with another statute or regulation applicable to the conduct of the licensee's business;

(2) the small mortgage lender has violated a provision of this chapter applicable to the small mortgage lender;

lines 11 & 12

(3) the licensee or small mortgage lender has, with respect to a mortgage loan transaction,

line 17

(A) made a material misrepresentation;

(B) made a false promise;

(C) engaged in a serious course of misrepresentation or made a false promise through another licensee or small mortgage lender;

line 20

(D) engaged in conduct that is fraudulent or dishonest;

(E) procured, or helped another person to procure, a license or a registration under AS 06.60.017 by deceiving the department;

line 23

(F) engaged in conduct of which the department did not have knowledge when the department issued the license or the registration under AS 06.60.017, if the conduct demonstrates that the licensee or small mortgage lender is not fit to engage in the activities for which the licensee was licensed

line 26

lines 28-31

1 or small mortgage lender was registered;

2 (G) authorized, directed, planned, or aided in the publishing,
3 distribution, or circulation of a materially false statement or a material
4 misrepresentation concerning the licensee's business or the small mortgage
5 lender's business or concerning mortgage loans originated in the course of the
6 licensee's business or the small mortgage lender's business in this or another
7 state; or

8 (4) a fact or condition exists that would have constituted grounds for
9 denial of the initial issuance or the renewal of the license or the registration under
10 AS 06.60.017.

11 (b) In addition to the bases for disciplinary action under (a) of this section, the
12 department may revoke the license of a licensee, or the registration of a small
13 mortgage lender, who is convicted, including conviction by a plea of not guilty, no
14 contest, or nolo contendere, of a felony or misdemeanor involving fraud,
15 misrepresentation, or dishonesty committed while licensed under this chapter or
16 registered under AS 06.60.017. A person whose license or registration under
17 AS 06.60.017 is revoked under this subsection is not qualified to receive a new license
18 or another registration under AS 06.60.017 until the person provides proof acceptable
19 to the department that the person has been unconditionally discharged from the
20 conviction. In this subsection, "unconditional discharge" has the meaning given in
21 AS 12.55.185.

22 (c) A disciplinary action under this section may be taken by itself or in
23 conjunction with one or more other disciplinary actions under this chapter.

24 **Sec. 06.60.210. Suspension or revocation related to fund.** (a) When an
25 award is made from the fund, the department may suspend or revoke the license of the
26 originator licensee whose actions formed the basis of the award.

27 (b) The department shall lift a suspension made under (a) of this section if the
28 originator licensee reaches an agreement with the department on terms and conditions
29 for the repayment to the fund of the money awarded to the claimant and the costs of
30 hearing the fund claim. The department may reimpose the suspension if the originator
31 licensee violates the terms of a repayment agreement entered into under this

#2
Page 5
line 3

line 6

line 9

line 12

lines 16 &
17

line 20

subsection.

Sec. 06.60.230. Divestment. If the department revokes a mortgage license or a registration of a small mortgage lender, the mortgage licensee or the small mortgage lender shall divest itself of all outstanding loans that were issued under this chapter by selling or assigning them to another mortgage licensee or small mortgage lender. Divestment under this section must be approved by the department.

Sec. 06.60.240. Reinstatement. ^{deleted "of revoked license"} The department may reinstate a revoked license or registration under AS 06.60.017 if the licensee or small mortgage lender complies with this chapter or with a demand, ruling, or requirement made by the department under this chapter. Before reinstatement of a license or registration under AS 06.60.017, the licensee or small mortgage lender shall pay any fees, restitution, and civil penalties owing under this chapter.

Sec. 06.60.250. Investigation and examination. (a) The department may investigate and examine the affairs, business premises, and records of a person required to be licensed under this chapter or a small mortgage lender to determine compliance with this chapter, AS 06.01, and applicable regulations adopted under AS 06.01 or this chapter. Notwithstanding AS 06.01.015, the department may conduct an examination every 36 months. The department may conduct an examination more often if the examination is part of the review of a complaint or other information received by the department concerning the licensee or small mortgage lender.

(b) For the purposes of conducting an examination under this section, the department

(1) shall have free access to the place of business, books, accounts, safes, and vaults of the licensee or small mortgage lender to examine and make copies as necessary;

(2) may conduct the examination without prior notice to the licensee or small mortgage lender; and

(3) may examine, under oath or affirmation, all persons whose testimony the department may require to conduct the examination.

(c) For the purpose of hearings, investigations, or other proceedings under this chapter and except as otherwise provided in this chapter, the department or an officer

#2
Page 5
line 23

line 26

line 29

Page 6
line 1

line 5

line 9

line 12

line 15

line 18

line 21

1 designated by the department may administer oaths and affirmations, subpoena
2 witnesses, compel the attendance of witnesses, take evidence, and require the
3 production of books, papers, correspondence, memoranda, agreements, or other
4 documents or records that the department considers relevant or material to the matter.

5 (d) If a person refuses to comply with a subpoena, the superior court, on
6 application by the department, may issue to the person an order requiring the person to
7 appear before the department to produce documentary evidence or to give evidence
8 touching the matter under investigation or in question.

9 (e) The department may share information received or collected during an
10 examination, investigation, or other proceeding with other law enforcement agencies.

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

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

24 **Sec. 06.60.270. Removal by entity.** A mortgage licensee shall remove an
25 originator licensee from acting as an originator for the mortgage licensee if the
26 department directs the mortgage licensee to remove the originator licensee under
27 AS 06.60.260.

28 **Sec. 06.60.280. Department list.** The department shall make available to the
29 public a list of all licensees who have been censured, barred, or had their licenses
30 suspended or revoked under this chapter. The department shall update the list on a
31 monthly basis.

Article 5. Business Duties and Restrictions.

Sec. 06.60.320. False, misleading, or deceptive advertising prohibited. A person, including a small mortgage lender, may not advertise, print, display, publish, distribute, broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner a statement or representation with regard to the rates, terms, or conditions for a mortgage loan that is false, misleading, or deceptive.

#2
page 6
line 24

Sec. 06.60.330. Compliance with federal requirements. A person, including a small mortgage lender, subject to this chapter shall conduct the person's mortgage loan activities in compliance with 12 CFR Part 226 and other regulations adopted by the federal government under

line 27

- (1) 12 U.S.C. 2601 - 2617 (Real Estate Settlement Procedures Act of 1974);
- (2) 12 U.S.C. 2801 - 2810 (Home Mortgage Disclosure Act of 1975);
- (3) 12 U.S.C. 2901 - 2908 (Community Reinvestment Act of 1977);
- (4) 15 U.S.C. 1601 - 1666j and 1671 - 1693r (Consumer Credit Protection Act);
- (5) 42 U.S.C. 3601 - 3631 (Fair Housing Act of 1968); and
- (6) any other federal law or regulation.

Sec. 06.60.340. Prohibited activities. In addition to activities prohibited elsewhere in this chapter or by law, a person who is a licensee, a person who is required to be licensed under this chapter, a person who is a small mortgage lender, and a person who is licensed under AS 06.20 may not misrepresent or conceal material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a borrower to enter into a mortgage loan transaction, or, in the course of a mortgage loan transaction,

line 30

- (1) pursue a course of misrepresentation through an agent;
- (2) improperly refuse to issue a satisfaction of a mortgage loan;
- (3) fail to account for or deliver to a person money, a document, or another thing of value obtained in connection with a mortgage loan, including money provided for a real estate appraisal or a credit report if the person is not entitled to

1 retain the money under the circumstances;

2 (4) pay, receive, or collect, in whole or in part, a commission, fee, or
3 other compensation for brokering a mortgage loan in violation of this chapter,
4 including a mortgage loan brokered by an unlicensed person other than an exempt
5 person under AS 06.60.015;

6 (5) fail to disburse money in accordance with a written commitment or
7 agreement to make a mortgage loan;

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

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

15 (A) consider additional appropriate property information;

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

18 (C) correct errors in the appraisal report;

19 (8) in a loan commitment or prequalification letter, make a false or
20 misleading statement, or omit relevant information or conditions that the person knew
21 or reasonably should have known from a preliminary examination of the borrower's
22 loan application, credit report, assets, and income, except that this paragraph does not
23 apply if ^{deleted} the borrower made a false or misleading statement or omitted relevant ^{reformatted} information in the loan application that the person relied on when issuing the loan
24 commitment or prequalification letter;

25 ^{deleted "(B)" & its language}
26 (9) engage in a practice or course of business in which the ultimate ^{#3}
27 rates, terms, or costs of mortgage loans are materially worse for the borrowers than
28 they are represented to be in the first good faith estimates the person provides to the
29 borrowers; this paragraph does not apply if

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

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

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

6 (11) engage in unfair, deceptive, or fraudulent mortgage loan practices
7 or advertising.

8 **Sec. 06.60.350. Certain refinancing prohibited.** (a) A covered person may
9 not refinance a mortgage loan within 12 months after the date the mortgage loan is
10 closed, unless the refinancing is beneficial to the borrower.

11 (b) The factors to be considered when determining if refinancing is beneficial
12 to the borrower under this section may include whether

13 (1) the borrower's new monthly payment is lower than the total of all
14 monthly obligations being refinanced, after taking into account the costs and fees of
15 the refinancing;

16 (2) the amortization period of the new mortgage loan is different from
17 the amortization period of the mortgage loan being refinanced;

18 (3) the borrower receives cash in excess of the costs and fees of the
19 refinancing;

20 (4) the rate of interest of the borrower's promissory note is reduced;

21 (5) the mortgage loan changes from an adjustable rate loan to a fixed
22 rate loan; in a determination under this paragraph, the department may take into
23 account costs and fees;

24 (6) the refinancing is necessary to respond to a bona fide personal need
25 or an order of a court of competent jurisdiction;

26 (7) the original term of the mortgage loan being refinanced is two
27 years or less; and

28 (8) the refinancing is being made to prevent a foreclosure on an
29 existing mortgage loan.

30 **Sec. 06.60.360. Escrow accounts.** (a) A covered person and a borrower may
31 agree that the covered person will keep in an escrow account all money that the

#2
page 7
line 2

1 borrower is required to pay to defray future taxes or insurance premiums or for other
 2 lawful purposes. The escrow account must be segregated from the other accounts of
 3 the covered person and be subject to a written escrow agreement. The covered person
 4 may not commingle the borrower's money with the general funds of the covered
 5 person. Money deposited in an escrow account under this subsection shall be
 6 maintained in the account until it is disbursed in accordance with the written escrow
 7 agreement.

8 (b) A covered person may not require a borrower to pay money into escrow to
 9 defray future taxes, to defray insurance premiums, or for another purpose, in
 10 connection with a subordinate mortgage loan, unless an escrow account for that
 11 purpose is not being maintained for the mortgage loan that is superior to the
 12 subordinate mortgage loan.

13 (c) If the billing address of a covered person who is holding money in escrow
 14 for insurance premiums changes, the covered person shall notify the insurer in writing
 15 about the change of billing address within 30 days after the change, or 60 days before
 16 the renewal date of the insurance policy, whichever is later.

17 (d) A covered person who accepts money belonging to a borrower in
 18 connection with a mortgage loan shall deposit all of the money into an escrow account
 19 maintained by the covered person in a bank or another recognized depository
 20 institution. In this subsection, "recognized depository institution" means a person who
 21 is organized as a financial institution under the laws of a state or the federal
 22 government and whose deposits are insured by a federal agency.

23 (e) Money held in an escrow account under this section is exempt from
 24 execution, attachment, or garnishment under AS 09.38 and is not subject to a claim
 25 under AS 09.38.065.

26 **Sec. 06.60.370. Criminal liability of licensee or small mortgage lender.** (a)
 27 The department may report violations of (b) - (e) of this section to the attorney
 28 general, who may institute the proper proceedings to enforce the criminal penalties
 29 provided in (b) - (e) of this section.

30 (b) A person, including a small mortgage lender, who knowingly provides
 31 false or misleading information to the department that is material under this chapter is

#2
 page 7
 line 5

line 8

1 guilty of a class A misdemeanor.

2 (c) A licensee, person who is a small mortgage lender, or person who is
3 exempt under AS 06.60.015 who knowingly fails to account for or deliver to a person
4 money, deposits, or checks or other forms of negotiable instruments in violation of the
5 provisions of this chapter is guilty of a class A misdemeanor.

6 (d) A licensee or a small mortgage lender who knowingly fails to disburse
7 money belonging to the borrower without just cause is guilty of a class A
8 misdemeanor.

9 (e) A mortgage lender, mortgage broker, or originator who knowingly
10 operates without a license or without being registered under AS 06.60.017, and is not
11 exempt under AS 06.60.015 is guilty of a class A misdemeanor.

12 **Sec. 06.60.380. Definition of "covered person."** In AS 06.60.320 -
13 06.60.380, "covered person" means a mortgage licensee or a person who is licensed
14 under AS 06.20.

15 **Article 6. Enforcement.**

16 **Sec. 06.60.400. Cease and desist orders.** The department may issue, under
17 AS 06.01.030, an order directing a person, including a small mortgage lender, to cease
18 and desist.

19 **Sec. 06.60.410. Censure, suspension, or bar.** (a) In addition to any other
20 remedy provided under this chapter, the department may, by order after appropriate
21 notice and opportunity for a hearing, censure a person, suspend the license of a person
22 for a period not to exceed 12 months, suspend the registration of a small mortgage
23 lender for a period not to exceed 12 months, or bar a person from a position of
24 employment, management, or control of a licensee or a small mortgage lender, if the
25 department finds that

- 26 (1) the censure, suspension, or bar is in the public interest;
- 27 (2) the person has knowingly committed or caused a violation of this
28 chapter or a regulation adopted under this chapter; and
- 29 (3) the violation has caused material damage to the licensee, to the
30 small mortgage lender, or to the public.

31 (b) When a person who is the subject of a proposed order under this section

#2
Page 7
line 11

line 14

line 17

line 20

lines 23 +
24

line 27

line 30

1 receives a notice of the department's intention to issue an order under this section, the
2 person is immediately prohibited from engaging in any activities for which a license or
3 registration as a small mortgage lender is required under this chapter.

#2
page 8
line 2

4 (c) A person who is suspended or barred under this section is prohibited from
5 participating in a business activity of a licensee or a small mortgage lender and from
6 engaging in a business activity on the premises where a licensee or small mortgage
7 lender is conducting the licensee's or small mortgage lender's business. This
8 subsection may not be construed to prohibit a suspended or barred person from having
9 the person's personal transactions processed by a licensee or a small mortgage lender.

line 5
lines 9
+ 10

10 **Sec. 06.60.420. Civil penalty for violations.** (a) A person, including a small
11 mortgage lender, who violates a provision of this chapter or a regulation adopted
12 under this chapter is liable for a civil penalty not to exceed \$10,000 for each violation.

line 13
line 16

13 (b) The remedies provided by this section and by other sections of this chapter
14 are not exclusive and may be applied in combination with other remedies to enforce
15 the provisions of this chapter.

16 **Sec. 06.60.430. Additional enforcement provisions, actions, and rights.** (a)
17 The department may treat a licensee or a small mortgage lender as a financial
18 institution under AS 06.01 when applying the enforcement provisions of AS 06.01.

line 19

19 (b) This chapter may not be interpreted to prevent the attorney general or any
20 other person from exercising the rights provided under AS 45.50.471 - 45.50.561.

21 (c) If the department determines that a licensee, a small mortgage lender, or a
22 person acting on behalf of the licensee or small mortgage lender is in violation of, or
23 has violated, a provision of this chapter, the department may refer the information to
24 the attorney general and request that the attorney general investigate the violation
25 under AS 45.50.495. The attorney general may enjoin a violation of this chapter and
26 may seek restitution, rescission, and other relief as allowed by law.

line 22
line 25

27 (d) In addition to another investigation allowed under this chapter, the
28 department may conduct other examinations, periodic audits, special audits,
29 investigations, and hearings as may be necessary and proper for the efficient
30 administration of this chapter.

31 **Sec. 06.60.440. Definition.** In AS 06.60.400 - 06.60.440, "small mortgage

lines
29-31



1 lender" includes a natural person who is an employee of, or working under exclusive
2 contract for, a small mortgage lender.

3 Article 7. Originator Surety Fund.

4 Sec. 06.60.500. Originator surety fund. The originator surety fund is
5 established as a separate account in the general fund.

6 Sec. 06.60.510. Composition of fund. The fund consists of payments made by
7 originator licensees under AS 06.60.550, filing fees retained under AS 06.60.620,
8 income earned on the investment of the money in the fund, and money deposited in
9 the fund by the department under AS 06.60.740.

10 Sec. 06.60.520. Use of fund. The legislature may appropriate the money
11 collected in the fund under AS 06.60.510 to the department to implement
12 AS 06.60.500 - 06.60.750, including paying claims, holding hearings, and incurring
13 legal expenses and other expenses directly related to fund claims and the operation of
14 the fund. Nothing in AS 06.60.500 - 06.60.750 creates a dedicated fund.

15 Sec. 06.60.530. Fund report. Every six months the department shall provide a
16 written report to the director of the office of management and budget on the activities
17 of the fund, the balances in the fund, interest earned on the fund, and interest returned
18 to the fund.

19 Sec. 06.60.540. Approval required. (a) The department must approve a fund
20 expenditure that is used to prepare, print, manufacture, sponsor, produce, or otherwise
21 provide an item or a service to a member of the public, a licensee, a potential licensee,
22 or another person.

23 (b) In this section, "an item or a service" includes an information pamphlet, an
24 examination preparation packet, an educational course, the certification of a
25 continuing education course, and an instructor for a continuing education course.

26 Sec. 06.60.550. Required fund fees. (a) A person who applies for or renews
27 an originator license shall pay to the department, in addition to the fees required by
28 AS 06.60.035, a fund fee not to exceed \$150.

29 (b) Every two years, if the department determines that the average balance in
30 the fund during the previous two years was less than \$250,000 or more than \$500,000,
31 the department shall, unless the department waives the adjustment, adjust the fund fee

1 so that the average balance of the fund during the next two years is anticipated to be an
 2 amount that is not less than \$250,000 or more than \$500,000. In this subsection,
 3 "average balance" means the average balance in the fund after the department deducts
 4 anticipated expenditures for claims against the fund and for hearing and legal expenses
 5 directly related to fund operations and claims.

6 (c) At least once a month, the department shall pay the fees collected under
 7 this section into the general fund. These payments shall be credited to the fund.

8 (d) Notwithstanding (a) of this section, an originator licensee who obtains an
 9 initial originator license when the department has reduced the fund fee to nothing shall
 10 nonetheless pay a fund fee of \$150 to the department for the first year of the originator
 11 license or, for a mortgage licensee, of operating as an originator.

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

18 **Sec. 06.60.570. Submission of fund claim.** To seek reimbursement under
 19 AS 06.60.560, a person shall submit a fund claim to the department for the
 20 reimbursement on a form furnished by the department. The person must file the fund
 21 claim within two years after the occurrence of the fraud, misrepresentation, deceit, or
 22 conversion that is claimed as the basis for the reimbursement.

23 **Sec. 06.60.580. Form and contents of fund claim.** The form for a fund claim
 24 shall be ~~filed~~ under penalty of unsworn falsification and must include

- 25 (1) the name and address of each originator licensee involved;
- 26 (2) the amount of the alleged loss;
- 27 (3) the date or period of time during which the alleged loss occurred;
- 28 (4) the date when the alleged loss was discovered;
- 29 (5) the name and address of the claimant; and
- 30 (6) a general statement of the facts related to the fund claim.

31 **Sec. 06.60.590. Claim hearing.** Except as otherwise provided by

1 AS 06.60.610, a hearing on a fund claim shall be handled by the office of
2 administrative hearings (AS 44.64.010).

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

7 (1) each originator licensee alleged to have committed the misconduct
8 resulting in the alleged loss;

9 (2) the employer of the originator licensee described in (1) of this
10 section; and

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

13 **Sec. 06.60.610. Election to use small claims court.** (a) Within seven days
14 after receiving a copy of a fund claim under AS 06.60.600, each originator licensee
15 against whom the claim is made may elect to defend the fund claim as a small claims
16 action in district court under District Court Rules of Civil Procedure if the claim does
17 not exceed the small claims jurisdictional limit.

18 (b) An originator licensee who elects under (a) of this section to defend a fund
19 claim in district court under the small claims rules may not revoke the election without
20 the consent of the person who filed the fund claim.

21 (c) On receipt of a valid written election under (a) of this section, the
22 department shall dismiss the fund claim filed with the department and notify the
23 person who filed the fund claim that the person who filed the fund claim must bring a
24 small claims action in the appropriate district court.

25 **Sec. 06.60.620. Filing fee.** (a) A person who files a fund claim under
26 AS 06.60.570 shall pay the department a filing fee of \$250 when the person files the
27 fund claim.

28 (b) The department shall refund the filing fee required under this section if the

29 (1) department makes an award to the claimant;

30 (2) fund claim is dismissed under AS 06.60.610; or

31 (3) fund claim is withdrawn by the claimant before the office of

1 administrative hearings (AS 44.64.010) holds a hearing on the fund claim.

2 **Sec. 06.60.630. Department contracts.** When the department receives a fund
3 claim, the department may contract under AS 36.30 (State Procurement Code) with an
4 investigator, an accountant, an attorney, or another person necessary for the
5 department to process the fund claim. A contract may cover more than one fund claim.

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

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

16 **Sec. 06.60.660. Postponement.** The department may postpone its
17 consideration of a fund claim until after a hearing under AS 06.60.200 or 06.60.590 or
18 until the completion of a pending court proceeding.

19 **Sec. 06.60.670. Nonapplication.** AS 06.60.630 - 06.60.660 do not apply to a
20 fund claim that is dismissed under AS 06.60.610.

21 **Sec. 06.60.680. Findings and payment.** (a) At the conclusion of the
22 department's consideration of a claim made under AS 06.60.570, the department shall
23 issue a written report that provides the department's findings of fact and conclusions of
24 law.

25 (b) If the department determines that the claimant has suffered a loss in a
26 mortgage loan transaction as a result of fraud, misrepresentation, deceit, or the
27 wrongful conversion of money by an originator licensee, the department may award
28 the person who filed the fund claim reimbursement from money appropriated to the
29 fund.

30 **Sec. 06.60.690. Fund operations.** The department shall deposit into the fund
31 money that the department recovers from an originator licensee under AS 06.60.745.

1 The department may not consider amounts paid from the fund for hearing or legal
2 expenses when determining the maximum reimbursement to be awarded under
3 AS 06.60.710 or the maximum liability for fund claims under AS 06.60.710.

4 **Sec. 06.60.700. Payment of small claims judgment.** (a) If a fund claim
5 dismissed under AS 06.60.610 results in a monetary award against an originator
6 licensee, the department may pay, subject to AS 06.60.710 and 06.60.720, any
7 outstanding portion of the small claims judgment from money appropriated to the
8 department for the purpose.

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

14 (c) After the department pays a small claims judgment under this section, the
15 department is subrogated to the rights of the person to whom the money was awarded
16 under the judgment.

17 **Sec. 06.60.710. Maximum liability.** (a) Payment of a fund claim may not
18 exceed \$15,000 for each claimant and \$15,000 for each mortgage loan transaction
19 regardless of the number of persons injured or the number of pieces of residential
20 property involved in the mortgage loan transaction.

21 (b) The maximum liability for fund claims against one originator licensee may
22 not exceed \$50,000.

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

30 **Sec. 06.60.720. Order of fund claim payment.** If the money appropriated to
31 the department for payment under AS 06.60.520 - 06.60.750 is insufficient to satisfy

1 an award under AS 06.60.680 for a fund claim, the department shall, when sufficient
2 money has been appropriated to the department for the purpose, satisfy unpaid fund
3 claims in the order the fund claims were originally filed, plus accumulated interest at
4 the rate allowed under AS 45.45.010(a).

5 **Sec. 06.60.730. False claims or documents.** A person who files a notice,
6 statement, or other document under AS 06.60.500 - 06.60.750 that contains a material
7 misstatement of fact is guilty of a class A misdemeanor.

8 **Sec. 06.60.740. Right to subrogation.** When the department has paid to a
9 claimant the sum awarded under AS 06.60.680 or 06.60.700 and any amount due
10 under AS 06.60.720, the department shall be subrogated to all of the rights of the
11 claimant to the amount paid, and the claimant shall assign all right, title, and interest in
12 that portion of the claim to the department. Money collected by the department on the
13 claim shall be deposited in the fund.

14 **Sec. 06.60.745. Reimbursement for expenses.** If the department pays all or a
15 portion of a fund claim against an originator licensee under AS 06.60.680 or
16 06.60.700, the department may recover from the originator licensee, in addition to the
17 payment of the fund claim, the expenses incurred by the department to process and
18 otherwise handle the fund claim.

19 **Sec. 06.60.750. Disciplinary action against an originator licensee.**
20 Repayment in full of all obligations to the fund does not nullify or modify the effect of
21 disciplinary proceedings brought against an originator licensee under this chapter.

22 **Article 8. Program Administration Fee.**

23 **Sec. 06.60.800. Authorization of program administration fee.** (a) The
24 department may collect a program administration fee of \$10 for each mortgage loan
25 transaction to reimburse the state for the cost of administering this chapter.

26 (b) The program administration fee shall be paid by a borrower who is
27 providing real property as security for the mortgage loan, except that, if the regulations
28 of a federal or state loan program that insures the loan and that applies to the mortgage
29 loan transaction prohibits the borrower from paying the program administration fee,
30 another party to the mortgage loan transaction shall pay the program administration
31 fee.

1 (c) If there are multiple mortgage loan instruments recorded for a single
2 mortgage loan transaction, the department shall collect only one program
3 administration fee.

4 (d) In this section, "mortgage loan instrument" means a deed of trust,
5 mortgage, or another loan instrument recorded to encumber residential real property in
6 the state.

7 **Sec. 06.60.810. Payment and use of fees.** (a) The department shall coordinate
8 with the Department of Natural Resources to collect the program authorization fee.

9 (b) The program authorization fee shall be charged when payment is made to
10 the Department of Natural Resources for recording a document under AS 44.37.025.

11 (c) The program authorization fees collected under (b) of this section shall be
12 separately accounted for and may be appropriated by the legislature to the department
13 for the operation of this chapter.

14 **Article 9. Duties and Powers of the Department.**

15 **Sec. 06.60.850. Publication of disciplinary action.** The department may
16 release for publication in a newspaper of general circulation in the locale of a
17 licensee's principal office notice of disciplinary action taken by the department against
18 the licensee.

19 **Sec. 06.60.860. Authority of department.** The department may make a ruling,
20 demand, or finding that the department determines is necessary for the proper conduct
21 of a licensee's business regulated by this chapter or for the enforcement of this chapter,
22 including an order for the payment of restitution. The ruling, demand, or finding must
23 be consistent with this chapter.

24 **Article 10. Miscellaneous Provisions.**

25 **Sec. 06.60.890. Application to Internet activities.** This chapter applies to a
26 person, including a small mortgage lender, to the extent this chapter applies to a small
27 mortgage lender, even if the person is engaging in the activities regulated by this
28 chapter by using an Internet website from within or outside the state.

29 **Sec. 06.60.895. Effect of revocation, suspension, or surrender of license.**
30 The revocation, suspension, or surrender of a license does not impair or otherwise
31 affect the rights or obligations of a preexisting lawful contract between the licensee

#2
page 9
lines 3,
6 & 7

Note: Variation of the placement of language
as shown in amendment is technical per Legal Services
Terry Barrister
SCS CSIB 162(FIN)
Now Text Underlined (DELETED TEXT BRACKETED)

1 and a borrower.

2 **Sec. 06.60.900. Applicability of administrative procedures.** The provisions
3 of AS 44.62 (Administrative Procedure Act) apply to an action of the department to
4 deny, revoke, or suspend a license under this chapter, to censure, suspend, or bar a
5 person under AS 06.60.410, to take other disciplinary action under this chapter, to
6 hold hearings, and to issue orders.

7 **Sec. 06.60.905. Untrue, misleading, or false statements.** A person, including
8 a small mortgage lender, may not, in a document filed with the department or in an
9 examination, an investigation, a hearing, or another proceeding under this chapter,
10 make or cause to be made, an untrue statement of a material fact, or omit to state a
11 material fact necessary in order to make the statement made, in the light of the
12 circumstances under which it is made, not misleading or false.

13 **Sec. 06.60.910. Regulations.** The department may adopt regulations under
14 AS 44.62 (Administrative Procedure Act) to implement this chapter.

15 **Sec. 06.60.920. Relationship to federal and other state law.** (a) If a
16 provision of this chapter is preempted by or conflicts with federal law in a particular
17 situation, the provision does not apply to the extent of the preemption or conflict.

18 (b) If a provision of this chapter conflicts with another state law in a particular
19 situation, the provision in this chapter governs to the extent of the conflict.

20 **Article 11. General Provisions.**

21 **Sec. 06.60.990. Definitions.** In this chapter, unless the context otherwise
22 requires,

23 (1) "agent" does not include a person who is a state employee when
24 acting in the capacity of a state employee;

25 (2) "borrower" means an individual who receives a mortgage loan;

26 (3) "broker" means to operate as a mortgage broker;

27 (4) "control," except as provided in AS 06.60.065, means

28 (A) the ownership of, or the power to vote, directly or
29 indirectly, at least 25 percent of a class of voting securities or voting interests;

30 (B) the power to elect a majority of executive officers,
31 managers, directors, trustees, or other persons exercising managerial authority;

#2
page 9
lines
6-7

1 or

2 (C) the power to exercise, directly or indirectly, a controlling
3 influence over management or policies or person in control;

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

7 (6) "escrow account" means an account

8 (A) to which a borrower makes payments for obligations
9 related to the real property that is the subject of a mortgage loan of the
10 borrower;

11 (B) held by a third person; and

12 (C) from which the third person identified in (B) of this
13 paragraph disburses money in accordance with a written agreement to pay
14 obligations related to the real property that is the subject of a mortgage loan of
15 the borrower.

16 (7) "fund" means the originator surety fund established by
17 AS 06.60.500;

18 (8) "fund claim" means a claim authorized under AS 06.60.560;

19 (9) "fund fee" means the fee that is required to be paid by
20 AS 06.60.550;

21 (10) "knowingly" has the meaning given in AS 11.81.900;

22 (11) "license" means a license issued under this chapter;

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

25 (13) "mortgage broker" means a person who, for compensation or gain,
26 or in the expectation of compensation or gain, directly or indirectly, by telephone, by
27 electronic means, by mail, through the Internet, in person, or by the person itself or an
28 originator who is an employee or under exclusive contract to the person,

29 (A) arranges with a variety of lending sources, who may be
30 private lenders, institutional investors, or wholesale lenders, to provide
31 financing for mortgage loans; or

1 (B) assists or offers to assist a borrower or potential borrower
2 to obtain financing for mortgage loans;

3 (14) "mortgage lender" means a person who consummates and funds a
4 mortgage loan and who is named as the payee in the promissory note and as the
5 beneficiary of the deed of trust; "mortgage lender" does not include a subsequent
6 purchaser of a mortgage loan or an interest in a mortgage loan that is originated by a
7 licensee under this chapter;

8 (15) "mortgage lender license" means a license issued under this
9 chapter to operate as a mortgage lender;

10 (16) "mortgage lender licensee" means a person who holds a mortgage
11 lender license;

12 (17) "mortgage license" means a mortgage lender license or a
13 mortgage broker license;

14 (18) "mortgage licensee" means a mortgage lender licensee or a
15 mortgage broker licensee;

16 (19) "mortgage loan"

17 (A) means a loan made to an individual if the proceeds are to
18 be used primarily for personal, family, or household purposes and if the loan is
19 secured by a mortgage or deed of trust on an interest in a residential owner-
20 occupied property for one to four family units located in the state and
21 regardless of where the loan is made;

22 (B) includes the renewal or refinancing of a loan;

23 (C) does not include loans

24 (i) or extensions of credit to buyers of real property for
25 a part of the purchase price of the property by persons selling the
26 property owned by them;

27 (ii) to persons related to the lender by blood or
28 marriage;

29 (iii) to persons who are employees of the lender; or

30 (iv) made primarily for a business, commercial, or
31 agricultural purpose of the borrower or for construction of residential

1 property;

2 (20) "operate" means do business, offer to provide, or provide;

3 (21) "originator"

4 (A) means a natural person who, for compensation or gain, or
5 in the expectation of compensation or gain, directly or indirectly, by telephone,
6 by electronic means, by mail, or in person

7 (i) interviews the consumer in connection with the
8 consumer's application for a mortgage loan;

9 (ii) accepts or offers to accept an application for a
10 mortgage loan from a potential borrower;

11 (iii) solicits or offers to solicit a mortgage loan for a
12 potential borrower;

13 (iv) negotiates or offers to negotiate the terms or
14 conditions of a mortgage loan with or for a borrower or potential
15 borrower; or

16 (v) issues or offers to issue to borrowers, potential
17 borrowers, or the representatives of borrowers or potential borrowers,
18 mortgage loan commitments, interest rate agreements, interest rate
19 guarantees, prequalification letters, or commitments to finance up to a
20 stated amount of the value of real property, or 90-percent letters to
21 finance up to a stated amount of the value of real property;

22 (B) does not include employees of a mortgage licensee, or
23 employees of a person who is exempt from licensure under AS 06.60.015, who
24 perform clerical duties in connection with mortgage loan transactions, collect
25 financial information and other related documents that are part of the
26 application process, order verifications of employment, verifications of
27 deposits, requests for mortgage payoffs, and other loan verifications,
28 appraisals, inspections, or engineering reports, or perform the functions of a
29 mortgage loan processor, at the direction of and subject to the supervision of
30 the mortgage licensee, a mortgage originator, or the person exempt from
31 licensure.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(22) "originator license" means a license issued to a person to operate as an originator;

(23) "originator licensee" means a person who holds an originator license;

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

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

(26) "residential property" means improved real property used or occupied, or intended to be used or occupied, for residential purposes;

(27) "small mortgage lender" means a person registered under AS 06.60.017.

Sec. 06.60.995. Short title. This chapter may be known as the Mortgage Lending Regulation Act.

* Sec. 3. AS 09.38.015 is amended by adding a new subsection to read:

(c) Money held in an escrow account under AS 06.60.360 is exempt.

* Sec. 4. AS 09.38.065(a) is amended to read:

(a) Subject to AS 06.60.360(c), and notwithstanding [NOTWITHSTANDING] other provisions of this chapter,

(1) a creditor may make a levy against exempt property of any kind to enforce a claim for

(A) child support;

(B) unpaid earnings of up to one month's compensation or the full-time equivalent of one month's compensation for personal services of an employee; or

(C) state or local taxes;

(2) a creditor may make a levy against exempt property to enforce a claim for

(A) the purchase price of the property or a loan made for the express purpose of enabling an individual to purchase the property and used

Corrected Version "T"

#2
page 9
lines
11 & 12

1 for that purpose;

2 (B) labor or materials furnished to make, repair, improve,
3 preserve, store, or transport the property; and

4 (C) a special assessment imposed to defray costs of a public
5 improvement benefiting the property; and

6 (3) a creditor may make a levy against exempt property of any kind to
7 enforce the claim of a victim, including a judgment of restitution on behalf of a victim
8 of a crime or a delinquent act, if the claim arises from conduct of the debtor that
9 results in a conviction of a crime or an adjudication of delinquency, except that the
10 debtor is entitled to an exemption in property

11 (A) not to exceed an aggregate value of \$3,000 chosen by the
12 debtor from the following categories of property:

13 (i) household goods and wearing apparel reasonably
14 necessary for one household;

15 (ii) books and musical instruments, if reasonably held
16 for the personal use of the debtor or a dependent of the debtor; and

17 (iii) family portraits and heirlooms of particular
18 sentimental value to the debtor; and

19 (B) not to exceed an aggregate value of \$2,800 of the debtor's
20 implements, professional books, and tools of the trade.

21 * Sec. 5. AS 12.62.400 is amended by adding a new paragraph to read:

22 (15) licensure as a mortgage lender, a mortgage broker, or an
23 originator under AS 06.60.

24 * Sec. 6. AS 44.62.330(a) is amended by adding a new paragraph to read:

25 (47) Department of Commerce, Community, and Economic
26 Development relating to mortgage lending under AS 06.60.

27 * Sec. 7. AS 44.64.030(a)(5) is amended to read:

28 (5) AS 06 (banks, [AND] financial institutions, and fund claims),
29 except as provided otherwise by AS 06.60.590;

30 * Sec. 8. AS 45.50.471(b) is amended by adding a new paragraph to read:

31 (52) violating AS 06.60.010 - 06.60.380 (mortgage lending

1 regulation);

2 * Sec. 9. AS 45.50.481 is amended by adding a new subsection to read:

3 (c) The exemption in (a)(1) of this section does not apply to an act or
4 transaction regulated under AS 06.60.

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

7 TRANSITION: LICENSING OF CURRENT MORTGAGE LENDERS AND
8 MORTGAGE BROKERS. Notwithstanding AS 06.60.010, enacted by sec. 2 of this Act, a
9 person who is engaging in activities for which a license is required under AS 06.50, enacted
10 by sec. 2 of this Act, immediately before the effective date of AS 06.60 is not required to
11 comply with the licensing requirements of AS 06.60 until March 1, 2009. In this section,
12 "license" has the meaning given in AS 06.60.990, enacted by sec. 2 of this Act.

13 * Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to
14 read:

15 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
16 Economic Development may proceed to adopt regulations necessary to implement the
17 changes made by this Act. The regulations take effect under AS 44.62 (Administrative
18 Procedure Act), but not before July 1, 2008.

19 * Sec. 12. Section 11 of this Act takes effect immediately under AS 01.10.070(c).

20 * Sec. 13. Except as provided in sec. 12 of this Act, this Act takes effect July 1, 2008.

Adopted
5/12/07

WORK DRAFT

WORK DRAFT

WORK DRAFT

25-LS0070VT
Bannister
5/11/07

SENATE CS FOR CS FOR HOUSE BILL NO. 162()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE LYNN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to mortgage lenders, mortgage brokers, mortgage originators, state
2 agents who collect program administration fees, and other persons who engage in
3 activities relating to mortgage lending; relating to mortgage loan activities; relating to
4 an originator fund; relating to fees for mortgage loan transactions; making certain
5 violations unfair trade practices; relating to persons who are licensed under the Alaska
6 Small Loans Act; and providing for an effective date."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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

9 (3) "financial institution" means an institution subject to the regulation
10 of the department under this title; in this paragraph, "institution" includes a
11 commercial bank, savings bank, credit union, premium finance company, small loan
12 company, bank holding company, financial holding company, trust company, savings
13 and loan association, [AND] deferred deposit advance licensee under AS 06.50, and

1 licensee under AS 06.60; in this paragraph, "licensee under AS 06.60" has the
2 meaning given to "licensee" in AS 06.60.990;

3 * Sec. 2. AS 06 is amended by adding a new chapter to read:

4 **Chapter 60. Mortgage Lending Regulation Act.**

5 **Article 1. Licensing.**

6 **Sec. 06.60.010. License required.** (a) Except as provided under AS 06.60.015,
7 a person, including a person doing business from outside this state, may not operate as
8 a mortgage lender or mortgage broker in this state unless the person is licensed under
9 this chapter.

10 (b) A person may not operate as an originator in this state unless the person is
11 a natural person who is

12 (1) licensed as an originator under this chapter; and

13 (2) works under exclusive contract for, or as an employee of, a
14 mortgage licensee.

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

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

19 **Sec. 06.60.015. Exemptions; requirements of registration.** (a) Except as
20 provided by AS 06.60.370(c) and by (b) and (c) of this section, this chapter does not
21 apply to a person who operates as a mortgage lender or mortgage broker if the person
22 is

23 (1) a person who is authorized to engage in business as a bank, bank
24 holding company, savings institution, savings and loan association, trust company
25 with banking powers, or credit union under the laws of this state, another state, the
26 United States, a territory of the United States, or the District of Columbia, and whose
27 mortgage loan activity is subject to the general supervision, regulation, and
28 examination of a regulatory body of this state, another state, the United States, a
29 territory of the United States, or the District of Columbia;

30 (2) a subsidiary or an operating subsidiary of a person who is identified
31 by (1) of this subsection, or of a bank holding company or savings and loan holding

1 company, if the subsidiary or operating subsidiary certifies to the department on a
2 form provided by the department that the subsidiary or operating subsidiary is exempt
3 from this chapter because of applicable federal statute or regulation;

4 (3) an employee of a person identified in (1) or (2) of this subsection;

5 (4) an exclusive agent of a person identified in (1) or (2) of this
6 section, if the person identified in (1) or (2) of this section has received a
7 determination from a regulatory body of the United States government, based on
8 applicable federal law, that the exclusive agent is exempt from this chapter;

9 (5) a nonprofit corporation that makes mortgage loans to promote
10 home ownership or home improvements; in this paragraph, "nonprofit corporation"
11 means a corporation that qualifies under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue
12 Code) for an exemption from federal income taxation;

13 (6) an agency of the federal government, a state government, a
14 municipality, or a quasi-governmental agency making or brokering mortgage loans
15 under the specific authority of the laws of a state or the United States;

16 (7) a person who acts as a fiduciary for an employee pension benefit
17 plan qualified under 26 U.S.C. (Internal Revenue Code) and who makes mortgage
18 loans solely to participants of the plan from assets of the plan;

19 (8) a person who acts in a fiduciary capacity conferred by the authority
20 of a court; or

21 (9) a person who is licensed by the United States Small Business
22 Administration as a small business investment company under 15 U.S.C. 661 - 697g
23 (Small Business investment Act of 1958).

24 (b) A person who is listed in (a)(1) - (9) of this section shall file a registration
25 form to obtain an exemption under (a) of this section. The department shall determine
26 the form and content of the registration form.

27 (c) A person who is licensed under AS 06.20 is exempt from the requirements
28 of this chapter, except that the person is subject to AS 06.60.20 - 06.60.380.

29 (d) In this section, "bank holding company" has the meaning given in 12
30 U.S.C. 1841 (Bank Holding Company Act).

31 **Sec. 06.60.020. Application for mortgage license.** An application for a

1 mortgage license must

2 (1) be in writing;

3 (2) be signed by the applicant and notarized;

4 (3) be on the form prescribed by the department;

5 (4) contain the name of the applicant, including the name of the
6 business, and of the natural person who is designated to obtain the originator license
7 under AS 06.60.025;

8 (5) if the applicant is a partnership or an association not covered by (6)
9 or (7) of this section, contain the name and both the residence and business addresses
10 of each partner of the partnership or member of the association;

11 (6) if the applicant is a corporation, contain the name and both the
12 residence and business addresses of each officer and director of the corporation, and a
13 shareholder holding

14 (A) 10 percent or more of the total outstanding voting shares, if
15 the corporation has fewer than 75 shareholders; or

16 (B) more than 50 percent of the outstanding voting shares in
17 the corporation, if the corporation has 75 or more shareholders;

18 (7) if the applicant is a limited liability company, contain the name and
19 both the residence and business addresses of each member of the company, and any
20 manager of the company who individually owns more than 50 percent of the limited
21 liability company;

22 (8) contain the mailing address of the applicant, the street address and
23 city, if any, for each business location that will be covered by the license, and an
24 identification of the applicant's principal office;

25 (9) if requested by the department, include a complete set of
26 fingerprints of the applicant and of the directors, officers, members, owners, and other
27 principals of the applicant as specified by the department to obtain a report of criminal
28 justice information and a national criminal history record check;

29 (10) contain other information that the department may require
30 concerning the organization and operations of the applicant and the financial
31 responsibility, background, experience, and activities of the applicant and its directors,

1 officers, members, owners, and other principals.

2 **Sec. 06.60.025. Application for originator license.** An application for an
3 originator license must

- 4 (1) be in writing;
- 5 (2) be signed by the applicant and notarized;
- 6 (3) be on a form prescribed by the department;
- 7 (4) contain the name and residence address of the applicant;
- 8 (5) include a complete set of fingerprints of the applicant to obtain a
9 report of criminal justice information and a national criminal history record check; and
- 10 (6) contain other information or supporting material that the
11 department may require concerning the applicant, including other forms of
12 identification of the applicant.

13 **Sec. 06.60.026. Transfer of originator license.** A person who holds an
14 originator license may not transfer or assign the originator license.

15 **Sec. 06.60.027. Fingerprint submissions.** The department shall submit
16 fingerprints provided under AS 06.60.020 and 06.60.025 to the Department of Public
17 Safety to obtain a report of criminal justice information under AS 12.62 and a national
18 criminal history record check under AS 12.62.400.

19 **Sec. 06.60.030. Investigation.** The department shall investigate an applicant
20 for a license to determine if the applicant satisfies the requirements of this chapter for
21 the license.

22 **Sec. 06.60.035. Fees and expenses.** (a) Except as provided by (c) of this
23 section, when an applicant submits an application for a license under this chapter to
24 the department, the applicant shall pay to the department

25 (1) a nonrefundable application fee of \$250 in partial payment of those
26 investigation expenses incurred by the department; and

27 (2) a biennial license fee of \$500 for the period that terminates two
28 years after the date the license is issued; after this payment, the biennial license fee is
29 due every two years on the anniversary date of the original issuance of the license.

30 (b) An applicant shall pay all reasonable costs and reasonable investigative
31 fees incurred by the department before the department issues a license.

1 (c) An applicant is not required to pay the application fee or the biennial
2 license fee under (a) of this section if the applicant is applying for a mortgage license
3 and an originator license, is the principal owner or legally authorized manager of the
4 mortgage license applicant, and is designated in the application under AS 06.60.020(4)
5 as the individual to receive an originator license for the mortgage licensee.

6 **Sec. 06.60.040. Competency testing.** (a) A person who applies for an
7 originator license shall pass a competency test conducted and graded by the
8 department. The department shall establish the scope, content, and minimum passing
9 score of the test by regulation.

10 (b) If an individual fails the competency test, the individual may take the
11 competency test again. The department may charge a fee of \$150 for each additional
12 competency test that the department provides to the person.

13 **Sec. 06.60.045. Bonding.** (a) An applicant for a mortgage license shall file
14 with the application submitted to the department under AS 06.60.020 a bond with one
15 or more sureties in the amount of \$25,000 under which the applicant is the obligor.
16 The bond must be satisfactory to the department.

17 (b) The bond required by (a) of this section shall be for the use of the
18 department, the Department of Law, or another person to recover for a claim for relief
19 against the obligor under this chapter. The bond must state that the obligor will
20 faithfully conform to and abide by the provisions of this chapter and all regulations
21 adopted under this chapter and will pay the department, the Department of Law, or
22 another person all money that may become due or owing to the department, the
23 Department of Law, or the other person from the obligor under this chapter.

24 (c) An applicant for a mortgage license that covers more than one location is
25 not required to file more than one bond.

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

28 (e) If the department determines that the bond required under (a) of this
29 section is unsatisfactory for any reason, the department may require the mortgage
30 licensee to file with the department, within 10 days after the receipt of a written
31 demand from the department, an additional bond that complies with the provisions of

1 this section.

2 **Sec. 06.60.050. Decision on application.** (a) Within 30 days after the date the
3 department determines that it has received a complete application under AS 06.60.020
4 or 06.60.025, the required bond if the application is for a mortgage license, and any
5 required fees and investigative costs are received by the department, the department
6 shall either grant or deny the license.

7 (b) If the department denies the license, the department shall promptly notify
8 the applicant. The notification must state the reason for the denial and that the
9 applicant is entitled to a hearing on the denial.

10 **Sec. 06.60.060. Determinations for mortgage licensing.** Before granting a
11 mortgage license, the department shall determine that

12 (1) the applicant has complied with the requirements of this chapter for
13 obtaining the mortgage license;

14 (2) the financial responsibility, experience, and general fitness of the
15 applicant, and of the applicant's directors, officers, members, owners, and other
16 principals, the character of the applicant and the applicant's directors, officers,
17 members, owners, and other principals, and the organization and operation of the
18 applicant indicate that the business will be operated efficiently and fairly, in the public
19 interest, and under the law; and

20 (3) the department has not found grounds for denial of a mortgage
21 license under AS 06.60.065.

22 **Sec. 06.60.065. Determinations for originator licensing.** Before granting an
23 originator license to a person, the department shall determine that the applicant has

24 (1) complied with the requirements of this chapter and paid all fees for
25 obtaining the originator license;

26 (2) not been enjoined by a court of competent jurisdiction from
27 engaging in an aspect of the business of providing financial services to the public; and

28 (3) not, within the previous seven years,

29 (A) been prohibited by a federal or state regulatory agency
30 from engaging in, participating in, or controlling a finance-related activity that
31 involves providing financial services to the public;

1 (B) been convicted, including a conviction based on a plea of
2 guilty, no contest, or nolo contendere, of a felony or a misdemeanor involving
3 fraud, misrepresentation, or dishonesty;

4 (C) committed an act, made an omission, or engaged in a
5 practice that constitutes a breach of a fiduciary duty;

6 (D) made a material false statement in an application submitted
7 under this chapter; or

8 (E) violated a provision of this chapter, a regulation adopted
9 under this chapter, or an order of the department under this chapter.

10 **Sec. 06.60.070. Form and contents of license.** A license must be in a form
11 established by the department and must state the full name of the licensee. A mortgage
12 license must state the address for each office of the business where the business of the
13 licensee is to be conducted. If a mortgage licensee conducts business on the Internet,
14 the mortgage license must also state the registered domain address through which the
15 mortgage licensee conducts the mortgage licensee's business and the physical location
16 of the mortgage licensee's main business office.

17 **Sec. 06.60.075. License availability.** A licensee shall provide a copy of the
18 license to a person who requests a copy.

19 **Article 2. License Duration, Renewal, Inactivity, and Surrender.**

20 **Sec. 06.60.080. Duration of license.** A license issued under this chapter
21 remains in effect for two years after the license is issued unless revoked, suspended,
22 surrendered, or becoming inactive under this chapter.

23 **Sec. 06.60.085. Renewal of license.** (a) If a licensee intends to renew a license,
24 the licensee shall submit to the department 30 days before the expiration of the
25 licensee's license:

26 (1) a renewal application in the form and manner established by the
27 department;

28 (2) the biennial license fee required by AS 06.60.105;

29 (3) if the renewal is for a mortgage license, a report identifying any
30 changes in the information provided under AS 06.60.020(4) - (8);

31 (4) if the renewal is for an originator license, certificates or other

1 documents that show the continuing education requirements of AS 06.60.160 have
2 been satisfied; and

3 (5) if the renewal is for an originator license, the fund fee required by
4 AS 06.60.550.

5 (b) A renewal under (a) of this section is considered granted unless, within 30
6 days after the department determines it has received a completed renewal application
7 containing the items in (a) of this section, the department notifies the licensee that the
8 department has denied the renewal application because of the licensee's
9 noncompliance with this title.

10 **Sec. 06.60.090. Inactive license.** (a) A license may become inactive under this
11 section.

12 (b) To be eligible to have a mortgage license become inactive, all mortgage
13 loans of a licensee must have been paid in full or sold.

14 (c) For a license to become inactive, a licensee shall provide the department
15 with a written request that the license become inactive and return the license certificate
16 to the department. The request must include the licensee's name, address, and other
17 information that the department requires to process the request and a statement by the
18 licensee that all mortgage loans of the licensee have been paid in full or sold.

19 (d) The department shall issue an inactive license certificate to a person whose
20 license becomes inactive under this section.

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

24 (f) If a license becomes inactive under this section, the license remains
25 inactive until the license expires, the person surrenders the license, or the person who
26 holds the inactive license provides the department with a written request that the
27 license be reactivated. The request must include the information that the department
28 requires to process the request.

29 (g) While a license is inactive under this section, the person holding the
30 inactive license shall pay the biennial license fee as required by AS 06.60.105 and
31 inform the department of any change that occurs in the name and address of the

1 person, the location of the person's business, or in the business operations or control of
2 the person, but the person is not required to maintain the bond required by
3 AS 06.60.045 or to file the annual report required by AS 06.60.100.

4 (h) Notwithstanding AS 06.60.120, while a license is inactive under this
5 section, the person who holds the license may not transfer the license to another
6 person.

7 (i) While a license is inactive under this section, the person is not required to
8 surrender the license under AS 06.60.097(b).

9 (j) While a license is inactive under this section, the person holding the
10 inactive license shall continue to maintain records as required by AS 06.60.135 for the
11 business transactions of the person that occurred before the license became inactive.

12 (k) While a license is inactive under this section, the department may take
13 action against the license, the person holding the inactive license, or both for
14 noncompliance with this chapter before the license became inactive or for
15 noncompliance with this section while the license is inactive.

16 (l) A licensee whose license lapses under this chapter is not eligible for an
17 inactive license under this section unless the license is reactivated under
18 AS 06.60.095.

19 (m) A person holding a license that is inactive under this section may not
20 engage in activities for which the license is required, but may receive commissions or
21 other payments from a person who contracted with or employed the licensee for
22 services, if the services were performed while the licensee was actively licensed.

23 (n) Except as otherwise provided in this section and by regulations adopted by
24 the department, the provisions of this chapter do not apply to a person holding an
25 inactive license under this section.

26 **Sec. 06.60.095. Reactivation of inactive license.** (a) Except as provided in (b)
27 and (c) of this section, a person who has an inactive license certificate under
28 AS 06.60.090 may apply to the department for an active license and pay the required
29 fees.

30 (b) A person is eligible for reactivation of an inactive license if the person's
31 license has been in an inactive status for less than 24 months from the anniversary date

1 of the issuance of the initial inactive license certificate. If the person has been in an
2 inactive status for 24 months or longer, the person may obtain a license only by
3 satisfying the qualifications applicable to initial licensure.

4 (c) The department may issue an active license that has been converted from
5 inactive status under this section for the term remaining on the license before it
6 became inactive.

7 **Sec. 06.60.097. Surrender of license.** (a) A licensee may surrender a license
8 issued to the licensee by delivering written notice to the department that the licensee
9 intends to surrender the license, except that a mortgage licensee may not surrender a
10 license until all loans of that mortgage licensee have either been paid in full or sold.

11 (b) A licensee shall surrender a license issued to the licensee if the licensee
12 has not engaged in mortgage loan activity for 12 consecutive months.

13 (c) Surrender of a license under this section does not affect the licensee's civil
14 or criminal liability for acts committed before surrender of the license.

15 **Article 3. Licensee Obligations.**

16 **Sec. 06.60.100. Annual report.** (a) On or before March 15, or on another date
17 established by the department by regulation, of each year a mortgage licensee shall file
18 a report with the department giving relevant information that the department requires
19 concerning the business and operations of each location in this state where the
20 mortgage licensee conducts business in this state during the preceding calendar year.
21 The mortgage licensee shall make the report under oath or on affirmation. The content
22 and form of the report shall be established by the department by regulation.

23 (b) A mortgage licensee who fails to file a report as required by this section is
24 subject to a civil penalty of \$25 for each day's failure to file the report.

25 **Sec. 06.60.105. Biennial license fee.** (a) Except as provided by (d) of this
26 section, a licensee shall pay the department a biennial license fee of \$500.

27 (b) After payment of the initial biennial license fee under AS 06.60.035, a
28 licensee shall pay the biennial license fee every two years on or before the anniversary
29 date of the original issuance of the license, subject to renewal by the department.

30 (c) A mortgage licensee who is licensed to act as both a mortgage broker and a
31 mortgage lender is not required to pay more than one biennial license fee.

1 (d) An originator licensee is not required to pay a biennial license fee if the
2 licensee holds a mortgage license and an originator license, is the principal owner or
3 legally authorized manager of the mortgage licensee, and was designated in the
4 application under AS 06.60.020(4) as the individual to receive an originator license for
5 the mortgage licensee.

6 (e) The license fee imposed by (a) of this section is in addition to the fee
7 imposed under AS 43.70 (Alaska Business License Act).

8 **Sec. 06.60.110. Location of business.** A mortgage licensee may not maintain
9 the mortgage licensee's principal place of business or a branch office within an office,
10 suite, room, or place of business in which any other business is solicited or engaged in,
11 or in association or conjunction with another business, unless the name, ownership,
12 and business purpose of the other business is disclosed in the mortgage licensee's
13 application for a mortgage license.

14 **Sec. 06.60.115. Change of place of business.** If a mortgage licensee wishes to
15 change the mortgage licensee's place of business to another location, the mortgage
16 licensee shall submit a written notice to the department at least 10 days before
17 relocating the business. If the mortgage licensee is otherwise in compliance with this
18 chapter, the department shall issue a revised mortgage license to the mortgage licensee
19 that reflects the new location.

20 **Sec. 06.60.120. Transfer of business.** A mortgage licensee may only transfer
21 or assign the licensee's business if

22 (1) an application is made to the department to transfer or assign the
23 business to another mortgage licensee with the same type of mortgage license as the
24 transferring or assigning mortgage licensee;

25 (2) at least 30 days before the effective date of the proposed transfer or
26 assignment, the department determines it has received a complete application from the
27 proposed assignee or transferee; and

28 (3) the department determines that the proposed transferee or assignee
29 complies with AS 06.60.060.

30 **Sec. 06.60.130. Change in business control or business operations.** (a) The
31 prior written approval of the department is required for the continued operation of a

1 mortgage licensee's business when a change in control of the mortgage licensee is
2 proposed. The department may require the information it considers necessary to
3 determine whether a new application is required. The mortgage licensee requesting
4 approval of the change in control shall pay all reasonable expenses incurred by the
5 department to investigate and approve or deny the change in control.

6 (b) If there is a material change in the business operations of a mortgage
7 licensee not covered by AS 06.60.120, the mortgage licensee shall provide written
8 notice to the department at least 30 days before the effective date of the change in
9 business operations.

10 **Sec. 06.60.135. Records of mortgage licensee.** (a) The requirements of this
11 section apply to the business transactions of a mortgage licensee that occur entirely or
12 partially in this state.

13 (b) A mortgage licensee shall keep and use in the mortgage licensee's business
14 the accounting records that are in accord with generally accepted accounting
15 principles.

16 (c) A mortgage licensee shall maintain a record of the account of each
17 borrower and for each mortgage loan or mortgage loan application that is related to the
18 purchase or refinancing of an existing mortgage loan. This record must contain all
19 documents, work papers, electronic correspondence, and forms that are produced or
20 prepared for the mortgage loan by the mortgage licensee, and the mortgage licensee
21 shall retain each document, work paper, electronic correspondence, and form for 36
22 months from the date they were created.

23 (d) A mortgage licensee shall retain for at least three years after final payment
24 is made on a mortgage loan, or three years after a mortgage loan is sold, whichever
25 occurs first, the original contract for the mortgage licensee's compensation, copies of
26 the note, settlement statement, and truth-in-lending disclosure, an account of fees
27 received in connection with the loan, and other papers or records relating to the loan
28 that may be required by department order or regulation.

29 (e) If a mortgage licensee conducts business as a mortgage loan servicing
30 agent for mortgage loans that the mortgage licensee owns, or as an agent for other
31 mortgage lenders or investors, the mortgage licensee shall, in addition to complying

1 with (b) and (c) of this section, maintain a record for each mortgage loan. The record
2 of each mortgage loan must include the amount of the mortgage loan, the total amount
3 of interest and finance charges on the mortgage loan, the interest rate on the mortgage
4 loan, the amount of each payment to be made on the mortgage loan, a description of
5 the collateral taken for the mortgage loan, a history of all payments received by the
6 mortgage licensee on the mortgage loan, a detailed history of the amount of each
7 payment that is applied to the reduction of the mortgage loan principal, the interest
8 that accrues on the mortgage loan, and any other fees and charges that are related to
9 the mortgage loan, as well as other papers required by law, department order, or
10 regulation. The mortgage licensee shall retain the record required by this subsection
11 for three years after the loan is sold to another mortgage loan servicing agent or after
12 the mortgage loan is satisfied, whichever occurs first.

13 (f) In this section, "mortgage loan servicing agent" means a person who acts
14 on behalf of the owner of a mortgage loan to collect payments on the mortgage loan
15 and enforce the terms of the mortgage loan.

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

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

21 (2) reimburse the department its reasonable costs, as provided in
22 A.S. 06.60.250(f), that are incurred by the department in conjunction with an
23 investigation or examination conducted at the office or place of business.

24 **Sec. 06.60.145. Disqualified persons.** (a) A disqualified person may not be an
25 officer, a director, a partner, a member, a sole proprietor, a trustee, or an employee of
26 a mortgage licensee, or hold another position with similar responsibilities, with the
27 organization of a mortgage licensee. In this subsection, "employee" means an
28 individual who negotiates an agreement with a member of the public for the mortgage
29 licensee or who has access to, or responsibility for, escrow accounts or escrow money
30 held by the mortgage licensee.

31 (b) A mortgage licensee may not permit a disqualified person to obtain an

1 ownership interest in a mortgage licensee's business without the prior written approval
2 of the department.

3 (c) Before a person may obtain an ownership interest in a mortgage licensee's
4 business, the person shall authorize the department to access the person's criminal
5 history information in any state or federal court to determine whether the person is a
6 disqualified person.

7 (d) In this section,

8 (1) "disqualified person" means a person who is not a licensee;

9 (2) "ownership interest" means an ownership interest of

10 (A) 10 percent or more, if the mortgage licensee is a
11 corporation with fewer than 75 shareholders;

12 (B) more than 50 percent, if the mortgage licensee is a
13 corporation with 75 or more shareholders or a limited liability company.

14 **Sec. 06.60.150. Posting of license.** A mortgage licensee shall conspicuously
15 post the mortgage license in each place of business of the mortgage licensee in the
16 state.

17 **Sec. 06.60.155. Restriction on originator licensee work.** An originator
18 licensee may only work as an originator licensee under contract for, or as an employee
19 of, one mortgage licensee.

20 **Sec. 06.60.157. Mortgage licensee restrictions on performance of**
21 **originator activities.** A mortgage licensee may not perform originator activities
22 except through a licensed originator who is an employee of or under exclusive contract
23 with a mortgage licensee.

24 **Sec. 06.60.159. Mortgage licensee employm at of, contract with, and**
25 **liability for originator.** (a) A mortgage licensee may not employ, or enter into a
26 contract with a person who acts as an originator for the mortgage licensee unless the
27 person has an originator license.

28 (b) A mortgage licensee is liable for the conduct of a person acting as an
29 originator if the mortgage licensee knows, or should have known, that the person's
30 conduct violates this chapter and the person is employed by or is under contract with
31 the mortgage licensee to act as an originator.

1 **Sec. 06.60.160. Continuing education requirements.** (a) An originator
2 licensee shall complete and submit to the department evidence of at least 24 hours of
3 continuing education for each biennial license period. The originator licensee or
4 mortgage licensee shall submit the evidence when the originator licensee or mortgage
5 licensee submits a license renewal application or an application for reactivation under
6 AS 06.60.095. The 24 hours of continuing education must be in training programs
7 approved by the department.

8 (b) The department shall establish an education committee consisting of seven
9 members. The commissioner of commerce, community, and economic development
10 shall appoint two persons employed by the department and five licensees to serve on
11 the committee. A licensee may apply to the department to serve on the education
12 committee established under this subsection by submitting an application in the form
13 and with the content established by the department.

14 (c) The department may consider the recommendations of the education
15 committee when determining which training programs to approve for the continuing
16 education requirements.

17 (d) The department shall publish on a regular basis a listing of training
18 programs that may be used to satisfy the continuing education requirements of this
19 section.

20 **Article 4. Discipline and Investigation.**

21 **Sec. 06.60.200. Disciplinary action.** (a) In addition to any other disciplinary
22 action allowed under this chapter, the department may suspend or revoke a license or
23 take other disciplinary action against a licensee, including action under AS 06.01 or a
24 regulation adopted under this chapter or AS 06.01, if the department finds that

25 (1) the licensee failed to

26 (A) make a payment required by this chapter;

27 (B) maintain a bond required under AS 06.60.045, if the
28 licensee is a mortgage licensee;

29 (C) satisfy the continuing education requirements, if the
30 licensee is an originator licensee;

31 (D) comply with an applicable provision of this title, with an

1 applicable regulation adopted under this title, with a lawful demand, ruling,
2 order, or requirement of the department, or with another statute or regulation
3 applicable to the conduct of the licensee's business;

4 (2) the licensee has, with respect to a mortgage loan transaction,

5 (A) made a material misrepresentation;

6 (B) made a false promise;

7 (C) engaged in a serious course of misrepresentation or made a
8 false promise through another licensee;

9 (D) engaged in conduct that is fraudulent or dishonest;

10 (E) procured, or helped another person to procure, a license by
11 deceiving the department;

12 (F) engaged in conduct of which the department did not have
13 knowledge when the department issued the license, if the conduct demonstrates
14 that the licensee is not fit to engage in the activities for which the licensee was
15 licensed;

16 (G) authorized, directed, planned, or aided in the publishing,
17 distribution, or circulation of a materially false statement or a material
18 misrepresentation concerning the licensee's business or concerning mortgage
19 loans originated in the course of the licensee's business in this or another state;

20 or

21 (3) a fact or condition exists that would have constituted grounds for
22 denial of the initial issuance or the renewal of the license.

23 (b) In addition to the bases for disciplinary action under (a) of this section, the
24 department may revoke the license of a licensee who is convicted, including
25 conviction by a plea of not guilty, no contest, or nolo contendere, of a felony or
26 misdemeanor involving fraud, misrepresentation, or dishonesty committed while
27 licensed under this chapter. A person whose license is revoked under this subsection is
28 not qualified to receive a new license until the person provides proof acceptable to the
29 department that the person has been unconditionally discharged from the conviction.
30 In this subsection, "unconditional discharge" has the meaning given in AS 12.55.185.

31 (c) A disciplinary action under this section may be taken by itself or in

1 conjunction with one or more other disciplinary actions under this chapter.

2 **Sec. 06.60.210. Suspension or revocation related to fund.** (a) When an
3 award is made from the fund, the department may suspend or revoke the license of the
4 originator licensee whose actions formed the basis of the award.

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

11 **Sec. 06.60.230. Divestment.** If the department revokes a mortgage license, the
12 mortgage licensee shall divest itself of all outstanding loans that were issued under this
13 chapter by selling or assigning them to another mortgage licensee. Divestment under
14 this section must be approved by the department.

15 **Sec. 06.60.240. Reinstatement of revoked license.** The department may
16 reinstate a revoked license if the licensee complies with this chapter or with a demand,
17 ruling, or requirement made by the department under this chapter. Before
18 reinstatement of a license, the licensee shall pay any fees, restitution, and civil
19 penalties owing under this chapter.

20 **Sec. 06.60.250. Investigation and examination.** (a) The department may
21 investigate and examine the affairs, business premises, and records of a person
22 required to be licensed under this chapter to determine compliance with this chapter,
23 AS 06.01, and applicable regulations adopted under AS 06.01 or this chapter.
24 Notwithstanding AS 06.01.015, the department may conduct an examination every 36
25 months. The department may conduct an examination more often if the examination is
26 part of the review of a complaint or other information received by the department
27 concerning the licensee.

28 (b) For the purposes of conducting an examination under this section, the
29 department

30 (1) shall have free access to the place of business, books, accounts,
31 safes, and vaults of the licensee to examine and make copies as necessary;

1 (2) may conduct the examination without prior notice to the licensee;
2 and

3 (3) may examine, under oath or affirmation, all persons whose
4 testimony the department may require to conduct the examination.

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

11 (d) 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 touching the matter under investigation or in question.

15 (e) The department may share information received or collected during an
16 examination, investigation, or other proceeding with other law enforcement agencies.

17 (f) A person shall reimburse the department reasonable costs incurred by the
18 department to conduct an examination under this section. The reimbursement under
19 this subsection may not exceed the rate of \$75 an hour for the examination, plus travel
20 costs, including a per diem allowance that does not exceed the per diem allowance for
21 employees of the state under AS 39.20.110.

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

30 **Sec. 06.60.270. Removal by entity.** A mortgage licensee shall remove an
31 originator licensee from acting as an originator for the mortgage licensee if the

1 department directs the mortgage licensee to remove the originator licensee under
2 AS 06.60.260.

3 **Sec. 06.60.280. Department list.** The department shall make available to the
4 public a list of all licensees who have been censured, barred, or had their licenses
5 suspended or revoked under this chapter. The department shall update the list on a
6 monthly basis.

7 **Article 5. Business Duties and Restrictions.**

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

13 **Sec. 06.60.330. Compliance with federal requirements.** A person subject to
14 this chapter shall conduct the person's mortgage loan activities in compliance with 12
15 CFR Part 226 and other regulations adopted by the federal government under

16 (1) 12 U.S.C. 2601 - 2617 (Real Estate Settlement Procedures Act of
17 1974);

18 (2) 12 U.S.C. 2801 - 2810 (Home Mortgage Disclosure Act of 1975);

19 (3) 12 U.S.C. 2901 - 2908 (Community Reinvestment Act of 1977);

20 (4) 15 U.S.C. 1601 - 1666j and 1671 - 1693r (Consumer Credit
21 Protection Act);

22 (5) 42 U.S.C. 3601 - 3631 (Fair Housing Act of 1968); and

23 (6) any other federal law or regulation.

24 **Sec. 06.60.340. Prohibited activities.** In addition to activities prohibited
25 elsewhere in this chapter or by 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 misrepresent or conceal material facts or make false promises likely
28 to influence, persuade, or induce an applicant for a mortgage loan or a borrower to
29 enter into a mortgage loan transaction, or, in the course of a mortgage loan transaction,

30 (1) pursue a course of misrepresentation through an agent;

31 (2) improperly refuse to issue a satisfaction of a mortgage loan;

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

5 (4) pay, receive, or collect, in whole or in part, a commission, fee, or
6 other compensation for brokering a mortgage loan in violation of this chapter,
7 including a mortgage loan brokered by an unlicensed person other than an exempt
8 person under AS 06.60.015;

9 (5) fail to disburse money in accordance with a written commitment or
10 agreement to make a mortgage loan;

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

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

18 (A) consider additional appropriate property information;

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

21 (C) correct errors in the appraisal report;

22 (8) in a loan commitment or prequalification letter, make a false or
23 misleading statement, or omit relevant information or conditions that the person knew
24 or reasonably should have known from a preliminary examination of the borrower's
25 loan application, credit report, assets, and income, except that this paragraph does not
26 apply if

27 (A) the borrower made a false or misleading statement or
28 omitted relevant information in the loan application that the person relied on
29 when issuing the loan commitment or prequalification letter; or

30 (B) the person funds the loan at the rate, terms, and costs stated
31 in the good faith estimate provided to the borrower at the time the

1 prequalification letter was issued or the loan commitment was made;

2 (9) 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 borrowers than
4 they are represented to be in the first good faith estimates the person provides to the
5 borrowers; this paragraph does not apply if

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

12 (11) engage in unfair, deceptive, or fraudulent mortgage loan practices
13 or advertising.

14 **Sec. 06.60.350. Certain refinancing prohibited.** (a) A covered person may
15 not refinance a mortgage loan within 12 months after the date the mortgage loan is
16 closed, unless the refinancing is beneficial to the borrower.

17 (b) The factors to be considered when determining if refinancing is beneficial
18 to the borrower under this section may include whether

19 (1) the borrower's new monthly payment is lower than the total of all
20 monthly obligations being refinanced, after taking into account the costs and fees of
21 the refinancing;

22 (2) the amortization period of the new mortgage loan is different from
23 the amortization period of the mortgage loan being refinanced;

24 (3) the borrower receives cash in excess of the costs and fees of the
25 refinancing;

26 (4) the rate of interest of the borrower's promissory note is reduced;

27 (5) the mortgage loan changes from an adjustable rate loan to a fixed
28 rate loan; in a determination under this paragraph, the department may take into
29 account costs and fees;

30 (6) the refinancing is necessary to respond to a bona fide personal need
31 or an order of a court of competent jurisdiction;

1 (7) the original term of the mortgage loan being refinanced is two
2 years or less; and

3 (8) the refinancing is being made to prevent a foreclosure on an
4 existing mortgage loan.

5 **Sec. 06.60.360. Escrow accounts.** (a) A covered person and a borrower may
6 agree that the covered person will keep in an escrow account all money that the
7 borrower is required to pay to defray future taxes or insurance premiums or for other
8 lawful purposes. The escrow account must be segregated from the other accounts of
9 the covered person and be subject to a written escrow agreement. The covered person
10 may not commingle the borrower's money with the general funds of the covered
11 person. Money deposited in an escrow account under this subsection shall be
12 maintained in the account until it is disbursed in accordance with the written escrow
13 agreement.

14 (b) A covered person may not require a borrower to pay money into escrow to
15 defray future taxes, to defray insurance premiums, or for another purpose, in
16 connection with a subordinate mortgage loan, unless an escrow account for that
17 purpose is not being maintained for the mortgage loan that is superior to the
18 subordinate mortgage loan.

19 (c) If the billing address of a covered person who is holding money in escrow
20 for insurance premiums changes, the covered person shall notify the insurer in writing
21 about the change of billing address within 30 days after the change, or 60 days before
22 the renewal date of the insurance policy, whichever is later.

23 (d) A covered person who accepts money belonging to a borrower in
24 connection with a mortgage loan shall deposit all of the money into an escrow account
25 maintained by the covered person in a bank or another recognized depository
26 institution. In this subsection, "recognized depository institution" means a person who
27 is organized as a financial institution under the laws of a state or the federal
28 government and whose deposits are insured by a federal agency.

29 (e) Money held in an escrow account under this section is exempt from
30 execution, attachment, or garnishment under AS 09.38 and is not subject to a claim
31 under AS 09.38.065.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

Sec. 06.60.370. Criminal liability of licensee. (a) The department may report violations of (b) - (e) of this section to the attorney general, who may institute the proper proceedings to enforce the criminal penalties provided in (b) - (e) of this section.

(b) A person who knowingly provides false or misleading information to the department that is material under this chapter is guilty of a class A misdemeanor.

(c) A licensee or person who is exempt under AS 06.60.015 who knowingly fails to account for or deliver to a person money, deposits, or checks or other forms of negotiable instruments in violation of the provisions of this chapter is guilty of a class A misdemeanor.

(d) A licensee who knowingly fails to disburse money belonging to the borrower without just cause is guilty of a class A misdemeanor.

(e) A mortgage lender, mortgage broker, or originator who knowingly operates without a license and is not exempt under AS 06.60.015 is guilty of a class A misdemeanor.

Sec. 06.60.380. Definition of "covered person." In AS 06.60.320 - 06.60.380, "covered person" means a mortgage licensee or a person who is licensed under AS 06.20.

Article 6. Enforcement.

Sec. 06.60.400. Cease and desist orders. The department may issue, under AS 06.01.030, an order directing a person to cease and desist.

Sec. 06.60.410. Censure, suspension, or bar. (a) In addition to any other remedy provided under this chapter, the department may, by order after appropriate notice and opportunity for a hearing, censure a person, suspend the license of a person for a period not to exceed 12 months, or bar a person from a position of employment, management, or control of a licensee, if the department finds that

- (1) the censure, suspension, or bar is in the public interest;
- (2) the person has knowingly committed or caused a violation of this chapter or a regulation adopted under this chapter; and
- (3) the violation has caused material damage to the licensee or to the public.

1 (b) When a person who is the subject of a proposed order under this section
2 receives a notice of the department's intention to issue an order under this section, the
3 person is immediately prohibited from engaging in any activities for which a license is
4 required under this chapter.

5 (c) A person who is suspended or barred under this section is prohibited from
6 participating in a business activity of a licensee and from engaging in a business
7 activity on the premises where a licensee is conducting the licensee's business. This
8 subsection may not be construed to prohibit a suspended or barred person from having
9 the person's personal transactions processed by a licensee.

10 **Sec. 06.60.420. Civil penalty for violations.** (a) A person who violates a
11 provision of this chapter or a regulation adopted under this chapter is liable for a civil
12 penalty not to exceed \$10,000 for each violation.

13 (b) The remedies provided by this section and by other sections of this chapter
14 are not exclusive and may be applied in combination with other remedies to enforce
15 the provisions of this chapter.

16 **Sec. 06.60.430. Additional enforcement provisions, actions, and rights.** (a)
17 The department may treat a licensee as a financial institution under AS 06.01 when
18 applying the enforcement provisions of AS 06.01.

19 (b) This chapter may not be interpreted to prevent the attorney general or any
20 other person from exercising the rights provided under AS 45.50.471 - 45.50.561.

21 (c) If the department determines that a licensee or a person acting on behalf of
22 the licensee is in violation of, or has violated, a provision of this chapter, the
23 department may refer the information to the attorney general and request that the
24 attorney general investigate the violation under AS 45.50.495. The attorney general
25 may enjoin a violation of this chapter and may seek restitution, rescission, and other
26 relief as allowed by law.

27 (d) In addition to another investigation allowed under this chapter, the
28 department may conduct other examinations, periodic audits, special audits,
29 investigations, and hearings as may be necessary and proper for the efficient
30 administration of this chapter.

31 **Article 7. Originator Surety Fund.**

1 **Sec. 06.60.500. Originator surety fund.** The originator surety fund is
2 established as a separate account in the general fund.

3 **Sec. 06.60.510. Composition of fund.** The fund consists of payments made by
4 originator licensees under AS 06.60.550, filing fees retained under AS 06.60.620,
5 income earned on the investment of the money in the fund, and money deposited in
6 the fund by the department under AS 06.60.740.

7 **Sec. 06.60.520. Use of fund.** The legislature may appropriate the money
8 collected in the fund under AS 06.60.510 to the department to implement
9 AS 06.60.500 - 06.60.750, including paying claims, holding hearings, and incurring
10 legal expenses and other expenses directly related to fund claims and the operation of
11 the fund. Nothing in AS 06.60.500 - 06.60.750 creates a dedicated fund.

12 **Sec. 06.60.530. Fund report.** Every six months the department shall provide a
13 written report to the director of the office of management and budget on the activities
14 of the fund, the balances in the fund, interest earned on the fund, and interest returned
15 to the fund.

16 **Sec. 06.60.540. Approval required.** (a) The department must approve a fund
17 expenditure that is used to prepare, print, manufacture, sponsor, produce, or otherwise
18 provide an item or a service to a member of the public, a licensee, a potential licensee,
19 or another person.

20 (b) In this section, "an item or a service" includes an information pamphlet, an
21 examination preparation packet, an educational course, the certification of a
22 continuing education course, and an instructor for a continuing education course.

23 **Sec. 06.60.550. Required fund fees.** (a) A person who applies for or renews
24 an originator license shall pay to the department, in addition to the fees required by
25 AS 06.60.035, a fund fee not to exceed \$150.

26 (b) Every two years, if the department determines that the average balance in
27 the fund during the previous two years was less than \$250,000 or more than \$500,000,
28 the department shall, unless the department waives the adjustment, adjust the fund fee
29 so that the average balance of the fund during the next two years is anticipated to be an
30 amount that is not less than \$250,000 or more than \$500,000. In this subsection,
31 "average balance" means the average balance in the fund after the department deducts

1 anticipated expenditures for claims against the fund and for hearing and legal expenses
2 directly related to fund operations and claims.

3 (c) At least once a month, the department shall pay the fees collected under
4 this section into the general fund. These payments shall be credited to the fund.

5 (d) Notwithstanding (a) of this section, an originator licensee who obtains an
6 initial originator license when the department has reduced the fund fee to nothing shall
7 nonetheless pay a fund fee of \$150 to the department for the first year of the originator
8 license or, for a mortgage licensee, of operating as an originator.

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

15 **Sec. 06.60.570. Submission of fund claim.** To seek reimbursement under
16 AS 06.60.560, a person shall submit a fund claim to the department for the
17 reimbursement on a form furnished by the department. The person must file the fund
18 claim within two years after the occurrence of the fraud, misrepresentation, deceit, or
19 conversion that is claimed as the basis for the reimbursement.

20 **Sec. 06.60.580. Form and contents of fund claim.** The form for a fund claim
21 shall be executed under penalty of unsworn falsification and must include

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

28 **Sec. 06.60.590. Claim hearing.** Except as otherwise provided by
29 AS 06.60.610, a hearing on a fund claim shall be handled by the office of
30 administrative hearings (AS 44.64.010).

31 **Sec. 06.60.600. Filing and distribution of claim.** At least 20 days before a

1 hearing is held on the fund claim by the office of administrative hearings
2 (AS 44.64.010), the department shall send a copy of the claim filed with the
3 department to

4 (1) each originator licensee alleged to have committed the misconduct
5 resulting in the alleged loss;

6 (2) the employer of the originator licensee described in (1) of this
7 section; and

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

10 **Sec. 06.60.610. Election to use small claims court.** (a) Within seven days
11 after receiving a copy of a fund claim under AS 06.60.600, each originator licensee
12 against whom the claim is made may elect to defend the fund claim as a small claims
13 action in district court under District Court Rules of Civil Procedure if the claim does
14 not exceed the small claims jurisdictional limit.

15 (b) An originator licensee who elects under (a) of this section to defend a fund
16 claim in district court under the small claims rules may not revoke the election without
17 the consent of the person who filed the fund claim.

18 (c) On receipt of a valid written election under (a) of this section, the
19 department shall dismiss the fund claim filed with the department and notify the
20 person who filed the fund claim that the person who filed the fund claim must bring a
21 small claims action in the appropriate district court.

22 **Sec. 06.60.620. Filing fee.** (a) A person who files a fund claim under
23 AS 06.60.570 shall pay the department a filing fee of \$250 when the person files the
24 fund claim.

25 (b) The department shall refund the filing fee required under this section if the

26 (1) department makes an award to the claimant;

27 (2) fund claim is dismissed under AS 06.60.610; or

28 (3) fund claim is withdrawn by the claimant before the office of
29 administrative hearings (AS 44.64.010) holds a hearing on the fund claim.

30 **Sec. 06.60.630. Department contracts.** When the department receives a fund
31 claim, the department may contract under AS 36.30 (State Procurement Code) with an

1 investigator, an accountant, an attorney, or another person necessary for the
2 department to process the fund claim. A contract may cover more than one fund claim.

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

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

13 **Sec. 06.60.660. Postponement.** The department may postpone its
14 consideration of a fund claim until after a hearing under AS 06.60.200 or 06.60.590 or
15 until the completion of a pending court proceeding.

16 **Sec. 06.60.670. Nonapplication.** AS 06.60.630 - 06.60.660 do not apply to a
17 fund claim that is dismissed under AS 06.60.610.

18 **Sec. 06.60.680. Findings and payment.** (a) At the conclusion of the
19 department's consideration of a claim made under AS 06.60.570, the department shall
20 issue a written report that provides the department's findings of fact and conclusions of
21 law.

22 (b) If the department determines that the claimant has suffered a loss in a
23 mortgage loan transaction as a result of fraud, misrepresentation, deceit, or the
24 wrongful conversion of money by an originator licensee, the department may award
25 the person who filed the fund claim reimbursement from money appropriated to the
26 fund.

27 **Sec. 06.60.690. Fund operations.** The department shall deposit into the fund
28 money that the department recovers from an originator licensee under AS 06.60.745.
29 The department may not consider amounts paid from the fund for hearing or legal
30 expenses when determining the maximum reimbursement to be awarded under
31 AS 06.60.710 or the maximum liability for fund claims under AS 06.60.710.

1 **Sec. 06.60.700. Payment of small claims judgment.** (a) If a fund claim
2 dismissed under AS 06.60.610 results in a monetary award against an originator
3 licensee, the department may pay, subject to AS 06.60.710 and 06.60.720, any
4 outstanding portion of the small claims judgment from money appropriated to the
5 department for the purpose.

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

11 (c) After the department pays a small claims judgment under this section, the
12 department is subrogated to the rights of the person to whom the money was awarded
13 under the judgment.

14 **Sec. 06.60.710. Maximum liability.** (a) Payment of a fund claim may not
15 exceed \$15,000 for each claimant and \$15,000 for each mortgage loan transaction
16 regardless of the number of persons injured or the number of pieces of residential
17 property involved in the mortgage loan transaction.

18 (b) The maximum liability for fund claims against one originator licensee may
19 not exceed \$50,000.

20 (c) If the \$50,000 liability under (b) of this section is insufficient to pay in full
21 the valid fund claims of all persons who have filed fund claims against one originator
22 licensee, the \$50,000 shall be distributed among the claimants in the ratio that their
23 individual fund claims bear to the aggregate of valid fund claims against that
24 originator licensee. The department shall distribute the money among the persons
25 entitled to share in the recovery without regard to the order in which their fund claims
26 were filed.

27 **Sec. 06.60.720. Order of fund claim payment.** If the money appropriated to
28 the department for payment under AS 06.60.520 - 06.60.750 is insufficient to satisfy
29 an award under AS 06.60.680 for a fund claim, the department shall, when sufficient
30 money has been appropriated to the department for the purpose, satisfy unpaid fund
31 claims in the order the fund claims were originally filed, plus accumulated interest at

1 the rate allowed under AS 45.45.010(a).

2 **Sec. 06.60.730. False claims or documents.** A person who files a notice,
3 statement, or other document under AS 06.60.500 - 06.60.750 that contains a material
4 misstatement of fact is guilty of a class A misdemeanor.

5 **Sec. 06.60.740. Right to subrogation.** When the department has paid to a
6 claimant the sum awarded under AS 06.60.680 or 06.60.700 and any amount due
7 under AS 06.60.720, the department shall be subrogated to all of the rights of the
8 claimant to the amount paid, and the claimant shall assign all right, title, and interest in
9 that portion of the claim to the department. Money collected by the department on the
10 claim shall be deposited in the fund.

11 **Sec. 06.60.745. Reimbursement for expenses.** If the department pays all or a
12 portion of a fund claim against an originator licensee under AS 06.60.680 or
13 06.60.700, the department may recover from the originator licensee, in addition to the
14 payment of the fund claim, the expenses incurred by the department to process and
15 otherwise handle the fund claim.

16 **Sec. 06.60.750. Disciplinary action against an originator licensee.**
17 Repayment in full of all obligations to the fund does not nullify or modify the effect of
18 disciplinary proceedings brought against an originator licensee under this chapter.

19 **Article 8. Program Administration Fee.**

20 **Sec. 06.60.800. Authorization of program administration fee.** (a) The
21 department may collect a program administration fee of \$10 for each mortgage loan
22 transaction to reimburse the state for the cost of administering this chapter.

23 (b) The program administration fee shall be paid by a borrower who is
24 providing real property as security for the mortgage loan, except that, if the regulations
25 of a federal or state loan program that insures the loan and that applies to the mortgage
26 loan transaction prohibits the borrower from paying the program administration fee,
27 another party to the mortgage loan transaction shall pay the program administration
28 fee.

29 (c) If there are multiple mortgage loan instruments recorded for a single
30 mortgage loan transaction, the department shall collect only one program
31 administration fee.

1 (d) In this section, "mortgage loan instrument" means a deed of trust,
2 mortgage, or another loan instrument recorded to encumber residential real property in
3 the state.

4 **Sec. 06.60.810. Payment and use of fees.** (a) The department shall coordinate
5 with the Department of Natural Resources to collect the program authorization fee.

6 (b) The program authorization fee shall be charged when payment is made to
7 the Department of Natural Resources for recording a document under AS 44.37.025.

8 (c) The program authorization fees collected under (b) of this section shall be
9 separately accounted for and may be appropriated by the legislature to the department
10 for the operation of this chapter.

11 **Article 9. Duties and Powers of the Department.**

12 **Sec. 06.60.850. Publication of disciplinary action.** The department may
13 release for publication in a newspaper of general circulation in the locale of a
14 licensee's principal office notice of disciplinary action taken by the department against
15 the licensee.

16 **Sec. 06.60.860. Authority of department.** The department may make a ruling,
17 demand, or finding that the department determines is necessary for the proper conduct
18 of a licensee's business regulated by this chapter or for the enforcement of this chapter,
19 including an order for the payment of restitution. The ruling, demand, or finding must
20 be consistent with this chapter.

21 **Article 10. Miscellaneous Provisions.**

22 **Sec. 06.60.890. Application to Internet activities.** This chapter applies to a
23 person even if the person is engaging in the activities regulated by this chapter by
24 using an Internet website from within or outside the state.

25 **Sec. 06.60.895. Effect of revocation, suspension, or surrender of license.**
26 The revocation, suspension, or surrender of a license does not impair or otherwise
27 affect the rights or obligations of a preexisting lawful contract between the licensee
28 and a borrower.

29 **Sec. 06.60.900. Applicability of administrative procedures.** The provisions
30 of AS 44.62 (Administrative Procedure Act) apply to an action of the department to
31 deny, revoke, or suspend a license under this chapter, to censure, suspend, or bar a

1 person under AS 06.60.410, to take other disciplinary action under this chapter, to
2 hold hearings, and to issue orders.

3 **Sec. 06.60.905. Untrue, misleading, or false statements.** A person may not,
4 in a document filed with the department or in an examination, an investigation, a
5 hearing, or another proceeding under this chapter, make or cause to be made, an untrue
6 statement of a material fact, or omit to state a material fact necessary in order to make
7 the statement made, in the light of the circumstances under which it is made, not
8 misleading or false.

9 **Sec. 06.60.910. Regulations.** The department may adopt regulations under
10 AS 44.62 (Administrative Procedure Act) to implement this chapter.

11 **Sec. 06.60.920. Relationship to federal and other state law.** (a) If a
12 provision of this chapter is preempted by or conflicts with federal law in a particular
13 situation, the provision does not apply to the extent of the preemption or conflict.

14 (b) If a provision of this chapter conflicts with another state law in a particular
15 situation, the provision in this chapter governs to the extent of the conflict.

16 **Article 11. General Provisions.**

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

19 (1) "agent" does not include a person who is a state employee when
20 acting in the capacity of a state employee;

21 (2) "borrower" means an individual who receives a mortgage loan;

22 (3) "broker" means to operate as a mortgage broker;

23 (4) "control," except as provided in AS 06.60.065, means

24 (A) the ownership of, or the power to vote, directly or
25 indirectly, at least 25 percent of a class of voting securities or voting interests;

26 (B) the power to elect a majority of executive officers,
27 managers, directors, trustees, or other persons exercising managerial authority;
28 or

29 (C) the power to exercise, directly or indirectly, a controlling
30 influence over management or policies or person in control;

31

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

3 (6) "escrow account" means an account

4 (A) to which a borrower makes payments for obligations
5 related to the real property that is the subject of a mortgage loan of the
6 borrower;

7 (B) held by a third person; and

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

12 (7) "fund" means the originator surety fund established by
13 AS 06.60.500;

14 (8) "fund claim" means a claim authorized under AS 06.60.560;

15 (9) "fund fee" means the fee that is required to be paid by
16 AS 06.60.550;

17 (10) "knowingly" has the meaning given in AS 11.81.900;

18 (11) "license" means a license issued under this chapter;

19 (12) "licensee" means a person who holds a license issued under this
20 chapter;

21 (13) "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 an
24 originator who is an employee or under exclusive contract to the person,

25 (A) arranges with a variety of lending sources, who may be
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 mortgage loans;

30 (14) "mortgage lender" means a person who consummates and funds a
31 mortgage loan and who is named as the payee in the promissory note and as the

1 beneficiary of the deed of trust; "mortgage lender" does not include a subsequent
2 purchaser of a mortgage loan or an interest in a mortgage loan that is originated by a
3 licensee under this chapter;

4 (15) "mortgage lender license" means a license issued under this
5 chapter to operate as a mortgage lender;

6 (16) "mortgage lender licensee" means a person who holds a mortgage
7 lender license;

8 (17) "mortgage license" means a mortgage lender license or a
9 mortgage broker license;

10 (18) "mortgage licensee" means a mortgage lender licensee or a
11 mortgage broker licensee;

12 (19) "mortgage loan"

13 (A) means a loan made to an individual if the proceeds are to
14 be used primarily for personal, family, or household purposes and if the loan is
15 secured by a mortgage or deed of trust on an interest in a residential owner-
16 occupied property for one to four family units located in the state and
17 regardless of where the loan is made;

18 (B) includes the renewal or refinancing of a loan;

19 (C) does not include loans

20 (i) or extensions of credit to buyers of real property for
21 a part of the purchase price of the property by persons selling the
22 property owned by them;

23 (ii) to persons related to the lender by blood or
24 marriage;

25 (iii) to persons who are employees of the lender; or

26 (iv) made primarily for a business, commercial, or
27 agricultural purpose of the borrower or for construction of residential
28 property;

29 (20) "operate" means do business, offer to provide, or provide;

30 (21) "originator"

31 (A) means a natural person who, for compensation or gain, or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

in the expectation of compensation or gain, directly or indirectly, by telephone, by electronic means, by mail, or in person

(i) interviews the consumer in connection with the consumer's application for a mortgage loan;

(ii) accepts or offers to accept an application for a mortgage loan from a potential borrower;

(iii) solicits or offers to solicit a mortgage loan for a potential borrower;

(iv) negotiates or offers to negotiate the terms or conditions of a mortgage loan with or for a borrower or potential borrower; or

(v) issues or offers to issue to borrowers, potential borrowers, or the representatives of borrowers or potential borrowers, mortgage loan commitments, interest rate agreements, interest rate guarantees, prequalification letters, or commitments to finance up to a stated amount of the value of real property, or 90-percent letters to finance up to a stated amount of the value of real property;

(B) does not include employees of a mortgage licensee, or employees of a person who is exempt from licensure under AS 06.60.015, who perform clerical duties in connection with mortgage loan transactions, collect financial information and other related documents that are part of the application process, order verifications of employment, verifications of deposits, requests for mortgage payoffs, and other loan verifications, appraisals, inspections, or engineering reports, or perform the functions of a mortgage loan processor, at the direction of and subject to the supervision of the mortgage licensee, a mortgage originator, or the person exempt from licensure.

(22) "originator license" means a license issued to a person to operate as an originator;

(23) "originator licensee" means a person who holds an originator license;

1 (24) "program administration fee" means the fee described under
2 AS 06.60.800(a);

3 (25) "record" means information that is inscribed on a tangible
4 medium or that is stored in an electronic or other medium and is retrievable in
5 perceivable form;

6 (25) "residential property" means improved real property used or
7 occupied, or intended to be used or occupied, for residential purposes.

8 **Sec. 06.60.995. Short title.** This chapter may be known as the Mortgage
9 Lending Regulation Act.

10 * **Sec. 3.** AS 09.38.015 is amended by adding a new subsection to read:

11 (e) Money held in an escrow account under AS 06.60.360 is exempt.

12 * **Sec. 4.** AS 09.38.065(a) is amended to read:

13 (a) Subject to AS 06.60.360(e), and notwithstanding
14 [NOTWITHSTANDING] other provisions of this chapter,

15 (1) a creditor may make a levy against exempt property of any kind to
16 enforce a claim for

17 (A) child support;

18 (B) unpaid earnings of up to one month's compensation or the
19 full-time equivalent of one month's compensation for personal services of an
20 employee; or

21 (C) state or local taxes;

22 (2) a creditor may make a levy against exempt property to enforce a
23 claim for

24 (A) the purchase price of the property or a loan made for the
25 express purpose of enabling an individual to purchase the property and used
26 for that purpose;

27 (B) labor or materials furnished to make, repair, improve,
28 preserve, store, or transport the property; and

29 (C) a special assessment imposed to defray costs of a public
30 improvement benefiting the property; and

31 (3) a creditor may make a levy against exempt property of any kind to

1 enforce the claim of a victim, including a judgment of restitution on behalf of a victim
2 of a crime or a delinquent act, if the claim arises from conduct of the debtor that
3 results in a conviction of a crime or an adjudication of delinquency, except that the
4 debtor is entitled to an exemption in property

5 (A) not to exceed an aggregate value of \$3,000 chosen by the
6 debtor from the following categories of property:

7 (i) household goods and wearing apparel reasonably
8 necessary for one household;

9 (ii) books and musical instruments, if reasonably held
10 for the personal use of the debtor or a dependent of the debtor; and

11 (iii) family portraits and heirlooms of particular
12 sentimental value to the debtor; and

13 (B) not to exceed an aggregate value of \$2,800 of the debtor's
14 implements, professional books, and tools of the trade.

15 * Sec. 5. AS 12.62.400 is amended by adding a new paragraph to read:

16 (15) licensure as a mortgage lender, a mortgage broker, or an
17 originator under AS 06.60.

18 * Sec. 6. AS 44.62.330(a) is amended by adding a new paragraph to read:

19 (47) Department of Commerce, Community, and Economic
20 Development relating to mortgage lending under AS 06.60.

21 * Sec. 7. AS 44.64.030(a)(5) is amended to read:

22 (5) AS 06 (banks, [AND] financial institutions, and fund claims),
23 except as provided otherwise by AS 06.60.590;

24 * Sec. 8. AS 45.50.471(b) is amended by adding a new paragraph to read:

25 (52) violating AS 06.60.010 - 06.60.380 (mortgage lending
26 regulation);

27 * Sec. 9. AS 45.50.481 is amended by adding a new subsection to read:

28 (c) The exemption in (a)(1) of this section does not apply to an act or
29 transaction regulated under AS 06.60.

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

1 TRANSITION: LICENSING OF CURRENT MORTGAGE LENDERS AND
2 MORTGAGE BROKERS. Notwithstanding AS 06.60.010, enacted by sec. 2 of this Act, a
3 person who is engaging in activities for which a license is required under AS 06.60, enacted
4 by sec. 2 of this Act, immediately before the effective date of AS 06.60 is not required to
5 comply with the licensing requirements of AS 06.60 until March 1, 2009. In this section,
6 "license" has the meaning given in AS 06.60.990, enacted by sec. 2 of this Act.

7 * Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to
8 read:

9 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
10 Economic Development may proceed to adopt regulations necessary to implement the
11 changes made by this Act. The regulations take effect under AS 44.62 (Administrative
12 Procedure Act), but not before July 1, 2008.

13 * Sec. 12. Section 11 of this Act takes effect immediately under AS 01.10.070(c).

14 * Sec. 13. Except as provided in sec. 12 of this Act, this Act takes effect July 1, 2008.

NOT OFFERED

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR HUGGINS

TO: CSHB 162(), Draft Version "N"

1 Page 1, line 13, through page 2, line 2:

2 Delete "and licensee under AS 06.60; in this paragraph, "licensee under
3 AS 06.60" has the meaning given to "licensee" in AS 06.60.990"

4 Insert "a licensee under AS 06.60, a small mortgage lender under AS 06.60, and
5 an originator under AS 06.60 who is employed by or works under exclusive contract for
6 a small mortgage lender; in this paragraph,

7 (A) "licensee under AS 06.60" has the meaning given to
8 "licensee" in AS 06.60.990;

9 (B) "originator under AS 06.60" has the meaning given to
10 "originator" in AS 06.60.990;

11 (B) "small mortgage lender under AS 06.60" has the
12 meaning given to "small mortgage lender" in AS 06.60.990;"

13

14 Page 2, line 10:

15 Delete "A"

16 Insert "Except as provided by AS 06.60.017. a"

17

18 Page 3, following line 30:

19 Insert a new section to read:

20 "Sec. 06.60.017. Small mortgage lenders and originators. (a)

21 Notwithstanding AS 06.60.010, the department may register

22 (1) a person to operate as a small mortgage lender;

23 (2) a natural person to operate as an originator for a small mortgage

1 lender if the person is an employee of, or working under exclusive contract for, the
2 small mortgage lender.

3 (b) To qualify for registration as a small mortgage lender, a person shall

4 (1) submit an application on a form established by the department;

5 (2) pay a fee of \$150;

6 (3) certify that all money used in the operation of the person's business
7 as a small mortgage lender belongs to the person and is not borrowed or received from
8 another person; and

9 (4) be approved by the department under (d) of this section.

10 (c) To qualify for registration as an originator under this section, a person shall

11 (1) submit an application on a form established by the department;

12 (2) pay a fee of \$75;

13 (3) be approved by the department under (d) of this section.

14 (d) Before approving an application of a person under this section, the
15 department shall determine that

16 (1) if the person is applying for registration as a small mortgage lender,
17 the financial responsibility, experience, character, and general fitness of the person,
18 and of the person's directors, officers, members, owners, and other principals, and the
19 organization and operation of the applicant indicate that the business will be operated
20 efficiently and fairly, in the public interest, and under the law; and

21 (2) the person has not

22 (A) been enjoined by a court of competent jurisdiction from
23 engaging in an aspect of the business of providing financial services to the
24 public; and

25 (B) within the previous seven years,

26 (i) been prohibited by a federal or state regulatory
27 agency from engaging in, participating in, or controlling a finance-
28 related activity that involves providing financial services to the public;

29 (ii) been convicted, including a conviction based on a
30 guilty plea or a plea of nolo contendere, of a felony or a misdemeanor
31 involving fraud, misrepresentation, or dishonesty;

1 (iii) committed an act, made an omission, or engaged in
2 a practice that constitutes a breach of a fiduciary duty;

3 (iv) made a false material statement on an application
4 submitted under this chapter; or

5 (v) violated a provision of this chapter, a regulation
6 adopted under this chapter, or an order of the department under this
7 chapter.

8 (e) A registration issued under this chapter remains in effect for two years
9 after the registration is issued.

10 (f) A small mortgage lender may renew a registration by submitting to the
11 department 30 days before the expiration of the registration

12 (1) a renewal application in the form and manner established by the
13 department;

14 (2) a biennial registration fee of \$150; and

15 (3) a report identifying any changes in the information provided under
16 (b) of this section.

17 (g) An originator may renew a registration as an originator by submitting to
18 the department 30 days before the expiration of the licensee's registration

19 (1) a renewal application in the form and manner established by the
20 department;

21 (2) a biennial registration fee of \$75; and

22 (3) a report identifying any changes in the information provided under
23 (c) of this section.

24 (h) An application under this section is considered granted unless, within 30
25 days after the department determines it has received a complete application, the
26 department notifies the applicant that the department has denied the application
27 because of the applicant's noncompliance with this section.

28 (i) The department may adopt regulations to implement this section

29 (j) In this section,

30 (1) "registration" means registration under this section;

31 (2) "small mortgage lender" means a person who is registered under

1 this section."

2

3 Page 16, line 21, following "license":

4 Insert "or a registration under AS 06.60.017"

5

6 Page 16, line 22, following "licensee":

7 Insert "or small mortgage lender"

8

9 Page 17, following line 3:

10 Insert a new paragraph to read:

11 "(2) the small mortgage lender has violated a provision of this chapter
12 applicable to the small mortgage lender;"

13

14 Renumber the following paragraphs accordingly.

15

16 Page 17, line 4, following "licensee":

17 Insert "or small mortgage lender"

18

19 Page 17, line 9, following "licensee":

20 Insert "or small mortgage lender"

21

22 Page 17, line 11, following "license":

23 Insert "or a registration under AS 06.60.017"

24

25 Page 17, line 14, following "license":

26 Insert "or the registration under AS 06.60.017"

27

28 Page 17, lines 15 - 16:

29 Delete "is not fit to engage in the activities for which the licensee was licensed"

30 Insert "or small mortgage lender is not fit to engage in the activities for which the
31 licensee was licensed or small mortgage lender was registered"

1

2 Page 17, line 19, following "business":

3 Insert "or the small mortgage lender's business"

4

5 Page 17, line 20, following "business":

6 Insert "or the small mortgage lender's business"

7

8 Page 17, line 23, following "license":

9 Insert "or the registration under AS 06.60.017"

10

11 Page 17, line 25, following "licensee":

12 Insert ", or the registration of a small mortgage lender,"

13

14 Page 17, line 28:

15 Delete ". A person whose license"

16 Insert "or registered under AS 06.60.017. A person whose license or registration under
17 AS 06.60.017"

18

19 Page 17, line 29, following "license":

20 Insert "or another registration under AS 06.60.017"

21

22 Page 18, line 13, following "license":

23 Insert "or a registration of a small mortgage lender"

24

25 Page 18, line 14, following "licensee":

26 Insert "or the small mortgage lender"

27

28 Page 18, line 15, following "licensee":

29 Insert "or small mortgage lender"

30

31 Page 18, line 17:

1 Delete "of revoked license"

2

3 Page 18, line 18:

4 Delete "if the licensee"

5 Insert "or registration under AS 06.60.017 if the licensee or small mortgage lender"

6

7 Page 18, line 20:

8 Delete ", the licensee"

9 Insert "or registration under AS 06.60.017, the licensee or small mortgage lender"

10

11 Page 18, line 24, following "chapter":

12 Insert "or a small mortgage lender"

13

14 Page 18, line 29, following "licensee":

15 Insert "or small mortgage lender"

16

17 Page 19, line 2, following "licensee":

18 Insert "or small mortgage lender"

19

20 Page 19, line 3, following "licensee":

21 Insert "or small mortgage lender"

22

23 Page 20, line 12, following "person":

24 Insert ", including a small mortgage lender."

25

26 Page 20, line 17, following the second occurrence of "person":

27 Insert ", including a small mortgage lender."

28

29 Page 20, line 30, following "chapter":

30 Insert "a person who is a small mortgage lender."

31

- 1 Page 22, line 15, following "license,":
2 Insert "registration,"
3
- 4 Page 24, line 4, following "licensee":
5 Insert "or small mortgage lender"
6
- 7 Page 24, line 8, following "person":
8 Insert ", including a small mortgage lender,"
9
- 10 Page 24, line 10, following "licensee":
11 Insert ", person who is a small mortgage lender,"
12
- 13 Page 24, line 14, following "licensee":
14 Insert " or a small mortgage lender"
15
- 16 Page 24, line 17, following "license":
17 Insert "or without being registered under AS 06.60.017"
18
- 19 Page 24, line 19:
20 Delete "Definition of "covered person.""
21 Insert "Definitions for AS 06.60.320 - 06.60.380."
22
- 23 Page 24, line 20, following "06.60.380,":
24 Insert "(1)"
25
- 26 Page 24, line 20, following "licensee":
27 Insert ", a small mortgage lender,"
28
- 29 Page 24, line 21, following "AS 06.20":
30 Insert ";
31 (2) "small mortgage lender" includes a natural person who is an

1 employee of, or working under exclusive contract for, a small mortgage lender"

2

3 Page 24, line 24, following "person":

4 Insert ", including a small mortgage lender,"

5

6 Page 24, line 29, following "months,":

7 Insert "suspend the registration of a small mortgage lender for a period not to exceed
8 12 months,"

9

10 Page 24, line 30, following "licensee":

11 Insert "or a small mortgage lender"

12

13 Page 25, line 3, following "licensee":

14 Insert ", to the small mortgage lender,"

15

16 Page 25, line 7, following "license":

17 Insert "or registration as a small mortgage lender"

18

19 Page 25, line 10, following "licensee":

20 Insert "or a small mortgage lender"

21

22 Page 25, line 11:

23 Delete "licensee is conducting the licensee's business"

24 Insert "licensee or small mortgage lender is conducting the licensee's or small
25 mortgage lender's business"

26

27 Page 25, line 13, following "licensee":

28 Insert "or a small mortgage lender"

29

30 Page 25, line 14, following "person":

31 Insert ", including a small mortgage lender,"

1

2 Page 25, line 21, following "licensee":

3 Insert "or a small mortgage lender"

4

5 Page 25, line 25, following "licensee":

6 Insert ", a small mortgage lender,"

7

8 Page 25, line 26, following "licensee":

9 Insert "or small mortgage lender"

10

11 Page 26, following line 3:

12 Insert a new section to read:

13 "Sec. 06.60.440. Definition. In AS 06.60.400 - 06.60.440, "small mortgage
14 lender" includes a natural person who is an employee of, or working under exclusive
15 contract for, a small mortgage lender."

16

17 Page 33, line 1, following "person":

18 Insert ", including a small mortgage lender"

19

20 Page 33, line 12, following "person":

21 Insert ", including a small mortgage lender,"

22

23 Page 37, line 6, following "purposes":

24 Insert ";

25 (26) "small mortgage lender" means a person registered under

26 AS 06.60.017"

SENATE FINANCE
COMMITTEE
Amendment # #2
To Bill Number: HB 162
Sponsor: Huggins
Date 5/11/07 Logged by: Mindy

* Not distributed *

SENATE FINANCE COMMITTEE Replaced

AMENDMENT No. _____

BY Sen Huggins

To: SCS CS HB 162

To: Version "N"

page 24 lines 19 - 21
delete all language

Sec. 06.60.380. Definition of
"covered person."

Also negates change on page 7 line 19
thru
page 8 line 1

of Amendment #1

ADOPTED

WORK DRAFT

WORK DRAFT

WORK DRAFT

25-LS0070\N
Bannister
5/8/07

SENATE CS FOR CS FOR HOUSE BILL NO. 162()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE LYNN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to mortgage lenders, mortgage brokers, mortgage originators, state
2 agents who collect program administration fees, and other persons who engage in
3 activities relating to mortgage lending; relating to mortgage loan activities; relating to
4 an originator fund; relating to fees for mortgage loan transactions; making certain
5 violations unfair trade practices; relating to persons who are licensed under the Alaska
6 Small Loans Act; and providing for an effective date."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

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

9 (3) "financial institution" means an institution subject to the regulation
10 of the department under this title; in this paragraph, "institution" includes a
11 commercial bank, savings bank, credit union, premium finance company, small loan
12 company, bank holding company, financial holding company, trust company, savings
13 and loan association, [AND] deferred deposit advance licensee under AS 06.50, and

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

licensee under AS 06.60; in this paragraph, "licensee under AS 06.60" has the meaning given to "licensee" in AS 06.60.990;

* Sec. 2. AS 06 is amended by adding a new chapter to read:

Chapter 60. Mortgage Lending Regulation Act.

Article 1. Licensing.

Sec. 06.60.010. License required. (a) Except as provided under AS 06.60.015, a person, including a person doing business from outside this state, may not operate as a mortgage lender or mortgage broker in this state unless the person is licensed under this chapter.

(b) A person may not operate as an originator in this state unless the person is a natural person who is

(1) licensed as an originator under this chapter; and

(2) works under exclusive contract for, or as an employee of, a mortgage licensee.

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

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

Sec. 06.60.015. Exemptions; requirements of registration. (a) Except as provided by AS 06.60.370(c) and by (b) and (c) of this section, this chapter does not apply to a person who operates as a mortgage lender or mortgage broker if the person is

(1) a person who is authorized to engage in business as a bank, bank holding company, savings institution, savings and loan association, trust company with banking powers, or credit union under the laws of this state, another state, the United States, a territory of the United States, or the District of Columbia, and whose mortgage loan activity is subject to the general supervision, regulation, and examination of a regulatory body of this state, another state, the United States, a territory of the United States, or the District of Columbia;

(2) a subsidiary or an operating subsidiary of a person who is identified by (1) of this subsection, or of a bank holding company or savings and loan holding

1 company, if the subsidiary or operating subsidiary certifies to the department on a
2 form provided by the department that the subsidiary or operating subsidiary is exempt
3 from this chapter because of applicable federal statute or regulation;

4 (3) an employee of a person identified in (1) or (2) of this subsection;

5 (4) an exclusive agent of a person identified in (1) or (2) of this
6 section, if the person identified in (1) or (2) of this section has received a
7 determination from a regulatory body of the United States government, based on
8 applicable federal law, that the exclusive agent is exempt from this chapter;

9 (5) a nonprofit corporation that makes mortgage loans to promote
10 home ownership or home improvements; in this paragraph, "nonprofit corporation"
11 means a corporation that qualifies under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue
12 Code) for an exemption from federal income taxation;

13 (6) an agency of the federal government, a state government, a
14 municipality, or a quasi-governmental agency making or brokering mortgage loans
15 under the specific authority of the laws of a state or the United States;

16 (7) a person who acts as a fiduciary for an employee pension benefit
17 plan qualified under 26 U.S.C. (Internal Revenue Code) and who makes mortgage
18 loans solely to participants of the plan from assets of the plan;

19 (8) a person who acts in a fiduciary capacity conferred by the authority
20 of a court; or

21 (9) a person who is licensed by the United States Small Business
22 Administration as a small business investment company under 15 U.S.C. 661 - 697g
23 (Small Business Investment Act of 1958).

24 (b) A person who is listed in (a)(1) - (9) of this section shall file a registration
25 form to obtain an exemption under (a) of this section. The department shall determine
26 the form and content of the registration form.

27 (c) A person who is licensed under AS 06.20 is exempt from the requirements
28 of this chapter, except that the person is subject to AS 06.60.320 - 06.60.380.

29 (d) In this section, "bank holding company" has the meaning given in 12
30 U.S.C. 1841 (Bank Holding Company Act).

31 **Sec. 06.60.020. Application for mortgage license.** An application for a

1 mortgage license must

2 (1) be in writing;

3 (2) be signed by the applicant and notarized;

4 (3) be on the form prescribed by the department;

5 (4) contain the name of the applicant, including the name of the
6 business, and of the natural person who is designated to obtain the originator license
7 under AS 06.60.025;

8 (5) if the applicant is a partnership or an association not covered by (6)
9 or (7) of this section, contain the name and both the residence and business addresses
10 of each partner of the partnership or member of the association;

11 (6) if the applicant is a corporation, contain the name and both the
12 residence and business addresses of each officer and director of the corporation, and a
13 shareholder holding

14 (A) 10 percent or more of the total outstanding voting shares, if
15 the corporation has fewer than 75 shareholders; or

16 (B) more than 51 percent of the outstanding voting shares in
17 the corporation, if the corporation has 75 or more shareholders;

18 (7) if the applicant is a limited liability company, contain the name and
19 both the residence and business addresses of each member of the company, and any
20 manager of the company who individually owns more than 51 percent of the limited
21 liability company;

22 (8) contain the mailing address of the applicant, the street address and
23 city, if any, for each business location that will be covered by the license, and an
24 identification of the applicant's principal office;

25 (9) provide the applicant's written consent to an investigation of the
26 applicant under AS 06.60.030;

27 (10) if requested by the department, include a complete set of
28 fingerprints of the applicant and of the directors, officers, members, owners, and other
29 principals of the applicant as specified by the department to obtain a report of criminal
30 justice information and a national criminal history record check;

31 (11) contain other information that the department may require

1 concerning the organization and operations of the applicant and the financial
2 responsibility, background, experience, and activities of the applicant and its directors,
3 officers, members, owners, and other principals.

4 **Sec. 06.60.025. Application for originator license.** An application for an
5 originator license must

- 6 (1) be in writing;
- 7 (2) be signed by the applicant and notarized;
- 8 (3) be on a form prescribed by the department;
- 9 (4) contain the name and residence address of the applicant;
- 10 (5) include a complete set of fingerprints of the applicant to obtain a
11 report of criminal justice information and a national criminal history record check; and
12 (6) contain other information or supporting material that the
13 department may require concerning the applicant, including other forms of
14 identification of the applicant.

15 **Sec. 06.60.027. Fingerprint submissions.** The department shall submit
16 fingerprints provided under AS 06.60.020 and 06.60.025 to the Department of Public
17 Safety to obtain a report of criminal justice information under AS 12.62 and a national
18 criminal history record check under AS 12.62.400.

19 **Sec. 06.60.030. Investigation.** The department shall investigate an applicant
20 for a license to determine if the applicant satisfies the requirements of this chapter for
21 the license.

22 **Sec. 06.60.035. Fees and expenses.** (a) Except as provided by (c) of this
23 section, when an applicant submits an application for a license under this chapter to
24 the department, the applicant shall pay to the department

25 (1) a nonrefundable application fee of \$250 in partial payment of those
26 investigation expenses incurred by the department; and

27 (2) a biennial license fee of \$500 for the period that terminates two
28 years after the date the license is issued; after this payment, the biennial license fee is
29 due every two years on the anniversary date of the original issuance of the license.

30 (b) An applicant shall pay all investigative fees incurred by the department
31 before the department issues a license.

1 (c) An applicant is not required to pay the application fee or the biennial
2 license fee under (a) of this section if the applicant is applying for a mortgage license
3 and an originator license, is the principal owner or legally authorized manager of the
4 mortgage license applicant, and is designated in the application under AS 06.60.020(4)
5 as the individual to receive an originator license for the mortgage licensee.

6 **Sec. 06.60.040. Competency testing.** (a) A person who applies for an
7 originator license shall pass a competency test conducted and graded by the
8 department. The department shall establish the scope, content, and minimum passing
9 score of the test by regulation.

10 (b) If an individual fails the competency test, the individual may take the
11 competency test again. The department may charge an additional \$150 fee for each
12 additional competency test that the department provides to the person.

13 **Sec. 06.60.045. Bonding.** (a) An applicant for a mortgage license shall file
14 with the application submitted to the department under AS 06.60.020 a bond with one
15 or more sureties in the amount of \$25,000 under which the applicant is the obligor.
16 The bond must be satisfactory to the department.

17 (b) The bond required by (a) of this section shall be for the use of the
18 department, the Department of Law, or another person to recover for a claim for relief
19 against the obligor under this chapter. The bond must state that the obligor will
20 faithfully conform to and abide by the provisions of this chapter and all regulations
21 adopted under this chapter and will pay the department, the Department of Law, or
22 another person all money that may become due or owing to the department, the
23 Department of Law, or the other person from the obligor under this chapter.

24 (c) An applicant for a mortgage license that covers more than one location is
25 not required to file more than one bond.

26 (d) The bond required under (a) of this section may be continuous until the
27 department revokes or otherwise terminates the license.

28 (e) If the department determines at any time that the bond required under (a)
29 of this section is unsatisfactory for any reason, the department may require the
30 mortgage licensee to file with the department, within 10 days after the receipt of a
31 written demand from the department, an additional bond that complies with the

1 provisions of this section.

2 **Sec. 06.60.050. Decision on application.** (a) Within 30 days after the date the
3 department has determined that it has received a complete application, the required
4 bond if the application is for a mortgage license, and any required fees and
5 investigative costs are received by the department, the department shall either grant or
6 deny the license.

7 (b) If the department denies the license, the department shall promptly notify
8 the applicant. The notification must indicate the reason for the denial and that the
9 applicant is entitled to a hearing on the denial.

10 **Sec. 06.60.060. Determinations for mortgage licensing.** Before granting a
11 mortgage license, the department shall determine that

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

14 (2) the financial responsibility, experience, character, and general
15 fitness of the applicant, and of the applicant's directors, officers, members, owners,
16 and other principals, and the organization and operation of the applicant indicate that
17 the business will be operated efficiently and fairly, in the public interest, and under the
18 law; and

19 (3) the department has not found grounds for denial of a license under
20 AS 06.60.065.

21 **Sec. 06.60.065. Determinations for originator licensing.** Before granting an
22 originator license to a person, the department shall determine that the applicant has

23 (1) complied with the requirements of this chapter and paid all fees for
24 obtaining the originator license;

25 (2) not been enjoined by a court of competent jurisdiction from
26 engaging in an aspect of the business of providing financial services to the public; and

27 (3) not, within the previous seven years,

28 (A) been prohibited by a federal or state regulatory agency
29 from engaging in, participating in, or controlling a finance-related activity that
30 involves providing financial services to the public;

31 (B) been convicted, including a conviction based on a guilty

1 plea or a plea of nolo contendere, of a felony or a misdemeanor involving
2 fraud, misrepresentation, or dishonesty;

3 (C) committed an act, made an omission, or engaged in a
4 practice that constitutes a breach of a fiduciary duty;

5 (D) made a false material statement of an application submitted
6 under this chapter; or

7 (E) violated a provision of this chapter, a regulation adopted
8 under this chapter, or an order of the department under this chapter.

9 **Sec. 06.60.070. Form and contents of license.** A license must be in a form
10 established by the department and must state the full name of the licensee. A mortgage
11 license must state the address for each office of the business where the business of the
12 licensee is to be conducted. If a mortgage licensee conducts business on the Internet,
13 the mortgage license must also state the registered domain address through which the
14 mortgage licensee conducts the mortgage licensee's business and the physical location
15 of the mortgage licensee's main business office.

16 **Sec. 06.60.075. License availability.** A licensee shall provide a copy of the
17 license to a person who requests a copy.

18 **Article 2. License Duration, Renewal, Inactivity, and Surrender.**

19 **Sec. 06.60.080. Duration and renewal of license.** A license issued under this
20 chapter remains in effect for two years after the license is issued unless revoked,
21 suspended, surrendered, or made inactive under this chapter.

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 30 days before the expiration of the
24 licensee's license

25 (1) a renewal application in the form and manner established by the
26 department;

27 (2) the biennial license fee required by AS 06.60.105;

28 (3) if the renewal is for a mortgage license, a report identifying any
29 changes in the information provided under AS 06.60.020(4) - (8);

30 (4) if the renewal is for an originator license, certificates or other
31 documents that show that the continuing education requirements of AS 06.60.160 have

1 been satisfied; and

2 (5) if the renewal is for an originator license, the fund fee required by
3 AS 06.60.550.

4 (b) A renewal under (a) of this section is considered granted unless, within 30
5 days after the department determines it has received a completed renewal application
6 containing the items in (a) of this section, the department notifies the licensee that the
7 department has denied the renewal application because of the licensee's
8 noncompliance with this chapter or another provision of AS 06.

9 **Sec. 06.60.090. Inactive license.** (a) A license may be made inactive under this
10 section.

11 (b) To be eligible to have a mortgage license be made inactive, all mortgage
12 loans of a licensee must have been paid in full or sold.

13 (c) To make a license inactive, a licensee shall provide the department with a
14 written request that the license be made inactive and return the license certificate to
15 the department. The request must include the licensee's name, address, and other
16 information that the department requires that is necessary for the department to
17 process the request and a statement by the licensee that all mortgage loans of the
18 licensee have been paid in full or sold.

19 (d) The department shall issue an inactive license certificate to a person whose
20 license becomes inactive under this section.

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

24 (f) If a license is made inactive under this section, the license remains inactive
25 until the person who holds the inactive license provides the department with a written
26 request that the license be reactivated. The request must include the information that
27 the department requires is necessary to process the request.

28 (g) While a license is inactive, the person holding the inactive license shall
29 pay the biennial license fee as required by AS 06.60.105 and inform the department of
30 any change that occurs in the name and address of the person, the location of the
31 person's business, or in the business operations or control of the person, but the person

1 is not required to maintain the bond required by AS 06.60.045 or to file the annual
2 report required by AS 06.60.100.

3 (h) Notwithstanding AS 06.60.120, while a license is inactive under this
4 section, the person who holds the license may not transfer the license to another
5 person.

6 (i) While a license is inactive under this section, the person is not required to
7 surrender the license under AS 06.60.097(b) for not having engaged in mortgage loan
8 activity for 12 months.

9 (j) While a license is inactive under this section, the person holding the
10 inactive license shall continue to maintain records as required by AS 06.60.135 for the
11 business transactions of the person that occurred before the license became inactive.

12 (k) While a license is inactive under this section, the department may take
13 action against the license, the person holding the inactive license, or both for
14 noncompliance with this chapter before the license became inactive or for
15 noncompliance with this section while the license is inactive.

16 (l) A licensee whose license lapses under this chapter is not eligible for an
17 inactive license under this section unless the license is reactivated under
18 AS 06.60.095.

19 (m) A person holding a license that is inactive under this section may not
20 engage in activities for which the license is required, but may receive commissions or
21 other payments from a person who contracted with or employed the licensee for
22 services, if the services were performed while the licensee was actively licensed.

23 (n) Except as otherwise provided in this section and by regulations adopted by
24 the department, the provisions of this chapter do not apply to a person holding an
25 inactive license under this section.

26 **Sec. 06.60.095. Reactivation of inactive license.** (a) Except as provided in (b)
27 and (c) of this section, a person who has an inactive license certificate under
28 AS 06.60.090 may apply to the department for an active license and pay the required
29 fees.

30 (b) A person is eligible for reactivation of an inactive license if the person has
31 been in an inactive status for less than 24 months from the anniversary date of the

1 issuance of the initial inactive license. If the person has been in an inactive status for
2 24 months or longer, the person may obtain a license only by satisfying the
3 qualifications applicable to initial licensure.

4 (c) The department may issue an active license that has been converted from
5 inactive status under this section for the term remaining on the license before it was
6 made inactive.

7 **Sec. 06.60.097. Surrender of license.** (a) A licensee may surrender a license
8 issued to the licensee by delivering written notice to the department that the licensee
9 intends to surrender the license, except that a mortgage licensee may not surrender a
10 license until all loans of that mortgage licensee have either been paid in full or sold.

11 (b) A licensee shall surrender a license issued to the licensee if the licensee
12 has not engaged in mortgage loan activity for 12 consecutive months.

13 (c) Surrender of a license under this section does not affect the licensee's civil
14 or criminal liability for acts committed before surrender of the license.

15 **Article 3. Licensee Obligations.**

16 **Sec. 06.60.100. Annual report.** (a) On or before March 15, or on another date
17 established by the department by regulation, of each year a mortgage licensee shall file
18 a report with the department giving relevant information that the department requires
19 concerning the business and operations of each location in this state where business
20 was conducted by the mortgage licensee in this state during the preceding calendar
21 year. The mortgage licensee shall make the report under oath or on affirmation. The
22 content and form of the report shall be established by the department by regulation.

23 (b) A mortgage licensee who fails to file a report as required by (a) of this
24 section is subject to a civil penalty of \$25 for each day's failure to file the report.

25 **Sec. 06.60.105. Biennial license fee.** (a) Except as provided by (d) of this
26 section, a licensee shall pay the department a biennial license fee of \$500.

27 (b) After the payment of the initial biennial license fee under AS 06.60.035, a
28 licensee shall pay the biennial license fee every two years on or before the anniversary
29 date of the original issuance of the license, subject to renewal by the department

30 (c) A mortgage licensee who is licensed to act as both a mortgage broker and a
31 mortgage lender is not required to pay more than one biennial license fee.

1 (d) An originator licensee is not required to pay a biennial license fee if the
2 licensee holds a mortgage license and an originator license, is the principal owner or
3 legally authorized manager of the mortgage licensee, and was designated in the
4 application under AS 06.60.020(4) as the individual to receive an originator license for
5 the mortgage licensee.

6 (e) The license fee imposed by (a) of this section is in addition to the fee
7 imposed under AS 43.70 (Alaska Business License Act).

8 **Sec. 06.60.110. Location of business.** A mortgage licensee may not maintain
9 the mortgage licensee's principal place of business or a branch office within an office,
10 suite, room, or place of business in which any other business is solicited or engaged in,
11 or in association or conjunction with another business, unless the name, ownership,
12 and business purpose of the other business is disclosed in the mortgage licensee's
13 application for a mortgage license.

14 **Sec. 06.60.115. Change of place of business.** If a mortgage licensee wishes to
15 change the mortgage licensee's place of business to another location, the mortgage
16 licensee shall submit a written notice to the department at least 10 days before
17 relocating the business. If the mortgage licensee is otherwise in compliance with this
18 chapter, the department shall issue a new mortgage license to the mortgage licensee to
19 reflect the new location.

20 **Sec. 06.60.120. Transfer of business.** (a) Except as provided by (b) of this
21 section, a mortgage licensee may only transfer or assign the licensee's business if

22 (1) an application is made to the department to transfer or assign the
23 business to another mortgage licensee with the same type of mortgage license as the
24 transferring or assigning mortgage licensee;

25 (2) at least 30 days before the effective date of the proposed transfer or
26 assignment, the department determines it has received a complete application; and

27 (3) the department determines that the proposed transfer or assignment
28 complies with AS 06.60.060.

29 (b) A person who holds an originator license may not transfer or assign the
30 originator license.

31 **Sec. 06.60.130. Change in business control or business operations.** (a) The

1 prior written approval of the department is required for the continued operation of a
2 mortgage licensee's business when a change in control of the mortgage licensee is
3 proposed. The department may require the information it considers necessary to
4 determine whether a new application is required. The mortgage licensee requesting
5 approval of the change in control shall pay all reasonable expenses incurred by the
6 department to investigate and approve or deny the change in control.

7 (b) If there is a significant change in the business operations of a mortgage
8 licensee not covered by AS 06.60.120, the mortgage licensee shall provide written
9 notice to the department at least 30 days before the effective date of the change in
10 business operations.

11 **Sec. 06.60.135. Records of mortgage licensee.** (a) The requirements of this
12 section apply to the business transactions of a mortgage licensee that occur entirely or
13 partially in this state.

14 (b) A mortgage licensee shall keep and use in the mortgage licensee's business
15 the accounting records that are in accord with generally accepted accounting
16 principles.

17 (c) A mortgage licensee shall maintain a record, by electronic record or
18 photocopying, for the account of each borrower and for each mortgage loan or
19 mortgage loan application that is related to the purchase or refinancing of an existing
20 mortgage loan. This record must contain all documents, notes, electronic
21 correspondence, and forms that are produced or prepared for the mortgage loan by the
22 mortgage licensee, and the mortgage licensee shall retain each document, note,
23 electronic correspondence, and form for 36 months from the date they were created.

24 (d) A mortgage licensee shall retain for at least three years after final payment
25 is made on a mortgage loan, or three years after a mortgage loan is sold, whichever
26 occurs first, the original contract for the mortgage licensee's compensation, copies of
27 the note, settlement statement, and truth-in-lending disclosure, an account of fees
28 received in connection with the loan, and other papers or records relating to the loan
29 that may be required by department order or regulation.

30 (e) If a mortgage licensee conducts business as a mortgage loan servicing
31 agent for mortgage loans that the mortgage licensee owns, or as an agent for other

1 mortgage lenders or investors, the mortgage licensee shall, in addition to complying
2 with (b) and (c) of this section, maintain a record for each mortgage loan. The record
3 for each mortgage loan must include, either in electronic or printed format, as well as
4 other papers required by law, department order, or regulation, the amount of the
5 mortgage loan, the total amount of interest and finance charges on the mortgage loan,
6 the interest rate on the mortgage loan, the amount of each payment to be made on the
7 mortgage loan, a description of the collateral taken for the mortgage loan, a history of
8 all payments received by the mortgage licensee on the mortgage loan, a detailed
9 history of the amount of each payment that is applied to the reduction of the mortgage
10 loan principal, the interest that accrues on the mortgage loan, and any other fees and
11 charges that are related to the mortgage loan. The mortgage licensee shall retain the
12 record required by this subsection for three years after the loan is sold to another
13 mortgage loan servicing agent or after the mortgage loan is satisfied, whichever occurs
14 first.

15 (f) In this section, "mortgage loan servicing agent" means a person who acts
16 on behalf of the owner of a mortgage loan to collect payments on the mortgage loan
17 and enforce the terms of the mortgage loan.

18 **Sec. 06.60.140. Availability of out-of-state records.** A mortgage licensee
19 who operates an office or other place of business outside this state that is licensed
20 under this chapter shall, at the request of the department,

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

23 (2) reimburse the department its reasonable costs, as provided in
24 AS 06.60.250(f), that are incurred by the department during an investigation or
25 examination conducted at the office or place of business.

26 **Sec. 06.60.145. Disqualified persons.** (a) A disqualified person may not be an
27 officer, a director, a partner, a member, a sole proprietor, a trustee, an employee of a
28 mortgage licensee, or in another position with similar responsibilities. In this
29 subsection, "employee" means an individual who negotiates an agreement with a
30 member of the public for the mortgage licensee or who has access to, or responsibility
31 for, escrow accounts or escrow money held by the mortgage licensee.

1 (b) A mortgage licensee may not permit a disqualified person to obtain an
2 ownership interest in a mortgage licensee's business without the prior written approval
3 of the department.

4 (c) Before a person may obtain an ownership interest in a mortgage licensee's
5 business, the person shall authorize the department to access the person's criminal
6 history information in any state or federal court to determine whether the person is a
7 disqualified person.

8 (d) In this section,

9 (1) "disqualified person" means a person who is not a licensee;

10 (2) "ownership interest" means an ownership interest of

11 (A) 10 percent or more, if the mortgage licensee is a
12 corporation with fewer than 75 shareholders;

13 (B) 51 percent or more, if the mortgage licensee is a
14 corporation with 75 or more shareholders or a limited liability company.

15 **Sec. 06.60.150. Posting of license.** A mortgage licensee shall conspicuously
16 post the mortgage license in each place of business of the mortgage licensee.

17 **Sec. 06.60.155. Restriction on originator licensee work.** An originator
18 licensee may only work as an originator licensee under contract for, or as an employee
19 of, one mortgage licensee.

20 **Sec. 06.60.157. Mortgage licensee restrictions on performance of**
21 **originator activities.** A mortgage licensee may not perform originator activities
22 except through a licensed originator who is an employee of or under exclusive contract
23 with a mortgage licensee.

24 **Sec. 06.60.159. Mortgage licensee employment of, contract with, and**
25 **liability for originator.** (a) A mortgage licensee may not employ, or enter into a
26 contract with a person who acts as an originator for the mortgage licensee unless the
27 person has an originator license.

28 (b) A mortgage licensee is liable for the conduct of a person acting as an
29 originator if the mortgage licensee knows, or should have known, that the person's
30 conduct violates this chapter and the person is employed by or is under contract with
31 the mortgage licensee to act as an originator.

1 **Sec. 06.60.160. Continuing education requirements.** (a) An originator
2 licensee shall complete and submit to the department evidence of at least 24 hours of
3 continuing education for each biennial license period. The originator licensee or
4 mortgage licensee shall submit the evidence when the originator licensee or mortgage
5 licensee submits a license renewal application. The 24 hours of continuing education
6 must be in a training program approved by the department.

7 (b) The department shall establish an education committee consisting of seven
8 members. The commissioner of commerce, community, and economic development
9 shall appoint two persons employed by the department and five licensees to serve on
10 the committee. A licensee may apply to the department to serve on the education
11 committee established under this subsection by submitting an application in the form
12 and with the content established by the department.

13 (c) The department may consider the recommendations of the education
14 committee when determining which training program to approve for the continuing
15 education requirements.

16 (d) The department shall publish on a regular basis a listing of classes,
17 seminars, or other training programs that may be used to satisfy the continuing
18 education requirements of this section.

19 **Article 4. Discipline and Investigation.**

20 **Sec. 06.60.200. Disciplinary action.** (a) In addition to any other disciplinary
21 action allowed under this chapter, the department may suspend or revoke a license or
22 take other disciplinary action against a licensee, including action that is or may be
23 authorized under AS 06.01 or under a regulation adopted under this chapter or
24 AS 06.01, if the department finds that

25 (1) the licensee has failed to

26 (A) make a payment required by this chapter;

27 (B) maintain a bond required under AS 06.60.045, if the
28 licensee is a mortgage licensee;

29 (C) satisfy the continuing education requirements, if the
30 licensee is an originator licensee;

31 (D) comply with an applicable provision of this title, with an

1 applicable regulation adopted under this title, with a lawful demand, ruling,
2 order, or requirement of the department, or with another statute or regulation
3 applicable to the conduct of the licensee's business;

4 (2) the licensee has, with respect to a mortgage loan transaction,

5 (A) made a material misrepresentation;

6 (B) made a false promise likely to influence, persuade, or
7 induce another person to take action;

8 (C) engaged in a serious course of misrepresentation or made a
9 false promise through another licensee;

10 (D) engaged in conduct that is fraudulent or dishonest;

11 (E) procured, or helped another person to procure, a license by
12 deceiving the department;

13 (F) engaged in conduct of which the department did not have
14 knowledge when the department issued the license, if the conduct demonstrates
15 that the licensee is not fit to engage in the activities for which the licensee was
16 licensed;

17 (G) authorized, directed, planned, or aided in the publishing,
18 distribution, or circulation of a materially false statement or a material
19 misrepresentation concerning the licensee's business or concerning mortgage
20 loans originated in the course of the licensee's business in this or another state;
21 or

22 (3) a fact or condition exists that would have constituted grounds for
23 denial of the initial issuance or the renewal of the license.

24 (b) In addition to the bases for disciplinary action under (a) of this section, the
25 department may revoke the license of a licensee who is convicted, including
26 conviction by a plea of not guilty or a plea of nolo contendere, of a felony or
27 misdemeanor involving fraud, misrepresentation, or dishonesty committed while
28 licensed under this chapter. A person whose license is revoked under this subsection is
29 not qualified to be issued another license until the person provides proof acceptable to
30 the department that the person has been unconditionally discharged from the
31 conviction. In this subsection, "unconditional discharge" has the meaning given in

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

AS 12.55.185.

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

Sec. 06.60.210. Suspension or revocation related to fund. (a) When an award is made from the fund, the department may suspend or revoke the license of the originator licensee whose actions formed the basis of the award.

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

Sec. 06.60.230. Divestment. If the department has revoked a mortgage license, the mortgage licensee shall divest itself of all outstanding loans that were issued under this chapter by selling or assigning them to another mortgage licensee, except that the divestment must be approved by the department.

Sec. 06.60.240. Reinstatement of revoked license. The department may reinstate a revoked license if the licensee complies with this chapter or with a demand, ruling, or requirement made by the department under this chapter. Before reinstatement of a license, the licensee shall pay any fees, restitution, and civil penalties owing under this chapter.

Sec. 06.60.250. Investigation and examination. (a) The department may investigate and examine the affairs, business premises, and records of a person required to be licensed under this chapter to determine compliance with this chapter, regulations adopted under this chapter, AS 06.01, and applicable regulations adopted under AS 06.01. Notwithstanding AS 06.01.015, the department may conduct an examination at least once every 36 months, or sooner, if the examination is part of the review of a complaint or other information received by the department against the licensee

(b) For the purposes of conducting an examination under this section, the department

1 (1) shall have free access to the place of business, books, accounts,
2 safes, and vaults of the licensee to examine and make copies as necessary;

3 (2) may conduct the examination without prior notice to the licensee;
4 and

5 (3) may examine, under oath or affirmation, all persons whose
6 testimony the department may require to conduct the examination.

7 (c) For the purpose of hearings, investigations, or other proceedings under this
8 chapter and except as otherwise provided in this chapter, the department or an officer
9 designated by the department may administer oaths and affirmations, subpoena
10 witnesses, compel the attendance of witnesses, take evidence, and require the
11 production of books, papers, correspondence, memoranda, agreements, or other
12 documents or records that the department considers relevant or material to the inquiry.

13 (d) If a person refuses to comply with a subpoena, the superior court, on
14 application by the department, may issue to the person an order requiring the person to
15 appear before the department to produce documentary evidence or to give evidence
16 touching the matter under investigation or in question. Failure to obey the order of the
17 court may be punished by the court as a contempt order.

18 (e) The department may share information received or collected during an
19 examination, investigation, or other proceeding with other law enforcement agencies.

20 (f) A person shall reimburse the department reasonable costs incurred by the
21 department to conduct an examination under this section. The reimbursement under
22 this subsection may not exceed the rate of \$75 an hour for the examination, plus travel
23 costs, including a per diem allowance that does not exceed the per diem allowance for
24 employees of the state under AS 39.20.110.

25 **Sec. 06.60.260. Revocation, removal, or suspension of originator licensee.**
26 If the department finds that an originator licensee is dishonest, reckless, or
27 incompetent when operating as an originator, or fails to comply with applicable law,
28 with regulations or orders of the department, or with written requirements or
29 instructions of the department relating to the originator license, the department may
30 revoke or suspend the originator licensee, remove the originator licensee from
31 operating as an originator in the state, or order a person licensed under this title to

1 remove the originator licensee from operating as an originator for the person.

2 **Sec. 06.60.270. Removal by entity.** A mortgage licensee shall remove an
3 originator licensee from operating as an originator for the mortgage licensee if the
4 department directs the mortgage licensee to remove the originator licensee under
5 AS 06.60.260.

6 **Sec. 06.60.280. Department list.** The department shall make available to the
7 public a list of all licensees who have been censured, barred, or had their licenses
8 suspended or revoked under this chapter. The department shall publish the list on a
9 monthly basis.

10 **Article 5. Business Duties and Restrictions.**

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

16 **Sec. 06.60.330. Compliance with federal requirements.** If the regulations
17 apply to the person under federal law, a person shall conduct the person's mortgage
18 loan activities in compliance with 12 CFR Part 226 and other regulations adopted by
19 the federal government under

20 (1) 12 U.S.C. 2601 - 2617 (Real Estate Settlement Procedures Act of
21 1974);

22 (2) 12 U.S.C. 2801 - 2810 (Home Mortgage Disclosure Act of 1975);

23 (3) 12 U.S.C. 2901 - 2908 (Community Reinvestment Act of 1977);

24 (4) 15 U.S.C. 1601 - 1666j and 1671 - 1693r (Consumer Credit
25 Protection Act);

26 (5) 42 U.S.C. 3601 - 3631 (Fair Housing Act of 1968); and

27 (6) any other federal law or regulation.

28 **Sec. 06.60.340. Prohibited activities.** In addition to activities prohibited
29 elsewhere in this chapter or by another law, a person who is a licensee, a person who
30 is required to be licensed under this chapter, and a person who is licensed under
31 AS 06.20 may not, in the course of a mortgage loan transaction,

1 (1) misrepresent or conceal material facts or make false promises
2 likely to influence, persuade, or induce an applicant for a mortgage loan or a borrower
3 to enter into a mortgage loan transaction;

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

5 (3) improperly refuse to issue a satisfaction of a mortgage loan;

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

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

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

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

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

23 (A) consider additional appropriate property information;

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

26 (C) correct errors in the appraisal report;

27 (9) in a loan commitment or prequalification letter, make a false or
28 misleading statement, or omit relevant information or conditions that the person knew
29 or reasonably should have known from a preliminary examination of the borrower's
30 loan application, credit report, assets, and income, except that this paragraph does not
31 apply if

1 (A) the borrower made a false or misleading statement or
2 omitted relevant information in the loan application that the person relied on
3 when issuing the loan commitment or prequalification letter; or

4 (B) the person funds the loan at the rate, terms, and costs stated
5 in the good faith estimate provided to the borrower at the time the
6 prequalification letter was issued or the loan commitment was made;

7 (10) engage in a practice or course of business in which the ultimate
8 rates, terms, or costs of mortgage loans are materially worse for the borrowers than
9 they are represented to be in the first good faith estimates the person provides to the
10 borrowers; this paragraph does not apply if

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

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

15 (11) represent that the person has a license, title, certification,
16 sponsorship, approval, status, affiliation or connection that the person does not have;

17 (12) engage in unfair, deceptive, or fraudulent mortgage loan practices
18 or advertising.

19 **Sec. 06.60.350. Certain refinancing prohibited.** (a) A covered person may
20 not refinance a mortgage loan within 12 months after the date the mortgage loan is
21 closed, unless the refinancing is beneficial to the borrower.

22 (b) The factors to be considered when determining if refinancing is beneficial
23 to the borrower under (a) of this section may include

24 (1) the borrower's new monthly payment is lower than the total of all
25 monthly obligations being refinanced, after taking into account the costs and fees of
26 the refinancing;

27 (2) the amortization period of the new mortgage loan is different from
28 the amortization period of the mortgage loan being refinanced;

29 (3) the borrower receives cash in excess of the costs and fees of the
30 refinancing;

31 (4) the rate of interest of the borrower's promissory note is reduced;

1 (5) the mortgage loan changes from an adjustable rate loan to a fixed
2 rate loan after taking into account costs and fees;

3 (6) the refinancing is necessary to respond to a bona fide personal need
4 or an order of a court of competent jurisdiction;

5 (7) the original term of the mortgage loan being refinanced is two
6 years or less; and

7 (8) the refinancing is being made to prevent a foreclosure on an
8 existing mortgage loan.

9 **Sec. 06.60.360. Escrow accounts.** (a) A covered person and a borrower may
10 agree that the covered person will keep in an escrow account all money that the
11 borrower is required to pay to defray future taxes or insurance premiums or for other
12 lawful purposes. The escrow account must be segregated from the other accounts of
13 the covered person. The covered person may not commingle the borrower's money
14 with the general funds of the covered person. Money deposited in an escrow account
15 under this subsection shall be maintained in the account until it is disbursed in
16 accordance with a written escrow agreement.

17 (b) A covered person may not require a borrower to pay money into escrow to
18 defray future taxes, to defray insurance premiums, or for another purpose, i.
19 connection with a subordinate mortgage loan, unless an escrow account for that
20 purpose is not being maintained for the mortgage loan that is superior to the
21 subordinate mortgage loan.

22 (c) If the billing address of a covered person who is holding money in escrow
23 for insurance premiums changes, the covered person shall notify the insurer in writing
24 about the changed billing address within 30 days after the change, or 60 days before
25 the renewal date of the insurance policy, whichever is later.

26 (d) A covered person who accepts money belonging to a borrower in
27 connection with a mortgage loan shall deposit all of the money into an escrow account
28 maintained by the covered person in a bank or another recognized depository
29 institution. In this subsection, "recognized depository institution" means a person who
30 is organized as a financial institution under the laws of a state or the federal
31 government and whose deposits are insured by a federal agency.

1 (c) Money held in an escrow account under this section is exempt from
2 execution, attachment, or garnishment under AS 09.38 and is not subject to a claim
3 under AS 09.38.065.

4 **Sec. 06.60.370. Criminal liability of licensee.** (a) The department may report
5 the violations of (b) - (e) of this section to the attorney general, who may institute the
6 proper proceedings to enforce the criminal penalties provided in (b) - (e) of this
7 section.

8 (b) A person who knowingly provides false or misleading information to the
9 department that is material under this chapter is guilty of a class A misdemeanor.

10 (c) A licensee or person who is exempt under AS 06.60.015 who knowingly
11 fails to account for or deliver to a person money, deposits, or checks or other forms of
12 negotiable instruments in violation of the provisions of this chapter is guilty of a class
13 A misdemeanor.

14 (d) A licensee who knowingly fails to disburse without just cause money
15 belonging to the borrower is guilty of a class A misdemeanor.

16 (e) A mortgage lender, mortgage broker, or originator who knowingly
17 operates without a license or is not exempt under AS 06.60.015 is guilty of a class A
18 misdemeanor.

19 **Sec. 06.60.380. Definition of "covered person."** In AS 06.60.320 -
20 06.60.380, "covered person" means a mortgage licensee or a person who is licensed
21 under AS 06.20.

22 Article 6. Enforcement.

23 **Sec. 06.60.400. Cease and desist orders.** The department may issue, under
24 06.60.400, an order directing a person to cease and desist. The department shall
25 determine the form and content of the order.

26 **Sec. 06.60.410. Censure, suspension, or bar.** (a) In addition to any other
27 remedy provided under this chapter, the department may, by order after appropriate
28 notice and opportunity for a hearing, censure a person, suspend the license of a person
29 for a period not to exceed 12 months, or bar a person from a position of employment,
30 management, or control of a licensee, if the department finds that

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

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

3 (3) the violation has caused material damage to the licensee or to the
4 public.

5 (b) When the person who is the subject of a proposed order under this section
6 receives a notice of the department's intention to issue an order under this section, the
7 person is immediately prohibited from engaging in any activities for which a license is
8 required under this chapter.

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

14 **Sec. 06.60.420. Civil penalty for violations.** (a) A person who violates a
15 provision of this chapter or a regulation adopted under this chapter is liable for a civil
16 penalty not to exceed \$10,000 for each violation.

17 (b) The remedies provided by this section and by other sections of this chapter
18 are not exclusive and may be used in combination with other remedies allowed under
19 law to enforce the provisions of this chapter.

20 **Sec. 06.60.430. Additional enforcement provisions, actions, and rights.** (a)
21 The department may treat a licensee as a financial institution under AS 06.01 when
22 applying the enforcement provisions of AS 06.01.

23 (b) This chapter may not be interpreted to prevent the attorney general or any
24 other person from exercising the rights provided under AS 45.50.471 - 45.50.561.

25 (c) If the department determines that a licensee or a person acting on the
26 behalf of the licensee is in violation of, or has violated, a provision of this chapter, the
27 department may refer the information to the attorney general and request that the
28 attorney general investigate the violation under AS 45.50.495. The attorney general
29 may enjoin a violation of this chapter and may seek restitution, rescission, and other
30 relief as allowed by law.

31 (d) In addition to another investigation allowed under this chapter, the

1 department may conduct other examinations, periodic audits, special audits,
2 investigations, and hearings as may be necessary and proper for the efficient
3 administration of this chapter.

4 **Article 7. Originator Surety Fund.**

5 **Sec. 06.60.500. Originator surety fund.** The originator surety fund is
6 established as a separate account in the general fund.

7 **Sec. 06.60.510. Composition of fund.** The fund consists of payments made by
8 originator licensees under AS 06.60.550, filing fees retained under AS 06.60.620,
9 income earned on the investment of the money in the fund, and money deposited in
10 the fund by the department under AS 06.60.740.

11 **Sec. 06.60.520. Use of fund.** The legislature may appropriate the money
12 collected in the fund under AS 06.60.510 to the department to implement
13 AS 06.60.500 - 06.60.750, including paying claims, holding hearings, and incurring
14 legal expenses and other expenses directly related to fund claims and the operations of
15 the fund or for any other public purpose. Nothing in AS 06.60.500 - 06.60.750 creates
16 a dedicated fund.

17 **Sec. 06.60.530. Fund report.** Every six months the department shall make a
18 written report on the activities of the fund, the balances in the fund, interest earned on
19 the fund, and interest returned to the fund.

20 **Sec. 06.60.540. Approval required.** (a) The department must approve a fund
21 expenditure that is used to prepare, print, manufacture, sponsor, produce, or otherwise
22 provide an item or a service to a member of the public, to a licensee, to a potential
23 licensee, or to another person.

24 (b) In (a) of this section, "an item or a service" includes an information
25 pamphlet, an examination preparation packet, an educational course, the certification
26 of a continuing education course, and an instructor for a continuing education course.

27 **Sec. 06.60.550. Required fund fees.** (a) A person who applies for or renews
28 an originator license shall pay to the department, in addition to the fees required by
29 AS 06.60.035, a fund fee not to exceed \$150.

30 (b) Every two years, if the department determines that the average balance in
31 the fund during the previous two years was less than \$250,000 or more than \$500,000,

1 the department shall, unless the department waives the adjustment, adjust the fund fee
2 so that the average balance of the fund during the next two years is anticipated to be an
3 amount that is not less than \$250,000 or more than \$500,000. In this subsection,
4 "average balance" means the average balance in the fund after the department deducts
5 anticipated expenditures for claims against the fund and for hearing and legal expenses
6 directly related to fund operations and claims.

7 (c) At least once a month, the department shall pay the fees collected under
8 this section into the general fund. These payments shall be credited to the fund.

9 (d) Notwithstanding (a) of this section, an originator licensee who obtains an
10 initial originator license when the department has reduced the fund fee to nothing shall
11 nonetheless pay a fund fee of \$150 to the department each of the first two years of the
12 originator license or, for a mortgage licensee, of operating as an originator.

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

19 **Sec. 06.60.570. Submission of fund claim.** To seek reimbursement under
20 AS 06.60.560, a person shall submit a fund claim to the department for the
21 reimbursement on a form furnished by the department. The person must file the fund
22 claim within two years after the occurrence of the fraud, misrepresentation, deceit, or
23 conversion that is claimed as the basis for the reimbursement.

24 **Sec. 06.60.580. Form and contents of fund claim.** The form for a fund claim
25 shall be executed under penalty of unsworn falsification and must include

- 26 (1) the name and address of each originator licensee involved;
27 (2) the amount of the alleged loss;
28 (3) the date or period of time during which the alleged loss occurred;
29 (4) the date when the alleged loss was discovered;
30 (5) the name and address of the claimant; and
31 (6) a general statement of the facts related to the fund claim.

1 **Sec. 06.60.590. Claim hearing.** Except as otherwise provided by
2 AS 06.60.610, a hearing on a fund claim shall be handled by the office of
3 administrative hearings (AS 44.64.010).

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

8 (1) each originator licensee alleged to have committed the misconduct
9 resulting in the alleged loss;

10 (2) the employer of the originator licensee alleged to have committed
11 the conduct resulting in the alleged loss; and

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

14 **Sec. 06.60.610. Election to use small claims court.** (a) Within seven days
15 after receiving a copy of a fund claim under AS 06.60.600, each originator licensee
16 against whom the claim is made may elect to defend the fund claim as a small claims
17 action in district court under District Court Rules of Civil Procedure if the claim does
18 not exceed the small claims jurisdictional limit.

19 (b) An originator licensee who elects under (a) of this section to defend a fund
20 claim in district court under the small claims rules may not revoke the election without
21 the consent of the person who filed the fund claim.

22 (c) On receipt of a valid written election under (a) of this section, the
23 department shall dismiss the fund claim filed with the department and notify the
24 person who filed the fund claim that the person who filed the fund claim must bring a
25 small claims action in the appropriate district court.

26 **Sec. 06.60.620. Filing fee.** (a) A person who files a fund claim under
27 AS 06.60.570 shall pay the department a filing fee of \$250 when the person files the
28 fund claim.

29 (b) The department shall refund the filing fee required by (a) of this section if
30 the

31 (1) department makes an award to the claimant;

1 (2) fund claim is dismissed under AS 06.60.610; or

2 (3) fund claim is withdrawn by the claimant before the office of
3 administrative hearings (AS 44.64.010) holds a hearing on the fund claim.

4 **Sec. 06.60.630. Department contracts.** When the department receives a fund
5 claim, the department may contract under AS 36.30 (State Procurement Code) with an
6 investigator, an accountant, an attorney, or another person necessary for the
7 department to process the fund claim. A contract may cover more than one fund claim.

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

13 **Sec. 06.60.650. Standards of proof.** A person who submits a fund claim under
14 AS 06.60.570 bears the burden of establishing by a preponderance of the evidence that
15 the person who filed the fund claim suffered a loss in a mortgage loan transaction as a
16 result of fraud, misrepresentation, deceit, or the conversion of trust funds by an
17 originator licensee and the extent of those losses.

18 **Sec. 06.60.660. Postponement.** The department may postpone its
19 consideration of a fund claim until after a hearing under AS 06.60.200 or 06.60.590 or
20 until the completion of a pending or contemplated court proceeding.

21 **Sec. 06.60.670. Nonapplication.** AS 06.60.630 - 06.60.660 do not apply to a
22 fund claim that is dismissed under AS 06.60.610.

23 **Sec. 06.60.680. Findings and payment.** (a) At the conclusion of the
24 department's consideration of a claim made under AS 06.60.570, the department shall
25 issue a written report that provides the department's findings of fact and conclusions of
26 law.

27 (b) If the department determines that the claimant has suffered a loss in a
28 mortgage loan transaction as a result of fraud, misrepresentation, deceit, or the
29 wrongful conversion of money by an originator licensee, the department may award
30 the person who filed the fund claim reimbursement from money appropriated to the
31 fund for the claimant's loss.

1 **Sec. 06.60.690. Fund operations.** The department may charge fund operation
2 hearing and legal expenses from money appropriated to the department for the
3 purpose. The department shall deposit into the fund money that the department
4 recovers for these expenses from the originator licensee under AS 06.60.745. The
5 department may not consider amounts paid from the fund for hearing or legal expenses
6 when determining the maximum reimbursement to be awarded under AS 06.60.710 or
7 the maximum liability for fund claims under AS 06.60.710.

8 **Sec. 06.60.700. Payment of small claims judgment.** (a) If a fund claim
9 originally filed with the department is dismissed and heard as a small claims action
10 under AS 06.60.610 and the person who filed the fund claim is awarded money in the
11 small claims action against an originator licensee, the department may pay, subject to
12 AS 06.60.710 and 06.60.720, any outstanding portion of the small claims judgment
13 from money appropriated to the department for the purpose.

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

19 (c) After the department pays a small claims judgment under this section, the
20 department is subrogated to the rights of the person to whom the money was awarded
21 under the judgment.

22 **Sec. 06.60.710. Maximum liability.** (a) Payment of a fund claim may not
23 exceed \$15,000 for each claimant, except that the payment may not exceed a total of
24 \$15,000 for each mortgage loan transaction regardless of the number of persons
25 injured or the number of pieces of residential property involved in the mortgage loan
26 transaction.

27 (b) The maximum liability for fund claims against one originator licensee may
28 not exceed \$50,000.

29 (c) If the \$50,000 liability under (b) of this section is insufficient to pay in full
30 the valid fund claims of all persons who have filed fund claims against one originator
31 licensee, the \$50,000 shall be distributed among the claimants in the ratio that their

1 individual fund claims bear to the aggregate of valid fund claims, or in another manner
2 that the department considers equitable. The department shall distribute the money
3 among the persons entitled to share in the recovery without regard to the order in
4 which their fund claims were filed.

5 **Sec. 06.60.720. Order of fund claim payment.** If the money appropriated to
6 the department for the purpose is insufficient at a given time to satisfy an award under
7 AS 06.60.680 for a fund claim, the department shall, when sufficient money has been
8 appropriated to the department for the purpose, satisfy unpaid fund claims in the order
9 that the fund claims were originally filed, plus accumulated interest at the rate allowed
10 under AS 45.45.010(a).

11 **Sec. 06.60.730. False claims or documents.** A person who files with the
12 department a notice, statement, or other document required under AS 06.60.500 -
13 06.60.750 that contains a material misstatement of fact is guilty of a class A
14 misdemeanor.

15 **Sec. 06.60.740. Right to subrogation.** When the department has paid to a
16 claimant the sum awarded by the department, the department shall be subrogated to all
17 of the rights of the claimant to the amount paid, and the claimant shall assign all right,
18 title, and interest in that portion of the claim to the department. Money collected by the
19 department on the claim shall be deposited in the fund.

20 **Sec. 06.60.745. Reimbursement for expenses.** If the department pays all or a
21 portion of a fund claim against an originator licensee under AS 06.60.680 or
22 06.60.700, the department may recover from the originator licensee, in addition to the
23 payment of the fund claim, the expenses incurred by the department to process and
24 otherwise handle the fund claim.

25 **Sec. 06.60.750. Disciplinary action against an originator licensee.**
26 Repayment in full of all obligations to the fund does not nullify or modify the effect of
27 disciplinary proceedings brought against an originator licensee under this chapter.

28 **Article 8. Program Administration Fee.**

29 **Sec. 06.60.800. Authorization of program administration fee.** (a) The
30 department may collect a program administration fee of \$10 for each mortgage loan
31 transaction to reimburse the state for the cost of administering this chapter.

1 (b) The program administration fee shall be paid by the borrower who is
2 providing real property as security for the mortgage loan, except that, if the regulations
3 of a federal or state loan program that insures the loan and that applies to the mortgage
4 loan transaction prohibits the borrower from paying the program administration fee,
5 another party to the mortgage loan transaction shall pay the program administration
6 fee.

7 (c) If there are multiple mortgage loan instruments recorded for a single
8 mortgage loan transaction, the department shall collect only one program
9 administration fee.

10 (d) In this section, "mortgage loan instrument" means a deed of trust,
11 mortgage, or another loan instrument recorded to encumber residential real property in
12 the state.

13 **Sec. 06.60.810. Payment and use of fees.** (a) The department shall coordinate
14 with the Department of Natural Resources to collect the program authorization fee.

15 (b) The program authorization fee shall be charged when payment is made to
16 the Department of Natural Resources for recording a document under AS 44.37.025.

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

20 **Article 9. Duties and Powers of the Department.**

21 **Sec. 06.60.850. Publication of disciplinary action.** The department may
22 release for publication in a newspaper of general circulation in the locale of a
23 licensee's principal office notice of disciplinary action taken by the department against
24 the licensee

25 **Sec. 06.60.860. Authority of department.** The department may make a ruling,
26 demand, or finding that the department determines is necessary for the proper conduct
27 of a licensee's business regulated by this chapter or for the enforcement of this chapter,
28 including an order for the payment of restitution. The ruling, demand, or finding must
29 be consistent with this chapter.

30 **Article 10. Miscellaneous Provisions.**

31 **Sec. 06.60.890. Application to Internet activities.** This chapter applies to a

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

3 **Sec. 06.60.895. Effect of revocation, suspension, or surrender of license.**

4 The revocation, suspension, or surrender of a license does not impair or otherwise
5 affect the rights or obligations of a preexisting lawful contract between the licensee
6 and a borrower.

7 **Sec. 06.60.900. Applicability of administrative procedures.** The provisions
8 of AS 44.62 (Administrative Procedure Act) apply to an action of the department to
9 deny, revoke, or suspend a license under this chapter, to censure, suspend, or bar a
10 person under AS 06.60.410, to take other disciplinary action under this chapter, to
11 hold hearings, and to issue orders.

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

18 **Sec. 06.60.910. Regulations.** The department may adopt regulations under
19 AS 44.62 (Administrative Procedure Act) to implement this chapter.

20 **Sec. 06.60.920. Relationship to federal and other state law.** (a) If a
21 provision of this chapter is preempted by or conflicts with federal law in a particular
22 situation, the provision does not apply to the extent of the preemption or conflict.

23 (b) If a provision of this chapter conflicts with another state law in a particular
24 situation, the provision in this chapter governs to the extent of the conflict.

25 **Article 11. General Provisions.**

26 **Sec. 06.60.990. Definitions.** In this chapter, unless the context otherwise
27 requires,

28 (1) "agent" does not include a person who is a state employee when
29 acting in the capacity of a state employee;

30 (2) "borrower" means an individual who receives a mortgage loan;

31 (3) "broker" means to operate as a mortgage broker;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

(5) "escrow account" means an account

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

(B) held by a third person; and

(C) from which the third person identified in (B) of this paragraph disburses money in accordance with a written agreement to pay obligations related to the real property that is the subject of a mortgage loan of the borrower.

(6) "fund" means the originator surety fund established by AS 06.60.500;

(7) "fund claim" means a claim authorized under AS 06.60.560;

(8) "fund fee" means the fee that is required to be paid by AS 06.60.550;

(9) "knowingly" has the meaning given in AS 11.81.900;

(10) "license" means a license issued under this chapter;

(11) "licensee" means a person who holds a license issued under this chapter;

(12) "mortgage broker" means a person who, for compensation or gain, or in the expectation of compensation or gain, directly or indirectly, by telephone, by electronic means, by mail, through the Internet, in person, or by the person itself or an originator who is an employee or under exclusive contract to the person,

(A) arranges with a variety of lending sources, who may be private lenders, institutional investors, or wholesale lenders, to provide financing for mortgage loans; or

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

(13) "mortgage lender" means a person who consummates and funds a mortgage loan and who is named as the payee in the promissory note and as the

1 beneficiary of the deed of trust; "mortgage lender" does not include a subsequent
2 purchaser of a mortgage loan or an interest in a mortgage loan that is originated by a
3 licensee under this chapter;

4 (14) "mortgage lender license" means a license issued under this
5 chapter to operate as a mortgage lender;

6 (15) "mortgage lender licensee" means a person who holds a mortgage
7 lender license;

8 (16) "mortgage license" means a mortgage lender license or a
9 mortgage broker license;

10 (17) "mortgage licensee" means a mortgage lender licensee or a
11 mortgage broker licensee;

12 (18) "mortgage loan"

13 (A) means a loan made to an individual if the proceeds are to
14 be used primarily for personal, family, or household purposes and if the loan is
15 secured by a mortgage or deed of trust on an interest in a residential owner-
16 occupied property for one to four family units located in the state and
17 regardless of where the loan is made;

18 (B) includes the renewal or refinancing of a loan;

19 (C) does not include loans

20 (i) or extensions of credit to buyers of real property for
21 a part of the purchase price of the property by persons selling the
22 property owned by them;

23 (ii) to persons related to the lender by blood or
24 marriage;

25 (iii) to persons who are employees of the lender; or

26 (iv) made primarily for a business, commercial, or
27 agricultural purpose of the borrower or for construction of residential
28 property;

29 (19) "operate" means do business, offer to provide, or provide;

30 (20) "originator"

31 (A) means a natural person who, for compensation or gain, or

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

in the expectation of compensation or gain, directly or indirectly, by telephone, by electronic means, by mail, or in person

(i) interviews the consumer in connection with the consumer's application for a mortgage loan'

(ii) accepts or offers to accept an application for a mortgage loan from a potential borrower;

(iii) solicits or offers to solicit a mortgage loan for a potential borrower;

(iv) negotiates or offers to negotiate the terms or conditions the terms or conditions of a mortgage loan with or for a borrower or potential borrower; or

(v) issues or offers to issue to borrowers, potential borrowers, or the representatives of borrowers or potential borrowers, mortgage loan commitments, interest rate agreements, interest rate guarantees, prequalification letters, or commitments to finance up to a stated amount of the value of real property, or 90-percent letters to finance up to a stated amount of the value of real property;

(B) does not include employees of a mortgage licensee, or employees of a person who is exempt from licensure under AS 06.60.015, who perform clerical duties in connection with mortgage loan transactions, collect financial information and other related documents that are part of the application process, order verifications of employment, verifications of deposits, requests for mortgage payoffs, and other loan verifications, appraisals, inspections, or engineering reports, or perform the functions of a mortgage loan processor, at the direction of and subject to the supervision of the mortgage licensee, a mortgage originator, or the person exempt from licensure.

(21) "originator license" means a license issued to a person to operate as an originator;

(22) "originator licensee" means a person who holds an originator license;

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

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

(24) "records" includes books, accounts, papers, files, and other records;

(25) "residential property" means improved real property used or occupied, or intended to be used or occupied, for residential purposes.

Sec. 06.60.995. Short title. This chapter may be known as the Mortgage Lending Regulation Act.

* **Sec. 3.** AS 09.38.015 is amended by adding a new subsection to read:

(e) Money held in an escrow account under AS 06.60.360 is exempt.

* **Sec. 4.** AS 09.38.065(a) is amended to read:

(a) Subject to AS 06.60.360(e), and notwithstanding [NOTWITHSTANDING] other provisions of this chapter,

(1) a creditor may make a levy against exempt property of any kind to enforce a claim for

(A) child support;

(B) unpaid earnings of up to one month's compensation or the full-time equivalent of one month's compensation for personal services of an employee; or

(C) state or local taxes;

(2) a creditor may make a levy against exempt property to enforce a claim for

(A) the purchase price of the property or a loan made for the express purpose of enabling an individual to purchase the property and used for that purpose;

(B) labor or materials furnished to make, repair, improve, preserve, store, or transport the property; and

(C) a special assessment imposed to defray costs of a public improvement benefiting the property; and

(3) a creditor may make a levy against exempt property of any kind to enforce the claim of a victim, including a judgment of restitution on behalf of a victim

1 of a crime or a delinquent act, if the claim arises from conduct of the debtor that
2 results in a conviction of a crime or an adjudication of delinquency, except that the
3 debtor is entitled to an exemption in property

4 (A) not to exceed an aggregate value of \$3,000 chosen by the
5 debtor from the following categories of property:

6 (i) household goods and wearing apparel reasonably
7 necessary for one household;

8 (ii) books and musical instruments, if reasonably held
9 for the personal use of the debtor or a dependent of the debtor; and

10 (iii) family portraits and heirlooms of particular
11 sentimental value to the debtor; and

12 (B) not to exceed an aggregate value of \$2,800 of the debtor's
13 implements, professional books, and tools of the trade.

14 * Sec. 5. AS 12.62.400 is amended by adding a new paragraph to read:

15 (15) licensure as a mortgage lender, a mortgage broker, or an
16 originator under AS 06.60.

17 * Sec. 6. AS 44.62.330(a) is amended by adding a new paragraph to read:

18 (47) Department of Commerce, Community, and Economic
19 Development relating to mortgage lending under AS 06.60.

20 * Sec. 7. AS 44.64.030(a)(5) is amended to read:

21 (5) AS 06 (banks, [AND] financial institutions, and fund claims),
22 except as provided otherwise by AS 06.60.590;

23 * Sec. 8. AS 45.50.471(b) is amended by adding a new paragraph to read:

24 (52) violating AS 06.60.010 - 06.60.380 (mortgage lending
25 regulation);

26 * Sec. 9. AS 45.50.481 is amended by adding a new subsection to read:

27 (c) The exemption in (a)(1) of this section does not apply to an act or
28 transaction regulated under AS 06.60.

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

31 TRANSITION: LICENSING OF CURRENT MORTGAGE LENDERS AND

1 MORTGAGE BROKERS. Notwithstanding AS 06.60.010, enacted by sec. 2 of this Act, a
2 person who is engaging in activities for which a license is required under AS 06.60, enacted
3 by sec. 2 of this Act, immediately before the effective date of AS 06.60 is not required to
4 comply with the licensing requirements of AS 06.60 until March 1, 2009. In this section,
5 "license" has the meaning given in AS 06.60.990, enacted by sec. 2 of this Act.

6 * Sec. 11. The uncodified law of the State of Alaska is amended by adding a new section to
7 read:

8 TRANSITION: REGULATIONS. The Department of Commerce, Community, and
9 Economic Development may proceed to adopt regulations necessary to implement the
10 changes made by this Act. The regulations take effect under AS 44.62 (Administrative
11 Procedure Act), but not before July 1, 2008.

12 * Sec. 12. Section 11 of this Act takes effect immediately under AS 01.10.070(c).

13 * Sec. 13. Except as provided in sec. 12 of this Act, this Act takes effect July 1, 2008.

SCS CS HB 162 (L&C)

Changes From Version "V" to Version "N"

- Proposed change to page 22, line 5, deletes the language "established by the department in regulation." This change is made to AS 06.60.340 (12), which prohibits a person from engaging in unfair, deceptive, or fraudulent mortgage loan practices or advertising "established by the department in regulation." Requiring that the conduct be established by regulation unnecessarily limits the Department of Commerce, Community, and Economic Development's ability to take disciplinary action against a licensee for conduct that may be new or slightly different from conduct defined in a regulation, but is none-the-less unfair, deceptive, or fraudulent. Eliminating the regulation requirement allows the Department of Commerce, Community, and Economic Development the flexibility to respond to each fact situation as it arises to determine if the conduct is unfair, deceptive, or fraudulent and then take the disciplinary action necessary to protect the public.
- Proposed change to page 30, line 31, deletes the word "wilful" from the sentence. Under AS 06.60.730 as it is currently written, a person who files with the Department of Commerce, Community, and Economic Development a notice, statement, or other document that contains a "wilful" material misstatement of fact is guilty of a class A misdemeanor. The word "wilful" should be deleted because willfulness is not a standard that is used in criminal law in Alaska. The standard that is used instead is "knowing". It is not necessary to insert "knowing" in the place of "wilful" because "knowing" is already implied in the statute.
- Proposed change to page 32, line 17, inserts the language "including an order for the payment of restitution." The bill as it is currently drafted does not contain language that specifically authorizes the Department of Commerce, Community, and Economic Development to order a licensee to pay restitution to a person harmed by a licensee's illegal conduct. Inserting this language would provide the department with that authority.

- Proposed change to page 4, line 22, provides the Department of Commerce, Community, and Economic Development with authority to request that a mortgage license applicant, and any of its directors, officers, members, owners, or other principals provide fingerprints for a criminal justice information and national criminal history record check. It also outlines the procedure to be used to obtain the criminal justice information and criminal history record check.
- Proposed change to page 5, line 2, clarifies that the fingerprints required to be provided by originator license applicants will be used to obtain criminal justice information and national criminal history record check, and it outlines the procedure to be used to obtain that information.
- Proposed change to page 23, lines 22 - 23, deletes the language "In addition to the authority provided in AS 06.60.880," as AS 06.60.880 is proposed to be deleted from the bill.
- Proposed change to page 32, lines 19 - 29, deletes AS 06.60.880. This section is not necessary as the bill contains a provision that allows the Department of Commerce, Community, and Economic Development to report the criminal violations outlined in AS 06.60.370 to the attorney general to institute the proper proceedings to enforce criminal provisions provided in the section.
- Proposed change to page 38, following line 13, adds a "mortgage license or mortgage originator license under AS 06.60" to the list for which the Department of Public Safety may submit fingerprints to the FBI to obtain criminal history record checks for the purpose of evaluating a person's qualifications for licensure.

Proposed Exemption for 06.60.015(a)(3):

HB 162 exempts banks and operating subsidiaries of a bank holding company. It also exempts in Section 06.60.015 an employee of an exempt bank or banking holding company. This exemption is based on the U.S. Supreme Court decision in *Waters v. Wuchovia* which upheld federal preemption of state mortgage laws based on OCC regulations with respect to bank subsidiaries. The *Waters* case noted that state regulatory laws for issues, such as insurance and securities, would apply to a federal bank affiliate.

The main federal banking regulators are the Office of the Comptroller of the Currency (OCC), the U.S. Department of Treasury's Office of Thrift Supervision (OTS), the Federal Deposit Insurance Corporation (FDIC), and the National Credit Union Administration (NCUA). In recent years, the OTS has issued a directive that exclusive agents of an OTS regulated bank are exempt from state mortgage laws as well.

In 2004, John E. Bowman, Esq., Chief Counsel for the OTS issued a letter preempting OTS chartered banks from state licensing and registration requirements which interfere and conflict with the authority of the bank to exercise its deposit and lending powers by limiting the federal savings bank's ability to market its products and services in the manner it chooses.

This OTS preemption has been upheld by the courts, and the Division of Banking and Securities does not intend to apply HB 162 to any federally preempt bank.

A 2006 U.S. District Court case from Connecticut regarding State Farm is instructive. In that matter, the United States District Court for Connecticut permanently enjoined the Banking Commissioner of the State of Connecticut from regulating the mortgage lending of State Farm Bank, or any exclusive agents of State Farm Bank. *State Farm Bank, F.S.B. v. Burke*, 2006 WL 1728919 (D. Conn. June 21, 2006). The court determined that the commissioner could not require that exclusive agents of State Farm Bank be licensed by the State of Connecticut regarding the sale of mortgage products. The district court agreed with the OTS regarding the preemptive effect of the agency's regulations.

State Farm had originally believed that the exemption language in HB 162 Version "V" was sufficient to track OTS preemption and had not requested a change in the bill. However, on May 4, 2007 State Farm indicated that it would prefer to preempt explicitly exclusive agents as well as bank employees in subsection (a)(3) of Section 06.60.015. Therefore, the division has added language to subsection (a)(3) to effect this clarification. This exemption applies to a federal bank's the exclusive agents which have been exempted from mortgage licensing by a federal agency.

Alaska State Legislature

Chairman
State Affairs Committee

Vice-Chairman
Economic Development, Trade & Tourism
Committee

Member
Judiciary Committee
Joint Armed Services Committee

Finance Subcommittees
Corrections
Labor and Workforce Development
Military and Veterans' Affairs
Public Safety



A Communication From
REPRESENTATIVE BOB LYNN
District 31 Anchorage

E-Mail: Representative Bob Lynn@legis.state.ak.us
"Bob Lynn's Alaska Blog" RepBobLynnBlog.com

Session:
Alaska State Capitol
Juneau, AK 99801-1182

Phone: (907) 465-4931
Fax: (907) 465-4316
Toll Free: (800) 870-4391

Interim:
716 W. 4th Ave., #650
Anchorage, AK 99501-2133

Phone: (907) 269-0205
Fax: (907) 269-0207

Sponsor Statement

CSHB 162 (L&C)

Alaska is the last state not to license and regulate residential mortgage lending. As a result, the Alaska Division of Banking and Securities has no authority to investigate the more than 20 complaints and over 50 phone calls it receives weekly about questionable lending practices. As it is, the division lacks regulatory authority to protect Alaska consumers from fraud, questionable lending, or mortgage brokering practices. While the state can sue to stop questionable practices in court, a regulatory framework creates a level playing field that benefits all industry participants and consumers.

Increased access to internet lending in recent years has contributed even further to a growing number of complaints and has caused the U.S. Congress to seek ways to strengthen consumer protection in the largest single investment most people will make in their entire lifetime.

Recognizing this problem, Alaska Mortgage Bankers Association and the Alaska Association of Mortgage Brokers has been working with the Alaska Division of Banking and Securities to develop legislation to balance protection of Alaska's consumers while insuring sufficient access.

During the past two years the Alaska Division of Banking and Securities has worked closely with leading Alaska mortgage lending groups to develop this legislation. The regulating of Alaska's mortgage lending industry is supported by the Alaska Division of Banking and Securities, the Alaska Mortgage Bankers Association, the Alaska Mortgage Brokers Association, the Independent Lenders of Alaska, the Alaska Realtors Association, and Alaska Housing Finance Corporation (AHFC). In addition, The American Association of Retired Peoples (AARP) has stated they are pleased with the legislation.

CSHB 162 will grant the Division of Banking enough licensing and regulatory authority to begin addressing the growing number of complaints from Alaska's homebuyers.

This legislation is a good first step toward addressing some of the issues faced by Alaska's mortgage consumers. This effort to establish accountability in the mortgage lending industry in Alaska is vital and past due. Your support of this legislation is respectfully requested.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

**Chapter 60. Mortgage Lending Regulation Act.
Article 1. Licensing.**

Sec. 06.60.010. License required. (a) Except as provided under AS 06.60.015, a person, including a person doing business from outside this state, may not operate as a mortgage lender or mortgage broker in this state unless the person is licensed under this chapter.

(b) A person may not operate as an originator in this state unless the person is a natural person who is

(1) licensed as an originator under this chapter; and

(2) works under exclusive contract for, or as an employee of, a mortgage licensee.

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

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

ANALYSIS: This defines the persons that require licensing by the department. It also delineates that an originator must be licensed, and work for a licensed mortgage broker or mortgage lender. This is to ensure that all originators work for a licensed business, or are exempt from licensing under AS 06.60.015.

Sec. 06.60.015. Exemptions; requirements of registration. (a) Except as provided by AS 06.60.370(c) and by (b) and (c) of this section, this chapter does not apply to a person who operates as a mortgage lender or mortgage broker if the person is

(1) a person who is authorized to engage in business as a bank, bank holding company, savings institution, savings and loan association, trust company with banking powers, or credit union under the laws of this state, another state, the United States, a territory of the United States, or the District of Columbia, and whose mortgage loan activity is subject to the general supervision, regulation, and examination of a regulatory body of this state, another state, the United States, a territory of the United States, or the District of Columbia;

(2) a subsidiary or an operating subsidiary of a person who is identified by (1) of this subsection, or of a bank holding company or savings and loan holding company, if the subsidiary or operating subsidiary certifies to the department on a form provided by the department that the subsidiary or operating subsidiary is exempt from this chapter because of applicable federal statute or regulation;

(3) an employee of a person identified in (1) or (2) of this subsection;

(4) a nonprofit corporation that makes mortgage loans to promote home ownership or home improvements, in this paragraph, "nonprofit corporation" means a corporation that qualifies under 26 U.S.C. 501(c)(3) or (4) (Internal Revenue Code) for an exemption from federal income taxation;

(5) an agency of the federal government, a state government, a municipality, or a quasi-governmental agency making or brokering mortgage loans under the specific authority of the laws of a state or the United States;

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

(6) a person who acts as a fiduciary for an employee pension benefit plan qualified under 26 U.S.C. (Internal Revenue Code) and who makes mortgage loans solely to participants of the plan from assets of the plan;

(7) a person who acts in a fiduciary capacity conferred by the authority of a court; or

(8) a person who is licensed by the United States Small Business Administration as a small business investment company under 15 U.S.C. 661 - 697g (Small Business Investment Act of 1958).

(b) A person who is listed in (a)(1) - (8) of this section shall file a registration form to obtain an exemption under (a) of this section. The department shall determine the form and content of the registration form.

(c) A person who is licensed under AS 06.20 is exempt from the requirements of this chapter, except that the person is subject to AS 06.60.320 - 06.60.380.

(d) In this section, "bank holding company" has the meaning given in 12 U.S.C. 1841 (Bank Holding Company Act).

ANALYSIS: The listed exemptions are allowed because the professions or industry that is already licensed and regulated by various state and federal agencies. Under federal preemption, federally regulated financial institutions and their supervised subsidiaries are exempt from state regulation. A number of legal cases have defined the ability of states to have lawful oversight of federal institutions. Under (b), in order for the department to tract the number of exempted entities; the department will require notice from those entities. Under (c), the department already licenses small loan companies and conducts examination and overall supervision of these entities. The notice of exemption will require minimal recordkeeping on the part of the entity.

Sec. 06.60.020. Application for mortgage license. An application for a mortgage license must

(1) be in writing;

(2) be signed by the applicant and notarized;

(3) be on the form prescribed by the department;

(4) contain the name of the applicant, including the name of the business, and of the natural person who is designated to obtain the originator license under AS 06.60.025;

(5) if the applicant is a partnership or an association not covered by (6) or (7) of this section, contain the name and both the residence and business addresses of each partner of the partnership or member of the association;

(6) if the applicant is a corporation, contain the name and both the residence and business addresses of each officer and director of the corporation, and a shareholder holding

(A) 10 percent or more of the total outstanding voting shares, if the corporation has fewer than 75 shareholders; or

(B) more than 51 percent of the outstanding voting shares in the corporation, if the corporation has 75 or more shareholders;

(7) if the applicant is a limited liability company, contain the name and both the residence and business addresses of each member of the company, and any manager of the company who individually owns more than 51 percent of the limited liability company;

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

- (8) contain the mailing address of the applicant, the street address and city, if any, for each business location that will be covered by the license, and an identification of the applicant's principal office;
- (9) provide the applicant's written consent to an investigation of the applicant under AS 06.60.030;
- (10) contain other information that the department may require concerning the organization and operations of the applicant and the financial responsibility, background, experience, and activities of the applicant and its directors, officers, members, owners, and other principals.

ANALYSIS: This is the list of items the department will require in order to have sufficient information to make a determination on the suitability of the applicant to become a licensee. Additional information that might be requested by the department may include, previous work history, educational training, levels of experience, and references. These additional items would be listed in regulations to provide applicants with pre-notice of what might be required in their application.

Sec. 06.60.025. Application for originator license. An application for an originator license must

- (1) be in writing;
- (2) be signed by the applicant and notarized;
- (3) be on a form prescribed by the department;
- (4) contain the name and residence address of the applicant;
- (5) include a complete set of fingerprints of the applicant; and
- (6) contain other information or supporting material that the department may require concerning the applicant, including other forms of identification of the applicant.

ANALYSIS: This is the list of items the department will require in order to have sufficient information to make a determination on the suitability of the applicant to become a licensee. Additional information that might be requested by the department may include previous work history, educational training, levels of experience, and references. These additional items would be listed in regulations to provide applicants with pre-notice of what might be required in their application.

Sec. 06.60.030. Investigation. The department shall investigate an applicant for a license to determine if the applicant satisfies the requirements of this chapter for the license.

ANALYSIS: This section provides notice to the applicant that the department is going to verify the information provided by the applicant and determine its accuracy, or if any omission has been made. In addition, as part of the review, the department will verify if the applicant has a criminal record.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

Sec. 06.60.035. Fees and expenses. (a) Except as provided by (c) of this section, when an applicant submits an application for a license under this chapter to the department, the applicant shall pay to the department

(1) a nonrefundable application fee of \$250 in partial payment of those investigation expenses incurred by the department; and

(2) a biennial license fee of \$500 for the period that terminates two years after the date the license is issued; after this payment, the biennial license fee is due every two years on the anniversary date of the original issuance of the license.

(b) An applicant shall pay all investigative fees incurred by the department before the department issues a license.

(c) An applicant is not required to pay the application fee or the biennial license fee under (a) of this section if the applicant is applying for a mortgage license and an originator license, is the principal owner or legally authorized manager of the mortgage license applicant, and is designated in the application under AS 06.60.020(4) as the individual to receive an originator license for the mortgage licensee.

ANALYSIS: These are the fees the licensee will pay to the department in order to fund the department's operation in administering this chapter. The fees paid by the licensee are separate to the examination fees, and the program administration fee that will also be used to support the department's budget.

Sec. 06.60.040. Competency testing. (a) A person who applies for an originator license shall pass a competency test conducted and graded by the department. The department shall establish the scope, content, and minimum passing score of the test by regulation.

(b) If an individual fails the competency test, the individual may take the competency test again. The department may charge an additional \$150 fee for each additional competency test that the department provides to the person.

ANALYSIS: This section provides for testing the applicants to validate their knowledge of the mortgage loan industry duties, regulations, laws, and general knowledge of the loan process. This will allow the department to verify that the pool of people in the industry is qualified. If an originator leaves the employment of an exempted entity, the originator will have to complete all the application process and competency testing in order to work a mortgage licensee. Under regulation, the department will determine the scope of the test and the required proficiency.

Sec. 06.60.045. Bonding. (a) An applicant for a mortgage license shall file with the application submitted to the department under AS 06.60.020 a bond with one or more sureties in the amount of \$25,000 under which the applicant is the obligor. The bond must be satisfactory to the department.

(b) The bond required by (a) of this section shall be for the use of the department, the Department of Law, or another person to recover for a claim for relief against the obligor under this chapter. The bond must state that the obligor will faithfully conform to and abide by the provisions of this chapter and all regulations adopted under this chapter and will pay the

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

department, the Department of Law, or another person all money that may become due or owing to the department, the Department of Law, or the other person from the obligor under this chapter.

(c) An applicant for a mortgage license that covers more than one location is not required to file more than one bond.

(d) The bond required under (a) of this section may be continuous until the department revokes or otherwise terminates the license.

(e) If the department determines at any time that the bond required under (a) of this section is unsatisfactory for any reason, the department may require the mortgage licensee to file with the department, within 10 days after the receipt of a written demand from the department, an additional bond that complies with the provisions of this section.

ANALYSIS: The bond provides the department with a method of recourse to protect consumers in the event of a claim for loss due to illegal or unethical practices by the licensee. This allows the department to provide an immediate source of recovery to a consumer while it processes the legal claim for recovery and restitution.

Sec. 06.60.050. Decision on application. (a) Within 30 days after the date the department has determined that it has received a complete application, the required bond if the application is for a mortgage license, and any required fees and investigative costs are received by the department, the department shall either grant or deny the license.

(b) If the department denies the license, the department shall promptly notify the applicant. The notification must indicate the reason for the denial and that the applicant is entitled to a hearing on the denial.

ANALYSIS: Provide the basis that the department is to arrive at a decision on whether or not to issue a license. If the applicant has met these requirements, there should be no other barriers to their entry into becoming a mortgage licensee, or originator licensee. This coincides with review of sections 060 and 065 of this chapter.

Sec. 06.60.060. Determinations for mortgage licensing. Before granting a mortgage license, the department shall determine that

- (1) the applicant has complied with the requirements of this chapter for obtaining the license;
- (2) the financial responsibility, experience, character, and general fitness of the applicant, and of the applicant's directors, officers, members, owners, and other principals, and the organization and operation of the applicant indicate that the business will be operated efficiently and fairly, in the public interest, and under the law; and
- (3) the department has not found grounds for denial of a license under AS 06.60.065.

ANALYSIS: Factors the department will consider when determining suitability for licensing of a mortgage broker or mortgage lender, in addition, items in 065 are reviewed as well.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

Sec. 06.60.065. Determinations for originator licensing. Before granting an originator license to a person, the department shall determine that the applicant has

- (1) complied with the requirements of this chapter and paid all fees for obtaining the originator license;
- (2) not been enjoined by a court of competent jurisdiction from engaging in an aspect of the business of providing financial services to the public; and
- (3) not, within the previous seven years,
 - (A) been prohibited by a federal or state regulatory agency from engaging in, participating in, or controlling a finance-related activity that involves providing financial services to the public;
 - (B) been convicted, including a conviction based on a guilty plea or a plea of nolo contendere, of a felony or a misdemeanor involving fraud, misrepresentation, or dishonesty;
 - (C) committed an act, made an omission, or engaged in a practice that constitutes a breach of a fiduciary duty;
 - (D) made a false material statement of an application submitted under this chapter; or
 - (E) violated a provision of this chapter, a regulation adopted under this chapter, or an order of the department under this chapter.

ANALYSIS: Factors the department will consider when make a determination to grant a mortgage or originator license.

Sec. 06.60.070. Form and contents of license. A license must be in a form established by the department and must state the full name of the licensee. A mortgage license must state the address for each office of the business where the business of the licensee is to be conducted. If a mortgage licensee conducts business on the Internet, the mortgage license must also state the registered domain address through which the mortgage licensee conducts the mortgage licensee's business and the physical location of the mortgage licensee's main business office.

ANALYSIS: This section provides the requirement of posting the license at each office location of the mortgage licensee. In addition, it provides requirements for internet based licensees to post a notice on their website.

Sec. 06.60.075. License availability. A licensee shall provide a copy of the license to a person who requests a copy.

ANALYSIS: This section provides for full disclosure to the consumer or other interested parties. If a consumer has a problem with a licensee, they can have direct information about the licensee by obtaining a copy of their license.

Article 2. License Duration, Renewal, Inactivity, and Surrender.

Sec. 06.60.080. Duration and renewal of license. A license issued under this chapter remains in effect for two years after the license is issued unless revoked, suspended, surrendered, or made inactive under this chapter.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

ANALYSIS: The two-year term will allow the department to operate with a lower level of staffing. The two-year cycle begins on the date the license is issued, rather than on a set biennial basis. This will allow for the renewals to be randomly spaced out instead of being concentrated on an arbitrary date; this will allow for less staffing since the workload will be randomly spaced out during the calendar year.

Sec. 06.60.085. Renewal of license. (a) If a licensee intends to renew a license, the licensee shall submit to the department 30 days before the expiration of the licensee's license

- (1) a renewal application in the form and manner established by the department;
- (2) the biennial license fee required by AS 06.60.105;
- (3) if the renewal is for a mortgage license, a report identifying any changes in the information provided under AS 06.60.020(4) - (8);
- (4) if the renewal is for an originator license, certificates or other documents that show that the continuing education requirements of AS 06.60.160 have been satisfied; and
- (5) if the renewal is for an originator license, the fund fee required by AS 06.60.550.

(b) A renewal under (a) of this section is considered granted unless, within 30 days after the department determines it has received a completed renewal application containing the items in (a) of this section, the department notifies the licensee that the department has denied the renewal application because of the licensee's noncompliance with this chapter or another provision of AS 06.

ANALYSIS: This section provides the requirements for the department to issue renewal of licenses.

Sec. 06.60.090. Inactive license. (a) A license may be made inactive under this section.

(b) To be eligible to have a mortgage license be made inactive, all mortgage loans of a licensee must have been paid in full or sold.

(c) To make a license inactive, a licensee shall provide the department with a written request that the license be made inactive and return the license certificate to the department. The request must include the licensee's name, address, and other information that the department requires that is necessary for the department to process the request and a statement by the licensee that all mortgage loans of the licensee have been paid in full or sold.

(d) The department shall issue an inactive license certificate to a person whose license becomes inactive under this section.

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

(f) If a license is made inactive under this section, the license remains inactive until the person who holds the inactive license provides the department with a written request that the license be reactivated. The request must include the information that the department requires is necessary to process the request.

(g) While a license is inactive, the person holding the inactive license shall pay the biennial license fee as required by AS 06.60.105 and inform the department of any change that occurs in

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

the name and address of the person, the location of the person's business, or in the business operations or control of the person, but the person is not required to maintain the bond required by AS 06.60.045 or to file the annual report required by AS 06.60.100.

(h) Notwithstanding AS 06.60.120, while a license is inactive under this section, the person who holds the license may not transfer the license to another person.

(i) While a license is inactive under this section, the person is not required to surrender the license under AS 06.60.097(b) for not having engaged in mortgage loan activity for 12 months.

(j) While a license is inactive under this section, the person holding the inactive license shall continue to maintain records as required by AS 06.60.135 for the business transactions of the person that occurred before the license became inactive.

(k) While a license is inactive under this section, the department may take action against the license, the person holding the inactive license, or both for noncompliance with this chapter before the license became inactive or for noncompliance with this section while the license is inactive.

(l) A licensee whose license lapses under this chapter is not eligible for an inactive license under this section unless the license is reactivated under AS 06.60.095.

(m) A person holding a license that is inactive under this section may not engage in activities for which the license is required, but may receive commissions or other payments from a person who contracted with or employed the licensee for services, if the services were performed while the licensee was actively licensed.

(n) Except as otherwise provided in this section and by regulations adopted by the department, the provisions of this chapter do not apply to a person holding an inactive license under this section.

ANALYSIS: This section provides for a licensee to suspend their license for a short period of time. This is intended to cover military service, appointment to governmental boards, commissions, or similar functions.

Sec. 06.60.095. Reactivation of inactive license. (a) Except as provided in (b) and (c) of this section, a person who has an inactive license certificate under AS 06.60.090 may apply to the department for an active license and pay the required fees.

(b) A person is eligible for reactivation of an inactive license if the person has been in an inactive status for less than 24 months from the anniversary date of the issuance of the initial inactive license. If the person has been in an inactive status for 24 months or longer, the person may obtain a license only by satisfying the qualifications applicable to initial licensure.

(c) The department may issue an active license that has been conveyed from inactive status under this section for the term remaining on the license before it was made inactive.

ANALYSIS: This section provides the steps a licensee must take to reactivate their license. This is to ensure that the inactive licensee completes all the necessary information for the department.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

Sec. 06.60.097. Surrender of license. (a) A licensee may surrender a license issued to the licensee by delivering written notice to the department that the licensee intends to surrender the license, except that a mortgage licensee may not surrender a license until all loans of that mortgage licensee have either been paid in full or sold.

(b) A licensee shall surrender a license issued to the licensee if the licensee has not engaged in mortgage loan activity for 12 consecutive months.

(c) Surrender of a license under this section does not affect the licensee's civil or criminal liability for acts committed before surrender of the license.

ANALYSIS: This section allows for a licensee to wind-up their business activities. However, it does not provide the licensee with a way to avoid any liabilities.

Article 3. Licensee Obligations.

Sec. 06.60.100. Annual report. (a) On or before March 15, or on another date established by the department by regulation, of each year a mortgage licensee shall file a report with the department giving relevant information that the department requires concerning the business and operations of each location in this state where business was conducted by the mortgage licensee in this state during the preceding calendar year. The mortgage licensee shall make the report under oath or on affirmation. The content and form of the report shall be established by the department by regulation.

(b) A mortgage licensee who fails to file a report as required by (a) of this section is subject to a civil penalty of \$25 for each day's failure to file the report.

ANALYSIS: This section provides the department with statistical information to be able to determine the activity of the mortgage loan market. In addition, the department can utilize the information as a test to determine if there are any unlicensed businesses conducting activity of a mortgage lender or mortgage broker.

Sec. 06.60.105. Biennial license fee. (a) Except as provided by (d) of this section, a licensee shall pay the department a biennial license fee of \$500.

(b) After the payment of the initial biennial license fee under AS 06.60.035, a licensee shall pay the biennial license fee every two years on or before the anniversary date of the original issuance of the license, subject to renewal by the department.

(c) A mortgage licensee who is licensed to act as both a mortgage broker and a mortgage lender is not required to pay more than one biennial license fee.

(d) An originator licensee is not required to pay a biennial license fee if the licensee holds a mortgage license and an originator license, is the principal owner or legally authorized manager of the mortgage licensee, and was designated in the application under AS 06.60.020(4) as the individual to receive an originator license for the mortgage licensee.

(e) The license fee imposed by (a) of this section is in addition to the fee imposed under AS 43.70 (Alaska Business License Act).

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

ANALYSIS: This section provides the bi-annual fee structure to provide funding for the department's budget. The intent is to have a zero cost allocation on the general fund.

Sec. 06.60.110. Location of business. A mortgage licensee may not maintain the mortgage licensee's principal place of business or a branch office within an office, suite, room, or place of business in which any other business is solicited or engaged in, or in association or conjunction with another business, unless the name, ownership, and business purpose of the other business is disclosed in the mortgage licensee's application for a mortgage license.

ANALYSIS: Each licensee will have each of their offices listed on their license. This allows the department to track the number of offices and locations that provide service to consumers.

Sec. 06.60.115. Change of place of business. If a mortgage licensee wishes to change the mortgage licensee's place of business to another location, the mortgage licensee shall submit a written notice to the department at least 10 days before relocating the business. If the mortgage licensee is otherwise in compliance with this chapter, the department shall issue a new mortgage license to the mortgage licensee to reflect the new location.

ANALYSIS: This section allows the department to track changes in business locations, and also make sure they are in compliance with the chapter at the time they are relocating.

Sec. 06.60.120. Transfer of business. (a) Except as provided by (b) of this section, a mortgage licensee may only transfer or assign the licensee's business if

(1) an application is made to the department to transfer or assign the business to another mortgage licensee with the same type of mortgage license as the transferring or assigning mortgage licensee;

(2) at least 30 days before the effective date of the proposed transfer or assignment, the department determines it has received a complete application; and

(3) the department determines that the proposed transfer or assignment complies with AS 06.60.060.

(b) A person who holds an originator license may not transfer or assign the originator license.

ANALYSIS: This section provides the department with the conditions that must be satisfied when a licensee sells their business.

Sec. 06.60.130. Change in business control or business operations. (a) The prior written approval of the department is required for the continued operation of a mortgage licensee's business when a change in control of the mortgage licensee is proposed. The department may require the information it considers necessary to determine whether a new application is required. The mortgage licensee requesting approval of the change in control shall pay all

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

reasonable expenses incurred by the department to investigate and approve or deny the change in control.

(b) If there is a significant change in the business operations of a mortgage licensee not covered by AS 06.60.120, the mortgage licensee shall provide written notice to the department at least 30 days before the effective date of the change in business operations.

ANALYSIS: This section provides the department a method to follow up on a licensee when a mortgage licensee sells a portion of the business, it allows to department to apply the same standards as a new application received by the department.

Sec. 06.60.135. Records of mortgage licensee. (a) The requirements of this section apply to the business transactions of a mortgage licensee that occur entirely or partially in this state.

(b) A mortgage licensee shall keep and use in the mortgage licensee's business the accounting records that are in accord with generally accepted accounting principles.

(c) A mortgage licensee shall maintain a record, by electronic record or photocopying, for the account of each borrower and for each mortgage loan or mortgage loan application that is related to the purchase or refinancing of an existing mortgage loan. This record must contain all documents, notes, electronic correspondence, and forms that are produced or prepared for the mortgage loan by the mortgage licensee, and the mortgage licensee shall retain each document, note, electronic correspondence, and form for 36 months from the date they were created.

(d) A mortgage licensee shall retain for at least three years after final payment is made on a mortgage loan, or three years after a mortgage loan is sold, whichever occurs first, the original contract for the mortgage licensee's compensation, copies of the note, settlement statement, and truth-in-lending disclosure, an account of fees received in connection with the loan, and other papers or records relating to the loan that may be required by department order or regulation.

(e) If a mortgage licensee conducts business as a mortgage loan servicing agent for mortgage loans that the mortgage licensee owns, or as an agent for other mortgage lenders or investors, the mortgage licensee shall, in addition to complying with (b) and (c) of this section, maintain a record for each mortgage loan. The record for each mortgage loan must include, either in electronic or printed format, as well as other papers required by law, department order, or regulation, the amount of the mortgage loan, the total amount of interest and finance charges on the mortgage loan, the interest rate on the mortgage loan, the amount of each payment to be made on the mortgage loan, a description of the collateral taken for the mortgage loan, a history of all payments received by the mortgage licensee on the mortgage loan, a detailed history of the amount of each payment that is applied to the reduction of the mortgage loan principal, the interest that accrues on the mortgage loan, and any other fees and charges that are related to the mortgage loan. The mortgage licensee shall retain the record required by this subsection for three years after the loan is sold to another mortgage loan servicing agent or after the mortgage loan is satisfied, whichever occurs first.

(f) In this section, "mortgage loan servicing agent" means a person who acts on behalf of the owner of a mortgage loan to collect payments on the mortgage loan and enforce the terms of the mortgage loan.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

ANALYSIS: This section requires the retention of records by a mortgage license in order for the department to conduct regular examination as well as investigations of complaints.

Sec. 06.60.140. Availability of out-of-state records. A mortgage licensee who operates an office or other place of business outside this state that is licensed under this chapter shall, at the request of the department,

- (1) make the records of the office or place of business available to the department at a location within this state; or
- (2) reimburse the department its reasonable costs, as provided in AS 06.60.250(f), that are incurred by the department during an investigation or examination conducted at the office or place of business.

ANALYSIS: This section requires the licensees that operate from outside the state to maintain and provide records to the department when an examination or investigation is being conducted.

Sec. 06.60.145. Disqualified persons. (a) A disqualified person may not be an officer, a director, a partner, a member, a sole proprietor, a trustee, an employee of a mortgage licensee, or in another position with similar responsibilities. In this subsection, "employee" means an individual who negotiates an agreement with a member of the public for the mortgage licensee or who has access to, or responsibility for, escrow accounts or escrow money held by the mortgage licensee.

(b) A mortgage licensee may not permit a disqualified person to obtain an ownership interest in a mortgage licensee's business without the prior written approval of the department.

(c) Before a person may obtain an ownership interest in a mortgage licensee's business, the person shall authorize the department to access the person's criminal history information in any state or federal court to determine whether the person is a disqualified person.

(d) In this section,

- (1) "disqualified person" means a person who is not a licensee;
- (2) "ownership interest" means an ownership interest of
 - (A) 10 percent or more, if the mortgage licensee is a corporation with fewer than 75 shareholders;
 - (B) 51 percent or more, if the mortgage licensee is a corporation with 75 or more shareholders or a limited liability company.

ANALYSIS: This section sets forth who can be denied being added to the licensee, or take over as a licensee.

Sec. 06.60.150. Posting of license. A mortgage licensee shall conspicuously post the mortgage license in each place of business of the mortgage licensee.

ANALYSIS: This section requires that a license be posted in a space that is clearly visible to the public.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

Sec. 06.60.155. Restriction on originator licensee work. An originator licensee may only work as an originator licensee under contract for, or as an employee of, one mortgage licensee.

ANALYSIS: This section is intended to limit the ability of an originator to work for multiple mortgage licensees. The purpose of this section is to limit the possibility of an originator from juggling applicants when they cannot obtain financing from one of the originators employers; or flip the applicant to another employer of the originator in order to obtain higher fees or cash bonuses.

Sec. 06.60.157. Mortgage licensee restrictions on performance of originator activities. A mortgage licensee may not perform originator activities except through a licensed originator who is an employee of or under exclusive contract with a mortgage licensee.

ANALYSIS: This section is to restrict a mortgage licensee from conducting business of making loans without the use of a licensed originator.

Sec. 06.60.159. Mortgage licensee employment of, contract with, and liability for originator.

(a) A mortgage licensee may not employ, or enter into a contract with a person who acts as an originator for the mortgage licensee unless the person has an originator license.

(b) A mortgage licensee is liable for the conduct of a person acting as an originator if the mortgage licensee knows, or should have known, that the person's conduct violates this chapter and the person is employed by or is under contract with the mortgage licensee to act as an originator.

ANALYSIS: This places responsibility for supervision of originators on a mortgage licensee. It also restricts a mortgage licensee to only hiring or contracting with licensed originators.

Sec. 06.60.160. Continuing education requirements. (a) An originator licensee shall complete and submit to the department evidence of at least 24 hours of continuing education for each biennial license period. The originator licensee or mortgage licensee shall submit the evidence when the originator licensee or mortgage licensee submits a license renewal application. The 24 hours of continuing education must be in a training program approved by the department.

(b) The department shall establish an education committee consisting of seven members. The commissioner of commerce, community, and economic development shall appoint two persons employed by the department and five licensees to serve on the committee. A licensee may apply to the department to serve on the education committee established under this subsection by submitting an application in the form and with the content established by the department.

(c) The department may consider the recommendations of the education committee when determining which training program to approve for the continuing education requirements.

(d) The department shall publish on a regular basis a listing of classes, seminars, or other training programs that may be used to satisfy the continuing education requirements of this section.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

ANALYSIS: This section requires originators licensees to stay informed about new changes in the laws and regulations. The purpose is to maintain a knowledgeable workforce by continuing to develop their skills. This is a similar requirement placed on Certified Public Accountants or Professional Engineers.

Article 4. Discipline and Investigation.

Sec. 06.60.200. Disciplinary action. (a) In addition to any other disciplinary action allowed under this chapter, the department may suspend or revoke a license or take other disciplinary action against a licensee, including action that is or may be authorized under AS 06.01 or under a regulation adopted under this chapter or AS 06.01, if the department finds that

(1) the licensee has failed to

(A) make a payment required by this chapter;

(B) maintain a bond required under AS 06.60.045, if the licensee is a mortgage licensee;

(C) satisfy the continuing education requirements, if the licensee is an originator licensee;

(D) comply with an applicable provision of this title, with an applicable regulation adopted under this title, with a lawful demand, ruling, order, or requirement of the department, or with another statute or regulation applicable to the conduct of the licensee's business;

(2) the licensee has, with respect to a mortgage loan transaction,

(A) made a material misrepresentation;

(B) made a false promise likely to influence, persuade, or induce another person to take action;

(C) engaged in a serious course of misrepresentation or made a false promise through another licensee;

(D) engaged in conduct that is fraudulent or dishonest;

(E) procured, or helped another person to procure, a license by deceiving the department;

(F) engaged in conduct of which the department did not have knowledge when the department issued the license, if the conduct demonstrates that the licensee is not fit to engage in the activities for which the licensee was licensed;

(G) authorized, directed, planned, or aided in the publishing, distribution, or circulation of a materially false statement or a material misrepresentation concerning the licensee's business or concerning mortgage loans originated in the course of the licensee's business in this or another state; or

(3) a fact or condition exists that would have constituted grounds for denial of the initial issuance or the renewal of the license.

(b) In addition to the bases for disciplinary action under (a) of this section, the department may revoke the license of a licensee who is convicted, including conviction by a plea of not guilty or a plea of nolo contendere, of a felony or misdemeanor involving fraud, misrepresentation, or dishonesty committed while licensed under this chapter. A person whose license is revoked under this subsection is not qualified to be issued another license until the person provides proof acceptable to the department that the person has been unconditionally discharged from the conviction. In this subsection "unconditional discharge" has the meaning given in AS 12.55.185.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

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

ANALYSIS: This section provides guidance on the possible disciplinary actions the department may take in the event a licensee has violated a section of this chapter.

Sec. 06.60.210. Suspension or revocation related to fund. (a) When an award is made from the fund, the department may suspend or revoke the license of the originator licensee whose actions formed the basis of the award.

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

ANALYSIS: If a claim is made pursuant to the surety fund, the department may suspend an originator licensee if they violate the terms of the finding of the claim.

Sec. 06.60.230. Divestment. If the department has revoked a mortgage license, the mortgage licensee shall divest itself of all outstanding loans that were issued under this chapter by selling or assigning them to another mortgage licensee, except that the divestment must be approved by the department.

ANALYSIS: This section is to ensure that all accounts only go to a licensed entity, or to an entity that is exempt under this chapter. The purpose is to make sure that no consumer has a mortgage loan being serviced by a company that is not licensed or regulated.

Sec. 06.60.240. Reinstatement of revoked license. The department may reinstate a revoked license if the licensee complies with this chapter or with a demand, ruling, or requirement made by the department under this chapter. Before reinstatement of a license, the licensee shall pay any fees, restitution, and civil penalties owing under this chapter.

ANALYSIS: If the department revokes a license, it will work with the entity to correct deficiencies in order for the department to reinstate the license.

Sec. 06.60.250. Investigation and examination. (a) The department may investigate and examine the affairs, business premises, and records of a person required to be licensed under this chapter to determine compliance with this chapter, regulations adopted under this chapter, AS 06.01, and applicable regulations adopted under AS 06.01. Notwithstanding AS 06.01.015, the department may conduct an examination at least once every 36 months, or sooner, if the examination is part of the review of a complaint or other information received by the department against the licensee.

(b) For the purposes of conducting an examination under this section, the department

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

(1) shall have free access to the place of business, books, accounts, safes, and vaults of the licensee to examine and make copies as necessary;

(2) may conduct the examination without prior notice to the licensee; and

(3) may examine, under oath or affirmation, all persons whose testimony the department may require to conduct the examination.

(c) For the purpose of hearings, investigations, or other proceedings under this chapter and except as otherwise provided in this chapter, the department or an officer designated by the department may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records that the department considers relevant or material to the inquiry.

(d) If a person refuses to comply with a subpoena, the superior court, on application by the department, may issue to the person an order requiring the person to appear before the department to produce documentary evidence or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt order.

(e) The department may share information received or collected during an examination, investigation, or other proceeding with other law enforcement agencies.

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

ANALYSIS: This section allows the department to conduct routine compliance examinations of the mortgage licensee to determine their compliance with housing laws and mortgage laws. The purpose is to identify if there is a problem with the licensee, and attempt to correct any weaknesses in the operations of the licensee.

Sec. 06.60.260. Revocation, removal, or suspension of originator licensee. If the department finds that an originator licensee is dishonest, reckless, or incompetent when operating as an originator, or fails to comply with applicable law, with regulations or orders of the department, or with written requirements or instructions of the department relating to the originator license, the department may revoke or suspend the originator licensee, remove the originator licensee from operating as an originator in the state, or order a person licensed under this title to remove the originator licensee from operating as an originator for the person.

ANALYSIS: If an originator licensee has been found to have conducted themselves in violation of this chapter, the department has the option to discipline the originator by temporarily suspending or removing them being licensed, or by a complete ban from the industry. The department's imposition on such a violation would depend on the severity of the violation. As with other decisions by the department, the originator would have rights to appeal the decision of the department.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

Sec. 06.60.270. Removal by entity. A mortgage licensee shall remove an originator licensee from operating as an originator for the mortgage licensee if the department directs the mortgage licensee to remove the originator licensee under AS 06.60.260.

ANALYSIS: The department may also direct a mortgage licensee to remove an originator licensee who has been found by the department to be in violation of this chapter. If the mortgage licensee did not follow the department's order, an action can be brought against the mortgage licensee.

Sec. 06.60.280. Department list. The department shall make available to the public a list of all licensees who have been censured, barred, or had their licenses suspended or revoked under this chapter. The department shall publish the list on a monthly basis.

ANALYSIS: The department will publish a list to be circulated to the general public of any actions the department has taken against a licensee. This is similar to the way the Securities and Exchange Commission provides information on securities professionals to the public about any punitive action or enforcement actions it has taken against them for violation of securities law.

Article 5. Business Duties and Restrictions.

Sec. 06.60.320. False, misleading, or deceptive advertising prohibited. A person may not advertise, print, display, publish, distribute, broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner a statement or representation with regard to the rates, terms, or conditions for a mortgage loan that is false, misleading, or deceptive.

ANALYSIS: This provides recourse to the department to allow it to take enforcement actions against a licensee that publishes untruthful, fraudulent, or intentionally deceitful information.

Sec. 06.60.330. Compliance with federal requirements. If the regulations apply to the person under federal law, a person shall conduct the person's mortgage loan activities in compliance with 12 CFR Part 226 and other regulations adopted by the federal government under (1) 12 U.S.C. 2601 - 2617 (Real Estate Settlement Procedures Act of 1974); (2) 12 U.S.C. 2801 - 2810 (Home Mortgage Disclosure Act of 1975); (3) 12 U.S.C. 2901 - 2908 (Community Reinvestment Act of 1977); (4) 15 U.S.C. 1601 - 1666j and 1671 - 1693r (Consumer Credit Protection Act); (5) 42 U.S.C. 3601 - 3631 (Fair Housing Act of 1968); and (6) any other federal law or regulation.

ANALYSIS: This section provides the department with the ability to enforce federal laws that govern residential mortgage transactions. Instead of adopting new state laws that would have to be updated, through adoption, any changes in the federal law will

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

automatically pass to the department. As part of this seamless integration of changes, the department will be able to provide alerts to the industry of any changes.

Sec. 06.60.340. Prohibited activities. In addition to activities prohibited elsewhere in this chapter or by another law, a person who is a licensee, a person who is required to be licensed under this chapter, and a person who is licensed under AS 06.20 may not, in the course of a mortgage loan transaction,

- (1) misrepresent or conceal material facts or make false promises likely to influence, persuade, or induce an applicant for a mortgage loan or a borrower to enter into a mortgage loan transaction;
- (2) pursue a course of misrepresentation through an agent;
- (3) improperly refuse to issue a satisfaction of a mortgage loan;
- (4) fail to account for or deliver to a person money, a document, or another thing of value obtained in connection with a mortgage loan, including money provided for a real estate appraisal or a credit report if the person is not entitled to retain the money under the circumstances;
- (5) pay, receive, or collect, in whole or in part, a commission, fee, or other compensation for brokering a mortgage loan in violation of this chapter, including a mortgage loan brokered by an unlicensed person other than an exempt person;
- (6) fail to disburse money in accordance with a written commitment or agreement to make a mortgage loan;
- (7) engage in a transaction, practice, or course of business that is not engaged in by the person in good faith or fair dealing or that constitutes a fraud on a person in connection with the brokering, making, purchase, or sale of a mortgage loan;
- (8) influence or attempt to influence through coercion, extortion, or bribery the development, reporting, result, or review of a real estate appraisal sought in connection with a mortgage loan; this paragraph does not prohibit a person from asking an appraiser to
 - (A) consider additional appropriate property information;
 - (B) provide further detail, substantiation, or explanation for the appraiser's value determination;or
 - (C) correct errors in the appraisal report;
- (9) in a loan commitment or prequalification letter, make a false or misleading statement, or omit relevant information or conditions that the person knew or reasonably should have known from a preliminary examination of the borrower's loan application, credit report, assets, and income, except that this paragraph does not apply if
 - (A) the borrower made a false or misleading statement or omitted relevant information in the loan application that the person relied on when issuing the loan commitment or prequalification letter; or
 - (B) the person funds the loan at the rate, terms, and costs stated in the good faith estimate provided to the borrower at the time the prequalification letter was issued or the loan commitment was made;
- (10) engage in a practice or course of business in which the ultimate rates, terms, or costs of mortgage loans are materially worse for the borrowers than they are represented to be in the first good faith estimates the person provides to the borrowers; this paragraph does not apply if

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

- (A) the person's generally published or advertised rates, terms, or costs, if any, change for a borrower's loan program; or
- (B) new or changed information from the borrower makes it necessary to change the loan program offered to the borrower;
- (11) represent that the person has a license, title, certification, sponsorship, approval, status, affiliation or connection that the person does not have;
- (12) engage in unfair, deceptive, or fraudulent mortgage loan practices or advertising established by the department in regulation.

ANALYSIS: In this section, additional actions or activities are added that would be considered a violation of this chapter for either a mortgage licensee or originator licensee.

Sec. 06.60.350. Certain refinancing prohibited. (a) A covered person may not refinance a mortgage loan within 12 months after the date the mortgage loan is closed, unless the refinancing is beneficial to the borrower.

(b) The factors to be considered when determining if refinancing is beneficial to the borrower under (a) of this section may include

- (1) the borrower's new monthly payment is lower than the total of all monthly obligations being refinanced, after taking into account the costs and fees of the refinancing;
- (2) the amortization period of the new mortgage loan is different from the amortization period of the mortgage loan being refinanced;
- (3) the borrower receives cash in excess of the costs and fees of the refinancing;
- (4) the rate of interest of the borrower's promissory note is reduced;
- (5) the mortgage loan changes from an adjustable rate loan to a fixed rate loan after taking into account costs and fees;
- (6) the refinancing is necessary to respond to a bona fide personal need or an order of a court of competent jurisdiction;
- (7) the original term of the mortgage loan being refinanced is two years or less; and
- (8) the refinancing is being made to prevent a foreclosure on an existing mortgage loan.

ANALYSIS: This section defines when a loan can be refinanced. It is intended to limit rolling-refinances where the only intent is to generate fees for the licensees.

Sec. 06.60.360. Escrow accounts. (a) A covered person and a borrower may agree that the covered person will keep in an escrow account all money that the borrower is required to pay to defray future taxes or insurance premiums or for other lawful purposes. The escrow account must be segregated from the other accounts of the covered person. The covered person may not commingle the borrower's money with the general funds of the covered person. Money deposited in an escrow account under this subsection shall be maintained in the account until it is disbursed in accordance with a written escrow agreement.

(b) A covered person may not require a borrower to pay money into escrow to defray future taxes, to defray insurance premiums, or for another purpose, in connection with a subordinate

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

mortgage loan, unless an escrow account for that purpose is not being maintained for the mortgage loan that is superior to the subordinate mortgage loan.

(c) If the billing address of a covered person who is holding money in escrow for insurance premiums changes, the covered person shall notify the insurer in writing about the changed billing address within 30 days after the change, or 60 days before the renewal date of the insurance policy, whichever is later.

(d) A covered person who accepts money belonging to a borrower in connection with a mortgage loan shall deposit all of the money into an escrow account maintained by the covered person in a bank or another recognized depository institution. In this subsection, "recognized depository institution" means a person who is organized as a financial institution under the laws of a state or the federal government and whose deposits are insured by a federal agency.

(e) Money held in an escrow account under this section is exempt from execution, attachment, or garnishment under AS 09.38 and is not subject to a claim under AS 09.38.065.

ANALYSIS: This section provides guidelines for mortgage licensees for record keeping in the event they provide escrow services as part of servicing a loan. Depending on the type of mortgage, some require reserves to be paid with each monthly payment and be stored in an escrow account to pay annual real property taxes and property insurance.

Sec. 06.60.370. Criminal liability of licensee. (a) In addition to the authority provided in AS 06.60.880, the department may report the violations of (b) - (c) of this section to the attorney general, who may institute the proper proceedings to enforce the criminal penalties provided in (b) - (c) of this section.

(b) A person who knowingly provides false or misleading information to the department that is material under this chapter is guilty of a class A misdemeanor.

(c) A licensee or person who is exempt under AS 06.60.015 who knowingly fails to account for or deliver to a person money, deposits, or checks or other forms of negotiable instruments in violation of the provisions of this chapter is guilty of a class A misdemeanor.

(d) A licensee who knowingly fails to disburse without just cause money belonging to the borrower is guilty of a class A misdemeanor.

(e) A mortgage lender, mortgage broker, or originator who knowingly operates without a license or is not exempt under AS 06.60.015 is guilty of a class A misdemeanor.

ANALYSIS: This is a new section intended to provide notice of criminal penalties for licensees who violate this chapter.

Sec. 06.60.380. Definition of "covered person." In AS 06.60.320 06.60.380, "covered person" means a mortgage licensee or a person who is licensed under AS 06.20.

ANALYSIS: Provides definition for this article of the chapter.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

Article 6. Enforcement.

Sec. 06.60.400. Cease and desist orders. The department may issue, under AS 06.01.030, an order directing a person to cease and desist. The department shall determine the form and content of the order.

ANALYSIS: This section provides the department with the ability to issue orders to a licensee to stop them from conducting activities that violate any portion of this chapter.

Sec. 06.60.410. Censure, suspension, or bar. (a) In addition to any other remedy provided under this chapter, the department may, by order after appropriate notice and opportunity for a hearing, censure a person, suspend the license of a person for a period not to exceed 12 months, or bar a person from a position of employment, management, or control of a licensee, if the department finds that

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

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

(3) the violation has caused material damage to the licensee or to the public.

(b) When the person who is the subject of a proposed order under this section receives a notice of the department's intention to issue an order under this section, the person is immediately prohibited from engaging in any activities for which a license is required under this chapter.

(c) A person who is suspended or barred under this section is prohibited from participating in a business activity of a licensee and from engaging in a business activity on the premises where a licensee is conducting the licensee's business. This subsection may not be construed to prohibit a suspended or barred person from having the person's personal transactions processed by a licensee.

ANALYSIS: This section allows the department to take additional actions to remove a licensee who exhibited conduct that warrants protection of the public by removing from the mortgage industry.

Sec. 06.60.420. Civil penalty for violations. (a) A person who violates a provision of this chapter or a regulation adopted under this chapter is liable for a civil penalty not to exceed \$10,000 for each violation.

(b) The remedies provided by this section and by other sections of this chapter are not exclusive and may be used in combination with other remedies allowed under law to enforce the provisions of this chapter.

ANALYSIS: This section allows the department to impose fines for violation of this chapter.

Sec. 06.60.430. Additional enforcement provisions, actions, and rights. (a) The department may treat a licensee as a financial institution under AS 06.01 when applying the enforcement provisions of AS 06.01.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

(b) This chapter may not be interpreted to prevent the attorney general or any other person from exercising the rights provided under AS 45.50.471 - 45.50.561.

(c) If the department determines that a licensee or a person acting on the behalf of the licensee is in violation of, or has violated, a provision of this chapter, the department may refer the information to the attorney general and request that the attorney general investigate the violation under AS 45.50.495. The attorney general may enjoin a violation of this chapter and may seek restitution, rescission, and other relief as allowed by law.

(d) In addition to another investigation allowed under this chapter, the department may conduct other examinations, periodic audits, special audits, investigations, and hearings as may be necessary and proper for the efficient administration of this chapter.

Article 7. Originator Surety Fund.

Sec. 06.60.500. Originator surety fund. The originator surety fund is established as a separate account in the general fund.

ANALYSIS: The surety fund is established to cover consumer losses in the event an originator commits an illegal activity. The fund collects fees from originators and is administered by the department.

Sec. 06.60.510. Composition of fund. The fund consists of payments made by originator licensees under AS 06.60.550, filing fees retained under AS 06.60.620, income earned on the investment of the money in the fund, and money deposited in the fund by the department under AS 06.60.740.

ANALYSIS: This section defines the creation of the fund. It also defines the sources of funding for the fund.

Sec. 06.60.520. Use of fund. The legislature may appropriate the money collected in the fund under AS 06.60.510 to the department to implement AS 06.60.500 - 06.60.750, including paying claims, holding hearings, and incurring legal expenses and other expenses directly related to fund claims and the operations of the fund or for any other public purpose. Nothing in AS 06.60.500 - 06.60.750 creates a dedicated fund.

ANALYSIS: This section specifies when funds can be used and the process which must be followed.

Sec. 06.60.530. Fund report. Every six months the department shall make a written report on the activities of the fund, the balances in the fund, interest earned on the fund, and interest returned to the fund.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

ANALYSIS: This section specifies when funds can be used and the process which must be followed.

Sec. 06.60.540. Approval required. (a) The department must approve a fund expenditure that is used to prepare, print, manufacture, sponsor, produce, or otherwise provide an item or a service to a member of the public, to a licensee, to a potential licensee, or to another person.

(b) In (a) of this section, "an item or a service" includes an information pamphlet, an examination preparation packet, an educational course, the certification of a continuing education course, and an instructor for a continuing education course.

ANALYSIS: This section insures that only justified expenses can be charged against the fund. Any use of the fund other than to pay claims must be limited.

Sec. 06.60.550. Required fund fees. (a) A person who applies for or renews an originator license shall pay to the department, in addition to the fees required by AS 06.60.035, a fund fee not to exceed \$150.

(b) Every two years, if the department determines that the average balance in the fund during the previous two years was less than \$250,000 or more than \$500,000, the department shall, unless the department waives the adjustment, adjust the fund fee so that the average balance of the fund during the next two years is anticipated to be an amount that is not less than \$250,000 or more than \$500,000. In this subsection, "average balance" means the average balance in the fund after the department deducts anticipated expenditures for claims against the fund and for hearing and legal expenses directly related to fund operations and claims.

(c) At least once a month, the department shall pay the fees collected under this section into the general fund. These payments shall be credited to the fund.

(d) Notwithstanding (a) of this section, an originator licensee who obtains an initial originator license when the department has reduced the fund fee to nothing shall nonetheless pay a fund fee of \$150 to the department each of the first two years of the originator license or, for a mortgage licensee, of operating as an originator.

ANALYSIS: This section insures that only justified expenses can be charged against the fund. Any use of the fund other than to pay claims must be limited.

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

ANALYSIS: This section establishes the process for a consumer to file a claim against the fund. The consumers' loss must have been from an illegal activity of the originator.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

Sec. 06.60.570. Submission of fund claim. To seek reimbursement under AS 06.60.560, a person shall submit a fund claim to the department for the reimbursement on a form furnished by the department. The person must file the fund claim within two years after the occurrence of the fraud, misrepresentation, deceit, or conversion that is claimed as the basis for the reimbursement.

ANALYSIS: This section provides the method for the consumer to submit their claim, and also provides time limitations for a claim to be filed.

Sec. 06.60.580. Form and contents of fund claim. The form for a fund claim shall be executed under penalty of unsworn falsification and must include

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

ANALYSIS: This section sets out the minimum information necessary for the department to process a consumer's claim. The information is necessary for the department to begin its investigation.

Sec. 06.60.590. Claim hearing. Except as otherwise provided by AS 06.60.610, a hearing on a fund claim shall be handled by the office of administrative hearings (AS 44.64.010).

ANALYSIS: This provides an impartial process to adjudicate a claim from a consumer. A similar system has successfully worked for handling ANSCA claims.

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

- (1) each originator licensee alleged to have committed the misconduct resulting in the alleged loss;
- (2) the employer of the originator licensee alleged to have committed the conduct resulting in the alleged loss; and
- (3) any other parties involved in the mortgage loan transaction that is the subject of the fund claim.

ANALYSIS: This section sets forth the procedural process for claims to be notice to all parties. This will allow all parties to participate in the hearing process.

Sec. 06.60.610. Election to use small claims court. (a) Within seven days after receiving a copy of a fund claim under AS 06.60.600, each originator licensee against whom the claim is made

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

may elect to defend the fund claim as a small claims action in district court under District Court Rules of Civil Procedure if the claim does not exceed the small claims jurisdictional limit.

(b) An originator licensee who elects under (a) of this section to defend a fund claim in district court under the small claims rules may not revoke the election without the consent of the person who filed the fund claim.

(c) On receipt of a valid written election under (a) of this section, the department shall dismiss the fund claim filed with the department and notify the person who filed the fund claim that the person who filed the fund claim must bring a small claims action in the appropriate district court.

ANALYSIS: This provides the consumer an additional venue to have their claim adjudicated. The claim can be heard before a hearing officer, or magistrate.

Sec. 06.60.620. Filing fee. (a) A person who files a fund claim under AS 06.60.570 shall pay the department a filing fee of \$250 when the person files the fund claim.

(b) The department shall refund the filing fee required by (a) of this section if the

(1) department makes an award to the claimant;

(2) fund claim is dismissed under AS 06.60.610; or

(3) fund claim is withdrawn by the claimant before the office of administrative hearings (AS 44.64.010) holds a hearing on the fund claim.

ANALYSIS: This section is intended to cover the department's costs and also discourages frivolous claims. If a claim is proven to be valid, the money the claimant paid is refunded to them.

Sec. 06.60.630. Department contracts. When the department receives a fund claim, the department may contract under AS 36.30 (State Procurement Code) with an investigator, an accountant, an attorney, or another person necessary for the department to process the fund claim. A contract may cover more than one fund claim.

ANALYSIS: The department from time-to-time may require the assistance of industry experts to prove a portion of any enforcement action. This section allows the department to hire those individuals.

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

ANALYSIS: This section allows a licensee to file a response for any complaint filed against them.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

Sec. 06.60.650. Standards of proof. A person who submits a fund claim under AS 06.60.570 bears the burden of establishing by a preponderance of the evidence that the person who filed the fund claim suffered a loss in a mortgage loan transaction as a result of fraud, misrepresentation, deceit, or the conversion of trust funds by an originator licensee and the extent of those losses.

ANALYSIS: This section establishes the level of proof required to substantiate a claim. The claim must be sufficient that a person can reasonable asses if a violation of law has occurred.

Sec. 06.60.660. Postponement. The department may postpone its consideration of a fund claim until after a hearing under AS 06.60.200 or 06.60.590 or until the completion of a pending or contemplated court proceeding.

ANALYSIS: This section allows the department to wait and receive a decision from a hearing officer prior to making a decision on a claim. This gives the department the opportunity to postpone its decision in order to ensure that all the facts and applicable law has been review per the administrative procedures act.

Sec. 06.60.670. Nonapplication. AS 06.60.630 - 06.60.660 do not apply to a fund claim that is dismissed under AS 06.60.610.

ANALYSIS: This section gives the department the ability to set aside a decision.

Sec. 06.60.680. Findings and payment. (a) At the conclusion of the department's consideration of a claim made under AS 06.60.570, the department shall issue a written report that provides the department's findings of fact and conclusions of law.

(b) If the department determines that the claimant has suffered a loss in a mortgage loan transaction as a result of fraud, misrepresentation, deceit, or the wrongful conversion of money by an originator licensee, the department may award the person who filed the fund claim reimbursement from money appropriated to the fund for the claimant's loss.

ANALYSIS: If a decision is reached, this section sets out the method for payment and processing of the claim.

Sec. 06.60.690. Fund operations. The department may charge fund operation hearing and legal expenses from money appropriated to the department for the purpose. The department shall deposit into the fund money that the department recovers for these expenses from the originator licensee under AS 06.60.745. The department may not consider amounts paid from the fund for hearing or legal expenses when determining the maximum reimbursement to be awarded under AS 06.60.710 or the maximum liability for fund claims under AS 06.60.710.

ANALYSIS: This section provides the department with the ability to recover funds for use in payment of future claims.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

Sec. 06.60.700. Payment of small claims judgment. (a) If a fund claim originally filed with the department is dismissed and heard as a small claims action under AS 06.60.610 and the person who filed the fund claim is awarded money in the small claims action against an originator licensee, the department may pay, subject to AS 06.60.710 and 06.60.720, any outstanding portion of the small claims judgment from money appropriated to the department for the purpose.

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

(c) After the department pays a small claims judgment under this section, the department is subrogated to the rights of the person to whom the money was awarded under the judgment.

ANALYSIS: This section allows the department to accept the decision from the Small Claims Court and also requires the subrogation of the claim to the department. This allows the department to attempt to recover the amount of the claim from the licensee.

Sec. 06.60.710. Maximum liability. (a) Payment of a fund claim may not exceed \$15,000 for each claimant, except that the payment may not exceed a total of \$15,000 for each mortgage loan transaction regardless of the number of persons injured or the number of pieces of residential property involved in the mortgage loan transaction.

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

(c) If the \$50,000 liability under (b) of this section is insufficient to pay in full the valid fund claims of all persons who have filed fund claims against one originator licensee, the \$50,000 shall be distributed among the claimants in the ratio that their individual fund claims bear to the aggregate of valid fund claims, or in another manner that the department considers equitable. The department shall distribute the money among the persons entitled to share in the recovery without regard to the order in which their fund claims were filed.

ANALYSIS: This section specifies the maximum amount of any one claim.

Sec. 06.60.720. Order of fund claim payment. If the money appropriated to the department for the purpose is insufficient at a given time to satisfy an award under AS 06.60.680 for a fund claim, the department shall, when sufficient money has been appropriated to the department for the purpose, satisfy unpaid fund claims in the order that the fund claims were originally filed, plus accumulated interest at the rate allowed under AS 45.45.010(a).

ANALYSIS: This section is to establish a procedure if claims exceed the fund balance, the department will pay them in order of process without seeking funds from the general fund of the State budget.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

Sec. 06.60.730. False claims or documents. A person who files with the department a notice, statement, or other document required under AS 06.60.500 - 06.60.750 that contains a wilful material misstatement of fact is guilty of a class A misdemeanor.

ANALYSIS: This section provides penalties for any person that files false documents with the state can be subject to a criminal charge.

Sec. 06.60.740. Right to subrogation. When the department has paid to a claimant the sum awarded by the department, the department shall be subrogated to all of the rights of the claimant to the amount paid, and the claimant shall assign all right, title, and interest in that portion of the claim to the department. Money collected by the department on the claim shall be deposited in the fund.

ANALYSIS: If a claim is paid, the department will have the claimant subrogate their claim to the enable the department to pursue collection against the licensee. The funds recovered will be used to repay the surety fund.

Sec. 06.60.745. Reimbursement for expenses. If the department pays all or a portion of a fund claim against an originator licensee under AS 06.60.680 or 06.60.700, the department may recover from the originator licensee, in addition to the payment of the fund claim, the expenses incurred by the department to process and otherwise handle the fund claim.

ANALYSIS: This section provides the department with a method to collect fees and costs from the fund in order to repay the budget of the department for amount expended on the behalf of the claims.

Sec. 06.60.750. Disciplinary action against an originator licensee. Repayment in full of all obligations to the fund does not nullify or modify the effect of disciplinary proceedings brought against an originator licensee under this chapter.

ANALYSIS: This section is intended to notify a licensee that satisfaction of monetary damages does not absolve them of responsibility under other sections of this chapter.

Article 8. Program Administration Fee.

Sec. 06.60.800. Authorization of program administration fee. (a) The department may collect a program administration fee of \$10 for each mortgage loan transaction to reimburse the state for the cost of administering this chapter.

(b) The program administration fee shall be paid by the borrower who is providing real property as security for the mortgage loan, except that, if the regulations of a federal or state loan program that insures the loan and that applies to the mortgage loan transaction prohibits the borrower from paying the program administration fee, another party to the mortgage loan transaction shall pay the program administration fee.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

(c) If there are multiple mortgage loan instruments recorded for a single mortgage loan transaction, the department shall collect only one program administration fee.

(d) In this section, "mortgage loan instrument" means a deed of trust, mortgage, or another loan instrument recorded to encumber residential real property in the state.

ANALYSIS: This section provides the department with funding based on the payment for each residential mortgage deed of trust that is recorded in the state.

Sec. 06.60.810. Payment and use of fees. (a) The department shall coordinate with the Department of Natural Resources to collect the program authorization fee.

(b) The program authorization fee shall be charged when payment is made to the Department of Natural Resources for recording a document under AS 44.37.025.

(c) The program authorization fees collected under (b) of this section shall be separately accounted for and may be appropriated by the legislature to the department for the operation of this chapter.

ANALYSIS: This section sets forth how the fees will be collected and also provides for its use to offset the cost of the department's operations.

Article 9. Duties and Powers of the Department.

Sec. 06.60.850. Publication of disciplinary action. The department may release for publication in a newspaper of general circulation in the locale of a licensee's principal office notice of disciplinary action taken by the department against the licensee.

ANALYSIS: The purpose is to provide consumers with information about any disciplinary action the department has enforced against a licensee.

Sec. 06.60.860. Fingerprinting. The department may forward fingerprints provided under this chapter to the Department of Public Safety for submission to the Federal Bureau of Investigation for a report by the Federal Bureau of Investigation.

ANALYSIS: This section grants the department authority to conduct a background investigation in order to determine if the applicant is in or has previously violated the laws of other states.

Sec. 06.60.870. Authority of department. The department may make a ruling, demand, or finding that the department determines is necessary for the proper conduct of a licensee's business regulated by this chapter or for the enforcement of this chapter. The ruling, demand, or finding must be consistent with this chapter

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

ANALYSIS: This section requires the department to make decisions that are consistent in their interpretation of this chapter.

Sec. 06.60.880. Peace officer powers. (a) A person employed by the department for the administration and enforcement of this chapter may, with the concurrence of the commissioner of public safety, exercise the powers of a peace officer when those powers are specifically granted to the person by the department.

(b) A person may exercise a power granted by the department under (a) of this section only when necessary for the enforcement of the criminally punishable provisions of this chapter, regulations adopted under this chapter, and other criminally punishable laws and regulations, including the investigation of violations of laws against theft under AS 11.46.100 -11.46.150, fraud under AS 11.46.600, misapplication of property under AS 11.46.620, and deceptive business practices under AS 11.46.710.

ANALYSIS: This section provides certain qualified members of the department the right under police powers to independently investigate complaints and enforce certain criminal laws under AS 11. In addition, it allows qualified members of the department to make application for search warrants, arrest warrants, and other court granted authority.

Article 10. Miscellaneous Provisions.

Sec. 06.60.890. Application to Internet activities. This chapter applies to a person even if the person is engaging in the activities regulated by this chapter by using an Internet website from within or outside the state.

ANALYSIS: This section applies the chapter to web-based businesses and requires them to be licensed if they meet the licensing requirements. It also grants the department the ability to review on-line transactions.

Sec. 06.60.895. Effect of revocation, suspension, or surrender of license.

The revocation, suspension, or surrender of a license does not impair or otherwise affect the rights or obligations of a preexisting lawful contract between the licensee and a borrower.

ANALYSIS: If a licensee has their license revoked, suspended or is required to surrender their license, it does not have any affect on contract that existed at the time they were licensed.

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

Sec. 06.60.900. Applicability of administrative procedures. The provisions of AS 44.62 (Administrative Procedure Act) apply to an action of the department to deny, revoke, or suspend a license under this chapter, to censure, suspend, or bar a person under AS 06.60.410, to take other disciplinary action under this chapter, to hold hearings, and to issue orders.

ANALYSIS: This section allows the department to use AS 44.62 in its enforcement of this chapter.

Sec. 06.60.905. Untrue, misleading, or false statements. A person may not, in a document filed with the department or in an examination, an investigation, a hearing, or another proceeding under this chapter, make or cause to be made, an untrue statement of a material fact, or omit to state a material fact necessary in order to make the statement made, in the light of the circumstances under which it is made, not misleading or false.

ANALYSIS: This section gives the department discretion in the event it is determined that a licensee provided information that is erroneous.

Sec. 06.60.910. Regulations. The department may adopt regulations under AS 44.62 (Administrative Procedure Act) to implement this chapter.

ANALYSIS: This section gives the department discretion in the event it is determined that a licensee provided information that is erroneous.

Sec. 06.60.920. Relationship to federal and other state law. (a) If a provision of this chapter is preempted by or conflicts with federal law in a particular situation, the provision does not apply to the extent of the preemption or conflict.

(b) If a provision of this chapter conflicts with another state law in a particular situation, the provision in this chapter governs to the extent of the conflict.

ANALYSIS: This section provides that this chapter shall govern, even if it conflicts with other section of law.

Article 11. General Provisions.

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

- (1) "agent" does not include a person who is a state employee when acting in the capacity of a state employee;
- (2) "borrower" means an individual who receives a mortgage loan;
- (3) "broker" means to operate as a mortgage broker;
- (4) "department" means the Department of Commerce, Community, and Economic Development;
- (5) "escrow account" means an account

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

- (A) to which a borrower makes payments for obligations related to the real property that is the subject of a mortgage loan of the borrower;
- (B) held by a third person; and
- (C) from which the third person identified in (B) of this paragraph disburses money in accordance with a written agreement to pay obligations related to the real property that is the subject of a mortgage loan of the borrower.
- (6) "fund" means the originator surety fund established by AS 06.60.500;
- (7) "fund claim" means a claim authorized under AS 06.60.560;
- (8) "fund fee" means the fee that is required to be paid by AS 06.60.550;
- (9) "knowingly" has the meaning given in AS 11.81.900;
- (10) "license" means a license issued under this chapter;
- (11) "licensee" means a person who holds a license issued under this chapter;
- (12) "mortgage broker" means a person who, for compensation or gain, or in the expectation of compensation or gain, directly or indirectly, by telephone, by electronic means, by mail, through the Internet, in person, or by the person itself or an originator who is an employee or under exclusive contract to the person,
- (A) arranges with a variety of lending sources, who may be private lenders, institutional investors, or wholesale lenders, to provide financing for mortgage loans; or
- (B) assists or offers to assist a borrower or potential borrower to obtain financing for mortgage loans;
- (13) "mortgage lender" means a person who consummates and funds a mortgage loan and who is named as the payee in the promissory note and as the beneficiary of the deed of trust; "mortgage lender" does not include a subsequent purchaser of a mortgage loan or an interest in a mortgage loan that is originated by a licensee under this chapter;
- (14) "mortgage lender license" means a license issued under this chapter to operate as a mortgage lender;
- (15) "mortgage lender licensee" means a person who holds a mortgage lender license;
- (16) "mortgage license" means a mortgage lender license or a mortgage broker license;
- (17) "mortgage licensee" means a mortgage lender licensee or a mortgage broker licensee;
- (18) "mortgage loan"
- (A) means a loan made to an individual if the proceeds are to be used primarily for personal, family, or household purposes and if the loan is secured by a mortgage or deed of trust on an interest in a residential owner-occupied property for one to four family units located in the state and regardless of where the loan is made;
- (B) includes the renewal or refinancing of a loan;
- (C) does not include loans
- (i) or extensions of credit to buyers of real property for a part of the purchase price of the property by persons selling the property owned by them;
- (ii) to persons related to the lender by blood or marriage;
- (iii) to persons who are employees of the lender; or
- (iv) made primarily for a business, commercial, or agricultural purpose of the borrower or for construction of residential property;
- (19) "operate" means do business, offer to provide, or provide;
- (20) "originator"

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

(A) means a natural person who, for compensation or gain, or in the expectation of compensation or gain, directly or indirectly, by telephone, by electronic means, by mail, or in person
(i) interviews the consumer in connection with the consumer's application for a mortgage loan;
(ii) accepts or offers to accept an application for a mortgage loan from a potential borrower;
(iii) solicits or offers to solicit a mortgage loan for a potential borrower;
(iv) negotiates or offers to negotiate the terms or conditions the terms or conditions of a mortgage loan with or for a borrower or potential borrower; or
(v) issues or offers to issue to borrowers, potential borrowers, or the representatives of borrowers or potential borrowers, mortgage loan commitments, interest rate agreements, interest rate guarantees, prequalification letters, or commitments to finance up to a stated amount of the value of real property, or 90-percent letters to finance up to a stated amount of the value of real property;

(B) does not include employees of a mortgage licensee, or employees of a person who is exempt from licensure under AS 06.60.015, who perform clerical duties in connection with mortgage loan transactions, collect financial information and other related documents that are part of the application process, order verifications of employment, verifications of deposits, requests for mortgage payoffs, and other loan verifications, appraisals, inspections, or engineering reports, or perform the functions of a mortgage loan processor, at the direction of and subject to the supervision of the mortgage licensee, a mortgage originator, or the person exempt from licensure.

(21) "originator license" means a license issued to a person to operate as an originator;

(22) "originator licensee" means a person who holds an originator license;

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

(24) "records" includes books, accounts, papers, files, and other records;

(25) "residential property" means improved real property used or occupied, or intended to be used or occupied, for residential purposes.

ANALYSIS: This provides for definition to be in interpretation of this chapter.

Sec. 06.60.995. Short title. This chapter may be known as the Mortgage Lending Regulation Act.

* **Sec. 3.** AS 09.38.015 is amended by adding a new subsection to read:

(e) Money held in an escrow account under AS 06.60.360 is exempt.

* **Sec. 4.** AS 09.38.065(a) is amended to read:

(a) Subject to AS 06.60.360(c), and notwithstanding [NOTWITHSTANDING] other provisions of this chapter,

(1) a creditor may make a levy against exempt property of any kind to enforce a claim for

(A) child support;

(B) unpaid earnings of up to one month's compensation or the full-time equivalent of one month's compensation for personal services of an employee; or

(C) state or local taxes;

(2) a creditor may make a levy against exempt property to enforce a claim for

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

(A) the purchase price of the property or a loan made for the express purpose of enabling an individual to purchase the property and used for that purpose;

(B) labor or materials furnished to make, repair, improve, preserve, store, or transport the property; and

(C) a special assessment imposed to defray costs of a public improvement benefiting the property; and

(3) a creditor may make a levy against exempt property of any kind to enforce the claim of a victim, including a judgment of restitution on behalf of a victim of a crime or a delinquent act, if the claim arises from conduct of the debtor that results in a conviction of a crime or an adjudication of delinquency, except that the debtor is entitled to an exemption in property

(A) not to exceed an aggregate value of \$3,000 chosen by the debtor from the following categories of property:

(i) household goods and wearing apparel reasonably necessary for one household;

(ii) books and musical instruments, if reasonably held for the personal use of the debtor or a dependent of the debtor; and

(iii) family portraits and heirlooms of particular sentimental value to the debtor; and

(B) not to exceed an aggregate value of \$2,800 of the debtor's implements, professional books, and tools of the trade.

* **Sec. 5.** AS 44.62.330(a) is amended by adding a new paragraph to read:

(47) Department of Commerce, Community, and Economic Development relating to mortgage lending under AS 06.60.

* **Sec. 6.** AS 44.64.030(a)(5) is amended to read:

(5) AS 06 (banks, [AND] financial institutions, **and fund claims**), **except as provided otherwise by AS 06.60.590**;

* **Sec. 7.** AS 45.50.471(b) is amended by adding a new paragraph to read:

(52) violating AS 06.60.010 -06.60.380 (mortgage lending regulation);

* **Sec. 8.** AS 45.50.481 is amended by adding a new subsection to read:

(c) The exemption in (a)(1) of this section does not apply to an act or transaction regulated under AS 06.60.

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

TRANSITION: LICENSING OF CURRENT MORTGAGE LENDERS AND MORTGAGE BROKERS. Notwithstanding AS 06.60.010, enacted by sec. 2 of this Act, a person who is engaging in activities for which a license is required under AS 06.60, enacted by sec. 2 of this Act, immediately before the effective date of AS 06.60 is not required to comply with the licensing requirements of AS 06.60 until March 1, 2009. In this section, "license" has the meaning given in AS 06.60.990, enacted by sec. 2 of this Act.

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

TRANSITION: REGULATIONS. The Department of Commerce, Community, and Economic Development may proceed to adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before July 1, 2008.

* **Sec. 11.** Section 10 of this Act takes effect immediately under AS 01.10.070(c).

Sectional Analysis CSHB 162 Mortgage Lending -Version V

Prepared on: April 17, 2007

Prepared by: Roger W. Prince, Division of Banking and Securities

* **Sec. 12.** Except as provided in sec. 11 of this Act, this Act takes effect July 1, 2008.

#LAC

4-11-07

Testimony for HB-162
Labor & Commerce Committee
4/11.07

I appreciate the opportunity to give testimony on the mortgage licensing bill.

The opinions expressed herein are not the official position of any organization, but my own personal opinions.

First I would like to give you a little background information on myself so that you may better understand my views.

I have been a resident of Alaska since 1959. I went to school here and served in the Alaska National Guard. Since 1977 I have been involved in the real estate industry. I have been a real estate broker, investor and developer. For the last 20 years I have been in the mortgage loan business. I have been a loan originator, manager in charge of production for one of Alaska's largest lenders as well as the manager in charge of all their branch offices.

I am a member of the Predatory Lending Task Force in Anchorage representing the Alaska Association of Mortgage Brokers. I sit on their Advisory Board and I am on their Education and Legislative Committees.

Presently I'm the owner of a small mortgage company and have two originators working with me.

I am a founding member and a past President of the Alaska Association of Mortgage Brokers (AKAMB). I served as the Committee Chair for membership, and I am a member of the Legislative Committee for AKAMB.

In addition, I am the President-Elect of the Western Regional Mortgage Brokers Lenders Conference (WRMBLC). WRMBLC is an organization of fourteen western states that puts on an educational program each year for people in the mortgage loan industry to receive education, get up to date information from national leading experts, and a face-to-face expo with the nation's top mortgage lenders. This event has over 4,000 attendees with over 300 exhibitors.

As you can ascertain from the above information, I am a long time Alaskan with deep ties to our state. As such, I am very interested in the long term care of the mortgage industry in our state.

To that end, I was part of a small group of people that wanted to start an organization to promote professionalism, high ethics, and licensing of the mortgage industry in Alaska. We organized and started AKAMB as an affiliate of the National Association of Mortgage Brokers (NAMB) because they espouse the same things we desire. NAMB has

John Martin Testimony

a Code of Ethics that all must adhere to in order to become a member, as well as Professional Designations that can be earned through their educational classes.

I presently hold the only "*Certified Mortgage Consultant*" designation from the National Association of Brokers, in Alaska.

Alaska is the last state to license mortgage operations. The people that work here in the state day after day and interface with the public recognize the need for this legislation.

Just looking at the local news media in the last year, we can see that our great state is not exempt from unscrupulous operators. While we know a lot of the problem is the result of out of state operations, a few people here have chosen to try and take advantage of our state. Please see the enclosures.

Many people have worked hard and put in lots of unpaid hours to come up with a bill that makes sense and at the same time does not put undue hardship on small business. These are your local people that live and work here in Alaska. They don't really want to be licensed, but, it's pretty obvious to us that it is the best interest of our Alaskan consumers for us to be licensed.

Licensure would clearly put everyone on a even playing field. Background checks, competency testing and continuing education will go a long way to serving the public.

The licensure of mortgage entities clearly gives the state the powers needed to protect our state. Along with the licensure of mortgage loan originators, the state has the power of accountability directly with the person who interfaces with the general public with the ability to revoke a license if necessary. Now that's accountability.

Many other professions associated with the real estate industry are already licensed by the state. Some have written letters of support for this legislation and recognize the necessity for this legislation (see attachment.)

Since we helped with the most recent changes to the bill for the new CS, we recommend that the committee adopt this new CS and move the bill out of committee so we can protect our Alaskan consumers.

Respectfully submitted,

John Martin, CMCTM

**ALASKA MORTGAGE BANKERS ASSOCIATION
P.O. BOX 9-2691
ANCHORAGE, ALASKA 99509-2691**

March 6, 2007

Representative Bob Lynn
State Capitol, Room 104
Juneau, Alaska 99801-1182
ATTN: Representative Lynn
FAXED: 907-465-4316

RE: HB162/SB102

Dear Representative Lynn,

As President of Alaska Mortgage Bankers Association, I can't begin to tell you just how long this organization has been working on a Licensing Bill for the State of Alaska. Momentum has increased and our Association along with the Alaska Association of Mortgage Brokers and the Division of Banking have worked very closely in making a licensing bill a reality.

The Alaska Mortgage Bankers Association would like to express our support for HB162/SB102. This bill collaboration with the Alaska Association of Mortgage Brokers and we feel this letter provide the consumer of the State of Alaska with the much needed protection they do not current have under our present system. Alaska is the only State that does not require licensing of Mortgage Companies and is one of just a few states that don't require licensing and or continuing education for Mortgage Loan Originators.

It is my sincere commitment to work in accomplishing Mortgage Lending Licensing and Mortgage Originator Licensing this session. AMBA appreciates your and your staff's efforts and look forward to continuing to work closely in overcoming this challenge.

Sincerely



Kevin M. Breeland
President
Alaska Mortgage Bankers Association
907-222-8823 direct line
907-743-9623 fax
www.akmba.org
breelandk@residentialmtg.com

cc: John Carman, Legislative Committee Chair, Alaska Mortgage Bankers Association

Nancy Manly

From: Kevin Breeland [kbreeland@RESIDENTIALMTG.com]
Sent: Friday, May 04, 2007 11:13 AM
To: Rep. John Harris; Rep. Ralph Samuels; Rep. Beth Kerttula
Cc: Rep. Bob Buch; Rep. Mike Chenault; Rep. Sharon Cissna; Rep. John Coghill; Rep. Harry Crawford; Rep. Nancy Dahlstrom; Rep. Andrea Doll; Rep. Mike Doogan; Rep. Bryce Edgmon; Rep. Anna Fairclough; Rep. Richard Foster; Rep. Les Gara; Rep. Berta Gardner; Rep. Carl Gallo; Rep. Max Gruenberg; Rep. David Guttenberg; Rep. Mike Hawker; Rep. Lindsey Holmes; Rep. Kyle Johansen; Rep. Craig Johnson; Rep. Reggie Joule; Rep. Scott Kawasaki; Rep. Mike Kelly; Rep. Beth Kerttula; Rep. Vic Kohring; Rep. Gabrielle LeDoux; Rep. Bob Lynn; Rep. Kevin Meyer; Rep. Mary Nelson; Rep. Mark Neuman; Rep. Kurt Olson; Rep. Jay Ramras; Rep. Bob Roses; Rep. Woodie Salmon; Rep. Ralph Samuels; Rep. Paul Seaton; Rep. Bill Stoltze; Rep. Bill Thomas; Rep. Peggy Wilson
Subject: HB 162

To all Alaska House Legislators;

My name is Kevin M. Breeland, President of Alaska Mortgage Bankers Association. Today you received a letter from John Courson and I have to say there are some mistakes in this letter.

First, Alaska Mortgage Bankers Association Board of Directors is made up of only Mortgage Bankers, not Mortgage Brokers. However, the letter sends a message as if there is something wrong with that. Alaska Mortgage Bankers Association is very proud of the work we do in our state for our members and the members of MBA. We are a proactive organization and with the help of the Alaska Association of Mortgage Brokers we have been working hard for mortgage licensing for companies and originators. We have crossed industry lines and formed a strong working group, scribe legislative committee, and a collective lobbying effort. Our friends and neighbors with the Alaska Association of Mortgage Brokers have stood by us while we have worked on this endeavor for the last 8 years. We are proud to have Alaska Mortgage Brokers as part of our membership and I deeply appreciate their support.

Alaska is a small state and all of the AFSA members operate currently in the states that require Mortgage Originator Licensing. We are not asking for anything outrageous and this bill is not anti-competitive at any level. There are no brick and mortar requirements, anyone can operate in Alaska from anywhere in the world as long as they are licensed in Alaska and their originators are licensed in Alaska. The Alaska Mortgage Bankers Association DOES NOT support the National MBA's position. We feel the National MBA's position does not work for Alaska and consumers of Alaska. WE URGE YOU PASS HB 162 WITHOUT AMENDMENTS. HB 162 is not anti-competitive and just requires mortgage companies and mortgage originators to be licensed. The employees or employers can pay for the license.

Again, thank you for you time and considerations.

Respectfully,
Kevin M. Breeland
President
Alaska Mortgage Bankers Association
907-227-3691
breelandk@residentialmtg.com
www.akmba.org <<https://mail.residentialmtg.com/exchweb/bin/redirect.asp?URL=http://www.akmba.org>>



March 7, 2007

To: Representative Bob Lynn
State Capitol Rm. 104
Juneau, AK 99801-1182

From: Terri Weary, President
Alaska Association of Mortgage Brokers
Anchorage, AK 99515

Re: HB 162 The Mortgage Licensing Bill

I am writing this letter to express our support of HB 162 on behalf of the Alaska Association of Mortgage Brokers. (AKAMB)

AKAMB, in conjunction with the Alaska Mortgage Bankers Association (AMBA) and the Division of Banking, have been working diligently to introduce legislation that regulates our industry, creates a level playing field, and, most importantly, provides much needed consumer protection.

House Bill 162 is the answer!!

Alaska is one of a few States that does not require licensing, continuing education, competency testing or registration of Mortgage Loan Originators.

Alaska is the only State that does not require licensing of Mortgage Companies.

Our combined goal is to provide much needed consumer protection from unscrupulous, unethical, or unregulated mortgage companies and Mortgage Loan Originators.

HB 162 accomplishes this goal!!

It is our combined commitment to work tirelessly to effect the passage and implementation of this long overdue consumer protection legislation.

We appreciate all the efforts of you and your staff and we look forward to working closely with you to make a difference.

Cordially,

Terri Weary
President, Alaska Association of Mortgage Brokers



Resolution NO. 02-2007

A Resolution of the Mat-Su Su Home Builders Association to support HB 162
the Legislation to license mortgage lenders and originators

Whereas, the Mat-Su Home Builders Association Supports legislation to license
mortgage lenders and originators

Whereas, licensure of mortgage lenders and originators will help stop predatory
lending in Alaska

Whereas, Alaska is the last of the 50 states to license mortgage lenders and
originators and this is very much needed

Now Therefore, Be It Resolved, the Mat-Su Home Builders Association does
hereby support HB 162 the licensure of Mortgage lenders and originators.

Hereby, adopted by the Board of Directors of the Mat-Su Home Builders
Association on this 20th day of March, 2007

Jeff Clements

President, Jeff Clements

Kyle Carr

Attested: Secretary, Kyle Carr

PRIMERICA

A Citi Company

3180 Peger Rd
STE #230
Fairbanks, AK 99709
Phone: (907) 456-8376

May 7, 2007

The Honorable Bert Stedman
State Senator – District A
State Capitol, Room 516
Juneau, AK 99801-1182
Fax: (907) 465-3922
Email: senator_bert_stedman@legis.state.ak.us

Re: House Bill 162 – Individual Loan Originator Licensing

Dear Senator Stedman:

I am a concerned small businessperson and voter in Alaska and I oppose House Bill 162 as currently written because of its unintended negative consequences on my business.

As currently written, this bill proposes licensure and regulation of mortgage lenders and companies, which I support. However, the bill also requires individual licensure of exclusive agents working for these institutions. This type of duplicative licensure does not make sense for me and my Primerica business – it will be a huge financial burden on my small business, limit competition and lead to increased costs of mortgage loans in Alaska.

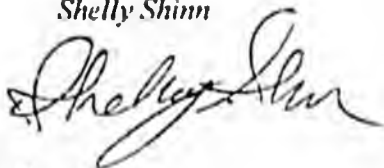
Through my exclusive contract with Primerica, an affiliate of Citigroup, I offer basic mortgage loans by meeting face-to-face with members of my Alaska community. I cannot work for another mortgage company or shop loans to other lenders. This bill jeopardizes my Primerica business, which currently increases my earnings-potential and increases options for Alaska borrowers.

Primerica trains, monitors and supervises me in order to ensure compliance with applicable laws. As a testament to this high level of compliance oversight, Primerica is willing to accept both financial and regulatory responsibility for my origination activities and permit me to conduct my mortgage business under the authority of its mortgage license. This approach to mortgage licensing has been supported in a majority of states and does not diminish the important principles of consumer protection and regulatory oversight currently proposed by House Bill 162.

I strongly urge you to oppose House Bill 162 as written. Please speak with your fellow senators on the Senate Finance Committee and urge them not to move House Bill 162 out of committee as written – it will force my small business out of the mortgage industry in Alaska.

Sincerely,

Shelly Shimm



PRIMERICA

A Citi Company

3180 Peger Rd
STE #230
Fairbanks, AK 99709
Phone: (907) 456-8376

May 7, 2007

The Honorable Bert Stedman
State Senator – District A
State Capitol, Room 516
Juneau, AK 99801-1182
Fax: (907) 465-3922
Email: senator_bert_stedman@legis.ak.us

Re: House Bill 162 – Individual Loan Originator Licensing

Dear Senator Stedman:

I am a concerned small businessperson and voter in Alaska and I oppose House Bill 162 as currently written because of its unintended negative consequences on my business.

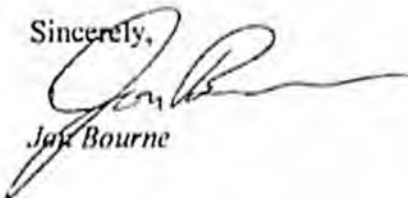
As currently written, this bill proposes licensure and regulation of mortgage lenders and companies, which I support. However, the bill also requires individual licensure of exclusive agents working for these institutions. This type of duplicative licensure does not make sense for me and my Primerica business – it will be a huge financial burden on my small business, limit competition and lead to increased costs of mortgage loans in Alaska.

Through my exclusive contract with Primerica, an affiliate of Citigroup, I offer basic mortgage loans by meeting face-to-face with members of my Alaska community. I cannot work for another mortgage company or shop loans to other lenders. This bill jeopardizes my Primerica business, which currently increases my earnings-potential and increases options for Alaska borrowers.

Primerica trains, monitors and supervises me in order to ensure compliance with applicable laws. As a testament to this high level of compliance oversight, Primerica is willing to accept both financial and regulatory responsibility for my origination activities and permit me to conduct my mortgage business under the authority of its mortgage license. This approach to mortgage licensing has been supported in a majority of states and does not diminish the important principles of consumer protection and regulatory oversight currently proposed by House Bill 162.

I strongly urge you to oppose House Bill 162 as written. Please speak with your fellow senators on the Senate Finance Committee and urge them not to move House Bill 162 out of committee as written – it will force my small business out of the mortgage industry in Alaska.

Sincerely,



Jay Bourne

PRIMERICA

A Citi Company

3180 Peger Rd
STE #230
Fairbanks, AK 99709
Phone: (907) 456-8376

May 7, 2007

The Honorable Bert Stedman
State Senator – District A
State Capitol, Room 516
Juneau, AK 99801-1182
Fax: (907) 465-3922
Email: senator_bert_stedman@legis.state.ak.us

Re: House Bill 162 – Individual Loan Originator Licensing

Dear Senator Stedman:

I am a concerned small businessperson and voter in Alaska and I oppose House Bill 162 as currently written because of its unintended negative consequences on my business.

As currently written, this bill proposes licensure and regulation of mortgage lenders and companies, which I support. However, the bill also requires individual licensure of exclusive agents working for these institutions. This type of duplicative licensure does not make sense for me and my Primerica business – it will be a huge financial burden on my small business, limit competition and lead to increased costs of mortgage loans in Alaska.

Through my exclusive contract with Primerica, an affiliate of Citigroup, I offer basic mortgage loans by meeting face-to-face with members of my Alaska community. I cannot work for another mortgage company or shop loans to other lenders. This bill jeopardizes my Primerica business, which currently increases my earnings-potential and increases options for Alaska borrowers.

Primerica trains, monitors and supervises me in order to ensure compliance with applicable laws. As a testament to this high level of compliance oversight, Primerica is willing to accept both financial and regulatory responsibility for my origination activities and permit me to conduct my mortgage business under the authority of its mortgage license. This approach to mortgage licensing has been supported in a majority of states and does not diminish the important principles of consumer protection and regulatory oversight currently proposed by House Bill 162.

I strongly urge you to oppose House Bill 162 as written. Please speak with your fellow senators on the Senate Finance Committee and urge them not to move House Bill 162 out of committee as written – it will force my small business out of the mortgage industry in Alaska.

Sincerely,


Ron Hunt

PRIMERICA

A Citi Company

3180 Peger Rd
STE #230
Fairbanks, AK 99709
Phone: (907) 456-8376

May 7, 2007

The Honorable Bert Stedman
State Senator – District A
State Capitol, Room 516
Juneau, AK 99801-1182
Fax: (907) 465-3922
Email: senator_bert_stedman@legis.state.ak.us

Re: House Bill 162 – Individual Loan Originator Licensing

Dear Senator Stedman:

I am a concerned small businessperson and voter in Alaska and I oppose House Bill 162 as currently written because of its unintended negative consequences on my business.

As currently written, this bill proposes licensure and regulation of mortgage lenders and companies, which I support. However, the bill also requires individual licensure of exclusive agents working for these institutions. This type of duplicative licensure does not make sense for me and my Primerica business – it will be a huge financial burden on my small business, limit competition and lead to increased costs of mortgage loans in Alaska.

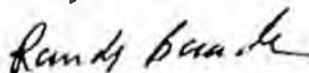
Through my exclusive contract with Primerica, an affiliate of Citigroup, I offer basic mortgage loans by meeting face-to-face with members of my Alaska community. I cannot work for another mortgage company or shop loans to other lenders. This bill jeopardizes my Primerica business, which currently increases my earnings-potential and increases options for Alaska borrowers.

Primerica trains, monitors and supervises me in order to ensure compliance with applicable laws. As a testament to this high level of compliance oversight, Primerica is willing to accept both financial and regulatory responsibility for my origination activities and permit me to conduct my mortgage business under the authority of its mortgage license. This approach to mortgage licensing has been supported in a majority of states and does not diminish the important principles of consumer protection and regulatory oversight currently proposed by House Bill 162.

I strongly urge you to oppose House Bill 162 as written. Please speak with your fellow senators on the Senate Finance Committee and urge them not to move House Bill 162 out of committee as written – it will force my small business out of the mortgage industry in Alaska.

Sincerely,

Randy Baade



PRIMERICA

A Citi Company

3180 Peger Rd
STE #230
Fairbanks, AK 99709
Phone: (907) 456-8376

May 7, 2007

The Honorable Bert Stedman
State Senator – District A
State Capitol, Room 516
Juneau, AK 99801-1182
Fax: (907) 465-3922
Email: senator_bert_stedman@legis.state.ak.us

Re: House Bill 162 – Individual Loan Originator Licensing

Dear Senator Stedman:

I am a concerned small businessperson and voter in Alaska and I oppose House Bill 162 as currently written because of its unintended negative consequences on my business.

As currently written, this bill proposes licensure and regulation of mortgage lenders and companies, which I support. However, the bill also requires individual licensure of exclusive agents working for these institutions. This type of duplicative licensure does not make sense for me and my Primerica business – it will be a huge financial burden on my small business, limit competition and lead to increased costs of mortgage loans in Alaska.

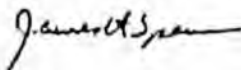
Through my exclusive contract with Primerica, an affiliate of Citigroup, I offer basic mortgage loans by meeting face-to-face with members of my Alaska community. I cannot work for another mortgage company or shop loans to other lenders. This bill jeopardizes my Primerica business, which currently increases my earnings-potential and increases options for Alaska borrowers.

Primerica trains, monitors and supervises me in order to ensure compliance with applicable laws. As a testament to this high level of compliance oversight, Primerica is willing to accept both financial and regulatory responsibility for my origination activities and permit me to conduct my mortgage business under the authority of its mortgage license. This approach to mortgage licensing has been supported in a majority of states and does not diminish the important principles of consumer protection and regulatory oversight currently proposed by House Bill 162.

I strongly urge you to oppose House Bill 162 as written. Please speak with your fellow senators on the Senate Finance Committee and urge them not to move House Bill 162 out of committee as written – it will force my small business out of the mortgage industry in Alaska.

Sincerely,

James Spear



PRIMERICA

A Citl Company

3180 Peger Rd
STE #230
Fairbanks, AK 99709
Phone: (907) 456-8376

May 5, 2007

The Honorable Bert Stedman
State Senator – District A
State Capitol, Room 516
Juneau, AK 99801-1182
Fax: (907) 465-3922
Email: senator_bert_stedman@legis.state.ak.us

Re: House Bill 162 – Individual Loan Originator Licensing

Dear Senator Stedman:

I am a concerned small businessperson and voter in Alaska and I oppose House Bill 162 as currently written because of its unintended negative consequences on my business.

As currently written, this bill proposes licensure and regulation of mortgage lenders and companies, which I support. However, the bill also requires individual licensure of exclusive agents working for these institutions. This type of duplicative licensure does not make sense for me and my Primerica business – it will be a huge financial burden on my small business, limit competition and lead to increased costs of mortgage loans in Alaska.

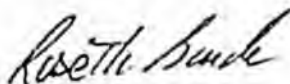
Through my exclusive contract with Primerica, an affiliate of Citigroup, I offer basic mortgage loans by meeting face-to-face with members of my Alaska community. I cannot work for another mortgage company or shop loans to other lenders. This bill jeopardizes my Primerica business, which currently increases my earnings-potential and increases options for Alaska borrowers.

Primerica trains, monitors and supervises me in order to ensure compliance with applicable laws. As a testament to this high level of compliance oversight, Primerica is willing to accept both financial and regulatory responsibility for my origination activities and permit me to conduct my mortgage business under the authority of its mortgage license. This approach to mortgage licensing has been supported in a majority of states and does not diminish the important principles of consumer protection and regulatory oversight currently proposed by House Bill 162.

I strongly urge you to oppose House Bill 162 as written. Please speak with your fellow senators on the Senate Finance Committee and urge them not to move House Bill 162 out of committee as written – it will force my small business out of the mortgage industry in Alaska.

Sincerely,

Rosetta Baade



PRIMERICA

A Citi Company

3180 Peger Rd
STE #230
Fairbanks, AK 99709
Phone: (907) 456-8376

May 7, 2007

The Honorable Bert Stedman
State Senator – District A
State Capitol, Room 516
Juneau, AK 99801-1182
Fax: (907) 465-3922
Email: senator_bert_stedman@legis.state.ak.us

Re: House Bill 162 – Individual Loan Originator Licensing

Dear Senator Stedman:

I am a concerned small businessperson and voter in Alaska and I oppose House Bill 162 as currently written because of its unintended negative consequences on my business.

As currently written, this bill proposes licensure and regulation of mortgage lenders and companies, which I support. However, the bill also requires individual licensure of exclusive agents working for these institutions. This type of duplicative licensure does not make sense for me and my Primerica business – it will be a huge financial burden on my small business, limit competition and lead to increased costs of mortgage loans in Alaska.

Through my exclusive contract with Primerica, an affiliate of Citigroup, I offer basic mortgage loans by meeting face-to-face with members of my Alaska community. I cannot work for another mortgage company or shop loans to other lenders. This bill jeopardizes my Primerica business, which currently increases my earnings-potential and increases options for Alaska borrowers.

Primerica trains, monitors and supervises me in order to ensure compliance with applicable laws. As a testament to this high level of compliance oversight, Primerica is willing to accept both financial and regulatory responsibility for my origination activities and permit me to conduct my mortgage business under the authority of its mortgage license. This approach to mortgage licensing has been supported in a majority of states and does not diminish the important principles of consumer protection and regulatory oversight currently proposed by House Bill 162.

I strongly urge you to oppose House Bill 162 as written. Please speak with your fellow senators on the Senate Finance Committee and urge them not to move House Bill 162 out of committee as written – it will force my small business out of the mortgage industry in Alaska.

Sincerely,

DENNIS SHINN



PRIMERICA

A Citl Company

3180 Peger Rd
STE #230
Fairbanks, AK 99709
Phone: (907) 456-8376

May 7, 2007

The Honorable Bert Stedman
State Senator – District A
State Capitol, Room 516
Juneau, AK 99801-1182
Fax: (907) 465-3922
Email: senator_bert_stedman@legis.state.ak.us

Re: House Bill 162 – Individual Loan Originator Licensing

Dear Senator Stedman:

I am a concerned small businessperson and voter in Alaska and I oppose House Bill 162 as currently written because of its unintended negative consequences on my business.

As currently written, this bill proposes licensure and regulation of mortgage lenders and companies, which I support. However, the bill also requires individual licensure of exclusive agents working for these institutions. This type of duplicative licensure does not make sense for me and my Primerica business – it will be a huge financial burden on my small business, limit competition and lead to increased costs of mortgage loans in Alaska.

Through my exclusive contract with Primerica, an affiliate of Citigroup, I offer basic mortgage loans by meeting face-to-face with members of my Alaska community. I cannot work for another mortgage company or shop loans to other lenders. This bill jeopardizes my Primerica business, which currently increases my earnings-potential and increases options for Alaska borrowers.

Primerica trains, monitors and supervises me in order to ensure compliance with applicable laws. As a testament to this high level of compliance oversight, Primerica is willing to accept both financial and regulatory responsibility for my origination activities and permit me to conduct my mortgage business under the authority of its mortgage license. This approach to mortgage licensing has been supported in a majority of states and does not diminish the important principles of consumer protection and regulatory oversight currently proposed by House Bill 162.

I strongly urge you to oppose House Bill 162 as written. Please speak with your fellow senators on the Senate Finance Committee and urge them not to move House Bill 162 out of committee as written – it will force my small business out of the mortgage industry in Alaska.

Sincerely,

Dave Mueller
Dave Mueller

PRIMERICA

A Citl Company

3180 Peger Rd
STE #230
Fairbanks, AK 99709
Phone: (907) 456-8376

May 7, 2007

The Honorable Bert Stedman
State Senator – District A
State Capitol, Room 516
Juneau, AK 99801-1182
Fax: (907) 465-3922
Email: senator_bert_stedman@legis.state.ak.us

Re: House Bill 162 – Individual Loan Originator Licensing

Dear Senator Stedman:

I am a concerned small businessperson and voter in Alaska and I oppose House Bill 162 as currently written because of its unintended negative consequences on my business.

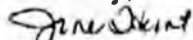
As currently written, this bill proposes licensure and regulation of mortgage lenders and companies, which I support. However, the bill also requires individual licensure of exclusive agents working for these institutions. This type of duplicative licensure does not make sense for me and my Primerica business – it will be a huge financial burden on my small business. limit competition and lead to increased costs of mortgage loans in Alaska.

Through my exclusive contract with Primerica, an affiliate of Citigroup, I offer basic mortgage loans by meeting face-to-face with members of my Alaska community. I cannot work for another mortgage company or shop loans to other lenders. This bill jeopardizes my Primerica business, which currently increases my earnings-potential and increases options for Alaska borrowers.

Primerica trains, monitors and supervises me in order to ensure compliance with applicable laws. As a testament to this high level of compliance oversight, Primerica is willing to accept both financial and regulatory responsibility for my origination activities and permit me to conduct my mortgage business under the authority of its mortgage license. This approach to mortgage licensing has been supported in a majority of states and does not diminish the important principles of consumer protection and regulatory oversight currently proposed by House Bill 162.

I strongly urge you to oppose House Bill 162 as written. Please speak with your fellow senators on the Senate Finance Committee and urge them not to move House Bill 162 out of committee as written – it will force my small business out of the mortgage industry in Alaska.

Sincerely,


Jane Hunt

adn.com

Anchorage Daily News

[Print Page](#)[Close Window](#)**Home-loan fraud draws FBI concern in Alaska****SCAM: Cash-back deals skew the market, special agent says.**By ELIZABETH BLUEMINK
Anchorage Daily News*(Published: May 3, 2007)*Distributed by
Representative Bob Lynn
Pertinent to HB 162 - Mortgage Lending

A national mortgage-fraud scam involving cash-back deals has become a concern in Alaska, FBI investigators said Wednesday.

The scam involves inflated home prices and sometimes kickbacks to those in cahoots, who may include real estate agents, speculative buyers, sellers, appraisers and loan officers.

"Buyers should be aware that this isn't legal," said Colton Seale, an FBI special agent in the Anchorage office's white collar crime division, on Wednesday.

FBI investigators said the scam doesn't just hurt homeowners, who are left with a mortgage that's bigger than the house is worth, making it difficult or impossible for them to sell the home in the future.

It can also create a harmful ripple effect in the real estate market, with real estate agents, buyers and sellers unknowingly relying on inflated home values in an affected neighborhood to determine a house's fair market value.

"It skews the market," Seale said, noting that cash-back deals have been known to involve multiple homes in a subdivision.

The scam is illegal because it involves falsification of loan documents, he said.

"At times, a lack of telling is as bad as lying," said FBI Special Agent Mike Thoreson.

The FBI has been raising similar alerts about various types of loan fraud around the country this year. In March, the bureau pointed out its mortgage fraud investigations have more than doubled in less than five years, to about 1,036 investigations total.

But the alert is another indicator of a seamy corner of the Anchorage area's real estate market, which has been hot for most of this decade.

In Anchorage, recent years have been marked by skyrocketing home values and a steady demand for new homes. In recent months, though, the market has shown signs of cooling.

More Anchorage homes are up for sale than at this time last year and it's taking them longer to sell, according to Multiple Listing Service statistics for Anchorage and Mat-Su.

In a typical cash-back scam, a home has been on the market for a while and a real estate agent or buyer comes forward with an offer to buy a house for tens of thousands of dollars more than its asking price.

As part of the deal, the seller must give back the extra money to the buyer, and an appraiser agrees to deliver an inflated value of the home to the lender. The payment of the extra cash is not disclosed on the loan documents. In almost all cases, the lender doesn't know the home has been overvalued, FBI agents said.

Cash-back deals have been around for years, but the FBI has been dedicating more resources to investigate mortgage fraud and other white collar crime in the past two years, Seale said, explaining that the Sept. 11, 2001, terrorist attacks had siphoned resources away from those investigations for a while.

Pervasive rumors of an ongoing local FBI fraud investigation have sent shivers through the Anchorage real estate community in recent weeks, real estate agents and mortgage lenders said.

"I've heard rumors that there might be indictments at some time," said Art Clark, the Anchorage chapter president for the Alaska Association of Realtors.

Clark said he didn't know very much at all about how cash-back scams work but his association is interested in keeping its members and the public informed about mortgage scams.

Alaska Realtors convicted of a felony would lose their license, he added.

Unlike real estate agents, mortgage lenders and brokers in Alaska are not licensed, but a bill in the Legislature would require licensing and it would also subject lenders to background checks.

The legislation won't solve every problem but it could help take a bite out of mortgage fraud, said Kevin Breeland, president of the Alaska Mortgage Brokers Association.

FBI agents wouldn't confirm Wednesday if they are currently investigating any cash-back deals in Alaska.

They explained they cannot discuss ongoing investigations, but they wanted to raise awareness of mortgage scams.

Last year the FBI and federal tax agents broke up an Anchorage mortgage fraud ring, although apparently one that wasn't using the cash-back scam.

Seven Anchorage residents, including one on April 20, pleaded guilty to wire fraud in a case that involved using nominal buyers and overstating income on loan applications so the buyers could borrow more money.

Daily News reporter Elizabeth Bluemink can be reached at ebluemink@adn.com or 257-4317.

Print Page

Close Window

Distributed by
Representative Bob Lynn
Pertinent to HB 162 - Mortgage Lending

Copyright © 2007 The Anchorage Daily News (www.adn.com)

adn.com

Anchorage Daily News

Print Page

Close Window

Anchorage man pleads guilty to wire fraud**MORTGAGE SCAM: Partow faces a prison term and as much as a \$250,000 fine.**

By ELIZABETH BLUEMINK

Anchorage Daily News

(Published: April 21, 2007)

Anchorage resident Kourosh Partow, an accused conspirator in a seven-member mortgage fraud ring that operated in Anchorage since 2002, pleaded guilty to wire fraud in federal District Court on Friday morning.

The six others have already pleaded guilty this year to charges in the criminal case, which involved deceiving mortgage lenders by overstating income or making other false statements on loan applications.

In December, prosecutors accused Partow, 41, of falsifying loan documents when he managed the Anchorage branches of Countrywide Home Loans and American Home Mortgage. The mortgage companies were not accused of wrongdoing.

The six others in the ring -- Azem Limani, Bekim Hasipi, Robin Dorman, Dzevid Limani, / n Delolli and Jan Marquiss -- pleaded guilty earlier this year.

The conspirators netted hundreds of thousands of dollars by selling Anchorage area properties purchased with the fraudulently obtained loans -- sometimes to each other through the use of other fraudulent loans, other times to third-party buyers, according to their grand jury indictment in December.

In many of the transactions, Partow was the loan officer and Azem Limani sought the loans. Limani owned or operated several businesses in Anchorage, including Alaska Super Pawn. Hasipi, Dorman and Dzevid Limani worked for him in the various businesses, according to the indictment.

On Monday, Partow pleaded guilty to two counts of wire fraud, including falsely overstating Dzevid Limani's income to qualify him for a Countrywide loan. The funds for closing were wired from California to Alyeska Title Co. in Anchorage, according to Partow's plea agreement, filed in federal district court Friday morning.

The U.S. Attorney's office agreed not to prosecute him for loan fraud involving the home he purchased in Chugiak.

The fraud ring obtained at least 15 loans involving the purchase or refinance of 14 properties in Anchorage and Wasilla, according to the indictment.

Sentencing in the case will occur this summer, according to the U.S. Attorney's office in Anchorage.

The maximum sentence for wire fraud includes 20 years in prison and a \$250,000 fine, but the actual sentence can vary widely depending on the seriousness of the offence and a defendant's criminal history.

The FBI and the IRS were involved in the investigation that led to the prosecution of the fraud ring.

Daily News reporter Elizabeth Bluemink can be reached at ebluemink@adn.com or 257-4317.

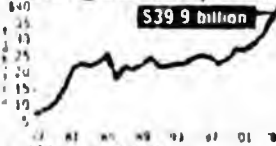
[Print Page](#)

[Close Window](#)

Copyright © 2007 The Anchorage Daily News (www.adn.com)

F

Alaska gross state product



Annual growth rate in 1990s:
1.9 percent
Annual growth rate 2000-05:
8.4 percent
Main driver of recent growth:
resource prices

MONEY

Classified

SECTION

ANCHORAGE DAILY NEWS • www.adn.com

WEDNESDAY, JUNE 7, 2008

After audit, lender drops employees

■ **TERMINATION:** The shake-up at Countrywide angered some who were doing business there.

By **PAULA DOBBYN**
Anchorage Daily News

An internal audit at Countrywide Home Loans in Anchorage last month turned up problems that led to the departure of eight employees, about one third of the office's work force, the company says.

Seven of the employees were terminated May 26 and one resigned while on leave without pay, said Dave Bochsler, Country-

wide regional manager.

"We cleaned up a problem that we had within a group of employees," Bochsler said.

Bochsler declined to describe what the audit exposed.

One employee who left, Kourosh Partow, disputed Bochsler's version of events.

Reached on his cell phone Tuesday, Partow said he and his "team" are now working at American Home Mortgage because they found a better opportunity.

As far as a company investigation turning up misdeeds, Partow denied that.

"It wasn't the case," said Partow, a mort-

gage loan originator and local dog musher.

Partow's attorney, Bill Lorge, said that when his client told Countrywide he was resigning, "they kicked him out."

Partow "wanted to work on a smooth transition" but Countrywide denied him access to customer files, Lorge said.

The shake-up at Countrywide confused and angered some customers who had business pending with the nationwide lender.

"All of a sudden you couldn't get hold of anybody," said Hans Svendsen, who is building four-plexes in Wasilla and working with Countrywide on financing. "They

kept saying, 'I'll take a message, I'll take a message.'"

The delay in getting a loan closed cost him more than \$3,000 in interest payments, Svendsen estimated.

Cora Carleson, a Mat-Su developer, said she and her husband had two mortgages pending with Countrywide totaling about \$1 million. Like Svendsen, she couldn't get anyone at Countrywide to return her phone calls recently.

"I had to hound them," Carleson said. When Carleson finally did hear back

See Page F-3, COUNTRYWIDE

*All of a sudden
you couldn't
get hold of
anybody.*

— Hans Svendsen,
who works with
Countrywide

Escalade top choice for thieves

■ **EYE CANDY:** Fancy wheels, hip image grab wrong kind of attention.

By **KEN THOMAS**
The Associated Press

WASHINGTON — The Cadillac Escalade, the bold and shiny luxury sport utility vehicle man-

SPOTLIGHT: AT JRK



Beverly Cross, director of the Jasper County Historical Society in Newton, Iowa, stands in front of a display case full of old Maytag washing machines.

worked at Maytag at one time or another, married someone who worked at Maytag or, at the very least, had a lot of friends who worked at Maytag.

Nearly everyone along the streets here has a Maytag memory: the Maytag Queen being crowned in the Maytag Bowl amphitheater at Maytag Park; the arrival of the stackable washer and dryer; the way the company's "suits" from headquarters once prided themselves on knowing the names of all of their workers at the plant on the other side of town.

In Newton, the plant (where 1,000 people now work) will close by the end of 2007, said Jody Lau, a Whirlpool spokeswoman, as will the old Maytag headquarters (with 800 employees). Several hundred salaried workers will be offered other jobs with Whirlpool, Lau said, if they are

willing to move. Lau said the company's decision about the Newton plant had come only after a "very thoughtful, very deliberative" analysis.

For now, Newton is "sorting through the rubble and wondering what the aftershocks may be," said Peter Hussmann, editor of The Newton Daily News.

The signs are mixed in recent days: A new bank said it would come to town, Hussmann said, but a local printer, which had long done business with Maytag, announced it would close. And if new companies do come, in a diversified economy, will any of them mean what Maytag meant?

"I think that's what Newton is trying to find out — what its identity will be," Hussmann said. "I don't think our identity is formed yet. I think we're looking for one."

BUSINESS IN BRIEF

new signals

trick investors into pouring millions into a nonexistent hedge fund.

Prosecutors spent hours Tuesday describing

February. Mine operators predict production of 400,000 ounces of gold per year over 10 years, which would make it the largest gold mine in the state.

The mine is owned by Sumitomo Metal Mining Co. Ltd. and Sumitomo Corp. of Japan and Teck Cominco Ltd. of Vancouver, British Colum-

...plant conveyor belt from the mouth of the underground mine to the mill will be commissioned in about a week, he said.

Jon Dufordach of Delta Industrial Services said the economic effect of the mine has been great.

"They were our best customer last year," he said. "It's just been really good for Delta."

COUNTRYWIDE: 'Bizarre' experience

Continued from F-1

from Countrywide, it wasn't the news she expected.

"They said, 'We have no intention of closing on the loan.' And I said, 'What? Are you kidding? We're ready to close!'"

Carleson called the experience bizarre and costly.

"They did not give us any explanation," she said.

Because she had to find a new lender, it delayed the sale of her property, and Carleson estimates she paid \$5,000 in extra interest because of the Countrywide situation.

The Calabasas, Calif.-based company apologized for any inconvenience customers have experienced and said efforts are being taken to ensure loans are processed in a timely fashion. In a statement Tuesday, Countrywide said it "remains committed to the Anchorage communi-

ty, and the branch remains open for business with division-level supervision."

"Due to a backlog of applications pending at the time of the suspensions, Countrywide regrets that some customers served by the Anchorage branch experienced slight delays in loan closing dates in re-

cent weeks."

The Renton, Wash., office is helping process some Alaska loans, and Countrywide has supplemented the local staff with personnel from other locations, Bochsler said.

Daily News reporter Paula Dobbyn can be reached at pdobbyn@ndn.com.



Superior Staffing Solutions.

Visit us at www.optistaffing.com • 677-9675

FIREBALLER STAYS HOME

Corey Madden, a 22-year-old Anchorage fireballer who's been clocked at 94 mph, was selected in the 21st round by the Florida Marlins in the MLB draft. Yet he's been playing in the Anchorage Adult Baseball League. Why?

Sunday in Sports



MONEY Classified

SECTION

ANCHORAGE DAILY NEWS • www.adn.com

SATURDAY, JUNE 10, 2006

Audit of mortgage lender shows need for regulation

■ **COMPLAINTS:** Consumers lack protection, say legislator and industry representatives.

By PAULA DOBBYN
Anchorage Daily News

Is Alaska the wild, wild West when it comes to mortgage lending? It's the only state that does not regulate the mortgage industry, and of-

ficials say they field dozens of complaints a month from consumers. Recent turmoil at Countrywide Home Loans' Anchorage office underscores why state officials need to police mortgage lending, officials and industry representatives say.

"It's a problem," said Jennifer Payne, spokeswoman for the state Commerce Department. "There's no regulation."

Seven employees at Countrywide, including the branch manager, loan officers and underwriters, were fired last month after an internal audit turned up numerous irregularities. An eighth employee, who was on leave without pay, resigned, Countrywide said this week.

Countrywide, which describes itself as the nation's largest independent mortgage lender, says it will not disclose what the audit revealed.

The former branch manager, Kouroush Partow, said this week that he left Countrywide on May 26 of his own accord for a better opportunity.

Partow's license was revoked in Wisconsin four years ago for forging loan documents, according to public records.

Because mortgage loan officers are not licensed in Alaska, they do not undergo any government background

or security checks. Anyone can call themselves a mortgage lender and that needs to change, said Kevin Breechland, president of the Alaska Mortgage Bankers Association.

"In this industry, where a person is buying the biggest asset they'll ever own in their life, to entrust that to someone who hasn't gone through a

See Back Page. MORTGAGES

Shell oil is a reality Kaktovik will bear

■ **EXPLORATION:** Native corporation has concerns but will stay involved.

By BILL WHITE
Anchorage Daily News

Kaktovik's Native village corporation has distanced itself from a village government resolution denouncing Shell Oil for pursuing oil exploration

FISH PLANT REOPENS AFTER TWO YEARS



MORTGAGES: Lender's license was revoked

(Continued from H-1)

bonding (or licensing) process, it's scary," he said.

Partow this week said he and his "team" voluntarily left Countrywide to work at another firm, American Home Mortgage Corp., a lender based in Melville, N.Y., that is registered to do business in Alaska.

There is no affiliation between the New York based corporation and an existing Anchorage business also named American Home Mortgage, owned by Cleo Marshall.

"I want it very clear to all the public I have nothing to do with any of those people and don't want to have anything to do with them," Marshall said. "I have nothing to do with Countrywide. I own American Home Mortgage here in Alaska."

Calls to the general counsel of American Home Mortgage Corp. in New York were not returned this week. Mary Feder, an investor relations executive, said the publicly traded company never discusses personnel matters.

Feder would also not discuss the firm's status in Alaska. The only American Home Mortgage listed in the Anchorage phone book is Marshall's business.

Partow, a Chugiak dog musher, worked in Wisconsin as a loan officer before moving to Alaska, records indicate.

In March 2002, Wisconsin's Division of Banking revoked Partow's state license as a mortgage loan originator for forging a signature on a loan document and engaging in other "conduct which violates a standard of professional behavior." It's not known if he appealed.

Wisconsin regulators found that Partow violated various provisions of state law governing mortgage lenders and engaged in "improper, fraudulent or dishonest dealing."

The revocation order also found that two individuals who worked under Partow at Northstar Mortgage were not licensed, as required.

Dave Hochsler, regional manager of Countrywide in Anchorage, said Partow worked at Countrywide for five years before his firing last month.

Partow referred questions to American Home Mortgage's attorney in New York.

State Sen. Tom Wagoner, R-Kenai, tried to get the Legislature this year to grant the Alaska Division of Banking and Securities authority to license and regulate companies that offer home mortgage lending.

SB 272 would have allowed state regulators to investigate the 20-plus complaints and more than 50 phone calls they receive weekly about questionable lending practice-

es, Wagoner said in his sponsor statement. As it is, they can do nothing to help Alaska consumers who feel they are being taken advantage of, Wagoner said Friday.

The bill, which would regulate mortgage companies but not individual loan officers, passed the Senate on a 19-1 vote but stalled in the House.

Mark Davis, the head of Banking and Securities, worked on the bill with Wagoner, who plans to reintroduce it next year. Davis said he supports removing Alaska's "dubious distinction" of being the only state with no mortgage oversight, except for state-chartered banks that issue mortgages. Banks are subject to both federal and state ending laws.

"This effort to establish accountability in the mortgage lending industry in Alaska is vital and past due," Wagoner said.

Most people in the mortgage industry support the bill, but not the renegades, the senator said.

"There are some people who don't like it: the cowboys of the industry who want to go out and do what they want to do," Wagoner said.

■ Daily News reporter Paula Dobbyn can be reached at pdobbyn@adn.com or 257-4317.

KAKTOVIK: Threats to whaling cause worry

(Continued from H-1)

Shell's seismic tests this summer call for using airguns from a ship to send sound pulses through the seafloor. The pulses bounce back upon the ship for an image of rock formations potentially bearing oil and gas.

Shell needs permits from the U.S. Minerals Management Service, which regulates offshore oil operations, and the National Marine Fisheries Service, which manages sea mammals such as the bowhead whale.

The Kaktovik Inupiat Corp. owns land near the Arctic National Wildlife Refuge coastal plain and has supported opening that area to oil development. Its shareholders include Kaktovik residents and whaling captains.

However, the company "opposes all activity at our whaling grounds," it said in this week's statement, and it has concern about how well oil spills can be

prevented or cleaned.

But it noted that Shell has negotiated with North Slope whalers over its Beaufort activity and has signed an agreement to shut down until Kaktovik, Nuiqsuit and Barrow whalers meet their quotas.

"The reality is the federal government has already sold oil leases, and activity will take place," the company said. KIC is "willing to work with Shell Oil Co. so that we may have a say on what goes on during whaling and other subsistence that we engage in."

■ Daily News business editor Bill White can be reached at bwhite@adn.com or 257-4311.

KINGS ARE IN!

\$199

1 Year Long
11.9% Day 1 Starting

907-262-6681

Friday, September 22, 2006



Headline News

- [2 News Webcast](#)
- [Channel 2 News headlines](#)
- [Local Sports Reports](#)
- [Valley News Bureau](#)
- [2 on Your Side](#)
- [2 your Health](#)
- [Assignment Alaska](#)
- [The Bottom Line](#)
- [How 2 Do It](#)
- [Market View](#)
- [The Spirit of Youth](#)
- [Washington Report](#)
- [What's Cookin'?](#)
- [The Fishing Report](#)
- [2 News Talkback](#)
- [Past Online Poll Results](#)
- [Morning Edition forecast](#)
- [Get the extended weather forecast for your area](#)
- [Alaska Event Calendar](#)
- [Marcus at the Movies](#)
- [Channel 2 TV Guide](#)
- [2 on Your Side](#)
- [Alaska Employment](#)
- [The Bottom Line](#)
- [Market View](#)

Station Services

- [Learn more about DTV](#)
- [Meet the 2 News Team](#)
- [KTUU-TV Employment](#)
- [KTUU-TV Contacts](#)
- [Syntax Productions](#)
- [News Star 2 Satellite Truck](#)



FBI, police make arrests in 2 separate cases

Thursday, September 21, 2006 - by Maria Downey

Click print

Anchorage, Alaska - A full force of federal agents and local police were busy from the Hillside to Eagle River today. Details are not yet being released, but what is known is that the busts involve two separate cases: one deals with a mortgage bank fraud and the other with a suspected organized drug ring.

The search warrants and arrests were made today involving the FBI, the Drug Enforcement Administration, the Internal Revenue Service, Alaska State Troopers and the Anchorage Police Department. All that the FBI will confirm is that in the suspected bank fraud case, there were search warrants served in at least five locations. The house at 11200 Briggs Ct. was searched for hours. According to Municipality of Anchorage records, the house belongs to Paul Brannon.

This morning agents descended on a house on East 45th Avenue. The house belongs to Bekim Dobrova. Sources say he is in custody in connection to the bank fraud case, but details are not being released.

In all, FBI spokesman Eric Gonzalez says seven people were arrested on outstanding warrants.

And in what the FBI calls an unrelated case, there was a series of drug busts today in what's believed to be an organized drug ring. The U.S. attorney's office says the indictments in are currently sealed.

But an indictment filed in federal court this week cites a five-member ring, with at least one of those arrests occurring today. The defendant cocaine ring are listed as Luis Serrano, Andrew Waters, Ajdin "Joe" I Zaim Selimoski and Gzim "Jimmy" Veseli.

The U.S. attorney's office says more details in the cases will be released tomorrow.

Related Articles

There aren't any recent news articles related to this story.

[Related Downloads](#)

[Related Links](#)

[Related Video](#)



FBI investigates local home mortgage company

Thursday, October 19, 2006 - by Maria Downey

Anchorage, Alaska - FBI agents searched American Home Mortgage yesterday, and they say the case is connected to a major fraud bust last month.

Agents searched the Benson Boulevard branch, focusing on branch manager Kourosh Partow. His employees said Partow didn't show up for work today and they have no idea what the investigation concerns.

Partow, also known for his dog mushing, formerly worked at Countrywide Home Loans Inc. while that business was under investigation. Court documents from a series of raids last month mention Countrywide as a victim of an alleged fraud ring.

FBI spokesman Eric Gonzalez says the probe into American Home Mortgage is connected to the first month's arrests of seven men, accused of using fraudulent financial documents to obtain loans to buy and then re-sell property.

No details are being released.

KTUU-TV called Partow's home several times but each time someone hung up.

Channel 2 Broadcasting Inc.
<http://www.ktuu.com/>

RST

Quarter trading
Some of the early trends
Winners and losers.
Money, Page E-2

MONEY & Classified

ANCHORAGE DAILY NEWS • www.adn.com

SATURDAY, MARCH 31, 2007

3 plead guilty to Anchorage fraud

■ MORTGAGE CRIME:

Prosecutors say four others are part of the loan fraud ring.

By RICHARD RICHTMYER
Anchorage Daily News

Three Anchorage residents have pleaded guilty to charges that they were part of a mortgage fraud ring.

Bekim Hasipi, Robin Dorman and Jan Marquiss pleaded guilty in federal court to one count each of wire fraud for making false statements in mortgage loan applications, U.S. Attorney Nelson P. Cohen said Friday.

The three are part of a group of seven Anchorage residents feder-

al prosecutors have charged with deceiving mortgage lenders by overstating income and assets on loan applications.

The ring used the money to buy residential properties and then sell them at higher prices, federal charging documents say. Altogether, the group netted at least \$750,000 in profits from those sales, federal prosecutors assert.

The conspiracy started in 2002 and involved loan amounts ranging from \$156,000 to \$796,000, according to the government's charging documents.

Hasipi, Dorman and Marquiss each admitted before Chief U.S. District Judge John W. Sedwick this week

that they had acted as "nominee borrowers," or stand-ins for a co-conspirator, who was the true beneficiary of the transactions, Cohen said.

In December, federal prosecutors accused Kourosh Partow of being the ringleader, falsifying documents while he was a manager at the Anchorage branches of national mortgage companies Countrywide Home Loans and American Home Mortgage.

Neither of those mortgage companies has been accused of any wrongdoing.

Partow and three others — Azem Limani, Dzevid Limani and Agim Delolli — were indicted in December on charges including conspiracy, bank

fraud, mail fraud and making false statements to financial institutions.

Sedwick postponed scheduling a sentencing date for the three who pleaded guilty this week pending the outcome of the charges against the remaining defendants, the U.S. attorney's office said Friday.

They each face up to 20 years in federal prison, a fine of up to \$250,000 or both. However, the judge has wide discretion and can base their actual sentences on the seriousness of their offenses as well as their criminal histories.

■ Daily News reporter Richard Richtmyer can be reached at richtmyer@adn.com or 257-4344.

SEAWOLVES' ENERGY BOOST

F

When Jennifer Salazar is on the floor, it's a shot of adrenaline for the undefeated UAA women's basketball team. Salazar is not the highest scorer or leading rebounder, but nobody brings more energy to the court.

SECTION

A seventh linked to mortgage fraud ring

■ **INDICTED:** Prosecutors accused Kourosch Partow of falsifying loan documents.

By **RICHARD RICHTMYER**
Anchorage Daily News

Federal prosecutors have linked a seventh Anchorage resident to an alleged mortgage fraud ring.

A federal grand jury handed down an indictment this week against Kourosch Partow, accusing him of falsifying loan documents while he was a manager and loan officer at the Anchorage branches of two national mortgage companies: Countrywide Home Loans and American Home Mortgage.

Prosecutors allege that Partow overstated the income and assets on the mortgage applications of six co-conspirators, who used the money to buy 14 residential properties and then sell them at higher prices.

Altogether, the alleged ring netted roughly \$750,000 in profits on the sale of those properties, according to a statement from the U.S. attorney's office in Anchorage Friday.

In September, federal authorities arrested the six alleged co-conspirators, charging all of the them with conspiracy and several with bank fraud, mail fraud and making false statements to financial institutions.

Those charged in September were Azem Limani, Bekim Hasipi, Robin Dorman, Dzevid Limani, Agim De-

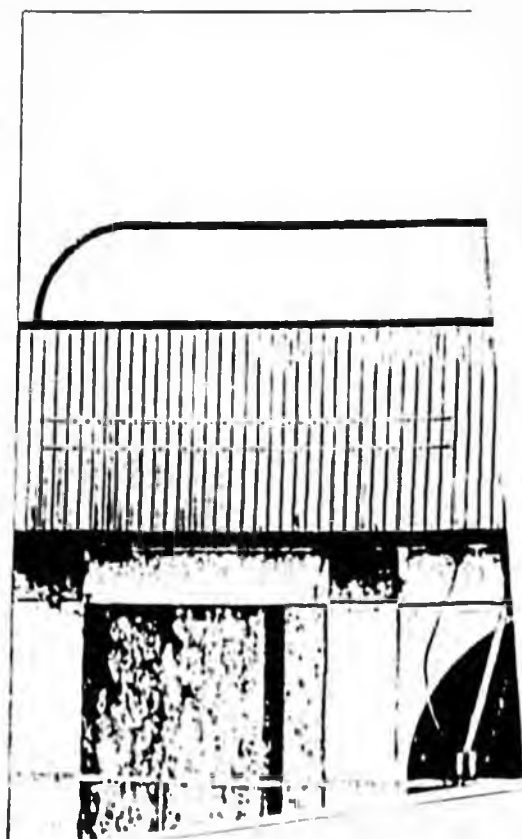
See Page F-4, MORTGAGE

Chevron plans Cook Inlet projects



RON ENGSTROM / Anchorage Daily News

we
our
Joh
mar
mer
C



shows the proposed Martha Washington gold coin, the first of the First Spouse series.

husbands, the first ladies are getting their chance to shine on the nation's coins. Starting next

MIAMI — To avid collectors, coins that would out as rare or of exceptional quality are worth

MORTGAGE: Ring reportedly netted \$750,000

Continued from F-1

loli and Jan Marquiss. Each has pleaded not guilty to the charges, said Karen Loeffler, the assistant U.S. attorney prosecuting the case.

A judge has issued Partow a summons to appear in court to answer the charges, but he had not done so by Friday, Loeffler said.

Partow's attorney, Kevin Fitzgerald, did not return a phone call Friday.

Executives of Countrywide and American Home Mortgage also did not return phone calls Friday. Neither company has

been charged with wrongdoing.

Partow was one of several employees who left Countrywide in May after the company said an internal audit had turned up irregularities, without providing specifics.

In charging documents released Friday, federal prosecutors say the alleged conspiracy started in 2002 and involved loan amounts ranging from \$156,000 to \$796,000.

The loan applicants lied to the mortgage companies by providing false documentation such as income tax returns and by not disclosing that they had borrowed money

from other banks for down payments on the houses, according to the charges.

Azem Limani is accused of being the ringleader and faces 28 separate counts. The charges say the others whose names were on the loan applications were acting as nominees, or stand-ins, for Limani, who was the true beneficiary of the transactions.

Loeffler said she expects the case to go to trial in April.

■ Daily News reporter Richard Richtmyer can be reached at richtmyer@adn.com or 257-4344.

PIPELINES: faster after E

Continued from F-1

market. This month, Congress passed legislation to toughen regulation of low-pressure oil transmission pipelines — the type that leaked in Prudhoe.

Federal criminal investigators also are looking into the Prudhoe problems and have subpoenaed massive quantities of documents from BP.

Pipeline regulators gave BP two weeks to provide information including:

- Detailed plans and a schedule for starting and finishing the pipeline replacement.

- A list of the steel pipe, valves and other equipment needed for the job, plus an explanation for why any of the items haven't yet been ordered.

- Details on how BP is inspecting "jumper" pipelines for corrosion. These are short connectors BP installed to reroute oil that normally went through the transmission lines, some of which are now shut down.

BP runs Prudhoe oil for itself and other owner companies including Exxon Mobil and ConocoPhillips. Production in recent weeks has approached 450,000 barrels a day, about the same level the field was producing before the shutdown.

BP spokesman Daren Boudo said Friday the company has been working closely with federal regulators and will turn over the requested information.

The company plans to replace 16 miles of transmission pipelines, which are major trunk

CHEVRON: 4th largest producer expands in Inlet

Continued from F-1

Zager said there are a lot of challenges, including those older platforms, many of which haven't had drilling operations on them for quite a few years.

"The current plan is to begin this drilling program in the second half of 2007," with a capital spend of about \$200 million planned over the next three years, a total of \$300-\$350 million in capital when partners' shares are included.

Chevron has a "significant" program coming up for Cook Inlet gas, Zager said, with "exploration plans at Granite Point."

Granite Point "has never really been drilled on top as a gas prospect," he said, and while it's in a good neighborhood for gas, Granite Point is risky for gas because

it's shallower than some of the other fields.

In addition, Chevron is "continuing to look at options on our south Kenai acreage" as well as in existing gas fields.

And the company is developing gas storage. "It's hard for me to overemphasize gas storage," he said. On cold days, gas is pulled out of storage and when temperatures go about 30 degrees, gas can probably be put back into storage.

Zager also addressed the contract Unocal, which Chevron has since acquired, signed in 2000 with Eastern Natural Gas Co., the company that distributes gas for heating to Southcentral homes and businesses. It was the first gas supply contract to bring higher Lower 48 gas prices to Cook Inlet, he said, and was negotiated at a time when En-

star was having problems getting its gas contracts extended.

What Enstar got from Unocal was a commitment to spend \$10 million in exploration money to find reserves.

Since then, Zager said, "Unocal and now Chevron has spent \$225 million on gas exploration and development ... roughly \$60 million on exploration, \$150 million on development of facilities and pipelines and about \$15 million on gas storage."

Zager said around 150 billion cubic feet of gas has been discovered and committed to Enstar under the contract -- about a five-year supply. When the contract was signed, he said, "Enstar had a contractual shortage beginning in 2004," and that's been moved out to 2009.

WELCH: Surimi gets boost, drops 'imitation' tag

Continued from F-1

world's largest snow crab producer, delivering close to 195 million pounds this year into mostly U.S. markets. Canada's crab quotas are on a downward spiral, as are Russia's, whose catches have dropped to a still hefty 110 million pounds.

Alaska accounts for 10 percent of world supply, with an estimated harvest of about 37 million pounds of snow crab in the com-

The 2006 Bering Sea snow crab catch of 40 million pounds was valued at \$31 million at the docks.

- Surimi by any other name. The Alaska pollock industry is celebrating a name change for surimi — the popular crab, lobster or shrimp-flavored seafood made from whitefish that is served in seafood salads and at sushi bars. The U.S. Food and Drug Administration is now allowing the word "imitation" to be dropped from surimi and

- Seward and sportfishing. A study getting under way by the Alaska SeaLife Center will analyze the economic impact of sport-caught salmon to Seward's economy, and compare the benefits to the high costs of salmon enhancement and restoration programs.

The Seward study will focus primarily on the importance of coho and chinook salmon to the local sportfishery. "We believe the fish-

Carli McDonald

From: Carl McIntyre [mcaviator@gmail.com]
Sent: Thursday, May 10, 2007 10:23 AM
To: Sen. Charlie Huggins
Subject: Senate Finance Hearing HB 162

Senator Huggins,

I called into the Senate Finance Hearing on House Bill 162 to voice my opposition! After being on hold for 46 minutes I was dropped off just as the committee started to the debate. When I called back I was told by the operator that I was dropped because I was not on a list that was given to them by the committee Chairman on who could testify. I was told I needed to go to the nearest LIO office if I wanted to participate. What is LIO? Where is the local LIO for Peters Creek? Obviously I'm not going to be able to participate since 1. I don't know where the office is located. 2. Hearing will be over before I can get there.

This is not Democracy!!

As a small business owner, registered voter (in your District), and retired military officer trying to exercise my rights to voice my opposition to HB 162. Im extremely disapointed in your committees actions.

I'm going to hope and trust you voted against this bill which is trying to put me out of busineses it.

Carl D. McIntyre
22545 Lampert Cir
Chugiak AK 99567
(907) 688-6124

Yuni Morgan asked me to pass this on to you

-cm

Thank you for the opportunity to testify before you today.

Because of the media attention on Juneau in recent weeks, I can empathize with you. I'm sure you felt outrage, disappointment and embarrassed by the events. I can identify those feelings with you whenever I see media coverage regarding real estate mortgage fraud. It's one of the reasons this bill is before you today. We in the industry recognize the need for change just as you recognize the need for change in the legislature ethics.

HB-162 is an accumulation of many hours of hard work by dedicated individuals in the industry. This is an Alaskan industry bill. The people who live and work here, *your constituents*, recognize the necessity of this legislation. Many people have spent an enormous amount of time to carefully and clearly craft this bill.

Since Alaska is the last state to license mortgage operations, we felt it was important to do it right. This bill effectively addresses our concerns: licensing of mortgage companies and licensing of mortgage originators only. This does not include employees such as processors, underwriters, shippers, clerks, or others.

This bill has wide affiliated support. Some of the groups that support this bill are: AARP, American Society of Home Inspectors, Alaska Chapter, Appraisal Institute, Alaska Chapter, American Land Title Association, Alaska Chapter, Independent Real Estate Brokers of Alaska, National Association of Professional Mortgage Women, and the Mat-Su Home Builders among others.

All these professional organizations realize the importance of this legislation and the protection it can afford to the residents of our great state.

This bill is revenue neutral.

This bill is well thought out and straightforward. This legislation will not place an undue burden or cost on business. It will license entities that are not now regulated along with their loan originators. I'm glad to know that the well-funded, non-exempt multi-state lenders will be able to afford the approximately \$20 a month to be licensed in our state. They should also be relieved that they would not have to do background checks or provide education, thereby saving lots of money for their bottom line. We all know how tight these guys are with a penny, and if they don't have to pay a fee or can pass it on, they will certainly do so. And since the originator will have to be licensed, the originator will be responsible for paying their very own low fees (less than a dollar a day).

One great feature of this legislation is that the licensure requirements will be implemented by the state, using consistent, uniform standards that will insure our state has competent and qualified licensees. This is important. Under these standards we will not be subject to variations of standards or lack of full investigations or background checks that could have been implemented if private companies performed that same duty. This is a very powerful tool for the state to have. If a licensed originator loses their license they will not be able to go to work for another licensed company in Alaska. This would not be true if the originator worked for an exempt company. In that case the person could simply find employment with another exempt company and this would not protect our state.

Several years ago, a loan originator was hired by one of the largest mortgage companies in the country to work for and head their operations in Alaska. Several years went by and he suddenly

WENT TO WORK FOR ANOTHER LARGE MORTGAGE COMPANY, THE SECOND COMPANY LET HIM GO WHEN THE FBI RAIDED THEIR OFFICES. HE RECENTLY PLEADED GUILTY TO MORTGAGE ACTIVITIES IN FEDERAL COURT. HAD OUR BILL BEEN IN EFFECT WHEN THIS PERSON WAS HIRED THE FIRST TIME IN ALASKA, HE WOULD NOT HAVE RECEIVED A LICENSE AS HIS LICENSE WAS REVOKED IN WISCONSIN BEFORE HE GOT HERE. SO IT'S PRETTY OBVIOUS, THERE WERE LITTLE OR NO BACKGROUND CHECKS DONE BY EITHER LARGE COMPANY, LET ALONE EDUCATION.

WE CANNOT DEPEND ON ANYONE OTHER THAN THE STATE TO DO THE BACKGROUND CHECKS AS THE STATE IS INSULATED FROM ANY MARKET/PERSONAL CONDITIONS THAT COULD AFFECT THE OUTCOME OF BACKGROUND CHECKS FOR LICENSEES. MEANING THAT AN INDEPENDENT COMPANY MIGHT LOOK THE OTHER WAY JUST TO HIRE A PERSON, WHILE THE STATE WOULD NOT.

THE LICENSING OF MORTGAGE COMPANIES, REQUIRING BACKGROUND CHECKS AND BONDING REQUIREMENTS PROTECTS OUR RESIDENTS. SOME SEEM TO THINK THAT IF THEY HAVE OTHER APPROVALS SUCH AS FHA, FANNIE MAE OR FREDDIE MAC, AND A LARGE BALANCE SHEET, THEY SHOULD BE EXEMPT FROM BONDING. IF THAT WERE THE CASE, OUR STATE WOULD HAVE NOTHING TO EXECUTE ON FOR RESTITUTION SHOULD A COMPANY GO OUT OF BUSINESS. THESE BIG COMPANIES DO GO OUT OF BUSINESS. FOR EXAMPLE, I WORKED FOR ONE COMPANY THAT HAD OVER 100 BRANCHES NATIONWIDE, FROM FLORIDA TO ALASKA. IN FACT I WAS THEIR BRANCH MANAGER FOR THEIR ALASKA OPERATION IN ANCHORAGE. IN FEBRUARY THIS YEAR, THEY GAVE TWO HOURS NOTICE THAT THEY WERE GOING OUT OF BUSINESS. THAT WAS IT. INCIDENTALLY, THE COMPANY WAS OWNED BY A PAST PRESIDENT OF THE MORTGAGE BANKERS ASSOCIATION. THE COMPANY BOUNCED TWO CHECKS TO ME AND HAS NOT PAID ME OTHER FUNDS STILL OWING. FORTUNATELY, NO ALASKA CONSUMERS WERE DAMAGED BY THIS UNPLANNED UPEHAVAL. SO MUCH FOR BIG MULTI-STATE EXEMPT COMPANIES.

THE INTENT OF THIS LEGISLATION IS TO LICENSE ENTITIES THAT ARE NOT PRESENTLY REGULATED. FEDERAL STATUTES CLEARLY PROVIDE FOR CERTAIN EXEMPTIONS AND WE HONOR THOSE EXEMPTIONS, BUT NO OTHERS. TO PROTECT OUR RESIDENTS WE NEED LICENSURE, SO ALL MUST BE LICENSED, COMPANIES AND ORIGINATORS, UNDER THIS BILL TO BE EFFECTIVE. TO PROVIDE ANY EXEMPTIONS WOULD DILUTE THE EFFECTIVENESS ON THIS LEGISLATION AND PUT ALASKAN COMPANIES AT A COMPETITIVE DISADVANTAGE.

AFTER ALL, NOBODY KNOWS ALASKA'S BUSINESS BETTER THAN ALASKANS.

I WOULD ASK YOU TO APPROVE THIS BILL WITHOUT ANY CHANGES AND MOVE IT TO THE SENATE FLOOR AS SOON AS POSSIBLE.

RESPECTIVELY SUBMITTED,
JOHN MARTIN, CMC™

Home-loan fraud draws FBI concern in Alaska

■ **SCAM:** Cash-back deals skew the market, special agent says.

By ELIZABETH BLUEMINK
Anchorage Daily News

A national mortgage-fraud scam involving cash-back deals has become a concern in Alaska, FBI investigators said Wednesday.

The scam involves inflated home prices and sometimes kickbacks to those in cahoots, who may include real estate agents, speculative buyers, sellers, appraisers and loan officers.

"Buyers should be aware that this isn't legal," said Cotton Seale, an FBI special agent in the Anchorage office's white collar crime division, on Wednesday.

FBI investigators said the scam doesn't just hurt homeowners, who are left with a mortgage that's bigger than the house is worth, making it difficult or impossible for them to sell the home in the future.

It can also create a harmful ripple effect in the real estate market, with real estate agents, buyers and sellers unknowingly relying on inflated home values in an affected neighborhood to determine a house's fair market value.

"It skews the market," Seale said, noting that cash-back deals have been known to involve multiple homes in a subdivision.

The scam is illegal because it involves falsification of loan documents, he said.

"At times, a lack of telling is as bad as lying," said FBI Special Agent Mike Thoreson.

The FBI has been raising similar alerts about various types of loan fraud around the country this year. In March, the bureau pointed out its mortgage fraud investigations have more than doubled in less than five years, to about 1,936 investigations total.

But the alert is another indicator of a seamy corner of the Anchorage area's real estate market, which has been hot for most of this decade.

See Back Page, MORTGAGE

MORTGAGE: Lender doesn't know the home is overvalued by appraiser

Continued from A-1

In Anchorage, recent years have been marked by skyrocketing home values and a steady demand for new homes. In recent months, though, the market has shown signs of cooling.

More Anchorage homes are for sale than at this time last year and it's taking them longer to sell, according to Multiple Listing Service data for Anchorage and Mat-Su.

In a typical cash-back scam, a home is sold at a price higher than its true value. A real estate agent or broker comes forward with an offer to buy a house for less than its market value. The seller, in return, receives a cash-back check for the difference.

As part of the deal, the seller must give back the extra money to the buyer. An appraiser agrees to deliver an inflated value of the home to the lender. The payment of the cash-back is disclosed on the loan documents. In almost all cases, the lender doesn't know the home has been overvalued, FBI agents said.

Cash-back deals have been around for years, but the FBI has been dedicating more resources to investigate mortgage fraud and other white-collar crimes in the past few years, Seale said, explaining that last Sept. 11, 2001, terrorist attacks had spawned renewed interest from these investigations for

Pervasive rumors of an ongoing local FBI fraud investigation have not shaken through the Anchorage real estate community in recent weeks, real estate agents and mortgage lenders said.

"I've heard rumors that there might be investigations at some time," said Art Clark, the Anchorage chapter president for the Alaska Association of Realtors.

Clark said he doesn't know a very much at all about how cash-back scams work but his association is interested in keeping its members and the public informed about mortgage fraud.

Alaska Realtors convicted of a felony would lose their license, he added.

Like real estate agents, mortgage lenders and brokers in Alaska are not licensed, but a bill in the Legislature would require licensing and it would also subject lenders to background checks.

The legislation won't solve every problem but it could help take a bite out of mortgage fraud, said Kevin Berglund, president of the Alaska Mortgage Brokers Association.

FBI agents wouldn't conduct an investigation if they are currently investigating any cash-back deals in Alaska. They explained they cannot discuss

ongoing investigations, but they wanted to raise public awareness of mortgage scams.

Last year the FBI and federal tax agents broke up an Anchorage mortgage fraud ring, although it wasn't the cash-back scam.

Seven Anchorage residents, including one on April 26, pleaded guilty to mortgage fraud in a case that involved selling nominal buyers and overvaluing incoming loan applications so the buyers could borrow more money.

■ Daily News reporter Elizabeth Bluemink can be reached at elbluemink@adn.com or 251-4017.

Anchorage man pleads guilty to wire fraud

■ **MORTGAGE SCAM:** Partow faces a prison term and as much as a \$250,000 fine.

By ELIZABETH BLJEMINK
Anchorage Daily News

Anchorage resident Kouresh Partow, an accused conspirator in a seven-member mortgage fraud ring that operated in Anchorage since 2002, pleaded guilty to wire fraud in federal District Court on Friday morning.

The six others have already pleaded guilty this year to charges in the

criminal case, which involved deceiving mortgage lenders by overstating income or making other false statements on loan applications.

In December, prosecutors accused Partow, 41, of falsifying loan documents when he managed the Anchorage branches of Countrywide Home Loans and American Home Mortgage. The mortgage companies were not accused of wrongdoing.

The six others in the ring — Azem Limani, Bekim Hasipi, Robin Dorman, Dzevid Limani, Agim Delolli and Jan Marquiss — pleaded guilty earlier this

year.

The conspirators netted hundreds of thousands of dollars by selling Anchorage area properties purchased with the fraudulently obtained loans — sometimes to each other through the use of other fraudulent loans, other times to third-party buyers, according to their grand jury indictment in December.

In many of the transactions, Partow was the loan officer and Azem Limani sought the loans. Limani owned or operated several businesses in Anchorage, including Alaska Su-

per Pawn. Hasipi, Dorman and Dzevid Limani worked for him in the various businesses, according to the indictment.

On Monday, Partow pleaded guilty to two counts of wire fraud, including falsely overstating Dzevid Limani's income to qualify him for a Countrywide loan. The funds for closing were wired from California to Alyeska Title Co. in Anchorage, according to Partow's plea agreement, filed in federal district court Friday morning.

See Page B-7, SCAM

SCAM: 2 counts of wire fraud

Continued from B-1

The U.S. Attorney's office agreed not to prosecute him for loan fraud involving the home he purchased in Chugiak.

The fraud ring obtained at least 15 loans involving the purchase or refinance of 14 properties in Anchorage and Wasilla, according to the indictment.

Sentencing in the case will occur this summer, according to the U.S. Attorney's office in Anchorage.

The maximum sentence for wire fraud includes 20 years in prison and a \$250,000 fine, but the actual sentence can vary widely depending on the seriousness of the offense and a defendant's criminal history.

The FBI and the IRS were involved in the investigation that led to the prosecution of the fraud ring.

■ Daily News reporter Elizabeth Bljemink can be reached at elbljemink@adn.com or 257-4317.

RST

arter trading
me of the early trends
winners and losers
ney, Page E-2

MONEY Classified

ANCHORAGE DAILY NEWS • www.adn.com

SATURDAY, MARCH 31, 2007

3 plead guilty to Anchorage fraud

■ MORTGAGE CRIME:

Prosecutors say four others are part of the loan ring.

By RICHARD RICHTMYER
Anchorage Daily News

Three Anchorage residents have pleaded guilty to charges that they were part of a mortgage fraud ring.

Bekim Haspi, Robin Dorman and Jan Marquiss pleaded guilty in federal court to one count each of wire fraud for making false statements in mortgage loan applications, U.S. Attorney Nelson P. Cohen said Friday.

The three are part of a group of seven Anchorage residents, federal

prosecutors have charged with deceiving mortgage lenders by overstating income and assets on loan applications.

The ring used the money to buy residential properties and then sell them at higher prices, federal charging documents say. Altogether, the group netted at least \$750,000 in profits from those sales, federal prosecutors assert.

The conspiracy started in 2002 and involved loan amounts ranging from \$150,000 to \$796,000, according to the government's charging documents.

Haspi, Dorman and Marquiss each admitted before Chief U.S. District Judge John W. Sedwick this week

that they had acted as "nominee borrowers," or stand-ins for a co-conspirator, who was the true beneficiary of the transactions, Cohen said.

In December, federal prosecutors accused Kourosh Partow of being the ringleader, falsifying documents while he was a manager at the Anchorage branches of national mortgage companies Countrywide Home Loans and American Home Mortgage.

Neither of those mortgage companies has been accused of any wrongdoing.

Partow and three others — Azem Limani, Dzevid Limani and Agim Deljoll — were indicted in December on charges including conspiracy, bank

fraud, mail fraud and making false statements to financial institutions.

Sedwick postponed scheduling a sentencing date for the three who pleaded guilty this week pending the outcome of the charges against the remaining defendants, the U.S. attorney's office said Friday.

They each face up to 20 years in federal prison, a fine of up to \$250,000 or both. However, the judge has wide discretion and can base their actual sentences on the seriousness of their offenses, as well as their criminal histories.

■ Daily News reporter Richard Richtmyer can be reached at richtmyer@adn.com or 257-4344.

SEAWOLVES' ENERGY BOOST

F

When Jennifer Salazar is on the floor, it's a shot of adrenaline for the undefeated UAA women's basketball team. Salazar is not the highest scorer or leading rebounder, but nobody brings more energy to the court.

Sunday In Sports

SECTION

A seventh linked to mortgage fraud ring

INDICTED: Prosecutors accused Kourosch Partow of falsifying loan documents.

By RICHARD RICHTMYER
Anchorage Daily News

Federal prosecutors have linked a seventh Anchorage resident to an alleged mortgage fraud ring.

A federal grand jury handed down an indictment this week against Kourosch Partow, accusing him of falsifying loan documents while he was a manager and loan officer at the Anchorage branches of two national mortgage companies: Countrywide Home Loans and American Home Mortgage.

Prosecutors allege that Partow overstated the income and assets on the mortgage applications of six co-conspirators, who used the money to buy 14 residential properties and then sell them at higher prices.

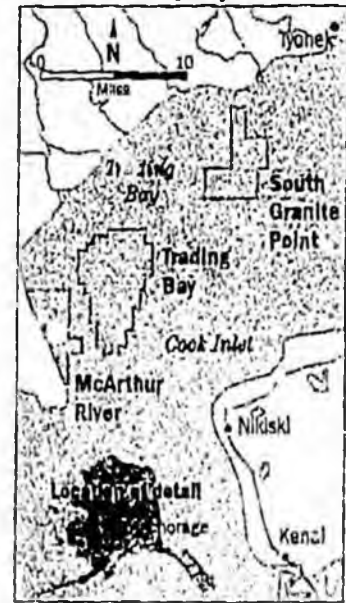
Altogether, the alleged ring netted roughly \$750,000 in profits on the sale of those properties, according to a statement from the U.S. attorney's office in Anchorage Friday.

In September, federal authorities arrested the six alleged co-conspirators, charging all of them with conspiracy and several with bank fraud, mail fraud and making false statements to financial institutions.

Those charged in September were Azem Limani, Bekim Hasipi, Robin Dorman, Dzevid Limani, Agim Do-

See Page F-4, MORTGAGE

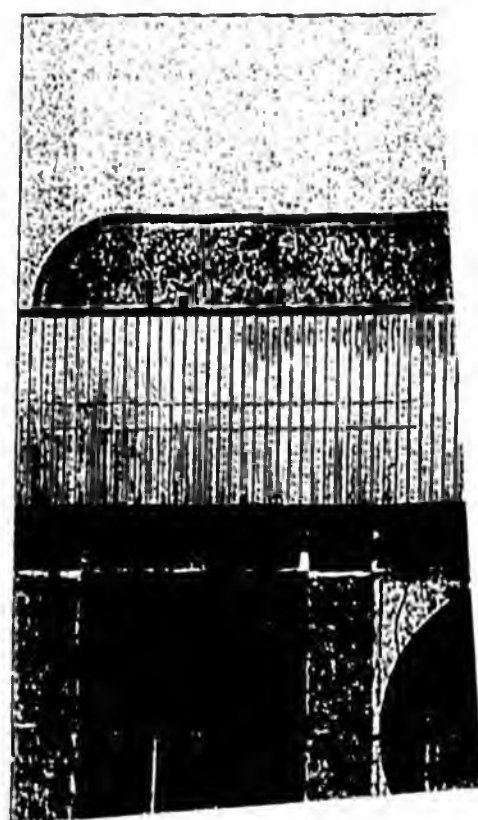
Chevron plans Cook Inlet projects



RON ENGSTROM / Anchorage Daily News

l
l
i
P
\$:
lo
lel
tol
tw
col

we'
our
Joh
mar
men
C



shows the proposed Martha Washington gold coin, the first of the First Spouse series.

husbands, the first issues are getting their chance to shine on the nation's coins. Starting next

to avoid collectors, coins that stand out as rare or of exceptional quality are worth

MORTGAGE: Ring reportedly netted \$750,000

Continued from F-1

Jolli and Jan Marquiss. Each has pleaded not guilty to the charges, said Karen Loeffler, the assistant U.S. attorney prosecuting the case.

A judge has issued Partow a summons to appear in court to answer the charges, but he had not done so by Friday, Loeffler said.

Partow's attorney, Kevin Fitzgerald, did not return a phone call Friday.

Executives of Countrywide and American Home Mortgage also did not return phone calls Friday. Neither company has

been charged with wrongdoing.

Partow was one of several employees who left Countrywide in May after the company said an internal audit had turned up irregularities, without providing specifics.

In charging documents released Friday, federal prosecutors say the alleged conspiracy started in 2002 and involved loan amounts ranging from \$150,000 to \$796,000.

The loan applicants lied to the mortgage companies by providing false documentation such as income tax returns and by not disclosing that they had borrowed money

from other banks for down payments on the houses, according to the charges.

Azcm Limani is accused of being the ringleader and faces 28 separate counts. The charges say the others whose names were on the loan applications were acting as nominees, or stand-ins, for Limani, who was the true beneficiary of the transactions.

Loeffler said she expects the case to go to trial in April.

Daily News reporter Richard Richtmyer can be reached at richtmyer@adn.com or 257-4344.

PIPELINES: Oil faster after BP

Continued from F-1

markets. This month, Congress passed legislation to toughen regulation of low-pressure oil transmission pipelines — the type that leaked in Prudhoe.

Federal criminal investigators also are looking into the Prudhoe problems and have subpoenaed massive quantities of documents from BP.

Pipeline regulators gave BP two weeks to provide information including:

- Detailed plans and a schedule for starting and finishing the pipeline replacement.
- A list of the steel pipe, valves and other equipment needed for the job, plus an explanation for why any of the items haven't yet been ordered.
- Details on how BP is inspecting "jumper" pipelines for corrosion. These are short connectors BP installed to reroute oil that normally went through the transmission lines, some of which are now shut down.

BP runs Prudhoe on behalf of itself and other owner companies including Exxon Mobil and Conoco Phillips. Production in recent weeks has approached 450,000 barrels a day, about the same level the field was producing before the shutdown.

BP spokesman Darren Beaudo said Friday the company has been working closely with federal regulators and will turn over the requested information.

The company plans to replace 16 miles of transmission pipelines, which are major trunk lines that drain crude oil out of Prudhoe and feed it into the 800-

CHEVRON: 4th largest producer expands in Inlet

Continued from F-1

Zager said there are a lot of challenges, including those older platforms, many of which haven't had drilling operations on them for quite a few years.

"The current plan is to begin this drilling program in the second half of 2007," with a capital spend of about \$200 million planned over the next three years, a total of \$300-\$350 million in capital when partners' shares are included.

Chevron has a "significant" program coming up for Cook Inlet gas, Zager said, with "exploration plans at Granite Point."

Granite Point "has never really been drilled on top as a gas prospect," he said, and while it's in a good neighborhood for gas, Granite Point is risky for gas because

it's shallower than some of the other fields.

In addition, Chevron is "continuing to look at options on our south Kenai acreage" as well as in existing gas fields.

And the company is developing gas storage. "It's hard for me to overemphasize gas out of storage and when temperatures go about 30 degrees, gas can probably be put back into storage.

Zager also addressed the contract Unocal, which Chevron has since acquired, signed in 2000 with Enstar Natural Gas Co., the company that distributes gas for heating to Southcentral homes and businesses. It was the first gas supply contract to bring higher Lower 48 gas prices to Cook Inlet, he said, and was negotiated at a time when En-

star was having problems getting its gas contracts extended.

What Enstar got from Unocal was a commitment to spend \$10 million in exploration money to find reserves.

Since then, Zager said, "Unocal and now Chevron has spent \$225 million on gas exploration and development ... roughly \$60 million on exploration, \$150 million on development of facilities and pipelines and about \$15 million on gas storage."

Zager said around 150 billion cubic feet of gas has been discovered and committed to Enstar under the contract — about a five-year supply. When the contract was signed, he said, "Enstar had a contractual shortage beginning in 2004," and that's been moved out to 2009.

WELCH: Surimi gets boost, drops 'imitation' tag

Continued from F-1

world's largest snow crab producer, delivering close to 195 million pounds this year into mostly U.S. markets. Canada's crab quotas are on a downward spiral, as are Russia's, where catches have dropped to a still hefty 110 million pounds.

Alaska accounts for 10 percent of world supply, with an estimated harvest of about 37 million pounds of snow crab in the com-

The 2006 Bering Sea snow crab catch of 40 million pounds was valued at \$31 million at the docks.

Surimi by any other name. The Alaska pollock industry is celebrating a name change for surimi — the popular crab, lobster or shrimp-flavored seafood made from white fish that is served in seafood salads and at sushi bars. The U.S. Food and Drug Administration is now allowing the

Seward and sportfishing. A study getting under way by the Alaska SeaLife Center will analyze the economic impact of sport-caught salmon to Seward's economy, and compare the benefits to the high costs of salmon enhancement and restoration programs.

The Seward study will focus primarily on the importance of coho and chinook salmon to the local sportfishery. "We believe it's fairly apparent that these fish bring a lot of val-

Channel 2 Broadcasting Inc. - FBI investigates local home mortgage company

Page 1 of 1

FBI investigates local home mortgage company

Thursday, October 19, 2006 - by Maria Downey

Anchorage, Alaska - FBI agents searched American Home Mortgage yesterday, and they say the case is connected to a major fraud bust last month.

Agents searched the Benson Boulevard branch, focusing on branch manager Kourosh Partow. His employees said Partow didn't show up for work today and they have no idea what the investigation concerns.

Partow, also known for his dog mushing, formerly worked at Countrywide Home Loans Inc. while that business was under investigation. Court documents from a series of raids last month mention Countrywide as a victim of an alleged fraud ring.

FBI spokesman Eric Gonzalez says the probe into American Home Mortgage is connected to the last month's arrests of seven men, accused of using fraudulent financial documents to obtain loans to buy and then re-sell property.

No details are being released.

KTUU-TV called Partow's home several times but each time someone hung up.

Channel 2 Broadcasting Inc.
<http://www.ktuu.com/>

Friday, September 22, 2006



Headline News

- Channel 2 News Webcast
- Channel 2 News headlines
- Local Sports Reports
- Valley News Bureau
- 2 on Your Side
- 2 your Health
- Assignment Alaska
- The Bottom Line
- How 2 Do It
- Market View
- The Spirit of Youth
- Washington Report
- What's Cookin'?
- The Fishing Report
- 2 News Talkback
- Past Online Poll Results
- Morning Edition forecast
- Get the extended weather forecast for your area
- Alaska Event Calendar
- Marcus at the Movies
- Channel 2 TV Guide
- 2 on Your Side
- Alaska Employment
- The Bottom Line
- Market View

Station Services

- Learn more about DTV
- Meet the 2 News Team
- KTUU-TV Employment
- KTUU-TV Contacts
- Syntax Productions
- News Star 2 Satellite Truck



FBI, police make arrests in 2 separate cases
 Thursday, September 21, 2006 - by Maria Downey

Click print

Adv
 C. Hen
 www

Anchorage, Alaska - A full force of federal agents and local police were busy from the Hillside to Eagle River today. Details are not yet being released, but what is known is that the busts involve two separate cases: one deals with a mortgage bank fraud and the other with a suspected organized drug ring.

The search warrants and arrests were made today involving the FBI, the Drug Enforcement Administration, the Internal Revenue Service, Alaska State Troopers and the Anchorage Police Department. All that the FBI will confirm is that in the suspected bank fraud case, there were search warrants served in at least five locations. The house at 11200 Briggs Ct. was searched for hours. According to Municipality of Anchorage records, the house belongs to Paul Brannon.

This morning agents descended on a house on East 45th Avenue. The house belongs to Bekim Dobrova. Sources say he is in custody in connection to the bank fraud case, but details are not being released.

In all, FBI spokesman Eric Gonzalez says seven people were arrested on outstanding warrants.

And in what the FBI calls an unrelated case, there was a series of drug busts today in what's believed to be an organized drug ring. The U.S. attorney's office says the indictments it are currently sealed.

But an indictment filed in federal court this week cites a five-member ring, with at least one of those arrests occurring today. The defendant cocaine ring are listed as Luis Serrano, Andrew Waters, Ajdin "Joe" Zaira Selimoski and Gzim "Jimmy" Vcscli.

The U.S. attorney's office says more details in the cases will be released tomorrow.

Related Articles

There aren't any recent news articles related to this story.

- Related Downloads
- Related Links
- Related Video



Alaska Chapter of the American Society of Home Inspectors
c/o Jim Foss, local chapter president
2440 E. Tudor Road, # 401
Anchorage, Alaska 99507
FAX/home office 907-569-0120
Cell 229-0419

April 9th, 2007

John Martin
Alaska Association of Mortgage Brokers
2805 Dawson Street, Ste 202
Anchorage, Alaska 99503

RE: House Bill 162 - Lender Licensing

Dear Sir;

The Alaska ASHI Chapter would like to express its support for to the development of standards for Mortgage Lenders. House Bill 162, the mortgage licensing bill, introduced in the Alaska House of Representatives by Representative Bob Lynn.

As president of the local chapter, I have asked for our members views on this issue. The overwhelming response was that our members agree (or had no position) with the statement that the *mortgage industry needs licensing controls*. The ASHI standards are the highest in the industry. Why should the lending industry have lower standards than those of other Real Estate Professionals? Builders are licensed, Realtors are licensed, Property Appraisers are licensed, and Home inspectors are licensed! Why not mortgage professionals?

Alaska ASHI generally believes that this would be an enhancement to the high standards we are seeking to maintain in the Real Estate industry. We strongly encourage legislators of the State of Alaska to vigorously support this bill. *Let us all work to make the home buying process better!*

Sincerely,

A handwritten signature in black ink that reads "Jim Foss".

Jim Foss, President
Alaska ASHI

CC: Alaska ASHI members, ASHI board of Directors



**Appraisal
Institute®**

*Professionals Providing
Real Estate Solutions*

Alaska Chapter

2414 Lord Baranoff Dr.
Anchorage, AK 99517
T 907-248-7239
F 907-243-8780
www.ai-alaska.org
veraulmon@gcl.net

John Martin, Past President
Alaska Association of Mortgage Brokers (AAMB)
2805 Dawson Street, Suite 202
Anchorage, Alaska 99503
Office: (907) 569-8060
Fax: (907) 569-8996
Email: akmtgsolutions@acsalaska.net

RE: RE: House Bill 162 / Senate Bill 102

Mr. Martin,

Upon careful consideration and review of the proposed legislation, the Alaska Chapter of the Appraisal Institutes Board of Directors and membership would like to express strong support for HB 162 and SB 102. This legislation is in the interest of the mortgage industry and general public as a whole and should be adopted in a timely manner. We look forward to working with the AAMB on future issues that impact the level of professionalism within all aspects of the real estate industry. Please feel free to contact me if you have any questions.

Respectfully,

A handwritten signature in black ink, appearing to read "E. Bjorn-Roli".

Per E. Bjorn-Roli, MAI
President
Alaska Chapter of the Appraisal Institute
Phone: (907) 341-2222
Fax: (907) 929-2260
Email: perintegrated@alaska.net

ALASKA LAND TITLE ASSOCIATION
P.O. Box 241811 • Anchorage, Alaska 99524

April 10, 2007

Ms. Terri Weary, President
Alaska Association of Mortgage Brokers
224 N. Yenlo, Suite 3b
Wasilla, Alaska 99654

Re: House Bill 162, "the Mortgage Licensing Bill"


Dear Ms. Weary:

Thank you for asking for input from the Alaska Land Title Association regarding this pending legislation. We think that the bill is necessary and well thought out.

After discussion with our committee and members, it is agreed that we will support House Bill 162 as it was introduced on February 28, 2007.

Sincerely,

ALASKA LAND TITLE ASSOCIATION


Rex Tomlinson
President

Independent Brokers Association

6224 Staedem Drive
Anchorage, Alaska 99504
(907) 338-1918

April 16, 2007

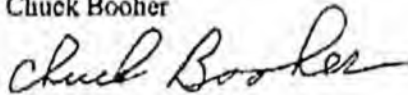
Alaska Association of Mortgage Brokers

The Independent Brokers Association is an informal group of real estate brokers, mortgage bankers and title insurance people who have been meeting weekly since the mid-1980's to keep up-to-date on what is happening in the real estate industry. We usually have between 30 and 40 people in attendance at each of our meetings.

On April 3, 2007 John Martin, with the Alaska Association of Mortgage Brokers, gave a presentation on HB 162 and SB102 regarding the licensing of mortgage companies and their employees involved in the mortgage lending process.

At the end of his presentation our Association voted to support this legislation. This legislation would hopefully eliminate some of the problems borrowers currently face in the mortgage lending industry. People involved in real estate sales, title insurance and home inspections are already licensed by the state. Therefore, it seems only logical that those involved in mortgage lending should also be licensed.

Cluck Booher



Co-Chairman,
Independent Brokers Association



May 9, 2007

John Martin, Past President
Alaska Association of Mortgage Bankers (AAMB)
2805 Dawson Street, Suite 202
Anchorage, AK 99503

RE: House Bill 162/Senate Bill 102

Dear John:

Upon careful consideration and review of the proposed legislation, NAPMW Anchorage supports the passage of both of these bills. The membership voted and requested I send this letter in support. We understand that HB 162 has passed and SB 102 is now in committee.

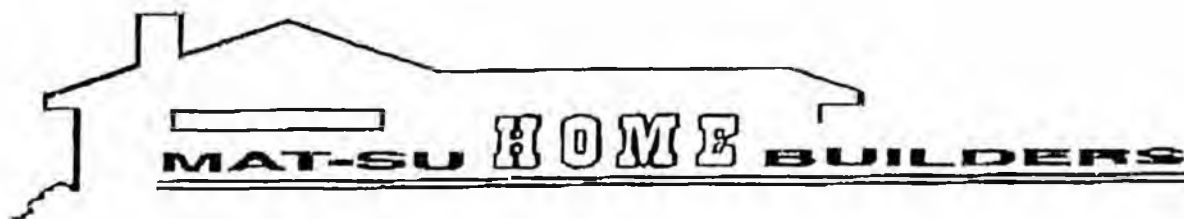
This local association has been providing education to the Mortgage Industry in Alaska for over 30 years. We strongly believe that licensing and continuing education is vital and impacts the level of professionalism within all aspects of the real estate industry.

It is critical that as a State we move forward in passing and enforcing the content of these bills. This protects the consumer in one of the most important purchases of their lifetime.

Please feel free to contact me if you have any questions.

Respectfully,

Creta Bloxom, GML (Graduate of Mortgage Lending)
President 2006-2007
NAPMW Anchorage



Resolution NO. 02-2007

A Resolution of the Mat-Su Su Home Builders Association to support HB 162
the Legislation to license mortgage lenders and originators

Whereas, the Mat-Su Home Builders Association Supports legislation to license
mortgage lenders and originators

Whereas, licensure of mortgage lenders and originators will help stop predatory
lending in Alaska

Whereas, Alaska is the last of the 50 states to license mortgage lenders and
originators and this is very much needed

Now Therefore, Be It Resolved, the Mat-Su Home Builders Association does
hereby support HB 162 the licensure of Mortgage lenders and originators.

Hereby, adopted by the Board of Directors of the Mat-Su Home Builders
Association on this 20th day of March, 2007

Jeff Clements

President, Jeff Clements

Kyle Carr

Attested: Secretary, Kyle Carr

The Power of HB-162

The strength of this bill is in **the power of the state**, not big business, to carry out the functions for licensure of mortgage loan originators.

Utilizing once source (the State) to conduct background checks, competency testing and to set the standards for continuing education, provides the necessary protections to safeguard our Alaskan consumers. These standards will be uniform and apply all in an unbiased fashion and will provide a level playing field for all participants.

Whenever we open the door for special exemptions there is always the danger of unintended loopholes.

Big business wants to be treated special. They want things to fit "their" business model and have exemptions. We certainly don't want to subject our Alaskan loan originators to the provisions of licensure while giving large outside interests a special deal. It would put our Alaskan companies at an unfair competitive disadvantage.

Big business has let down Alaskan's many times. Just look at last summer when we had the largest oil spill in history on the North Slope. Then we had a shut down of production on the Slope. Last year Ameriquest (a large mortgage lender) agreed to a multi hundred million settlement with most of the states for predatory lending practices. Alaska was part of that settlement and received funds from it.

Had Alaska's oversight been more proactive, the above issues could have been avoided.

We need to do it right.

The national trend is to license mortgage originators. There is a bill on the federal level to propose that states license their mortgage loan originators. It's coming and just a matter of time. CSBS (Conference of State Bank Supervisors) is already implementing a registry of loan originators.

AARP with its 90,000 members in he state agrees to mortgage licensing and is NOT for exemptions such as AFSA has proposed. They among many others believe in this bill.

Many have referred to a bill last year that had language they wanted. Even the big three producers on the Slope want to go back to last years agreement. As we all know, it's dead.

We have a new governor, a new legislature and a new bill. We are not going to be hood winked again.

Let's preserve the powers of the state to regulate its affairs and not give into big business.

I don't intend to testify today in respect for your time, unless called by the committee to answer questions

Please pass this bill without amendments to the Senate Floor so we can start protecting our Alaskan consumers.

Respectfully submitted,
John Martin, CMC™



May 10, 2007

HB 162 (Lynn)—Support

The Honorable Lyman Hoffman, Co-Chair
Senate Finance Committee
Alaska State Capitol, Room 518
Juneau, AK 99801-1182

The Honorable Bert Stedman, Co-Chair
Senate Finance Committee
Alaska State Capitol, Room 516
Juneau, AK 99801-1182

Dear Co-Chairs Hoffman and Stedman:

On behalf of the more than 90,000 AARP members in Alaska, we want to inform you and your colleagues on the Senate Finance Committee that AARP is in support of HB 162, authored by Representative Bob Lynn.

AARP supports licensure and we appreciate that lenders as well as brokers are included in this bill. Our consumer attorney who has worked on similar legislation in several states has collaborated with Mark Davis, the Director of the Division of Banking and Securities, on the bill. We understand that the Division plans to work with the Legislature in the future for even stronger consumer protection bills on similar topics. We look forward to supporting those efforts also.

We understand that the American Financial Services Association is seeking an exemption to the provisions of HB 162. We did want to alert you and your Committee colleagues that AARP would strongly oppose an exemption based on our understanding that many past transgressions with regard to predatory lending practices have been attributable to members of that organization. We would expect that they would deny this but, if AFSA

members do not engage in predatory lending practices, there is no reason for them to ask for an exemption from the provisions of this bill.

AARP has fought predatory lenders for years because so many older homeowners have been their victims. As you know, the media is putting a spotlight on such practices and elected leaders throughout the country are examining what is happening in their states.

HB 162 is a good bill that serves as part of an overall strategy to upgrade and enforce consumer protections in Alaska. We appreciate Representative Lynn bringing it forward on behalf of the Division.

AARP recommends an "AYE" vote on HB 162.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

Marie Darlin

Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Vice-Chair Charlie Huggins
Senator Joe Thomas
Senator Donald Olson
Senator Kim Elton
Senator Fred Dyson
Representative Bob Lynn
Mark Davis, Director, Division of Banking and Securities



Alaska State Legislature

Please enter into the record my testimony to the Senate Finance Committee
Committee name

Committee on HB 162 dated 10 MAY 2007
Bill/Subject

MR. Chairman and members of the committee, I am an Alaska resident and small business owner and I oppose HB 162.

The regulation proposed in this bill will be a huge financial burden to my business, which includes approximately (40) fellow representatives, many of whom have already stated they most likely would resign from their positions of helping Alaskan families, because of this regulation.

I support corporate licensing which was included in a bill passed by the Senate last year.

Alaskan families, and specifically those in the Wasilla/Mat-Su Valley are suffering under massive debt. This regulation would greatly inhibit our ability to assist our clients with Becoming DEBT FREE & Financially Independent.

Mr. Chairman and Committee Members, I oppose this bill and urge your NO vote on HB 162.

Thank you

Signed.

Jeffrey M. Smith
Testifier

Primerica Financial Services, a Citi Company
Representing (Optional)

1375 E. PARKS HWY, Suite A. Wasilla, AK 99654
Address

(907) 232-9004
Phone number



Alaska State Legislature

Please enter into the record my testimony to the Senate Finance Committee
Committee name

Committee on HB162 dated May 10, 2007
Bill/Subject

Mr. Chairman & members of the committee, I am a life long Alaskan & small business owner living in the Wasilla district. I adamantly oppose HB162. Due to my schedule & the continuation of this hearing at a time I am not able to attend, I am not able to personally speak during that time, but I'm writing my concerns. I provide a good service & product to Alaskan consumers (primarily to lower & moderately income markets). Through the complementary, customized, and confidential, Financial Needs Analysis I provide for such clients - I am able to suggest solutions that help them get out of debt & retire financially independent. Many, many of these clients are so far in debt that sometimes I can help them with a refinancing or debt consolidation, type loan product. Sometimes I also uncover things in their current mortgage document that they were "unaware" of (i.e. balloon payments, adjustable rates) to name a few that will or could financially devastate them or put them into a foreclosure situation! Premierie Financial Services provides education, internal supervision & protection to ensure that I provide a good & correct product to my clients & customers. I know you can not hear the sincerity in this writing, but I whole heartedly believe in doing what is right for my client 100% of the time! In passing this bill - a huge financial burden will be placed on my small business, but most importantly is going to limit competition & lead to increased cost to all Alaskan consumers. I also believe it opens the door, even further, for the Alaskan consumer to be taken even further advantage of without someone like me & my fellow Premierie representatives to educate & uncover things that could ultimately rob them of their hopes & dreams. I offer a very unique service as I often go to my clients & customers house (which is a huge deal) with our more rural surroundings many times this is done after the 5^{pm} normal office hours & weekends included. Yes, I make house calls!

Signed: Sanya J. Larrabee
Testifier

a small business owner & Premierie Financial Svcs
Representing (Optional) a Cit Company

1375 E Parks Hwy # A, Wasilla 99654
Address

(907) 357-1075 or (907) 727-7176 - cell phone
Phone number

Please, Please, Please contact me if you desire to hear more of what this means to our fellow Alaskans from my point of view & my experiences. Sincerely Sanya Larrabee

Senate Finance Hearing on House Bill 162
May 10, 2007

Mr. Chairman and members of the committee, I am an Alaska resident and small business owner and I oppose HB 162 in its current form.

The one-size-fits all regulation proposed in this bill does not make sense for my Primerica business and me. I provide a good service and product to Alaska consumers. It's called a financial needs analysis and it is complimentary to the consumer. With the financial needs analysis we are able to help Alaskan families achieve debt freedom and financial independence. I have recently been working with a family. We did a financial needs analysis for them and it is helping us get them to a better place financially. We are going to be able to get them completely out of debt in 8 years instead of 25 years, and that includes paying off their mortgage. For the first time ever they now have an emergency fund and are investing for retirement. When we restructured their debt we were able to free up \$1500 into their budget each month. That makes a tremendous impact on our consumers. We go to our clients' homes and that enables us to reach more consumers than would normally go into an office seeking financial help.

Primerica provides education, supervision, and internal protection to make sure I provide a good product to my customer and always do what is in their best interest.

We support corporate licensing which was included in a bill passed by the Senate last year. In fact we are closely supervised and monitored and attend as many as 70-80 hours of on-going training annually, most of which is on compliance and consumer protection. We can accomplish consumer protection through corporate licensing of Primerica.

Mr. Chairman and Committee Members, in summary I oppose this bill and urge your NO vote on HB 162. Thank you.

Hope E Ronne

Hope Ronne (Regional Leader)
Primerica Financial Services
1375 E Parks Hwy, Ste A
Wasilla, AK 99654
(907) 357-1075



Phyllis L. Hoffman
Regional Vice President

Primerica Financial Services
1375 E. Park Highway, Suite A
Wasilla, AK 99654

Bus 907 357 1075
Fax 907 357 1089

May 10, 2007

Thank you Mr. Chairman & members of the committee. For the record: my name is Phyllis Hoffman. I have been an Alaskan resident for 30 years. As a nurse in Valdez I served on the State Advisory board on Emergency Medicine under two Governors- Hammond & Sheffield. **TODAY AS A SMALL BUSINESS OWNER IN THE VALLEY I OPPOSE HB 162.**

As a Regional Vice President of Primerica Financial Services, my office in Wasilla serves a territory that covers the entire Mat-Su valley & beyond. My Primerica agents are already internally monitored by our company. They have 60-70 hours of on-going education, required continuing ed., all of their local, State & Federal licenses as well as 3 layers of compliance supervision. A duplicate mortgage loan originator license makes absolutely no sense.

We provide a desperately needed service to our community. Our agents make complimentary business and rural house calls- providing a comprehensive solution for debt elimination-retirement education and long term care options. Many times our solution for a client includes a re-finance to get them into a fixed mortgage and out of an ARM with an interest only second or other exotic product placed by a predatory lender. My office in Wasilla applied for over \$3 million dollars worth of these solutions last month alone. We provide not only a reputable fixed mortgage to these folks, we also stay with them, helping them move to a comfortable & dignified retirement. Ultimately preventing foreclosures, and State Medicaid.

HB 162 will be a huge & unnecessary financial burden on my small business and will severely limit the number of Mat-Su residents that currently have access to a complimentary service.

Thank You

Our Home office representative is in Juneau with you today to answer your questions, her name is Julie Granger.

AMENITY of citigroup

An independent
representative of
Primerica Financial Services

Representing
Primerica Life Insurance
Company
Executive Office
Duluth, GA

PFS Investments Inc.
Member of NAACP
A Registered Representative
of PFS Investments Inc.
3120 Brookridge Blvd.
Duluth, GA 30099-0001
(770) 381-1000

Representing
Primerica Financial Services
Home Mortgage, Inc.
EQUAL HOUSING OPPORTUNITY

Alaska Mortgage Bankers Association
P.O. Box 92691
Anchorage, Alaska 99509-2691

Mr. Chairman, members of the committee, thank you for hearing my testimony today.

My name is Kevin Breeland and I am President of the Alaska Mortgage Bankers Association. I am a 21 year resident of Alaska, 19 years in Anchorage and the last two years in Wasilla.

I also serve as Vice Chairman of the Predatory Lending Advisory Council, an advisory council of the "Don't Borrow Trouble Alaska" Campaign. I serving my fifth term on the Board of Directors for the Real Estate Service Providers Council, Inc in Washington, D.C. and I am the only member from Alaska. RESPRO is a cross industry trade association representing Lenders, Realtors, Title Companies, Appraisers, and Home Inspection Companies on regulator issues not only in Washington, D.C. but throughout the 50 states.

My day job I am a partner with Residential Mortgage, LLC in Anchorage, Alaska. Residential Mortgage, LLC is an Alaskan owned Mortgage Banker with offices in Anchorage, Eagle River, Wasilla, Fairbanks, Kenai, Seldotna, Kodiak, and here in Juneau. We employ 200+ people statewide, 60 of them as Mortgage Loan Originators. I am a one of those 60 Mortgage Loan Originators and I have been a mortgage loan originator for 28 years, 21 years in Alaska. Members of the committee, if you refer to page 35, lines 30 & 31, then page 36, lines 1 thru 17, that is the bill's description of a mortgage loan originator and that is what I do everyday.

I have no doubt you are aware Alaska is the only state that DOES NOT require any licensing, background checks, testing, or continuing education for mortgage lending. In Alaska, you are required only to get a business license which is \$100. However, I believe there is a bill pending that will reduce that fee to \$50. Mortgage Loan Originators are required in 26 states to be licensed as well. For most Alaskan Consumers the purchase of their home is the largest investment they will ever make. In a typical Real Estate Transaction in Alaska you have the following components, a licensed Real Estate agent, a licensed Home Inspector, if an engineer report is required he or she is a licensed engineer, you have a licensed Real Estate Appraiser, if repairs are required you have a licensed and bonded contractor, if you are buying new construction all the inspections required are either by licensed and certified ICBO inspector or by Municipality or Borough inspectors, and finally the Title work is preformed by a licensed Title Company under the jurisdiction of the Insurance Commissioner. Your mortgage loan however is done by an unlicensed company with unlicensed originators. As you may be aware of, HB 162 passed the House 34-0 with no amendments. The one amendment that was offered was voted down by the House 2-31. HB

162 is not anti-competitive, does not restrict anyone from working in the Mortgage Industry in Alaska, and does not close our borders to competition. HB 162 requirements are simple, if you want to do Mortgage Loans in Alaska, whether you have a physical presents or you are operating outside the state that is allowed. HB 162 will require you to make application to the Division of Banking, the company has to then be licensed, your originators also have to be licensed, they have to take a competency test, going forward continuing education is required, and it is business as usual. This bill will not take full effect until March 2009 so everyone currently operating in the State of Alaska will have plenty of time to receive their license.

You have received many form letters from agents with Primerica stating their company can not pay for the licensing fees so therefore they are going to be out of the mortgage business in Alaska. Let me walk through that statement with you. Primerica originated in 2006, according to their testimony, \$140,000,000 in mortgage loans. Understanding that in New York or California that amount is a small amount of mortgage loans, in Alaska that is not a part-time mortgage operation. Second, Primerica is owned by Citigroup, one of the world's wealthiest financial institutions with assets of 1 trillion dollars. Citigroup can not pay for the licensing fee for their Primerica agents. That fact has nothing to do with the bill, it has to do with the IRS and if Citigroup pays this fee the Primerica agents could possibly then be considered as W-2 employees. I appreciate the position Citigroup/Primerica is facing with the possibly of providing there agents with benefits. Although that question is surrounded by many other questions that issue is an internal issue between Citigroup and Primerica and has nothing to do with HB 162. Primerica claims in Alaska their agents only originate part-time. As a 28 year originator I can tell you that is all the more reason to license mortgage originators in Alaska.

HB 162 is an industry bill, brought to you by industry. It is a collaborated effort between the Alaska Mortgage Bankers Association and the Alaska Association of Mortgage Brokers. We have been working on licensing legislation for over 8 years. HB 162 has broad industry support from the National AARP, Alaska Association of Realtors, Alaska Home Builders Association, Alaska Land Title Association, The Appraisal Institute-Alaska Chapter, Anchorage Board of Realtors, Valley Board of Realtors, and the Anchorage Home Builders Association just to name a few.

Mr. Chairman, members of the committee, there is nothing in HB 162 that prevents anyone from remaining in the Mortgage Industry in Alaska. While there are arguments the fees will cause someone to go out of business, I ask you to think about what business we are talking about. This is your home, your sons and daughters, your mom and dad's home, and they deserve the consumer protection HB 162 provides. I urge you to pass out of committee without amendments HB 162.