

Introduced by

Judiciary Committee

(At the request of the Department of Financial Institutions)

1 A BILL for an Act to create and enact two new subsections to section 13-04.1-01.1, sections
2 13-04.1-04.1 and 13-04.1-04.2, and four new sections to chapter 13-04.1 of the North Dakota
3 Century Code, relating to the definition of a net branch and net branching arrangement, surety
4 bond requirements, minimum net worth requirements, confidentiality, notice regarding change of
5 name and address, call reports, and commissioner reporting to nationwide mortgage licensing
6 system and registry with regard to money brokers; to amend and reenact sections 13-04.1-03,
7 13-04.1-04, 13-04.1-07, 13-04.1-08, 13-04.1-08.1, 13-04.1-09, 13-04.1-11, and 13-10-03 and
8 subsection 6 of section 13-10-16 of the North Dakota Century Code, relating to application for
9 branch offices, maintenance of records, revocation of license, suspension and removal of
10 agency officers and employees, prohibited acts and practices, investigation and examination
11 authority of money brokers, and licensing and registration of mortgage loan originators; and to
12 provide a penalty.

13 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

14 **SECTION 1.** Two new subsections to section 13-04.1-01.1 of the North Dakota Century
15 Code are created and enacted as follows:

16 "Net branch" means an office at which a licensed money broker allows a separate
17 person that does not hold a valid North Dakota money brokers license to originate
18 loans under the license of the money broker.

19 "Net branch arrangement" means an arrangement under which a licensed money
20 broker enters an agreement whereby its designated branch manager has the
21 appearance of ownership of the licensee by, among other things, sharing in the profits
22 or losses, establishing, leasing, or renting the branch premises, entering other
23 contractual relationships with vendors such as for telephones, utilities, and advertising.

1 having control of a corporate checkbook, or exercising control of personnel through
2 the power to hire or fire such individuals. A person may be considered to be utilizing a
3 net branch if the net branch agreement requires the branch manager to indemnify the
4 licensee for damages from any apparent, express, or implied agency representation
5 by or through the branch's actions or if the agreement requires the branch manager to
6 issue a personal check to cover operating expenses whether or not funds are
7 available from an operating account of the licensee.

8 **SECTION 2. AMENDMENT.** Section 13-04.1-03 of the North Dakota Century Code is
9 amended and reenacted as follows:

10 **13-04.1-03. Application for money broker license.**

11 Every application for a money broker license or branch registration, or for a renewal thereof,
12 must be made upon forms designed and furnished by the department of financial institutions
13 and must contain any information which the department shall deem necessary and proper. A
14 branch registration that constitutes a net branch or net branching arrangement is prohibited.
15 ~~The department may adopt rules defining the meaning of a net branch or net branching~~
16 ~~arrangement.~~ The department may further require any application to provide additional
17 information which is not requested on the application form. The applicant must register with the
18 North Dakota secretary of state if so required.

19 **SECTION 3. AMENDMENT.** Section 13-04.1-04 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **13-04.1-04. Fee ~~and bond~~ to accompany application for money broker license.**

22 The application for license must be in writing, under oath, and in the form prescribed by the
23 commissioner. The application must give the location where the business is to be conducted
24 and must contain any further information the commissioner requires, including the names and
25 addresses of the partners, officers, directors, trustees, and the principal owners or members, as
26 will provide the basis for the investigation and findings contemplated by section 13-04.1-03. At
27 the time of making such application, the applicant shall include payment in the sum of four
28 hundred dollars, which is not subject to refund, as a fee for investigating the application, and the
29 sum of four hundred dollars for the annual license fee, ~~and provide a surety bond in the sum of~~
30 ~~twenty five thousand dollars.~~ In addition, the applicant must pay a fifty dollar annual fee for each

1 branch location within the state. Fees must be deposited in the financial institutions regulatory
2 fund.

3 **SECTION 4.** Section 13-04.1-04.1 of the North Dakota Century Code is created and
4 enacted as follows:

5 **13-04.1-04.1. Surety bond required.**

- 6 1. Each licensee shall maintain a surety bond in an amount not less than twenty-five
7 thousand dollars ~~or such other amount determined by the commissioner by rule. The~~
8 ~~amount must be reflective of the dollar amount of loans originated as of the previous~~
9 ~~yearend. However, the commissioner may increase the amount of the surety bond if~~
10 ~~the commissioner determines that such an increase is necessary to protect the public~~
11 ~~interest.~~ The surety bond must be in a form prescribed by the commissioner.
12 2. When an action is commenced on a licensee's bond, the commissioner may require
13 the filing of a new bond.
14 3. Immediately upon recovery upon any action on the bond, the licensee shall file a new
15 bond.

16 **SECTION 5.** Section 13-04.1-04.2 of the North Dakota Century Code is created and
17 enacted as follows:

18 **13-04.1-04.2. Minimum net worth required.**

19 A minimum net worth must be continuously maintained by every licensee in accordance
20 with this section.

- 21 1. Minimum net worth must be maintained in the amount of twenty-five thousand dollars.
22 ~~However, the commissioner may increase the amount of minimum net worth if the~~
23 ~~commissioner determines that such an increase is necessary to protect the public~~
24 ~~interest.~~
25 2. ~~The commissioner may adopt rules with respect to the requirements for minimum net~~
26 ~~worth as are necessary to accomplish the purposes of this chapter.~~ If the net worth of a
27 licensee falls below the minimum net worth set forth in subsection 1, the licensee shall
28 provide a plan, subject to the approval of the commissioner, to increase the licensee's
29 net worth to an amount in conformance with this section. Submission of a plan under
30 this section must be made within twenty business days of a notice from the
31 commissioner which states the licensee is not in compliance with subsection 1. If the

1 licensee does not submit a plan under this section, fails to comply with an approved
2 plan, or has repeated violations of subsection 1, the commissioner may revoke the
3 license.

4 **SECTION 6. AMENDMENT.** Section 13-04.1-07 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **13-04.1-07. Manner in which records to be kept.**

7 Every money broker licensed under this chapter shall keep a record of all sums collected by
8 them and of all loans and leases completed as a result of their efforts for a period of six years
9 from the date of last entry thereon. The records of a licensee may be maintained electronically
10 provided they can be reproduced upon request by the department of financial institutions and
11 within the required statutory time period provided in this section. When a licensee ceases
12 operations for any reason, the licensee shall inform the department of the location of the
13 records. In addition, the licensee shall provide the name of the individual responsible for
14 maintenance of the records. The licensee shall notify the department within ten business days
15 of the change of the location of the records or the change of the individual responsible for
16 maintenance of the records.

17 **SECTION 7. AMENDMENT.** Section 13-04.1-08 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **13-04.1-08. Revocation of license - Suspension of license - Surrender of license.**

- 20 1. ~~The department of financial institutions commissioner may, if it has reason to believe~~
21 ~~that grounds for revocation of a license exist, send by registered or certified mail to the~~
22 ~~licensee, a notice of hearing stating the contemplated action and in general the~~
23 ~~grounds thereof and setting the time and place for a hearing thereon. Such hearing~~
24 ~~must be held in accordance with chapter 28-32 as must any appeal therefrom. issue~~
25 ~~and serve upon any licensee an order suspending or revoking a licensee's license if~~
26 ~~the commissioner finds that:~~
- 27 a. The licensee has failed to pay the annual license fee under this chapter or any
28 examination fee imposed by the commissioner under the authority of this chapter.
 - 29 b. The licensee, either knowingly or without the exercise of due care to prevent the
30 same, has violated any provision of this chapter or any regulation or order
31 lawfully made pursuant to and within the authority of this chapter.

1 c. Any fact or condition existing at the time of the original application for such
2 license which clearly would have warranted the department of financial
3 institutions in refusing originally to issue such license.

4 d. The licensee has failed to maintain the required bond.

5 e. The licensee has failed to maintain registration with the secretary of state if so
6 required.

7 2. The order must contain a notice of opportunity for hearing pursuant to chapter 28-32.

8 3. If no hearing is requested within twenty days of the date the order is served upon the
9 licensee, or if a hearing is held and the commissioner finds that the record so
10 warrants, the commissioner may enter a final order suspending or revoking the
11 license.

12 2.4. ~~If the department of financial institutions~~commissioner finds that probable cause for
13 revocation of any license exists and that enforcement of the chapter requires
14 immediate suspension of such license pending investigation, it may, upon written
15 notice, enter an order suspending such license for a period not exceeding ~~thirty~~sixty
16 days, pending the holding of a hearing as prescribed in this chapter.

17 3.5. Any licensee may surrender the licensee's license by delivering it to the department of
18 financial institutions with written notice of its surrender, but such surrender does not
19 affect the licensee's civil or criminal liability for acts committed prior thereto.

20 **SECTION 8. AMENDMENT.** Section 13-04.1-08.1 of the North Dakota Century Code is
21 amended and reenacted as follows:

22 **13-04.1-08.1. Suspension and removal of money broker officers and employees.**

23 1. The commissioner of financial institutions may issue and serve upon a current or
24 former money broker officer or employee and upon the licensee involved a
25 ~~complaint~~an order stating the basis for the commissioner's belief that the:

26 a. That the current or former officer or employee is willfully engaging or has willfully
27 engaged in any of the following conduct:

28 a. (1) Violating a law, rule, order, or written agreement with the commissioner; ~~or,~~

29 b. (2) Engaging in harassment or abuse, the making of false or misleading
30 representations, or engaging in unfair practices involving lending activity; ~~or,~~

- 1 e. (3) Performing an act of commission or omission or practice which is a breach
2 of trust or a breach of fiduciary duty.
- 3 b. The term of the suspension or removal from employment and participation within
4 the conduct or the affairs of a money broker.
- 5 2. The ~~complaint~~order must contain a notice of opportunity for hearing pursuant to
6 chapter 28-32.
- 7 3. If a hearing is not requested within twenty days of the date the ~~complaint~~order is
8 served ~~upon the officer or employee~~, or if a hearing is held and the commissioner finds
9 that the record so warrants, the commissioner may enter ~~an~~ a final order suspending or
10 temporarily removing the current or former employee ~~or officer from office for a period~~
11 ~~not exceeding three years from the effective date of the suspension or temporary~~
12 ~~removal.~~ The current or former officer or employee may request a termination of the
13 final order after a period of no less than three years.
- 14 4. A contested or default suspension or ~~temporary~~ removal order is effective immediately
15 upon service of the final order on the current or former officer or employee and upon
16 the licensee. A consent order is effective as agreed. ~~An~~ Any current or former officer or
17 employee suspended or temporarily removed from ~~office~~employment and participation
18 within the conduct or the affairs of a money broker pursuant to this section is not
19 eligible, while under suspension, ~~for reinstatement to a position within a licensed~~
20 ~~money broker or removal, to be employed or otherwise participate in the affairs of any~~
21 financial corporation, financial institution, credit union, or any other entity licensed by
22 the department of financial institutions.
- 23 5. When ~~an~~ any current or former officer or employee, or other person participating in the
24 conduct of the affairs of a licensee is charged with a felony in state or federal court
25 which involves dishonesty or breach of trust, the commissioner may immediately
26 suspend the person from office or prohibit the person from further participation in the
27 affairs of the money broker, or both. The order is effective immediately upon service of
28 the order on the licensee and the person charged and remains in effect until the
29 criminal charge is finally disposed of or until modified by the commissioner. If a
30 judgment of conviction, federal pretrial diversion, or similar state order or judgment is
31 entered, the commissioner may order that the suspension or prohibition be made

1 permanent. A finding of not guilty or other disposition of the charge does not preclude
2 the commissioner from pursuing administrative or civil remedies.

3 6. Under this section, a person engages in conduct "willfully" if the person acted
4 intentionally in the sense that the person was aware of what the person was doing.

5 **SECTION 9. AMENDMENT.** Section 13-04.1-09 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **13-04.1-09. ~~Fraudulent~~Prohibited acts and practices.**

8 It is a ~~fraudulent practice and it is unlawful violation of this chapter for a person subject to~~
9 this chapter to knowingly:

- 10 1. ~~For any person knowingly to subscribe to, or make~~Make or cause to be made, any
11 material false statement or representation in any application or other document or
12 statement required to be filed under any provision of this chapter, or to omit to state
13 any material statement or fact necessary in order to make the statements made, in
14 light of the circumstances under which they are made, not misleading.
- 15 2. ~~For any person, in connection with the procurement or promise of procurement of any~~
16 ~~lender or loan funds, directly~~Directly or indirectly, ~~to~~ employ any device, scheme, or
17 artifice to defraud or mislead borrowers or lenders to defraud any person.
- 18 3. ~~For any person, in connection with the procurement or promise of procurement of any~~
19 ~~lender or loan funds, directly~~Directly or indirectly, ~~to~~ make any untrue statement of a
20 material fact or to omit to state a material fact necessary in order to make the
21 statements made, in the light of the circumstances under which they are made, not
22 misleading in connection with the procurement or promise of procurement of any
23 lender or loan funds.
- 24 4. Engage in any unfair or deceptive practice toward any person.
- 25 5. Obtain property by fraud or misrepresentation.
- 26 6. Solicit, advertise, or enter into a contract for specific interest rates, points, or other
27 financing terms unless the terms are actually available at the time of soliciting,
28 advertising, or contracting.
- 29 7. Conduct any business covered by this chapter without holding a valid license as
30 required under this chapter, or assist or aid and abet any person in the conduct of
31 business under this chapter without a valid license as required under this chapter.

- 1 8. Fail to make disclosures as required by this chapter and any other applicable state or
2 federal law and regulations.
- 3 9. Fail to comply with this chapter or rules adopted under this chapter, or fail to comply
4 with any other state or federal law, including the rules and regulations thereunder,
5 applicable to any business authorized or conducted under this chapter.
- 6 10. Make, in any manner, any false or deceptive statement or representation, including,
7 with regard to the rates, points, or other financing terms or conditions for a residential
8 mortgage loan or engage in bait and switch advertising.
- 9 11. Negligently make any false statement or knowingly and willfully make any omission of
10 material fact in connection with any information or reports filed with a governmental
11 agency or the nationwide mortgage licensing system and registry or in connection with
12 any investigation conducted by the commissioner or another governmental agency.
- 13 12. Make any payment, threat, or promise, directly or indirectly, to any person for the
14 purposes of influencing the independent judgment of the person in connection with a
15 loan or make any payment, threat, or promise, directly or indirectly, to any appraiser of
16 a property, for the purposes of influencing the independent judgment of the appraiser
17 with respect to the value of the property.
- 18 13. Collect, charge, attempt to collect or charge, or use or propose any agreement
19 purporting to collect or charge any fee prohibited by this chapter.
- 20 14. Cause or require a borrower to obtain property insurance coverage in an amount that
21 exceeds the replacement cost of the improvements as established by the property
22 insurer.
- 23 15. Fail to truthfully account for moneys belonging to a party to a loan transaction.
- 24 16. Conduct another business within the same office, suite, room, or place of business at
25 which the licensee engages in money broker business unless the commissioner
26 provides written authorization after a determination the other business is not contrary
27 to the best interests of any borrower or potential borrower.

28 **SECTION 10. AMENDMENT.** Section 13-04.1-11 of the North Dakota Century Code is
29 amended and reenacted as follows:

1 **13-04.1-11. Investigations and, subpoenas, and examination authority.**

2 In addition to any authority allowed under this chapter, the commissioner may conduct
3 investigation and examinations as follows:

4 1. The department of financial institutions in its discretion:

5 a. May make such public or private investigation or examination within or outside
6 this state as it deems necessary to determine whether any person has violated or
7 is about to violate any provision of this chapter or any rule or order hereunder, or
8 to aid in the enforcement of this chapter or in the prescribing of rules and forms
9 hereunder. The licensee shall pay an investigation or examination fee and must
10 be charged by the department of financial institutions at an hourly rate to be set
11 by the commissioner, sufficient to cover all reasonable expenses of the
12 department associated with the visitation provided for by this section. Fees must
13 be paid to the state treasurer and deposited in the financial institutions regulatory
14 fund.

15 b. May require or permit any person to file a statement in writing, under oath or
16 otherwise as the department determines, as to all the facts and circumstances
17 concerning the matter to be investigated or examined.

18 c. May publish information concerning any violation of this chapter or any rule or
19 order hereunder.

20 2. For the purpose of any investigation, examination, or proceeding under this chapter,
21 the department of financial institutions may administer oaths and affirmations,
22 subpoena witnesses, compel their attendance, take evidence, and require the
23 production of any books, papers, correspondence, memoranda, agreements, or other
24 documents or records which the department deems relevant or material to the inquiry.

25 3. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the
26 district court, upon application by the department of financial institutions, may issue to
27 the person an order requiring such person to appear before the department, there to
28 produce documentary evidence if so ordered or to give evidence touching the matter
29 in question under investigation or ~~in question~~ examination. Failure to obey the order of
30 the court may be punished by the court as a contempt of court.

- 1 4. No person is excused from attending and testifying or from producing any document or
2 record before the department of financial institutions, or in obedience to the subpoena
3 of the department, or in any proceeding instituted by the department, on the grounds
4 that the testimony or evidence, documentary or otherwise, required of such person
5 may tend to incriminate such person or subject such person to a penalty forfeiture; but
6 no individual may be prosecuted or subjected to any penalty or forfeiture for or on
7 account of any transaction, matter, or thing concerning which such person is
8 compelled, after claiming the privilege against self-incrimination, to testify or produce
9 evidence, documentary or otherwise, except that the individual testifying is not exempt
10 from prosecution and punishment for perjury or contempt committed in testifying.
- 11 5. For purposes of initial licensing, license renewal, license suspension, license
12 conditioning, license revocation or termination, or general or specific inquiry or
13 investigation to determine compliance with this chapter, the commissioner may
14 access, receive, and use any books, accounts, records, files, documents, information,
15 or evidence, including:
- 16 a. Criminal, civil, and administrative history information, including nonconviction
17 data;
- 18 b. Personal history and experience information, including independent credit reports
19 obtained from a consumer reporting agency described in section 603(p) of the
20 Fair Credit Reporting Act; and
- 21 c. Any other documents, information, or evidence the commissioner deems relevant
22 to the inquiry or investigation regardless of the location, possession, control, or
23 custody of such documents, information, or evidence.
- 24 6. For purposes of investigating violations or complaints arising under this chapter, or for
25 purposes of examination, the commissioner may review, investigate, or examine any
26 licensee or person subject to this chapter, as often as necessary in order to carry out
27 the purposes of this chapter.
- 28 7. Each licensee or person subject to this chapter shall make available to the
29 commissioner upon request the books and records relating to the operations of such
30 licensee or person subject to this chapter. The commissioner shall have access to
31 such books and records and interview the officers, principals, mortgage loan

1 originators, employees, independent contractors, agents, and customers of the
2 licensee or person subject to this chapter concerning their business.

3 8. Each licensee or person subject to this chapter shall make or compile reports or
4 prepare other information as directed by the commissioner in order to carry out the
5 purposes of this section, including:

6 a. Accounting compilations;

7 b. Information lists and data concerning loan transactions in a format prescribed by
8 the commissioner; or

9 c. Such other information deemed necessary to carry out the purposes of this
10 section.

11 9. In making any investigation or examination authorized by this chapter, the
12 commissioner may control access to any documents and records of the licensee or
13 person under investigation or examination. The commissioner may take possession of
14 the documents and records or place a person in exclusive charge of the documents
15 and records in the place where they are usually kept. During the period of control, a
16 person may not remove or attempt to remove any of the documents and records
17 except pursuant to a court order or with the consent of the commissioner. Unless the
18 commissioner has reasonable grounds to believe the documents or records of the
19 licensee have been, or are at risk of being altered or destroyed for purposes of
20 concealing a violation of this chapter, the licensee or owner of the documents and
21 records may have access to the documents or records as necessary to conduct its
22 ordinary business affairs.

23 10. In order to carry out the purposes of this section, the commissioner may:

24 a. Retain ~~attorneys,~~ accountants, or other professionals and specialists as
25 examiners, auditors, or investigators to conduct or assist in the conduct of
26 examinations or investigations;

27 b. Enter into agreements or relationships with other government officials or
28 regulatory associations in order to improve efficiencies and reduce regulatory
29 burden by sharing resources, standardized or uniform methods or procedures,
30 and documents, records, information, or evidence obtained under this section;

- 1 c. Use, hire, contract, or employ publicly or privately available analytical systems,
2 methods, or software to examine or investigate the licensee, individual, or person
3 subject to this chapter;
- 4 d. Accept and rely on examination or investigation reports made by other
5 government officials, within or without this state; and
- 6 e. Accept audit reports made by an independent certified public accountant for the
7 licensee or person subject to this chapter in the course of that part of the
8 examination covering the same general subject matter as the audit and may
9 incorporate the audit report in the report of the examination, report of
10 investigation, or other writing of the commissioner.
- 11 11. The authority of this section remains in effect, whether such a licensee or person
12 subject to this chapter acts or claims to act under any licensing or registration law of
13 this state or claims to act without such authority.
- 14 12. A licensee or person subject to investigation or examination under this section may not
15 knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records,
16 computer records, or other information.

17 **SECTION 11.** A new section to chapter 13-04.1 of the North Dakota Century Code is
18 created and enacted as follows:

19 **Confidentiality.**

20 To promote more effective regulation and reduce regulatory burden through supervisory
21 information sharing:

- 22 1. Except as otherwise provided in Public Law 110-289, section 1512, the requirements
23 under any federal law ~~or~~, chapter 44-04, or section 6-01-07.1, regarding the privacy or
24 confidentiality of any information or material provided to the nationwide mortgage
25 licensing system and registry, and any privilege arising under federal or state law,
26 including the rules of any federal or state court, with respect to such information or
27 material, continue to apply to such information or material after the information or
28 material has been disclosed to the nationwide mortgage licensing system and registry.
29 Such information and material may be shared with all state and federal regulatory
30 officials with mortgage industry oversight authority without the loss of privilege or the

1 loss of confidentiality protections provided by federal law ~~or~~, chapter 44-04, or section
2 6-01-07.1.

3 2. For these purposes, the commissioner may enter agreements or sharing
4 arrangements with other governmental agencies, the conference of state bank
5 supervisors, the American association of residential mortgage regulators, or other
6 associations representing governmental agencies ~~as established by rule or order of~~
7 ~~the commissioner.~~

8 3. Information or material that is subject to a privilege or confidentiality under
9 subsection 1 is not subject to:

10 a. Disclosure under any federal or state law governing the disclosure to the public of
11 information held by an officer or an agency of the federal government or the
12 respective state; or

13 b. Subpoena or discovery, or admission into evidence, in any ~~private civil action or~~
14 administrative process, unless with respect to any privilege held by the
15 nationwide mortgage licensing system and registry with respect to such
16 information or material, the person to whom such information or material pertains
17 waives, in whole or in part, in the discretion of such person, that privilege.

18 4. The commissioner shall take all necessary steps, under any applicable law or rule, to
19 protect the disclosure of information or material that is subject to a privilege or
20 confidentiality under subsection 1. Records subject to a privilege or confidentiality
21 under subsection 1 may be required to be disclosed only pursuant to an order of the
22 court. The court ordering the disclosure shall issue a protective order to protect the
23 confidential nature of the records.

24 4.5. Application of chapter 44-04 or section 6-01-07.1, relating to the disclosure of
25 confidential supervisory information or any information or material described in
26 subsection 1 which is inconsistent with subsection 1, is superseded by the
27 requirements of this section.

28 **SECTION 12.** A new section to chapter 13-04.1 of the North Dakota Century Code is
29 created and enacted as follows:

1 **Change of name or address.**

2 A licensee is required to submit within ~~ten~~twenty business days of the date of change
3 notification of a change of name or change of address. The notification must be in the form
4 prescribed by the commissioner. In addition, the licensee shall submit the original license
5 certificate for reissue.

6 **SECTION 13.** A new section to chapter 13-04.1 of the North Dakota Century Code is
7 created and enacted as follows:

8 **Call reports.**

9 Each licensee shall submit to the nationwide mortgage licensing system and registry reports
10 of condition which must be in such form and must contain such information as the nationwide
11 mortgage licensing system and registry may require.

12 **SECTION 14.** A new section to chapter 13-04.1 of the North Dakota Century Code is
13 created and enacted as follows:

14 **Report to nationwide mortgage licensing system and registry.**

15 Notwithstanding state privacy law, the commissioner shall report regularly violations of this
16 chapter, as well as enforcement actions and other relevant information, to the nationwide
17 mortgage licensing system and registry subject to the provisions contained in section 13-10-15.

18 **SECTION 15. AMENDMENT.** Section 13-10-03 of the North Dakota Century Code is
19 amended and reenacted as follows:

20 **13-10-03. License and registration required.**

- 21 1. An individual, unless specifically exempted from this chapter under subsection 3, shall
22 not engage in the business of a mortgage loan originator with respect to any dwelling
23 located in this state without first obtaining and maintaining annually a license under
24 this chapter. Each licensed mortgage loan originator must register with and maintain a
25 valid unique identifier issued by the nationwide mortgage licensing system and
26 registry.
- 27 2. ~~To facilitate an orderly transition to licensing and minimize disruption in the mortgage~~
28 ~~marketplace, the effective date for subsection 1 is August 1, 2009, or such later date~~
29 ~~approved by the secretary of the United States department of housing and urban~~
30 ~~development, pursuant to the authority granted under Public Law 110-289, section~~
31 ~~1508(a). All persons subject to licensing under this section, who are currently licensed~~

1 under chapter 13-04.1, shall continue to be subject to licensure under chapter 13-04.1
2 until January 1, 2010, when they shall be required to be licensed under this chapter. If
3 at any point before January 1, 2010, a person subject to licensing under this section
4 fails to be licensed under chapter 13-04.1, that person shall be required to be licensed
5 under this chapter.

6 3. The following are exempt from this chapter:

- 7 a. Registered mortgage loan originators, when acting for an entity described in
8 subdivision a of subsection 11 of section 13-10-02 are exempt from this chapter.
9 b. Any individual who offers or negotiates terms of a residential mortgage loan with
10 or on behalf of an immediate family member of the individual.
11 c. Any individual who offers or negotiates terms of a residential mortgage loan
12 secured by a dwelling that served as the individual's residence.
13 d. A licensed attorney who negotiates the terms of a residential mortgage loan on
14 behalf of a client as an ancillary matter to the attorney's representation of the
15 client, unless the attorney is compensated by a lender, a mortgage broker, or
16 other mortgage loan originator or by any agent of such lender, mortgage broker,
17 or other mortgage loan originator.

18 4.3. A loan processor or underwriter who is an independent contractor may not engage in
19 the activities of a loan processor or underwriter unless such independent contractor
20 loan processor or underwriter obtains and maintains a license under subsection 1.
21 Each independent contractor loan processor or underwriter licensed as a mortgage
22 loan originator must have and maintain a valid unique identifier issued by the
23 nationwide mortgage licensing system and registry.

24 5.4. To implement an orderly and efficient licensing process, the commissioner may
25 establish licensing rules or regulations and interim procedures for licensing and
26 acceptance of applications. For previously registered or licensed individuals, the
27 commissioner may establish expedited review and licensing procedures.

28 **SECTION 16. AMENDMENT.** Subsection 6 of section 13-10-16 of the North Dakota
29 Century Code is amended and reenacted as follows:

30 6. In order to carry out the purposes of this section, the commissioner may:

- 1 a. Retain ~~attorneys,~~ accountants, or other professionals and specialists as
2 examiners, auditors, or investigators to conduct or assist in the conduct of
3 examinations or investigations;
- 4 b. Enter into agreements or relationships with other government officials or
5 regulatory associations in order to improve efficiencies and reduce regulatory
6 burden by sharing resources, standardized or uniform methods or procedures,
7 and documents, records, information, or evidence obtained under this section;
- 8 c. Use, hire, contract, or employ publicly or privately available analytical systems,
9 methods, or software to examine or investigate the licensee, individual, or person
10 subject to this chapter;
- 11 d. Accept and rely on examination or investigation reports made by other
12 government officials, within or without this state; or
- 13 e. Accept audit reports made by an independent certified public accountant for the
14 licensee, individual, or person subject to this chapter in the course of that part of
15 the examination covering the same general subject matter as the audit and may
16 incorporate the audit report in the report of the examination, report of
17 investigation, or other writing of the commissioner.