

Sixty-second
Legislative Assembly
of North Dakota

ENGROSSED SENATE BILL NO. 2124

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 further require any application to provide additional information which is
16 not requested on the application form. The applicant must register with the North Dakota
17 secretary of state if so required.

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

20 **13-04.1-04. Fee ~~and bond~~ to accompany application for money broker license.**

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

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

3 **13-04.1-04.1. Surety bond required.**

- 4 1. Each licensee shall maintain a surety bond in an amount not less than twenty-five
5 thousand dollars. The surety bond must be in a form prescribed by the commissioner.
6 2. When an action is commenced on a licensee's bond, the commissioner may require
7 the filing of a new bond.
8 3. Immediately upon recovery upon any action on the bond, the licensee shall file a new
9 bond.

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

12 **13-04.1-04.2. Minimum net worth required.**

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

- 15 1. Minimum net worth must be maintained in the amount of twenty-five thousand dollars.
16 2. If the net worth of a licensee falls below the minimum net worth set forth in
17 subsection 1, the licensee shall provide a plan, subject to the approval of the
18 commissioner, to increase the licensee's net worth to an amount in conformance with
19 this section. Submission of a plan under this section must be made within twenty
20 business days of a notice from the commissioner which states the licensee is not in
21 compliance with subsection 1. If the licensee does not submit a plan under this
22 section, fails to comply with an approved plan, or has repeated violations of
23 subsection 1, the commissioner may revoke the license.

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

26 **13-04.1-07. Manner in which records to be kept.**

27 Every money broker licensed under this chapter shall keep a record of all sums collected by
28 them and of all loans and leases completed as a result of their efforts for a period of six years
29 from the date of last entry thereon. The records of a licensee may be maintained electronically
30 provided they can be reproduced upon request by the department of financial institutions and
31 within the required statutory time period provided in this section. When a licensee ceases

1 operations for any reason, the licensee shall inform the department of the location of the
2 records. In addition, the licensee shall provide the name of the individual responsible for
3 maintenance of the records. The licensee shall notify the department within ten business days
4 of the change of the location of the records or the change of the individual responsible for
5 maintenance of the records.

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

8 **13-04.1-08. Revocation of license - Suspension of license - Surrender of license.**

- 9 1. ~~The department of financial institutions commissioner may, if it has reason to believe~~
10 ~~that grounds for revocation of a license exist, send by registered or certified mail to the~~
11 ~~licensee, a notice of hearing stating the contemplated action and in general the~~
12 ~~grounds thereof and setting the time and place for a hearing thereon. Such hearing~~
13 ~~must be held in accordance with chapter 28-32 as must any appeal therefrom. issue~~
14 ~~and serve upon any licensee an order suspending or revoking a licensee's license if~~
15 ~~the commissioner finds that:~~
- 16 a. The licensee has failed to pay the annual license fee under this chapter or any
17 examination fee imposed by the commissioner under the authority of this chapter.
 - 18 b. The licensee, either knowingly or without the exercise of due care to prevent the
19 same, has violated any provision of this chapter or any regulation or order
20 lawfully made pursuant to and within the authority of this chapter.
 - 21 c. Any fact or condition existing at the time of the original application for such
22 license which clearly would have warranted the department of financial
23 institutions in refusing originally to issue such license.
 - 24 d. The licensee has failed to maintain the required bond.
 - 25 e. The licensee has failed to maintain registration with the secretary of state if so
26 required.
- 27 2. The order must contain a notice of opportunity for hearing pursuant to chapter 28-32.
28 3. If no hearing is requested within twenty days of the date the order is served upon the
29 licensee, or if a hearing is held and the commissioner finds that the record so
30 warrants, the commissioner may enter a final order suspending or revoking the
31 license.

1 ~~2.4.~~ If the department of financial institutions commissioner finds that probable cause for
2 revocation of any license exists and that enforcement of the chapter requires
3 immediate suspension of such license pending investigation, it may, upon written
4 notice, enter an order suspending such license for a period not exceeding ~~thirtysixty~~
5 days, pending the holding of a hearing as prescribed in this chapter.

6 ~~3.5.~~ Any licensee may surrender the licensee's license by delivering it to the department of
7 financial institutions with written notice of its surrender, but such surrender does not
8 affect the licensee's civil or criminal liability for acts committed prior thereto.

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

11 **13-04.1-08.1. Suspension and removal of money broker officers and employees.**

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

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

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

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

20 e. (3) Performing an act of commission or omission or practice which is a breach
21 of trust or a breach of fiduciary duty.

22 b. The term of the suspension or removal from employment and participation within
23 the conduct or the affairs of a money broker.

24 2. The ~~complaint~~ order must contain a notice of opportunity for hearing pursuant to
25 chapter 28-32.

26 3. If a hearing is not requested within twenty days of the date the ~~complaint~~ order is
27 served upon the officer or employee, or if a hearing is held and the commissioner finds
28 that the record so warrants, the commissioner may enter ~~an~~ a final order suspending or
29 temporarily removing the current or former employee ~~or officer from office for a period~~
30 ~~not exceeding three years from the effective date of the suspension or temporary~~

1 removal. The current or former officer or employee may request a termination of the
2 final order after a period of no less than three years.

3 4. A contested or default suspension or ~~temporary~~ removal order is effective immediately
4 upon service of the final order on the current or former officer or employee and upon
5 the licensee. A consent order is effective as agreed. ~~Any~~ Any current or former officer or
6 employee suspended or ~~temporarily~~ removed from ~~office~~ employment and participation
7 within the conduct or the affairs of a money broker pursuant to this section is not
8 eligible, while under suspension, ~~for reinstatement to a position within a licensed-~~
9 ~~money broker or removal, to be employed or otherwise participate in the affairs of any~~
10 financial corporation, financial institution, credit union, or any other entity licensed by
11 the department of financial institutions.

12 5. When ~~any~~ any current or former officer or employee, or other person participating in the
13 conduct of the affairs of a licensee is charged with a felony in state or federal court
14 which involves dishonesty or breach of trust, the commissioner may immediately
15 suspend the person from office or prohibit the person from further participation in the
16 affairs of the money broker, or both. The order is effective immediately upon service of
17 the order on the licensee and the person charged and remains in effect until the
18 criminal charge is finally disposed of or until modified by the commissioner. If a
19 judgment of conviction, federal pretrial diversion, or similar state order or judgment is
20 entered, the commissioner may order that the suspension or prohibition be made
21 permanent. A finding of not guilty or other disposition of the charge does not preclude
22 the commissioner from pursuing administrative or civil remedies.

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

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

27 **13-04.1-09. Fraudulent Prohibited acts and practices.**

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

30 1. ~~For any person knowingly to subscribe to, or make~~ Make or cause to be made, any
31 material false statement or representation in any application or other document or

- 1 statement required to be filed under any provision of this chapter, or to omit to state
2 any material statement or fact necessary in order to make the statements made, in
3 light of the circumstances under which they are made, not misleading.
- 4 2. ~~For any person, in connection with the procurement or promise of procurement of any~~
5 ~~lender or loan funds, directly~~Directly or indirectly, to employ any device, scheme, or
6 artifice to defraud ~~or mislead borrowers or lenders to defraud any person.~~
- 7 3. ~~For any person, in connection with the procurement or promise of procurement of any~~
8 ~~lender or loan funds, directly~~Directly or indirectly, to make any untrue statement of a
9 material fact or to omit to state a material fact necessary in order to make the
10 statements made, in the light of the circumstances under which they are made, not
11 misleading in connection with the procurement or promise of procurement of any
12 lender or loan funds.
- 13 4. Engage in any unfair or deceptive practice toward any person.
- 14 5. Obtain property by fraud or misrepresentation.
- 15 6. Solicit, advertise, or enter into a contract for specific interest rates, points, or other
16 financing terms unless the terms are actually available at the time of soliciting,
17 advertising, or contracting.
- 18 7. Conduct any business covered by this chapter without holding a valid license as
19 required under this chapter, or assist or aid and abet any person in the conduct of
20 business under this chapter without a valid license as required under this chapter.
- 21 8. Fail to make disclosures as required by this chapter and any other applicable state or
22 federal law and regulations.
- 23 9. Fail to comply with this chapter or rules adopted under this chapter, or fail to comply
24 with any other state or federal law, including the rules and regulations thereunder,
25 applicable to any business authorized or conducted under this chapter.
- 26 10. Make, in any manner, any false or deceptive statement or representation, including,
27 with regard to the rates, points, or other financing terms or conditions for a residential
28 mortgage loan or engage in bait and switch advertising.
- 29 11. Negligently make any false statement or knowingly and willfully make any omission of
30 material fact in connection with any information or reports filed with a governmental

- 1 agency or the nationwide mortgage licensing system and registry or in connection with
2 any investigation conducted by the commissioner or another governmental agency.
3 12. Make any payment, threat, or promise, directly or indirectly, to any person for the
4 purposes of influencing the independent judgment of the person in connection with a
5 loan or make any payment, threat, or promise, directly or indirectly, to any appraiser of
6 a property, for the purposes of influencing the independent judgment of the appraiser
7 with respect to the value of the property.
8 13. Collect, charge, attempt to collect or charge, or use or propose any agreement
9 purporting to collect or charge any fee prohibited by this chapter.
10 14. Cause or require a borrower to obtain property insurance coverage in an amount that
11 exceeds the replacement cost of the improvements as established by the property
12 insurer.
13 15. Fail to truthfully account for moneys belonging to a party to a loan transaction.
14 16. Conduct another business within the same office, suite, room, or place of business at
15 which the licensee engages in money broker business unless the commissioner
16 provides written authorization after a determination the other business is not contrary
17 to the best interests of any borrower or potential borrower.

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

20 **13-04.1-11. Investigations and, subpoenas, and examination authority.**

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

- 23 1. The department of financial institutions in its discretion:
24 a. May make such public or private investigation or examination within or outside
25 this state as it deems necessary to determine whether any person has violated or
26 is about to violate any provision of this chapter or any rule or order hereunder, or
27 to aid in the enforcement of this chapter or in the prescribing of rules and forms
28 hereunder. The licensee shall pay an investigation or examination fee and must
29 be charged by the department of financial institutions at an hourly rate to be set
30 by the commissioner, sufficient to cover all reasonable expenses of the
31 department associated with the visitation provided for by this section. Fees must

- 1 be paid to the state treasurer and deposited in the financial institutions regulatory
2 fund.
- 3 b. May require or permit any person to file a statement in writing, under oath or
4 otherwise as the department determines, as to all the facts and circumstances
5 concerning the matter to be investigated or examined.
- 6 c. May publish information concerning any violation of this chapter or any rule or
7 order hereunder.
- 8 2. For the purpose of any investigation, examination, or proceeding under this chapter,
9 the department of financial institutions may administer oaths and affirmations,
10 subpoena witnesses, compel their attendance, take evidence, and require the
11 production of any books, papers, correspondence, memoranda, agreements, or other
12 documents or records which the department deems relevant or material to the inquiry.
- 13 3. In case of contumacy by, or refusal to obey a subpoena issued to, any person, the
14 district court, upon application by the department of financial institutions, may issue to
15 the person an order requiring such person to appear before the department, there to
16 produce documentary evidence if so ordered or to give evidence touching the matter
17 in question under investigation or ~~in question~~examination. Failure to obey the order of
18 the court may be punished by the court as a contempt of court.
- 19 4. No person is excused from attending and testifying or from producing any document or
20 record before the department of financial institutions, or in obedience to the subpoena
21 of the department, or in any proceeding instituted by the department, on the grounds
22 that the testimony or evidence, documentary or otherwise, required of such person
23 may tend to incriminate such person or subject such person to a penalty forfeiture; but
24 no individual may be prosecuted or subjected to any penalty or forfeiture for or on
25 account of any transaction, matter, or thing concerning which such person is
26 compelled, after claiming the privilege against self-incrimination, to testify or produce
27 evidence, documentary or otherwise, except that the individual testifying is not exempt
28 from prosecution and punishment for perjury or contempt committed in testifying.
- 29 5. For purposes of initial licensing, license renewal, license suspension, license
30 conditioning, license revocation or termination, or general or specific inquiry or
31 investigation to determine compliance with this chapter, the commissioner may

- 1 access, receive, and use any books, accounts, records, files, documents, information,
2 or evidence, including:
- 3 a. Criminal, civil, and administrative history information, including nonconviction
4 data;
- 5 b. Personal history and experience information, including independent credit reports
6 obtained from a consumer reporting agency described in section 603(p) of the
7 Fair Credit Reporting Act; and
- 8 c. Any other documents, information, or evidence the commissioner deems relevant
9 to the inquiry or investigation regardless of the location, possession, control, or
10 custody of such documents, information, or evidence.
- 11 6. For purposes of investigating violations or complaints arising under this chapter, or for
12 purposes of examination, the commissioner may review, investigate, or examine any
13 licensee or person subject to this chapter, as often as necessary in order to carry out
14 the purposes of this chapter.
- 15 7. Each licensee or person subject to this chapter shall make available to the
16 commissioner upon request the books and records relating to the operations of such
17 licensee or person subject to this chapter. The commissioner shall have access to
18 such books and records and interview the officers, principals, mortgage loan
19 originators, employees, independent contractors, agents, and customers of the
20 licensee or person subject to this chapter concerning their business.
- 21 8. Each licensee or person subject to this chapter shall make or compile reports or
22 prepare other information as directed by the commissioner in order to carry out the
23 purposes of this section, including:
- 24 a. Accounting compilations;
- 25 b. Information lists and data concerning loan transactions in a format prescribed by
26 the commissioner; or
- 27 c. Such other information deemed necessary to carry out the purposes of this
28 section.
- 29 9. In making any investigation or examination authorized by this chapter, the
30 commissioner may control access to any documents and records of the licensee or
31 person under investigation or examination. The commissioner may take possession of

1 the documents and records or place a person in exclusive charge of the documents
2 and records in the place where they are usually kept. During the period of control, a
3 person may not remove or attempt to remove any of the documents and records
4 except pursuant to a court order or with the consent of the commissioner. Unless the
5 commissioner has reasonable grounds to believe the documents or records of the
6 licensee have been, or are at risk of being altered or destroyed for purposes of
7 concealing a violation of this chapter, the licensee or owner of the documents and
8 records may have access to the documents or records as necessary to conduct its
9 ordinary business affairs.

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

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

28 11. The authority of this section remains in effect, whether such a licensee or person
29 subject to this chapter acts or claims to act under any licensing or registration law of
30 this state or claims to act without such authority.

1 12. A licensee or person subject to investigation or examination under this section may not
2 knowingly withhold, abstract, remove, mutilate, destroy, or secrete any books, records,
3 computer records, or other information.

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

6 **Confidentiality.**

7 To promote more effective regulation and reduce regulatory burden through supervisory
8 information sharing:

- 9 1. Except as otherwise provided in Public Law 110-289, section 1512, the requirements
10 under any federal law, chapter 44-04, or section 6-01-07.1, regarding the privacy or
11 confidentiality of any information or material provided to the nationwide mortgage
12 licensing system and registry, and any privilege arising under federal or state law,
13 including the rules of any federal or state court, with respect to such information or
14 material, continue to apply to such information or material after the information or
15 material has been disclosed to the nationwide mortgage licensing system and registry.
16 Such information and material may be shared with all state and federal regulatory
17 officials with mortgage industry oversight authority without the loss of privilege or the
18 loss of confidentiality protections provided by federal law, chapter 44-04, or section
19 6-01-07.1.
- 20 2. For these purposes, the commissioner may enter agreements or sharing
21 arrangements with other governmental agencies, the conference of state bank
22 supervisors, the American association of residential mortgage regulators, or other
23 associations representing governmental agencies.
- 24 3. Information or material that is subject to a privilege or confidentiality under
25 subsection 1 is not subject to:
- 26 a. Disclosure under any federal or state law governing the disclosure to the public of
27 information held by an officer or an agency of the federal government or the
28 respective state; or
- 29 b. Subpoena or discovery, or admission into evidence, in any administrative
30 process, unless with respect to any privilege held by the nationwide mortgage
31 licensing system and registry with respect to such information or material, the

1 person to whom such information or material pertains waives, in whole or in part,
2 in the discretion of such person, that privilege.

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

9 5. Application of chapter 44-04 or section 6-01-07.1, relating to the disclosure of
10 confidential supervisory information or any information or material described in
11 subsection 1 which is inconsistent with subsection 1, is superseded by the
12 requirements of this section.

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

15 **Change of name or address.**

16 A licensee is required to submit within twenty business days of the date of change
17 notification of a change of name or change of address. The notification must be in the form
18 prescribed by the commissioner. In addition, the licensee shall submit the original license
19 certificate for reissue.

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

22 **Call reports.**

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

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

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

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

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

3 **13-10-03. License and registration required.**

4 1. An individual, unless specifically exempted from this chapter under subsection 3, shall
5 not engage in the business of a mortgage loan originator with respect to any dwelling
6 located in this state without first obtaining and maintaining annually a license under
7 this chapter. Each licensed mortgage loan originator must register with and maintain a
8 valid unique identifier issued by the nationwide mortgage licensing system and
9 registry.

10 2. ~~To facilitate an orderly transition to licensing and minimize disruption in the mortgage~~
11 ~~marketplace, the effective date for subsection 1 is August 1, 2009, or such later date~~
12 ~~approved by the secretary of the United States department of housing and urban~~
13 ~~development, pursuant to the authority granted under Public Law 110-289, section~~
14 ~~1508(a). All persons subject to licensing under this section, who are currently licensed~~
15 ~~under chapter 13-04.1, shall continue to be subject to licensure under chapter 13-04.1~~
16 ~~until January 1, 2010, when they shall be required to be licensed under this chapter. If~~
17 ~~at any point before January 1, 2010, a person subject to licensing under this section~~
18 ~~fails to be licensed under chapter 13-04.1, that person shall be required to be licensed~~
19 ~~under this chapter.~~

20 3. The following are exempt from this chapter:

21 a. Registered mortgage loan originators, when acting for an entity described in
22 subdivision a of subsection 11 of section 13-10-02 are exempt from this chapter.

23 b. Any individual who offers or negotiates terms of a residential mortgage loan with
24 or on behalf of an immediate family member of the individual.

25 c. Any individual who offers or negotiates terms of a residential mortgage loan
26 secured by a dwelling that served as the individual's residence.

27 d. A licensed attorney who negotiates the terms of a residential mortgage loan on
28 behalf of a client as an ancillary matter to the attorney's representation of the
29 client, unless the attorney is compensated by a lender, a mortgage broker, or
30 other mortgage loan originator or by any agent of such lender, mortgage broker,
31 or other mortgage loan originator.

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

7 5.4. To implement an orderly and efficient licensing process, the commissioner may
8 establish licensing rules or regulations and interim procedures for licensing and
9 acceptance of applications. For previously registered or licensed individuals, the
10 commissioner may establish expedited review and licensing procedures.

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

- 13 6. In order to carry out the purposes of this section, the commissioner may:
- 14 a. Retain ~~attorneys,~~ accountants, or other professionals and specialists as
15 examiners, auditors, or investigators to conduct or assist in the conduct of
16 examinations or investigations;
 - 17 b. Enter into agreements or relationships with other government officials or
18 regulatory associations in order to improve efficiencies and reduce regulatory
19 burden by sharing resources, standardized or uniform methods or procedures,
20 and documents, records, information, or evidence obtained under this section;
 - 21 c. Use, hire, contract, or employ publicly or privately available analytical systems,
22 methods, or software to examine or investigate the licensee, individual, or person
23 subject to this chapter;
 - 24 d. Accept and rely on examination or investigation reports made by other
25 government officials, within or without this state; or
 - 26 e. Accept audit reports made by an independent certified public accountant for the
27 licensee, individual, or person subject to this chapter in the course of that part of
28 the examination covering the same general subject matter as the audit and may
29 incorporate the audit report in the report of the examination, report of
30 investigation, or other writing of the commissioner.