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LICENSING AND REGISTRATION IN THE MORTGAGE INDUSTRY

HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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LICENSING AND REGISTRATION IN THE MORTGAGE INDUSTRY

Thursday, September 29, 2005

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING
AND COMMUNITY OPPORTUNITY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to call, at 10:08 a.m., in Room 2128, Rayburn House Office Building, Hon. Robert Ney [chairman of the subcommittee] presiding.

Present: Representatives Ney, Miller of California, Jones of North Carolina, Waters, Carson, Lynch, Miller of North Carolina, Scott, Davis of Alabama, Cleaver, Green, Watt, Jones of Ohio, and Kanjorski.

Chairman NEY. [Presiding.] Good morning, and welcome to the hearing of the Housing Subcommittee on the topic of licensing and registration in the mortgage industry.

This is a topic that Congressman Kanjorski and I have addressed in our anti-predatory lending legislation, H.R. 1295, the Responsible Lending Act, also known as the Ney-Kanjorski bill.

However, in the discussions surrounding this proposed legislation, this issue has not garnered a great deal of public attention and comment. Most of the debate has centered on which potentially abusive lending practices should be curtailed or prohibited in an effort to protect borrowers from unscrupulous lenders.

Equally, if not more, important is the issue of regulating the people who provide or facilitate mortgage loans. After all, it only takes a few bad apples to give the entire industry a bad name. So that is what we are here basically to discuss.

In an industry in which some say that opportunities exist for the potential to exploit and take advantage of both sophisticated and unsophisticated consumers alike, how could access to that industry be regulated to help insulate consumers from the practices I think is one of the subjects.

Should all those who originate mortgages be required to obtain a license and register individually? Or are there reasons why access to the mortgage lending industry should be regulated differently for certain participants due to their unique attributes or because of their current regulatory requirements?

In addition, there are currently a number of State laws and legislative movements on the State level that address this very topic. The question would be, are those sufficient to address the topic or would some degree of minimum uniformity be helpful nationally?

Hopefully, these questions will be answered today so we can continue to find ways to protect consumers from both predatory lending practices and from those bad actors who would take advantage of the borrowers. The Ney-Kanjorski Responsible Lending Act attempts to do just that, to protect consumers from bad practices as well as from bad actors.

This is why Congressman Kanjorski and I believe that H.R. 1295 is the most comprehensive piece of Federal anti-predatory legislation ever to be introduced. The central goal of the Ney-Kanjorski bill has been to provide consumers with the best possible protections from abusive lending without unduly and unnecessarily raising the costs of borrowing. Thus, we must try to keep in balance the cost to borrowers of licensing registration requirements and the benefits the borrower would receive from those requirements.

While the current version of the bill contains provisions to establish uniform minimum standards for the licensing and registration of mortgage brokers, I recognize some within the mortgage broker industry would like to see those standards apply more broadly than others in the loan origination business. I also recognize that others in the loan origination industry do not believe these standards should be applied any more broadly.

This is why basically we are here today, to basically flesh out and understand those positions, as well as to hear from others outside of the industry regarding what type of Federal regulation, if any, would be helpful.

I looked at all the witnesses' statements submitted and the testimony. I look forward to hearing from each of you today.

I must say, however, that I am perplexed by the testimony submitted by Mr. Hedges, which seems to suffer from the misconception that the licensing and education requirements of Title V of H.R. 1295 are intended to be preemptive in nature. The faulty premise of the testimony seems to be that the description of the standards in Title V as uniform can only result in preemption of State laws.

However, I believe a more accurate reading of Title V in its entirety leads to the conclusion that the uniform standards Congressman Kanjorski and I have set out are uniform minimum standards intended to set a baseline of uniformity for State mortgage broker licensing education requirements, and do not in any way limit the ability of States to go beyond those requirements for stricter standards.

In case others are suffering from any similar misconceptions to the intent of Congressman Kanjorski and I, let me be clear that the current provisions of Title V of H.R. 1295 as drafted are intended as minimum standards. In other words, they are meant to be set as a floor for State standards, but not the ceiling. So I hope this clarification will prevent us from being diverted by any misconceptions and will allow us to remain properly focused on the intent of this hearing.

So I look forward to hearing from all of the witnesses.

At this time, I would like to recognize Mr. Scott.

Mr. SCOTT. Thank you very much, Mr. Chairman. It is indeed a pleasure to be with you on this hearing. I just want to "amen" what you have said about the Ney-Kanjorski-Scott bill.

I say that with great affection, knowing that the major part of that bill is my own bill which deals with financial literacy and education, which in the final analysis is truly the centerpiece or the answer to much of the financial abuse, which is to certainly provide vulnerable people with access to information and a help-line with our toll-free number, and also to provide resources and grants down to the local level so that we can truly deal with the real problem in this issue, which is a lack of folks being financially literate, educated, and make sure that they call somebody before they sign on the dotted line.

Again, I am particularly involved in this issue because reports continue to show that my district in the metro Atlanta area, which I represent 13 counties in and around the Atlanta metro area, leads the nation in mortgage fraud in America. That is another reason why I believe that the Ney-Kanjorski-Scott bill is a true panacea for much of our problem.

In August, Georgia ranked fourth in the number of foreclosed properties. The combination of a good local economy, relatively low housing prices, and favorable loan rates have fueled record home sales and mortgage refinancings. Unfortunately, the high volume of home sales has allowed unscrupulous lenders to commit fraud on unsuspecting consumers.

Now, let me state from the outset that most mortgage brokers are good people. They are good actors. They are good business people. However, we know that bad actors continue to stay in this business. We have to find a way to feeder them out. While more Americans have access to credit than ever before, more fraud has also occurred than ever before. Therefore, it is important to create additional national regulations for the mortgage industry. Congress should also heed the warning from Fed Chairman Greenspan that creative financing of mortgages could backfire if the economy dips and interest rates increase.

Some questions to consider today include how mortgage brokers should be regulated in comparison to mortgage bankers. Also, we should ask if there are incentives for mortgage brokers to unnecessarily steer poor and minority consumers into high-cost loans. What incentives to mortgage brokers have to sell a good loan? Once that loan is brokered and passed on to a lender, does that end the involvement of the mortgage broker?

We have to have a better explanation of the use of yield spread premiums by mortgage brokers. Some consumer groups complain that these premiums provide incentives to sell unnecessary high-cost loans to consumers. How do you respond to these accusations? What steps can the lending industry take to be vigilant in stopping mortgage fraud in the Gulf as a result of Hurricanes Katrina and Rita before it actually happens? These are pressing questions that we certainly need to grapple with this morning.

And finally, is it important that Congress consider the urgent need to act on mortgage fraud? Given the explosion of lending activity that will be needed to rebuild the Gulf region, mortgage crooks will certainly see this climate as an opportunity for theft. There is no question about it. Urgency must be the order of the day. The timing of this hearing is so significant. We must be

proactive. We must not allow further atrocities to befall the Gulf residents as they rebuild.

Thank you, Mr. Chairman. I yield back my time.

Chairman NEY. I want to thank the gentleman. I want to also apologize to the gentleman for not making a statement, because your input has been so valuable, especially on the counseling. I appreciate your support of the Scott-Kanjorski-Ney bill that we have there.

Also, I wanted to note without objection the gentlelady from Cleveland will be participating in the hearing today without objection.

Mrs. JONES OF OHIO. Thank you, Mr. Chairman.

Chairman NEY. Thank you.

And who was also a member of this subcommittee, and I would note had probably a perfect attendance record.

Mrs. JONES OF OHIO. Oh, I am loving it. Keep talking.

Chairman NEY. That is an Ohio thing. Go Bucks.

[Laughter.]

Mr. Jones of North Carolina?

Mr. JONES OF NORTH CAROLINA. I will waive opening.

Chairman NEY. Ms. Tubbs-Jones?

Mrs. JONES OF OHIO. My good colleague from Indiana, I just want to thank the chairman for giving me the opportunity to participate.

I am here because this is an issue that is very important for my particular community in the State of Ohio, Cuyahoga County; we are battling with huge mortgage difficulties and foreclosures, probably one of the highest foreclosure rates that exist in the country.

I just come here because of my interest and also because I have introduced a piece of legislation that would require mortgage brokers to be involved in a certification program. It is H.R. 1994.

I look forward to the testimony and participating. I want to thank the chairman and the ranking member for doing such a great job on housing issues. It is the basis of wealth for most low-income and middle-income people. If we cannot hold onto that wealth in our communities, we have a real problem.

So thanks, Mr. Chairman, very, very much.

Chairman NEY. I thank the gentlelady and the members for being here today.

The witnesses are Mr. Joseph A. Smith, Jr., North Carolina commissioner of banks, testifying on behalf of the Conference of State Bank Supervisors; Ms. Teresa A. Bryce, senior vice president and director of legal and corporate affairs, Nexstar Financial Corporation, St. Louis, Missouri, testifying on behalf of the Mortgage Bankers Association; Mr. Joseph L. Falk, president, Irian Mortgage Services, Miami, Florida, testifying on behalf of the National Association of Mortgage Brokers; Mr. Stephen D. Hailer, president and CEO, North Akron Savings Bank, Akron, Ohio, testifying on behalf of the American Bankers Association; Mr. Daniel F. Hedges, director of Mountain State Justice, Incorporated, Charleston, West Virginia; and Mr. Eric Rodriguez, director, Policy Analysis Center, National Council of La Raza.

Thank you.

We will start with Mr. Smith.

STATEMENT OF JOSEPH A. SMITH, JR., NORTH CAROLINA COMMISSIONER OF BANKS, TESTIFYING ON BEHALF OF THE CONFERENCE OF STATE BANK SUPERVISORS

Mr. SMITH. Thank you, sir.

Good morning, Chairman Ney and members of the subcommittee. I am Joseph A. Smith, Jr., North Carolina commissioner of banks. I am here on behalf today, as you have said, of the Conference of State Bank Supervisors, or CSBS.

I have provided a full written statement and respectfully request that it be included in the record of the hearing.

Chairman NEY. Without objection.

Mr. SMITH. Thank you, sir.

Thank you for giving CSBS an opportunity to update the subcommittee on the CSBS-AARMR residential mortgage lending project. This is a proactive effort by the States to reduce regulatory burden on the mortgage industry by creating uniform applications and an online registration system. This system will also increase accountability in the industry and help fight predatory lending and mortgage fraud by identifying bad actors and eliminating their ability to move from State to State.

Residential mortgage lending is a local activity, but changes in technology and deregulation make financing these loans a global industry. The damage done by predatory lending and mortgage fraud, however, is still very much local. States may choose to regulate mortgage lenders, mortgage brokers, mortgage servicers, individual mortgage originators, or some combination of these. North Carolina has chosen to license lenders, brokers, and originators. Other States have chosen differently by adopting registration statutes, for example, or in the case of two States by taking no action at all.

Licensing protects the public by allowing the Government to ensure that all businesses and professionals offering a particular service, in this case mortgage lending, to the public are operating honestly and within the requirements of applicable law. Licensing sets minimum standards for entry into particular businesses, protecting both the public and legitimate business from fraudulent operators.

The Government's ability to rescind or limit a license creates a powerful incentive for businesses and professionals to comply with the law and conduct their practices in a responsible manner. Registries serve the public and the industry by offering a single source of information about businesses and professionals offering a service. Registries alone, however, do not indicate that any registered business or individual meets a particular standard of competence or ethics. Registries serve the public interest best when registration requires that listed companies or professionals meet substantive legal and regulatory requirements.

We understand that the largest financial services providers run a more coordinated regulation for their national activity. The State of North Carolina and CSBS support coordinated regulation in order to promote the modernization of financial services, healthy competition among providers, and greater availability of financial services. The CSBS-AARMR residential mortgage lending project is an opportunity both to reduce burdens on the industry and to help

create more uniform nationwide markets, while increasing our citizens' protection from mortgage fraud and predatory lending.

The CSBS Board of Directors has established regulatory and legislative task forces to examine and improve the efficiency and effectiveness of licensing and supervision of the nation's State-regulated mortgage lending industry. This task force intends to provide a uniform mortgage application, develop a comprehensive mortgage licensing and supervisory database, and adopt a coordinated examination agreement. The task force has nearly finalized the uniform mortgage applications for lenders and brokers, broker companies, and individual loan originators. Over 20 State mortgage regulators have agreed to beta test these forms. Work is still in process on a renewal application and on branch applications.

With the information from these forms, CSBS intends to create a Web-based database containing information about the criminal history, credit history, consumer complaints, and enforcement actions for mortgage companies and professionals to be used by State regulatory agencies. This would allow States to identify fraudulent and abusive lenders and professionals when they leave one State and seek licenses in another.

Identifying and removing these professionals and firms benefits consumers. Delivering such comprehensive supervision also benefits the vast majority of mortgage lenders and brokers by removing bad actors whose conduct harms the market generally and honest competent lenders and brokers in particular. The national registry will include all professionals and companies currently required to be licensed or registered under State law.

Over time, we believe that the advantages of being listed on a national registry will encourage most legitimate industry participants to submit their information to the registry voluntarily, even if State law does not require them to do so. CSBS is committed to the overall goal of enhancing a State regulatory system that works efficiently and effectively for borrowers, the industry and regulators. CSBS is equally committed to a dialogue with Federal and State policymakers and the mortgage lending and brokerage industries to address issues of applicable law and law enforcement aimed at ending abusive lending practices.

Chairman Ney, we commend you, Representative Waters, Representative Kanjorski, Representative Scott and all the members of the subcommittee for considering this very important issue. I thank you for your time and would be happy to answer any questions.

[The prepared statement of Joseph A. Smith Jr. can be found on page 96 in the appendix.]

Chairman NEY. Thank you.

Ms. Bryce?

STATEMENT OF TERESA A. BRYCE, SENIOR VICE PRESIDENT AND DIRECTOR OF LEGAL AND CORPORATE AFFAIRS, NEXSTAR FINANCIAL CORPORATION, ST. LOUIS, MO, TESTIFYING ON BEHALF OF THE MORTGAGE BANKERS ASSOCIATION

Ms. BRYCE. Good morning, and thank you, Mr. Chairman, for inviting the Mortgage Bankers Association to testify on Title V of the Responsible Lending Act of 2005.

My name is Teresa Bryce, and I am senior vice president and director of legal and corporate affairs for Nexstar Financial Corporation in St. Louis, Missouri. I am also co-chair of the MBA State Licensing Task Force.

MBA supports Title V because we believe it will elevate the standard of professionalism within the mortgage broker industry. Title V will also result in greater accountability among mortgage brokers and increase uniformity in the State laws to which they are subject. It is important to understand the difference between mortgage brokers and mortgage bankers. Mortgage bankers underwrite applicants and actually fund the loan in a mortgage transaction.

From the moment a loan has closed, mortgage bankers assume the credit, interest rate, compliance, and fraud risk associated with the loan. Mortgage banking companies are corporately responsible for every loan originated by any of their employees. Even if the lender sells the loan to an investor, the lender remains financially liable for certain risks associated with the loan. If an investor finds quality, compliance, or fraud problems with the loan, they can and do force the lender to repurchase.

This economic regulation by the marketplace extends far beyond the loan closing. For this reason, mortgage bankers typically have extensive employee training and monitoring policies. Mortgage brokers, on the other hand, do not fund, underwrite, or service mortgage loans. Mortgage brokers are commissioned sales people independent of the mortgage banker who typically work with a number of mortgage bankers at any one time, matching homebuyers with lenders. Mortgage brokers do not have capital at risk in a transaction and their responsibility for a loan typically ends when a loan closes and they receive their payment. This is a key difference.

At some point in the transaction, mortgage bankers have funds at risk and must continually maintain a significant amount of financial capital to back up the loans they sell. Currently, 49 States and the District of Columbia require mortgage bankers to be corporately licensed before lending in their States. MBA supports State-level corporate licensing of mortgage banking companies. We believe that States should be able to approve and monitor the companies that make loans to citizens within their States.

Unfortunately, however, some States are placing particularly burdensome licensing requirements on mortgage banking companies and in some cases are even moving beyond corporate licensing and requiring the licensure of individual loan officers and support staff working within a licensed mortgage banking company. Collectively, these new State requirements raise the cost of mortgage originations and threaten to dampen competition and innovation of mortgage markets within States.

Further exacerbating the collective impact of these various State laws is the fact that the vast majority lack reciprocity provisions. MBA believes mortgage bankers are different than mortgage brokers and these differences underscore the need for mortgage bankers and mortgage brokers to be subject to different oversight regimes. Unfortunately, MBA does not see this difference being reflected in State licensing laws affecting mortgage bankers.

While States have a relatively long history of requiring licensure of mortgage banking companies, the same is not true for the mortgage brokerage industry. This industry is in great need of licensure standards and Title V offers an opportunity to do this in a reasonable manner.

Furthermore, the database created by Title V has the potential to be a great resource to regulators, mortgage bankers, and the public. Currently, there is no Federal oversight of mortgage brokers, nor does there exist a single database of mortgage brokers. MBA is aware that some are concerned that the exemptions in Title V are too broad and MBA supports tightening these exemptions as necessary. MBA supports the licensing provisions under Title V as we believe they will elevate and standardize mortgage brokerage licensing requirements. MBA encourages the committee to study possible Federal initiatives that will assist mortgage bankers when dealing with corporate licensing laws at the State level.

Thank you for the opportunity to testify today. I look forward to answering your questions.

[The prepared statement of Teresa A. Bryce can be found on page 41 in the appendix.]

Chairman NEY. Thank you.

Mr. Falk?

STATEMENT OF JOSEPH L. FALK, PRESIDENT, IRIAN MORTGAGE SERVICES, MIAMI, FL, TESTIFYING ON BEHALF OF THE NATIONAL ASSOCIATION OF MORGAGE BROKERS

Mr. FALK. Good morning, Chairman and members of the subcommittee. My name is Joseph Falk, and I am legislative chairman of the National Association of Mortgage Brokers and a past president. Thank you for inviting NAMB to testify here today.

We appreciate the opportunity to address the role of the originator as part of a package of consumer protections to address the issue of predatory lending. As the voice of mortgage brokers, NAMB speaks on behalf of more than 27,000 members in all 50 States. I commend the committee for its leadership on this issue. NAMB first introduced our model State statute initiative in 2002, and many of the elements that are included in this legislation are contained in our model initiative.

NAMB implores Congress to embrace the concepts contained in our initiative and create a national minimum standard that will ensure that all originators, regardless of employer, are licensed and properly educated. NAMB opposes the efforts of those bad actors in our industry that create, promote, or fund predatory loans. But while we may originate the majority of mortgage loans, we do not originate all of them. Regulation that seeks to protect the public should include all originators.

We refer to the term "all originators" because there is no functional difference between being a broker, a banker, or a lender when taking a mortgage application with a consumer. We urge the committee to drop all of the exemptions under 501(b)(2), with the exception of the Federal depositories, with conditions.

There are five critical elements that we see in licensing and registration. One, it should include everyone who takes a mortgage application from a consumer. Two, there should be pre-license edu-

cation; three, continuing education requirements; four, before an originator deals with a consumer, the criminal background check of that individual should be obtained and any originator who have been convicted of a financial crime should be barred from our industry, no entry in our industry. There should be a national database of all originators so that bad actors caught in one State cannot easily go to another State.

Let's talk about all originators for a moment. We respectfully disagree with our friends at the MBA. Any proposal to increase professionalism must include everyone. All loan officers should be knowledgeable about the loan options available and be able to answer consumer questions. It is all about the consumer questioning. Leaving any channel of distribution out of this equation eviscerates effective policy to ensure expertise.

Education requirements. All originators should be schooled in the basics of our industry. They should be able to answer basic questions about underwriting, servicing, escrows, and origination. We do not want mortgage brokers or lenders having uneducated employees dealing with consumers.

Continuing education requirements. When I started in the business, there was no RESPA. There was no credit scoring. There were no automated underwriting systems. And clearly, there were no 80-20 no-MI loans. The marketplace is dynamic, of course, and the originator's knowledge should be maintained and kept current.

Criminal background checks are an important concept to the mortgage broker community. The consumer is required to divulge their personal financial records to a loan officer no matter who they work for. The data is the keystone for identity theft. Do we want that person, regardless of their employer, to be someone convicted of financial fraud? If a consumer shops, they give this information out multiple times. We believe that convicted felons should not have unfettered access to private consumer records. It is good public policy to protect all consumers, regardless of where they choose to get their mortgage loan. It does not matter who you work for. It is the originator and the consumer sitting at the table discussing that mortgage loan.

A national database. We support a national database, but only if it includes all industry participants. Current language in Title V applies only to brokers, and to be effective it should apply to anyone who takes a consumer mortgage application. The purpose of the database is to track State licensing information across State lines so that bad actors, once caught, cannot move State to State, community to community, and continue with those bad acts. Leaving out employees of depositories, banks, consumer finance companies, lenders, originators, leaves gaps in this vital consumer protection.

We look forward to working with the committee to address these important issues. Our written testimony expands upon our views and includes a copy of our model State statute initiative. Please include our submission in the record for further information.

Thank you for your consideration. I am happy to answer any questions you may have.

[The prepared statement of Joseph L. Falk can be found on page 50 in the appendix.]

Chairman NEY. Thank you.
Mr. Hailer?

STATEMENT OF STEPHEN D. HAILER, PRESIDENT AND CEO, NORTH AKRON SAVINGS BANK, AKRON, OH, TESTIFYING ON BEHALF OF THE AMERICAN BANKERS ASSOCIATION

Mr. HAILER. My name is Steve Hailer. I am president and CEO of North Akron Savings Bank in Akron, Ohio. I am also the vice chairman of the American Bankers Association Housing and Federal Home Loan Bank Committee.

ABA, on behalf of the more than 2 million men and women who work at the nation's banks, brings together all categories of banking institutions to best represent the interests of a rapidly changing industry. Its membership includes community, regional, money-center banks and holding companies, as well as savings associations, trust companies, and savings banks. This makes ABA the largest bank trade association in the country.

I am pleased to be here today to present the views of ABA on Title V in H.R. 1295, the Responsible Lending Act. Title V would establish licensing requirements and minimal Federal standards for independent mortgage brokers. Among the other things Title V would require is background checks and continuing education of independent brokers. Title V would not apply to brokers who perform work for banks or an affiliate of a bank, including those who fund, underwrite, service, or sell mortgage loans.

In my testimony, I would like to make three main points. First of all, ABA believes that practices that deceive, defraud and otherwise take advantage of consumers are predatory and have no place in our financial system. Existing laws against these practices should be rigorously enforced. Mortgage lending is a vast enterprise which requires the coordination of several layers of professionals throughout the process of issuing a home loan.

The damage caused by deceptive and unscrupulous sales practices extends well beyond the consumer who is targeted. News and Government reports of these people previously described as bad actors hurt everyone and ruin businesses and reputations. In contrast, ethical and efficient brokers attract more customers and generate more business for themselves and lenders. The success or failure of a business depends upon the satisfaction of its customers.

Secondly, banks and the activities of mortgage brokers who act on banks' behalf are heavily regulated and thoroughly examined for compliance with a whole host of Federal laws and regulations. Banks are subject to the Truth in Lending Act, Home Mortgage Loan Disclosure Act, Equal Credit Opportunity Act, the Real Estate Settlement Procedures Act, the Fair Lending Act, and many other laws.

Independent mortgage brokers are not subject to the same breadth of consumer protection laws and regulations with which banks must comply. Importantly, a regulatory system does not exist to examine independent mortgage brokers for compliance, even with those laws that apply to them such as RESPA.

Third, therefore we believe as an organization and on behalf of the industry, that the licensing of independent brokers is a rational step towards better consumer protection. Title V of H.R. 1295

would address the present regulatory gap in current consumer protection law in a minimally intrusive manner by requiring independent brokers to comply with minimum licensing requirements under either state or federal law.

It will create a database of licensed brokers that will allow consumers to gain useful information on any broker they may consider using. The database would also enhance a lender's ability to screen brokers, further ensuring that lenders and consumers only deal with legitimate brokers.

Thank you. We will answer any questions when appropriate.

[The prepared statement of Stephen D. Hailer can be found on page 71 in the appendix.]

Chairman NEY. Thank you, Mr. Hailer.

Next, Mr. Hedges?

STATEMENT OF DANIEL F. HEDGES, DIRECTOR, MOUNTAIN STATE JUSTICE, INC., CHARLESTON, WV

Mr. HEDGES. Chairman Ney, members of the committee, thank you for inviting me here to testify regarding mortgage brokers, predatory lending, and appropriate Federal and State regulations. I am the director of Mountain State Justice, a nonprofit legal services program in Charleston, West Virginia, which exclusively represents low-income people affected by these practices.

My primary purpose in coming here today is to convince you to pass only legislation which makes clear that the safeguards in existing law currently employed to save homes from foreclosure remain in place.

I appreciate the chairman's statement that this is intended only as a minimum and that present parts of State law are intended to be safeguarded. I encourage the Congress to include language that would make that clear because, as I was confused, I am sure others will be confused too.

Moreover, the exemptions are very broad for who is defined as a mortgage broker. If those exemptions are carried through to the substantive provisions, if the uniform requirements of licensing are carried through to the substantive provisions and all brokers are exempted from the substantive provisions as a result of the uniform provisions being enacted as to licensing, then there would be broad-based exemption from State law.

In my practice, we currently represent more than 600 homeowners in 60 predatory lending cases. Our cases give homeowners a protection from predatory mortgage brokers. There are a number of significant protections applicable to mortgage loans originated by brokers. In licensing alone, there is a bonding requirement. There is a fiscal soundness requirement and a creditworthiness requirement. This uniform licensing requirement would presumably preempt those provisions and not replace them with any requirement other than that they be licensed on the Federal level.

The fiscal soundness and bonding requirement would give very significant protections for consumers and lead to the non-licensure of some brokers who should not be licensed. The substantive provisions in our State law which would be avoided by the broad licensing, potentially avoided without clarification from the broad licensing uniformity, are brokering a loan in excess of market value of

the home; brokering and non-amortizing loan; prohibiting brokers from participating in compensation arrangements with appraisers which influences independent judgment; brokering a loan without economic benefit to an unsophisticated consumer; limitations on exorbitant broker fees; brokering a real estate loan which includes a security interest in an unattached mobile home; and brokering a loan with loan documents that are not filled in.

These kinds of restrictions are among the limits on broker activities which have in the last few years weeded out the most exploitive brokers in the State. There is still much work to be done, but these enforcement actions are currently available only through State law. If the licensing uniformity that is required by this act means that the brokers can exempt themselves from the substantive provisions as well, then we have lost a lot.

The exemption provisions are very broad and appear similar to those definitions in RESPA that provide coverage. The one exemption of any person who is a creditor under the Truth in Lending Act and makes more than $1 million in loans per year covers almost any mortgage broker in my State who might otherwise not be exempted. This essentially permits brokers to avoid State and Federal regulation, seemingly by table-funding a few loans a year that is closing them in their own name, and immediately assigning them. That is a very broad exemption and it needs to have a hard look by the committee. It is hard to imagine any mortgage broker who would not be covered by this exemption.

The lack of meaningful substantive protections is a major issue. Even for those few mortgage brokers who might be covered, there are no meaningful substantive limitations. I would urge the committee to consider those substantive limitations that we have and have weeded out a number of abusive brokers.

Chairman NEY. I am sorry to interrupt, but the time has expired, if you would like to summarize and the rest will go in the record. I just want to make sure we have time.

Mr. HEDGES. The remainder is in my written statement. Thank you for the opportunity to appear. I would be glad to answer any questions.

[The prepared statement of Daniel F. Hedges can be found on page 80 in the appendix.]

Chairman NEY. Thank you.

Mr. Rodriguez?

STATEMENT OF ERIC RODRIGUEZ, DIRECTOR, POLICY ANALYSIS CENTER, NATIONAL COUNCIL OF LA RAZA

Mr. RODRIGUEZ. Thank you, Mr. Chairman and members of the subcommittee, for inviting me to present today.

As an advocate for Latinos, I have worked for more than a decade on economic employment and financial security policy issues. As director of NCLR's policy analysis center, I oversee research, policy analysis, and advocacy on a number of specific issues, including housing and homeownership.

As you know, NCLR serves America's 40 million Hispanics of all regions of the country. We work through a network of more than 300 nonprofit affiliate organizations. This includes working with 40 community-based organizations that operate and administer pre-

purchase homeownership counseling programs. Since 1997, NCLR's homeownership network has counseled more than 115,000 families and more than 17,000 have become new homeowners.

The issue of mortgage broker licensing and registration is important and timely. Today, Latino homeownership lags behind that of whites by 28 percentage points. Low homeownership rates translate into lower levels of wealth and fewer financial ownership opportunities for Hispanics. What is more, homeownership is a vital piece of the American story, not to mention a central ingredient in the U.S. economy.

Hard-working Latinos have a deep desire to own their own homes. Because of sheer numbers, creating more Latino homeowners means greater economic prosperity for the nation. Hispanics are now entering the home-buying market in record numbers. In fact, the number of Hispanic homeowners grew by 96 percent between 1993 and 2003.

Yet at the same time, Latino wealth levels have not grown proportionally. Home equity makes up approximately two-thirds of the wealth of Hispanic households. In 2002, Latinos maintained only 60 percent of the median value of home equity as that owned by white households. Owning a home is important for Latinos, but that alone does not guarantee sustainable financial wealth.

To understand why, we have to consider that Latinos enter the marketplace with limited exposure to and experience with financial products. Many face unique challenges to accessing the best information and making the most informed choices about financial products. For these reasons, intermediaries and brokers can and do play a vital role in connecting Latinos to valuable and affordable financial products.

Mortgage brokers and HUD-certified counseling agencies specifically play an important role in increasing Hispanic homeownership. In fact, these intermediaries offer access to a wide range of products, workforce diversity, and many use the one-on-one approach that Latino borrowers appreciate.

Clearly, housing counselors and mortgage brokers work with different types of consumers, but as the home-buying market grows in size and complexity, the need for intermediaries to bridge the gap between creditors and Latino borrowers becomes more important. That is why Latinos have a vital stake in this debate.

With respect to mortgage brokers specifically, State and Federal oversight structures have not kept up with changing market demographics. Stories of Latino homeshoppers being victimized by unscrupulous mortgage brokers are not uncommon. Many of these families end up in our affiliate housing counseling organization seeking assistance. These stories and experiences suggest that stronger consumer protection laws are needed.

Based on the collective experience of our housing counselors, we have identified three areas in which we have particular concerns. First, the accountability standards currently in place for mortgage brokers are inadequate. While States are tackling these issues, some very effectively, the lack of a meaningful Federal law in this area exacerbates the problem. Second, some families find themselves having been unfairly steered into expensive loans. Market-

based broker incentives such as yield spread premiums play no small part.

Finally, many borrowers mistakenly assume their broker has the responsibility to find them the best deal. In practice, a broker's role, responsibility and fees are not always disclosed. Mortgage brokers serve as the main liaison between a borrower and their product choices. This relationship demands trust and accountability in order to function properly. The home-buyer market can only benefit from strong standards that maintain and protect its integrity.

As I mentioned before, NCLR has invested heavily in housing counseling. We understand the important role of the broker. While the clientele business models are slightly different, both industries help Latinos to access home loans. We also understand the importance of strong license and registration requirements. Housing counselors, for example, must complete 120 hours of course work and pass an exam to become certified. Also, HUD-certified counseling agencies are audited every other year and are held to high bookkeeping and reporting standards. In this sense, HUD plays a vital role in ensuring standardizing and quality in the housing counseling field.

The Federal role is also prominent in other similar fields. For example, like mortgage brokers, stock brokers cultivate a trusting relationship with their clients. Their clients rely on their advice and expertise regarding significant financial purchases. The Securities and Exchange Commission must maintain consumer confidence and ensure safe market practices. The SEC relies on enforcement and accountability tools, fiduciary disclosure, bookkeeping standards, and regular audits. There are existing models of how Federal oversight could effectively shape the mortgage broker industry and protect more consumers.

The Responsible Lending Act includes provisions for minimum mortgage broker licensing standards and creates a national registry. We commend the authors and the members of this committee for tackling this issue. Licensing and registration, however, do not go far enough. Much more will be needed to create a safe and sound market. Better standards are needed for the licensing provisions. Also, more oversight and accountability and enforcement will be necessary to foster genuine consumer confidence. The comprehensive model is not represented in any legislation currently before the committee.

Therefore, NCLR makes the following three recommendations.

Chairman NEY. I am sorry, Mr. Rodriguez, your time has expired. If you would like to sum up and then put the rest in for the record.

Mr. RODRIGUEZ. Sure. Most of that is in the record already, so I will cease here and thank you for the opportunity.

[The prepared statement of Eric Rodriguez can be found on page 90 in the appendix.]

Chairman NEY. Thank you.

Let me just begin with a question I have. One of the main premises of the mortgage brokers' argument against having minimum licensing education and registry requirements apply only to them and not mortgage bankers is a scheme such as would allow a bad

actor who practices as a mortgage broker to leave that profession and begin practicing as a mortgage banker without being detected.

On that premise, are there safeguards in place in the mortgage banking industry that would prevent that type of scenario?

Ms. BRYCE. Yes, Chairman, I think there are. For one thing, most companies have pretty extensive screening requirement in hiring, to start with. The other thing is that there is corporate backing, so you have oversight at the State level. I know for our own company last year we had 10 State exams during the course of the year.

So as a result, there is a lot of oversight. There is an opportunity to examine what individual employees are doing. Most mortgage banking companies, if not all, have extensive compliance programs, have extensive quality assurance programs. So consistently, the individual is being reviewed in terms of their practices.

Chairman NEY. The mortgage brokers could say that same thing.

Ms. BRYCE. I think the structure is very different. I think for one thing, you have——

Chairman NEY. Internal structure?

Ms. BRYCE. The internal structure, the size of mortgage bankers are usually pretty large, the number of States that are already regulating them, almost all States regulate. Frankly, the amount of money that is put towards examining mortgage bankers is very different. As a result, there is typically a lot more focus on examining mortgage bankers in coming in, looking at loan files, looking at practices, et cetera. I do not think that is typically found on the State level with mortgage brokers.

Chairman NEY. Mr. Falk, do you want to respond?

Mr. FALK. Respectfully, we would disagree with that. Mortgage bankers and mortgage brokers, mortgage lenders all have small and large operators. They all have licensees in various places. My experience is that many of the mortgage broker shops have training and education and compliance programs, just as some small mortgage lenders do not have such training and compliance programs in place.

In my State of Florida, a licensed mortgage lender may act in one transaction as a mortgage broker, then act as a mortgage lender upon getting further information about that consumer, and ultimately may fund that loan as a mortgage broker transaction with the same consumer. So in our view, it is all about the consumer sitting down with the loan officer and all of the rules and regulations should apply equally across the board.

Chairman NEY. So we have two different views.

How about from the regulatory end, Mr. Smith, on my original question again?

Mr. SMITH. Yes, if I could comment on that briefly. My experience in North Carolina after 3 years of regulating lenders and brokers is that there is a sort of free agent situation in terms of originators that people commonly go between; not only brokers and lenders, but also brokers, lenders, and dare I say it, the subsidiaries of depository institutions. So there is common movement. It is common to see movement among these various types.

I will say, in our experience the background checks that these people go through as they change employment varies significantly. Some is good and some is not so good.

Chairman NEY. Mr. Hailer, does the ABA have a position on licensing or not licensing the brokers, or licensing them or licensing everybody?

Mr. HAILER. I think, Mr. Chairman, the position of the ABA correctly reflects the fact that we do not feel that those in the banking industry and those that work for the banking industry need to be licensed. We very specifically feel that the regulations that we submit to on a daily basis do not warrant registration. And particularly just the whole examination and audit process, and then you add Sarbanes-Oxley on top of that, we have a lot of people watching what we do. To be perfectly frank, the clearing processes of our employees would exceed even the minimum standards here far and away.

So what we are really arguing for here are minimum standards. So we, again going back to the testimony, wholeheartedly support the minimum registration and the minimum database. It will help out the banking industry long term.

Chairman NEY. My time is about to expire, but Mr. Hedges?

Mr. HEDGES. My observations in working in this area for 35 years is the compensation system for brokers means that the requirements for licensing dealing with brokers is far different from that of the banks. Banks do not engage in the same types of activities that the brokers do. The licensing requirements that we have, bonding, individual broker bonding, individual broker creditworthiness, makes a big difference in who is allowed into the industry.

Now, these types of people do not work for banks, and that kind of licensing and those kind of requirements are not needed because the incentives that are built into the system there do not bring the same kind of people into the industry.

Chairman NEY. Thank you. My time has expired.

Mr. Scott?

Mr. SCOTT. Thank you very much, Mr. Chairman.

First of all, I would like to get some basic differentiation between the mortgage bankers and the mortgage brokers. For example, can any of you tell me what percentage of subprime loans are handled by the mortgage brokers as compared to the mortgage bankers? Does anybody have any idea on that?

Mr. FALK. Mr. Scott, I do not have exact statistics for you, but clearly mortgage brokers do participate in the non-prime marketplace to a higher percentage than would mortgage brokers be involved in the prime marketplace.

Mr. SCOTT. Okay. How are the mortgage brokers and the mortgage bankers regulated differently under current law?

Ms. BRYCE. I think with respect to the mortgage bankers, the mortgage bankers today either are federally regulated as being part of Federal institutions or in States, they are regulated by the State banking or mortgage banking area of the State. Currently, 49 States do have mortgage banking regulations or some type of licensing requirement, as well as the District of Columbia. There are typically extensive auditing requirements.

If I might add, I think one of the main differences between mortgage brokers and bankers is that the whole mortgage broker industry started as a result of mortgage bankers essentially telling consumers that they would shop for the consumer among mortgage bankers. So there was a different proposition. There is a lot of focus on the filling out of the 1003, but in fact it is the sale of the loan and the services up front that I think is the fundamental difference, in addition to the fact that whatever loan is originated, the banker ultimately has associated risks with.

So I think there are some fundamental differences on both the front end and back end.

Mr. SCOTT. It is safe to say also that most of the complaints coming in are complaints concerning mortgage brokers. Concerns have been raised by consumer advocates that brokers, as opposed to bankers, tend to focus more on the short-term profitability of the loan origination, rather than the longer-term viability of the loan, and that the compensation system for mortgage brokers inevitably results in higher costs for borrowers than with the bankers; that brokers also use push tactics that, particularly with subprime refinance loans, are sold to, rather than sought by, lower-income and elderly homeowners; and that brokers use the yield spread premium perhaps in an abusive way.

So we would safely say, then, that there is a need to take a much closer look certainly here, from the standpoint of the consumers, with the brokers.

Now, when we come down to licensing, Mr. Hedges, I believe you represent the group that basically represents the interests of lower- and moderate-income individuals. Is that correct?

Mr. HEDGES. Yes, sir.

Mr. SCOTT. You have some concerns about this licensing provision in our bill. Given the fact that the consumer complaints are coming about the borrowers, then this approach to get a national licensing procedure is sort of a response to this problem, and that there are different laws in different States. There is a patchwork of different laws, and some States do not have any.

Is your concern with the bill that you are against a national standard for licensing? Or are you concerned that your State particularly has some, that this threatens your State? Can you explain your situation?

Mr. HEDGES. Yes, sir. In licensing itself, we have good standards as to bonding and to individual broker creditworthiness. Those weed out a lot of bad apples. If the uniform requirements replace the licensing provisions that we have, those requirements could be gone and open a door to a lot more people that should not be in the industry.

Secondly, the broad exemptions that are in the exemption provisions would exempt from coverage of the licensing provisions most current brokers because any broker, and we have some brokers that do that now, who table-fund the loans, that is put the closing documents in their name, receive the check from the real lender, put the closing documents in their name, and then immediately assign them. So it is really not their credit risk, but to the extent that they do that, they are exempt from this bill.

Now, that exemption means, together with the uniform licensing requirements, that in our State since these brokers are exempt, that would exempt them from the substantive revisions of the same licensing law, then it could do those two things, not only not weed out the bad apples, which we do with bonding and individual creditworthiness, but also it could exempt them from the substantive provisions.

Chairman NEY. The time has expired.

Mr. Miller?

Mr. MILLER OF NORTH CAROLINA. Thank you, Mr. Chairman.

Mr. Falk, how are you this morning?

Mr. FALK. Thank you. Well, sir.

Mr. MILLER OF NORTH CAROLINA. In May, I believe Mr. Nabors from your association testified before the committee.

Mr. FALK. Yes, sir.

Mr. MILLER OF NORTH CAROLINA. I was curious. I wanted to go over some of the points of his testimony and see if you agree with what he said then.

I asked him about anti-steering provisions of the Ney-Kanjorski bill and in the Miller-Watt bill and in the North Carolina law that said that any mortgage broker had to make reasonable efforts with lenders to secure a loan that is reasonably advantageous to the borrower.

I asked Mr. Nabors, do you think that should be your duty, that you should be under a duty to use reasonable efforts to get a borrower the best loan. Mr. Nabors said, "I believe that mortgage brokers do use reasonable efforts to get their customers the best loan they can." I asked, okay, and do you think that should be a legal requirements? Mr. Nabors said, "I think, yes, it should."

Do you also think that it should be a legal requirement that mortgage brokers use reasonable efforts to get their customers the best loan they can?

Mr. FALK. Well, of course you have put me in a position to disagree with my president, and I would at this point want to comment personally, as opposed to on behalf of the association, because I would not want to disagree on the record with my president.

I believe that the current laws are sufficient. There is no need for additional anti-steering or other requirements to be placed in any kind of Federal legislation.

Mr. MILLER OF NORTH CAROLINA. Even including the anti-steering provisions of Ney-Kanjorski?

Mr. FALK. The current act I believe has some good wording, but it needs to be worked on.

Mr. MILLER OF NORTH CAROLINA. When you say the "current act," do you mean Ney-Kanjorski?

Mr. FALK. The current existing law. Existing wording in the proposed act, we would need to look at that more closely and make sure that it would be candidly appropriate. We think that because mortgage brokers over the past 20 years have been able to generate from 20 percent up to now almost 70 percent of the marketplace, the marketplace is working and that pricing, generally speaking, and competition is doing most of the work for us.

Mr. MILLER OF NORTH CAROLINA. Well, that does not really address the question I asked.

Moving on to Mr. Nabors' other testimony, in response to a question from someone else about another topic, I think a question from the other side of the aisle, there was a question to Mr. Nabors about whether a disclosure should be required on certain points. Mr. Nabors said that consumers, borrowers were already signing 10 or 15 pieces of paper at a closing that they were not reading and he did not see the value of any additional disclosure.

Do you agree with that?

Mr. FALK. I will support my president, yes, sir.

Mr. MILLER OF NORTH CAROLINA. Okay. If any law we pass can be waived by the consumer by signing a written waiver, why would the same not be true there, that they are not reading that either, if they are not already getting 10 or 15 pieces of paper to sign that they are not reading?

Mr. FALK. From a personal perspective, I disagree with waivers, whether they be under Truth in Lending waivers on rescissions, or anything else. I think waivers are very dangerous for consumers and I would not want to see, personally, waiver provisions enhanced.

Mr. MILLER OF NORTH CAROLINA. So the Ney-Kanjorski bill does have an anti-steering provision applying to mortgage brokers, but provides that it can be waived. You actually disagree with both provisions, that there should not be an anti-steering provision and there should not be a waiver provision? That just should not be in there at all?

Mr. FALK. At the end of the day, it should apply to all creditors, and not single out one distribution channel. There should be no channel bias. So whatever applies to mortgage brokers should in fact apply to mortgage lenders and creditors alike.

Mr. MILLER OF NORTH CAROLINA. Okay. Again, should anyone, then, should a mortgage broker be required to use their best efforts on behalf of the borrower to try to get the borrower the best loan? Should that be a legal requirement?

Mr. FALK. Respectfully, I think that additional language in that area is not necessary.

Mr. MILLER OF NORTH CAROLINA. Okay. One particular exchange with Mr. Nabors, I asked specifically about yield spread premiums and referred to a rate sheet that appeared to have yield spread premiums that go up if the borrower agrees to a higher rate of interest than what they qualified for based upon their credit score and their loan-to-value.

I said, if you have a customer who could have gotten a 7 percent loan on the very same terms, and instead gets a 9 percent loan, but the broker gets a 1 percent additional yield spread premium in addition to whatever up-front commission they would have, does that strike you as something the law would allow. Mr. Nabors said, "If that is part of the agreement between you as a customer and me as part of my total compensation that has been disclosed to you, it would be okay."

That does not bother you, having a borrower pay more or having, rather, the lender pay the broker more if the borrower signs a loan with a higher interest rate than what they qualified for, or should have qualified for?

Chairman NEY. The time has expired, but if you would like to quickly answer the question.

Mr. FALK. Thank you, Mr. Chairman.

I support my president's position, but I will go one further. All origination channels earn back-end fees, power-plus pricing, servicing release premiums or yield spread premiums as it relates to mortgage brokers. So the very concerns that you have as it relates to mortgage brokers can be said for mortgage lenders, mortgage creditors, mortgage bankers, and mortgage originators that are with the depositories. It is the same issue, sir.

Mr. MILLER OF NORTH CAROLINA. Mr. Chairman, that did not really respond to my question.

Chairman NEY. The problem I have is that we have Mr. Miller, but also the gentlelady from Ohio has been yielded time ahead of the other members so she can get her question in.

Mr. Miller?

Mr. MILLER OF CALIFORNIA. Thank you, Mr. Chairman.

Mr. Smith, can you offer a brief summary of what States are doing to regulate the mortgage banking industry versus mortgage brokers?

Mr. SMITH. Yes, and it does vary from State to State. In my written testimony, we say North Carolina itself does regulate mortgage bankers in roughly the same way it regulates mortgage brokers. It varies from State to State beyond that. I think the testimony of most people is that there is registration or licensing of mortgage bankers. I believe the MBA testimony is that there is registration and licensing in most States in the United States now, at the firm level, not at the individual level. In North Carolina, we also license individual loan officers.

I hope that is responsive.

Mr. MILLER OF CALIFORNIA. Can you say that mortgage originators other than brokers are adequately regulated on a broad base?

Mr. SMITH. I do not believe so, no.

Mr. MILLER OF CALIFORNIA. If we have a minimum standard for everyone, would not that assure that consumers are protected across the board, rather than pick up different ones?

Mr. SMITH. Yes, that would be very helpful. Yes, it would.

Mr. MILLER OF CALIFORNIA. How would you go about that?

Mr. SMITH. I can only tell you what we have done, which is to have a requirement for training. For a license for an individual in North Carolina, for those entities, either brokers or lenders, a person has to take training, less by the way than the bill requires. That was interesting to me, 8 hours, and pass an examination has to go through a criminal background check, and we also do a financial background check on each of them.

Mr. MILLER OF CALIFORNIA. When you look at mortgage bankers and mortgage brokers, they are both doing significant work, they are both adequately meeting the demands, I think, that need to be met out there.

But how do we come up with something that applies in a more reasonable fashion, let us say, than singling one out over another to regulate considering one should do this and one should do that? Some can say, well, it is the mortgage brokers because they are the

first point of contact. Others say, well, it is mortgage bankers who are making the loans.

They are both good guys, as far as I am concerned. There are some bad apples out there we are trying to weed out, but how do we approach this from a fair approach, basically?

Mr. SMITH. Let me try to answer that as best I can.

I think at the firm level, I actually do not know that there is much disagreement at this table; I could be wrong about this, about firms, companies, or individuals that operate either a brokerage or a lending business. That is pretty common in most States now.

The issue has been the licensure of individuals. The question really is, is it reasonable or necessary to have individuals themselves carry a personal license, more or less like they do in the securities business. Even though they have to be attached to a broker-dealer, you still are licensed as a securities sales person yourself, as I think has been mentioned previously.

So I do not know if it is reasonable or unreasonable, but I think it's effective to require individual licensure of some kind for loan originators because they do not stay employed at the same place very long. A good producer goes from one employer to another to another.

Mr. MILLER OF CALIFORNIA. That offer the best deals.

Mr. SMITH. Absolutely. There is nothing wrong with that all, quite the opposite. I think that is the argument, sir, for originator licensing it allows the free agent market to work, for someone to carry business with him or her to various employers. In fact, in North Carolina we just revised our law to make it easier, frankly, for people to go between firms. Our view is like yours, I believe, that competition is good and people should be able to move.

Mr. MILLER OF CALIFORNIA. For the rest of you, do you want to comment on the minimum standard for everybody? Yes, please, Mr. Falk?

Mr. FALK. Mr. Miller, we believe that everyone should have an individual license because if you are caught doing something bad, you should as an individual have something to lose. So if you are an originator and you originate predatory loans or are convicted or some kind of financial fraud, we want that individual weeded out of the industry, not have him go from company to company, entity to entity, potentially working as an account representative for a large lender.

We believe that anyone who is involved with the consumer should have education standards and a criminal background check so that if there is bad behavior, we can find them and rout them out of our industry. That only happens with an individual license.

Thank you.

Mr. MILLER OF CALIFORNIA. Anybody else? Yes?

Mr. HEDGES. I agree with his assessment of that. Consumers agree that individual licensing is very important and individual responsibility. You need bonding and individual creditworthiness to go with that. His earlier suggestions for additional requirements to strengthen the licensing also appear very constructive.

Mr. MILLER OF CALIFORNIA. So a minimum standard for everybody is what you think is a good approach, too.

Yes, ma'am?

Ms. BRYCE. On the mortgage banking side, we have seen a number of States over the last few years require individual licensing. One of the big concerns is there has been no reciprocity. So for those of us who operate call centers nationally, we have to have people individually licensed in duplicate States with duplicate fingerprinting requirements and duplicate educational requirements and duplicate testing.

Chairman NEY. The time has expired.

Mr. MILLER OF CALIFORNIA. Can the last individual respond?

Chairman NEY. If we can hold to the time, then we can come back.

Mr. MILLER OF CALIFORNIA. Okay. I will move down a chair and take 5 more minutes in a minute.

Chairman NEY. The gentlelady from Ohio?

Mrs. JONES OF OHIO. Mr. Chairman, Madam Ranking Member, thank you for your indulgence, and my colleagues as well for allowing me to move forward. I am no longer on the committee, but the issue is very important to me.

My staffer in the back pointed out to me that Ohio has the second highest foreclosure rate in the Nation, with 2,482 new filings this year. This figure has more than doubled in the past year.

I want to take a moment and not necessarily focus on my legislation, but to raise this question. We are trying to split hairs here in this room, saying, well we are not a broker, we are a banker; we are not a banker, we are a broker. But the people out there who are accessing mortgages do not know the difference. In fact, part of the problem is they think the broker is acting on their behalf and not realizing that the broker is acting on his or her own behalf, and there is not an agent on behalf of the person purchasing property.

That is, quite frankly, part of the dilemma we face, particularly when we start talking about, and this is nothing against traditional banks because I bank with a traditional bank, but the reality is the brokers and the predatory lenders, and I do not put them in the same box, have made it much more convenient for a person who wants to purchase a home to be able to get a home. Oh, you cannot come at 9 o'clock in the morning, 9 o'clock at night; I will be at your home. If you do not have a witness, I will bring a witness with me. If you don't have this, I will take care of that. And that has made it much easier for people who traditionally have not had access to financial services to get them.

So what my question to each of you is—not to each of you. I am going to ask one because I do not have but 5 minutes. Let me ask Mr. Rodriguez, do you agree basically with what I have just said, Mr. Rodriguez? What do you think we ought to do, in 1 minute?

Mr. RODRIGUEZ. Thank you.

In 1 minute, I think that is absolutely right that in communities that is their experience. There is a lack of information certainly within minority communities, lack of experience with products. So a lot needs to take place there with respect to education, but there also has to be a vehicle for enforcement that goes way beyond what has been proposed here and is included certainly in our recommendations.

At base, the question is, can we go back to communities who have had some of these experiences and be able to say, well, the answer is a national registry. I think the answer is no. There has to be much more. It has to be much more comprehensive. There has to be much more enforcement and accountability included in this measure for us to be able to go back into our communities and tell them we have done something about these issues and problems.

Mrs. JONES OF OHIO. It has gotten so bad in Cleveland that Fannie Mae, in conjunction with the housing advocates in Cleveland and five banking institutions, has created a fund of $5 million in order to help people who have been in predatory lending situation to come out of it. It is like why don't we regulate so that we do not have to spend money to bring people out of a predatory lending situation.

Let me go to you, Ms. Bryce. You were the one who tried to distinguish between a banker and a broker. What makes a banker better than a broker?

Ms. BRYCE. I think the major distinction is the fact that——

Mrs. JONES OF OHIO. No, not the major distinction. What makes a banker better than a broker, if there is such a thing.

Ms. BRYCE. The banker is providing the actual funds. There was a comment earlier about the whole issue of table-funding. The banker who is providing the funds has risks for that loan, has interest-rate risk, has compliance risk, has repurchase risk.

Mrs. JONES OF OHIO. Does a broker act as your agent?

Ms. BRYCE. I would say not as our agent, no, as an independent contractor. There are times when brokers——

Mrs. JONES OF OHIO. Let's go legally.

Ms. BRYCE. I am.

Mrs. JONES OF OHIO. No, no, no. Let's go legally. If in fact they secure a loan on your behalf, they are acting as your agent.

Ms. BRYCE. I would disagree with that characterization. I would say there is an independent contractor. They do business with a number of different bankers.

Mrs. JONES OF OHIO. Including you.

Ms. BRYCE. I do not do business with them.

Mrs. JONES OF OHIO. Not you personally, but your institution.

Ms. BRYCE. The industry, yes.

Mrs. JONES OF OHIO. So the point is that if you are regulated, then your broker who acts on your behalf or as your agent ought to be regulated as well.

Ms. BRYCE. I think there is still a disagreement in that regard. I would say they are an independent contractor who has the right to present a loan.

Mrs. JONES OF OHIO. And if they bring it to you and it is good enough for you, you are going to take it, right? So you are going to get a benefit from him brokering on your behalf.

Ms. BRYCE. That is correct.

Mrs. JONES OF OHIO. I am done. I am out of time. I thank you very much.

Mr. MILLER OF CALIFORNIA. [Presiding.] I am an older Ney.

Mrs. JONES OF OHIO. Okay, older Ney. Thank you.

Mr. MILLER OF CALIFORNIA. I would like to continue. Since I get the chair, I get another opportunity at this apple, so this is good.

I have been in the development industry for about 35 years. It is interesting. Last time we discussed the concept of the need of a mortgage broker, bankers are right there saying yes absolutely, they work hand-in-hand with us. If they are not doing their job, we have to hire somebody and turn to them to do that job to meet the need. So I look at both of you as good people.

A lot of times, builders will go out there and they want to build a project, and they will go to a mortgage broker. They will say, this is the project. The mortgage broker puts the information together, then will go out with lenders and shop the package to lenders and see who wants the package and who wants to give the best terms, offer the best type of conditions or whatever, rates, because they want to lend on that project.

But once that has occurred, then there is a relationship between the property owner and the mortgage banker, but they are separate, and the same thing with the mortgage broker and the mortgage banker. Yes, they are both providing a service, but they are separate.

I know, Mr. Hailer, you were wanting to respond to my question last time when we talked about standards for everyone, some reasonableness in the industry. Would you like to comment?

Mr. HAILER. A very brief comment, Congressman. I feel that every loan that I make, my reputation is on the line both personally and as a bank, particularly because my particular bank has sold very few loans in its existence. We have sold a total of about $2 million in loans. That means when we generate a mortgage, we hold it and we keep it. As was said previously, we get the interest rate risk. We get everything that goes with it.

We also provide one benefit for the customer, and that is if something goes wrong, whether it is an insurance payment, pro-rating of taxes, whatever the case may be, customers know where to find us. So consequently, my reputation, the reputation of my company is right there. That is not something I am willing to give up. I am fine with that.

Mr. MILLER OF CALIFORNIA. From a mortgage banker, do you think it is to the benefit of a mortgage broker to impugn their own integrity by doing something to misrepresent a package to you? How often are you going to deal with that person in the future?

Mr. HAILER. Are you asking me?

Mr. MILLER OF CALIFORNIA. Anybody who wants to answer it. There is a close relationship, I think, between both of your organizations. I think if one does anything that is less than honorable and above-board, there is a direct impact on that individual or the business for doing that in the future. I would like your response on that because I do not think that has been addressed. People assume that you can get away with scurrilous acts or deeds and you can misrepresent a package or a portfolio and everybody is going to say, oh, okay, good, bring me another one. That is not how it works.

Ms. BRYCE. I think that certainly mortgage bankers that work with mortgage brokers look at the quality of what they are getting

from those mortgage brokers just like they would look at their own portfolio of products.

Mr. MILLER OF CALIFORNIA. They are underwriters.

Ms. BRYCE. If there are issues with quality, if there are issues with compliance, then I think most mortgage bankers would either talk to that broker, and if it does not improve, cease doing business with them because ultimately the mortgage banker then has responsibility for all of those issues with the loans.

I think that what a mortgage banker cannot necessarily tell are whether there are issues with how the loan was sold in the first place. We cannot know whether or not there was a better product at a different lender that that broker does business with. We can only know what was submitted to us and whether or not it is commensurate with our requirements.

Mr. MILLER OF CALIFORNIA. I know from the building industry, a builder is very much like a mortgage broker would be. You might get one loan, but if you prove to be bad, you will not get a second loan. We need to do everything we can to get the predators out of our industry, but I think you internally do a lot of that yourself. We have not acknowledged that. Yes, we need to go a step further to make sure the law is very clear about what a predator is, what a subprime lender is, what a position of a broker is, what a position of a mortgage banker might be.

But the industry does a pretty good job when they can of trying to ferret out the bad players out there. I just do not want the perception to be created by this hearing that you can do something that is wrong, you can do something to impact some individual out there who is just trying to get a loan for their house, and put a package together, misrepresent it, and get a bad loan for him, and that is going to be acceptable in the future. I do not believe that is the situation, unless one of you would like to say that that might be.

Mr. FALK. Mr. Miller, we agree with you. As mortgage brokers, we came up in 2002 with our model State statute initiative. Our chapters around the country have been pushing State regulations all across this country, to license all originators, to require background checks, to require licensing and education. So we have been, with some of our partners, our mortgage banker partners, our American Banker partners as you say, we are all in this together.

Mr. MILLER OF CALIFORNIA. I love it.

Mr. FALK. And so in essence, all of our reputations are personally and professionally on the line when a bad loan is made. But let's not kid ourselves, it starts when an originator sits with a consumer. Those are the people we want to license, regulate and keep bad actors out, who are sitting at the table with the consumer, talking to the consumer and getting their personal information. That is why we say that all originators should be licensed and regulated.

Mr. MILLER OF CALIFORNIA. Thank you for your input.

Ms. Waters?

Ms. WATERS. Thank you very much.

I would like to thank Chairman Ney for holding this hearing. This particular subject matter has been of interest to me for a long

time. Let me just say that I recognize that mortgage brokers and bankers have made products available in areas where many of the majors have not been. Because of that, people have been able to purchase homes.

On the one hand, you can appreciate that. But on the other hand, you guys also know that there are some bad actors in your industry and that they have created a bad reputation for you. It is a combination of high fees, high interest rates, loan flipping, you name it. I am concerned that you have not done enough to get rid of the bad actors who are giving you a bad name.

I am not so sure that preempting State law is the way to go about it. I oftentimes agree with my chairman, even though we are from different sides of the aisle, but on this one, I am not so sure. Mr. Kanjorski, Mr. Ney believe that by having these uniform standards, this may help with what I am trying to describe to you, but I do not think so.

I do think that within the industry you should be more aggressive, even if you do not get State laws to do all of what you want to do. You guys should rein these people in. You should let them know that you are going to help put them out of business if in fact they are guilty of many of these practices that cause us to have all of these defaults on these loans.

I am going to mention the name of a mortgage broker in South-Central Los Angeles, about a block from my house, Central Lending Real Estate. Write that down, Central Lending Real Estate on Vermont Avenue. What happens is when people lose their homes or when they feel that they are not being fairly treated, it ends up in our office. It ends up in our office, first, to do something. I have done everything from call mortgage brokers, visited them, to literally just having a fight with them about some of the practices.

This one, I went to Central Lending Real Estate. They keep the doors locked for the most part because I think they have so many people who want to shoot them that they are afraid to let anybody in. They have messed over so many people. Of course, they did not want to let me in. I just stayed until they did. The principal at Central Lending Real Estate went into his office, closed his door, locked his door, and he sent some of the salesmen out to try and talk with me about this terrible, terrible case that I was involved in.

I have had a lot of complaints about Central Lending Real Estate. This is the first opportunity I have had publicly to talk about how bad they are and some of the things they are doing, but it is a lot of them. Every month or so when I am in my district in various areas of my district, I have people coming up to me handing me the cards, another new mortgage broker, somebody has hung out their shingle on a sign, another little storefront business. They are just proliferating all over the place. Many of them I do not think are competent to be doing this work.

Now, I do not think that this preemption is going to work because there are some States that are better than others in the way that they license or the way that they regulate. So my question is, what can you do to self-police the industry, to identify the bad actors, and to reduce the amount of the yield or whatever it is, the yield spread premiums that you collect?

It is one thing to get a .5 percentage point or so higher on a loan because, you know, whatever the reason is, but when you start jumping 2 and 3 and 4 percentage points higher, that is just worse than predatory. What can you do? Mr. Falk?

Mr. FALK. Ms. Waters, thank you.

I would share great concern with you about this Central Lending Real Estate. I do not know if they are a broker or a lender or a banker or a real estate agent, and their licensing under California law. I know there are a number of different licenses available under California law. It is regrettable that a bad situation clearly appears to have taken place. I do not know the specifics.

We agree with you when it comes to the exemptions under the current language under Title V. We believe that all of the exemptions under the licensing area should be dropped. The only exemption that should remain from the minimum standards should be for depository institutions and for employees of depository institutions. So any of the other exemptions, we believe are inappropriate. We believe that the education requirements and criminal background check requirements should be broader.

The other thing I would comment on is pre-licensure education. We agree with you, candidly, that a lot of folks go into the mortgage business without any training, without any understanding of what is going on in the industry, how to fill out forms, how to treat people properly. So we believe that a rigorous education requirement should be installed. You should not be able to go from different troubled industries into our industry, and then jump out again as soon as you are caught.

Mr. MILLER OF CALIFORNIA. You need to wrap up. The time has expired.

Mr. FALK. Thank you.

Mr. MILLER OF CALIFORNIA. Mr. Green, you are recognized for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman. Thank you for hosting these hearings. I would like to thank the ranking member as well.

I thank each of you for being here today. You have been most enlightening, and I appreciate it greatly.

The Federal Reserve has released its HMDA data, and that data has revealed that even after adjusting for such factors as income level, all persons making pretty much the same income, loan size, same person acquiring a loan about the same size, property location, acquiring a loan in the same neighborhood, Federal Reserve has found that African-American and Hispanic borrowers are more likely than white borrowers to be given a high-cost loan.

A simple question: I assume that we all agree that this is invidious, that it is not the kind of thing that we would want to have happen, if all of these factors are the same. We would not want people singled out because of their ethnicity or because of their race. Now, if I am wrong, maybe I should have someone let me know it. Am I wrong? Is there someone who differs with me on that?

Ms. BRYCE. I do not differ with you that there should not be discrimination in the mortgage market, but I would add that the other thing that the Federal Reserve and Chairman Greenspan said was that there are a number of factors that are not part of the HMDA

data, and that they believe that when they include those that it would explain some of the differences. Some of those differences are credit scores, debt-to-income, loan-to-value and other issues that impact the pricing of a loan.

Mr. GREEN. Well, let me ask you another way, then. Do you agree that discrimination exists in this marketplace? Is there anybody who thinks that it does not? Okay, we all agree.

Given that we all agree that it exists, how do you propose we deal with it and end it? Because every study, not just this one, but every single study gives us the same results and every single time we have reasons that we can explain why, if we made just a little adjustment here or a little adjustment there, it would cause the study to look a little bit better. But no one differs; no one says that the discrimination does not exist.

So now, given that the discrimination exists, and given that we have a system that allows people to get paid more for steering people to higher-cost loans when they qualify for a lower-cost loan, how do we end the discrimination is my question.

Mr. Rodriguez, if you could give me a brief answer?

Mr. RODRIGUEZ. Sure. I will try to be brief. It is a big question.

I think there are a number of things. We certainly feel pretty strongly that much more enforcement of anti-discrimination laws are needed in that context. And certainly, we have to consider that the common response to these issues is credit scores. What we seem to overlook pretty consistently is that there are a lot of issues with respect to reporting of minority credit histories with credit bureaus and credit agencies, that has not gotten enough focus and attention over time.

With respect to Latinos and immigrants in particular, for example, the issue is not bad credit, but no credit or very thin credit files. That in many processing centers instantaneously points them in the direction of a high-cost loan. It has nothing to do with their credit risk or their risk of repayment. So there are structural issues in the credit reporting system in addition to the discrimination issues that you raise that are steering families and minority families toward high-cost loans.

A big part of the solution also has to be housing counseling and homeownership counseling at the local level, getting more folks in there talking to Latinos and minorities about home-buying and the home-buying experience and bridging the gap and helping them navigate through the system to get the best and most affordable loans.

Mr. GREEN. Let me ask this question, if I may, because my time will expire soon. Do you think we ought to fire people who discriminate? Mr. Rodriguez?

Mr. RODRIGUEZ. Yes.

Mr. GREEN. Does anybody differ? Could we just fire them?

Mr. MILLER OF CALIFORNIA. The gentleman's time has expired.

Mr. GREEN. Okay. Thank you, Mr. Chairman.

Mr. MILLER OF CALIFORNIA. A quick question to Mr. Smith. The North Carolina Commission of Banks, are they discriminating intentionally? Yes or no.

Mr. SMITH. There may be discrimination. It is hard to ferret out.

Mr. MILLER OF CALIFORNIA. Do you try to ferret it out?

Mr. SMITH. Yes, we do.

Mr. MILLER OF CALIFORNIA. Okay.

Ms. Bryce, Nexstar Financial Corporation, are you intentionally discriminating out there?

Ms. BRYCE. I am sorry. Could you repeat the question?

Mr. MILLER OF CALIFORNIA. Are you intentionally discriminating out there?

Ms. BRYCE. Absolutely not.

Mr. MILLER OF CALIFORNIA. I have the opinion based on what everyone was saying there, everybody was allowing willful discrimination to go forward, and that was bothersome to me. If that is the case, that is scary.

Ms. BRYCE. I believe that the industry is very intent on fair lending and trying to be fair in that regard. The question was, is there no discrimination, and I could not say that there is never any. But I think that the industry is very focused on fair lending and being fair in the issuance of credit.

Mr. MILLER OF CALIFORNIA. I have had meetings with Bank of America, Wells Fargo, and they go out of their way to make sure there is no redlining because there is a tremendous consequence for that to take place. That is just scary to think that this would not be proactive.

Ms. WATERS. Will the gentleman yield?

Mr. MILLER OF CALIFORNIA. I am going to have to go to Mr. Cleaver, and then we will try to come back.

Mr. Cleaver?

Mr. CLEAVER. I will yield to the ranking member.

Ms. WATERS. Thank you very much.

I just want to set the record straight. My acting chairman here talked about how Bank of America and all of the banks go out of their way to make sure there is no redlining. Because that is on the record, let me just put my statement on the record.

Predatory lending is rampant, both with the major banks and the mortgage bankers and with mortgage brokers. It is a problem in America. The HMDA data is not bad data, even though, I guess it was Ms. Bryce who had to talk about what was not considered. So let us not leave here thinking that everybody is working so hard and there is no discrimination. It is and it is a big problem that must be dealt with.

Thank you. I yield back.

Mr. CLEAVER. Thank you, Mr. Chairman and ranking member.

I was going in a completely different direction, but my colleague and your response has generated some continued interest in this area. Do any of you know of anyone who has been fired in any institution for discrimination?

Mr. HAILER. May I answer that?

Mr. CLEAVER. Yes, sir.

Mr. HAILER. Congressman, I am not aware of anybody personally. I have no personal knowledge, but I do know approximately 120 to 125 CEOs in Ohio in banks, and I know of none of them who would ever sanction that practice.

Again coming back to your question, Mr. Green, I am a little intimidated by the circumstances. This is my first time testifying, so I apologize.

Your question was, is there no discrimination. I cannot identify whether there is any or not, except for the fact that I look at HMDA as a banker and I like HMDA, believe it or not. I like HMDA because I think it is a useful tool, just like interest rate risk reports are a useful tool, but I do not think it is absolute. I think there are some flaws with HMDA, and the question is how do we get to more data and those types of things without violating privacy and so on and so forth.

The bottom line is there are reasonable explanations as to why the data is the way that it is and how it comes out. But I know this; I personally would never stand for any kind of discriminatory lending practices in my bank and I believe that I am representative of the banking industry and particularly of the bankers that I know in Ohio. It is offensive to me.

As far as predatory lending, it absolutely goes on in the marketplace and that is one of the reasons why we are in favor of Title V is to go ahead and have a baseline.

Mr. CLEAVER. I yield to my colleague.

Mr. GREEN. Would you yield just 1 minute, please?

Friends, we live in a world where it is not enough for things to be right. They must also look right. It does not look right for us to consistently have data to indicate that minorities are discriminated when it comes to lending practices. It may be right, but it does not look right.

I yield back.

Mr. CLEAVER. The issue is if you do not know of any CEO of any bank who tolerates discrimination, and you do not know of anyone who has ever been fired for discrimination, that pretty much provides empirical evidence, doesn't it, that nobody discriminates.

Mr. SMITH. May I respond to your question?

Mr. CLEAVER. This is a great country. God bless everybody. Let's eat some apples.

Go ahead. I am sorry.

Mr. SMITH. May I respond?

Mr. CLEAVER. Yes.

Mr. SMITH. What we have done a lot of recently, and again discrimination is one thing. What we have done a lot of is take a lot of enforcement actions, not only in North Carolina, but around the country, to deal with people who are engaging in fraud and in flipping and a whole lot of other bad conduct, many in predominantly minority neighborhoods.

I do not know, again, whether the HMDA data was statistical data that deals with disparate impact of loan policies, but to say we are not doing it and people do not get fired, people are getting put in jail. They are getting unlicensed. We are doing a lot of things to protect particularly vulnerable people in our State. I mean, the whole thrust of State legislation with regard to predatory lending in North Carolina and licensure has been focused on the subprime market fundamentally, which in many cases regrettably is a predominantly minority market.

So to say we have done nothing about this problem I think is incorrect, or to say no one has ever been fired. People are getting put in jail.

Mr. CLEAVER. I do not think anybody said that nothing has been done.

Let me change the line of thinking. I was concerned that our country unfortunately has reached a point where we deny almost anything that relates to discrimination. Maybe we just cannot handle it.

Who regulates the appraisal industry?

Mr. SMITH. It depends. It is generally done at the State level and it varies from State to state. In North Carolina, for example, it is a subset of the real eState board, but it may vary.

Mr. CLEAVER. I have no more questions, Mr. Chairman.

Mr. MILLER OF CALIFORNIA. Thank you.

I have heard a lot of good arguments here that justify Chairman Ney's Responsible Lending Act that we are going to enact. We need to clearly define what "predatory" is and clearly understand that subprime is extremely beneficial, but there has to be an absolute line drawn between "predatory" and "subprime." That is what we are going to try to do from a Federal perspective so there are not individual laws enacted in L.A. and San Francisco and San Diego.

Mr. Davis, you are recognized for 5 minutes.

Mr. DAVIS OF ALABAMA. Thank you, Mr. Chairman.

Mr. Cleaver, I did not mean by my comment that is the light working or that you stop asking questions. I apologize for that.

Let me make an observation at the beginning before I turn to my questions. One of the things that I think may explain a little bit of a gulf in how we are looking at these issues has to do with our word choice. I think when Ms. Waters, Mr. Scott, and Mr. Miller, and Mr. Cleaver, and Mr. Green, and myself use the word "discrimination," your response to it, or I should say more accurately the industry's response to it, is, well, you know, we do not think there is discrimination out there because we do not think there are people who are sitting there saying, gee, I see a black person or a brown person in front of me and I do not like them and I do not want to deal with them.

I would agree with you that that kind of overt discrimination is probably a little bit less common today than it was 30 or 40 years ago, but I am not sure that is really the issue. I do no think the issue is whether or not people look at a black or brown or yellow person and say, "Gee, I don't like you." The issue is whether when they encounter people who may be lower-middle income and who may be of a racial minority, that some trigger goes off that this is a less-informed person, that some trigger goes off that this may be someone I can take advantage of.

I think those of us on this side of the aisle would be inclined to think that that, too, is discrimination. So I make that point and then turn to some questions.

Mr. Miller asked you I think a very interesting line of questions about what the standard ought to be for mortgage brokers and whether or not the standard of providing favorable or the best favorable applicable loan to a consumer ought to be codified in some way.

Let me give you two contrasts. I am a lawyer. A number of us on this side of the aisle, including Mr. Miller, are lawyers and people on the other side of the aisle are lawyers. We have in every

State something called a canon of ethics. That canon of ethics has the force of law and if you violate it and the State bar believes you violated it, you have lost your right to practice law. So it has the effect of being a legal instrument of the State. A lot of us know doctors. In almost every State, there is a canon of ethics for doctors. Once again, if you violate it, you lose your license that in effect has the force of law.

There is a requirement in the canon of ethics for doctors and lawyers that you have to provide the best service possible to the person you contract with, either your client or your patient. If you accept a case, you do not get to give them the Wal-Mart version or the Super Sam's version. You have to give them the best, strongest service that you can provide. The same for medicine. You do not get to say, I will give you my A game if you are on this list or my B game if you are on this list.

Mr. Falk, is there any statutory provision or any written provision that you know of anywhere in the country that codifies that mortgage brokers provide the best reasonable service that is applicable to a given consumer? Give me a quick answer on that.

Mr. FALK. I am not aware of any State regulation.

Mr. DAVIS OF ALABAMA. Are any of you aware of any written statutory instrument that is comparable to the State bar or State medical regulations I described? Are any of you aware of any?

Mr. HAILER. The only thing I can offer is every regulation that banks are subject to encompasses that, but as far as you have described it, no, but I can tell you that it is all-encompassing in every reg that we comply with.

Mr. DAVIS OF ALABAMA. All right. Mr. Rodriguez, let me perhaps turn to you to provide a quick answer. Why are mortgage brokers so different from doctors and lawyers in that doctors and lawyers have to live by these standards and mortgage brokers do not, in 30 seconds or less?

Mr. RODRIGUEZ. I do not know.

Mr. DAVIS OF ALABAMA. Do any of you know of any reason why mortgage brokers are that different from doctors or lawyers, when doctors or lawyers have to live by the standard and mortgage brokers do not? Can anybody articulate a difference? Yes, sir.

Mr. HEDGES. No, Mr. Davis. I would suggest that a substantive requirement on brokers, that each borrower get the best loan that their credit entitles them to would make a big difference in this problem.

Mr. DAVIS OF ALABAMA. I agree with you. Because of time, I will stop you with agreement and ask you one final question. There is another difference. In my State and I think every other State, bad actors who are lawyers and doctors are listed in a public filing. If a bar complaint is filed against you and resolved in an adverse manner to you, that is published. If a doctor is found to be negligent and a doctor is found by the medical association to be a nonperforming or a bad actor doctor, that is published.

Again, do any of you know of any provision at the State level where there is a list of bad actors who are mortgage brokers, mortgage brokers who have been caught engaging in fraudulent practices? Do any of you know of a database that collects and lists bad actors among mortgage brokers?

Mr. SMITH. My Web site. Visit it anytime.

Mr. DAVIS OF ALABAMA. All right. And your Web site is what?

Mr. SMITH. NCCOB.org.

Mr. DAVIS OF ALABAMA. Okay. And you represent?

Mr. SMITH. I am in the State of North Carolina. I have a list. I have published every single order I have issued.

Mr. DAVIS OF ALABAMA. Do you know of any States who do what North Carolina does?

Mr. SMITH. I do not.

Mr. DAVIS OF ALABAMA. Our State requires this information to be public. That is the question about what this bill does in making that database confidential.

Mr. SMITH. Excuse me, if I may say one other thing. In my testimony, which you were not here for, but you did not miss a lot, but one thing I did say was that the States are now working on a database to do exactly the thing you are talking about.

Mr. DAVIS OF ALABAMA. And the thing would be listing bad actor mortgage brokers?

Mr. SMITH. Yes, nationally.

Mr. DAVIS OF ALABAMA. Okay.

Chairman NEY. [Presiding.] I have to note the time has expired and we still have Mr. Kanjorski.

Mr. Kanjorski?

Mr. KANJORSKI. Listening to the discussion so far, it seems to me that we may be searching for the perfect and as a result miss achieving the good. In a perfect world, we would like every individual to pay the least on their loan or mortgage and get paid the highest amount on their savings account or CD.

But, Mr. Hailer, I will start off with you. It is sometimes fun to pick on bankers. Do all banks pay everyone the same rate on CDs and savings accounts?

Mr. HAILER. The answer to that is absolutely no.

Mr. KANJORSKI. That is right. It is a competitive world.

Mr. HAILER. It is.

Mr. KANJORSKI. Let us reverse it to mortgages. Does everyone pay the same amount on every mortgage in the country or are there differences?

Mr. HAILER. There are differences and then there are reasons why.

Mr. KANJORSKI. Right. Most often they are subjective reasons, really. We try and reduce them to a formula. But in reality, even if you look at a credit rating, it is a subjective evaluation based on some criteria.

Mr. HAILER. It depends on what the range is and what the credit rating is based on, and how the credit rating is used.

Mr. KANJORSKI. As one of the co-authors of this legislation, I guess I want to clear up a few things. One, it is our hope, and I think I speak for Mr. Ney, that we have a national uniform system to drive down the cost of money instead of having to go through the 50 different entities and maybe hundreds of others as municipalities get into this ballgame, which they have. Overall on that basis, if you make money available, whether it is in the subprime market or in conventional financing, you are going to drive down

the cost of money through efficiency. Would anyone at the table disagree with that?

I have come to a conclusion, after listening to my colleague Mr. Davis talk about applying a legal standard, a fiduciary duty standard, or a professional standard like that of a lawyer or a doctor. This industry is a business. I think that we should recognize that it is not a profession. I do not see how it can be made absolutely uniform in terms of applying such a standard.

If you ever go to the best deal standard for each mortgage transaction, I guess I will leave Congress, enter the bar again, and just become the greatest trial lawyer that has ever existed because there would be an unlimited number of cases. Every deal that does not match the lowest deal is not the best deal. That is ridiculous.

What we are trying to do is get the overall national cost of money down for mortgages. We are trying to open up and protect people in some way and come up with a reasonable uniform standard.

I am convinced that we do need a standard for brokers. I think it is essential that we know who the bad actors are. We know there are minimal capacities there. Then we have to rely in a way on what I always call the "self-help" in the industry.

We expect bankers not to turn their eyes when dealing with a broker when they obviously see it is a bad deal. However, bankers can get away with it because they did not have any contact with the consumer, or they did not know what to do with it, or they may not have direct liability on it. I would love to find a mechanism to go with that.

Yes?

Mr. HAILER. Congressman Kanjorski, in Middlefield, Ohio, there is a mortgage broker who I heard from a friend of mine who is a CEO over there who has been preying upon the Amish community. There is a very large Amish community over there. How it came to be discovered was he was getting a lot of payoffs at his bank from long-time customers. He started investigating it. Then he started looking at some of the documents. In the documents he found excessive fees up front that were of course rolled into the document based upon the appraisal, so the people are not only getting whacked with the fees up front, they also get the benefit of having the costs of carrying those fees over a long period of time. So they are getting hit a couple of times.

I am proud to say that my friend has brought this to his attorney's attention. His attorney is getting sued by the mortgage broker for bringing up the issue, but nonetheless much like in the case that you have given, Congresswoman Waters, the marketplace in that case has served as a regulator because the word has gotten around and the bishops within the Amish community have responded. Even in your own area, you will find this to be true.

The bottom line is that they have closed ranks and have rooted that person out. So that is a good story of what is in place right now, particularly with regulations working.

Mr. KANJORSKI. Right. In the banking field, do we not have a certain type of loan called a "character" loan? If you are of bad character, you cannot get a loan at some banks.

Mr. HAILER. If you are a bad character and we know, you cannot get a loan.

Mr. KANJORSKI. That is right. On the other hand, if you are of good character, sometimes you do not nearly need anywhere near the collateral that other people may need because of your character.

Mr. HAILER. My favorite loan that I ever made was to a lady whose husband committed suicide. Her children were made fun of in school because of it, and she came to us for a loan. She did not have the credit score and she marginally had the income. I will not take anything in the way of gratuities or anything of that nature as a banker. She developed a career as a caterer and built a very successful career, and basically came back from the dead financially.

We made her a home loan. The look on her face when she was approved for the mortgage stayed with me. She want to give me something. She wanted to do something, and I said I cannot take anything. So I went out to my car, which I leave unlocked, and there was this box of cakes and cookies. It is probably one of the most meaningful gifts I have ever gotten in my life. That is great stuff and it is very true. I do not think I am alone in that.

Mr. KANJORSKI. I have always applied what I call a 5-percent bastard rule to analyze these issues; there are 3 percent to 5 percent of people in our society—who no matter what laws, rules or what regulations we pass—are going to try and find a way to push the edge of the envelope and go over it. But 95 percent of almost any participant in any profession, any business, any commercial activity in this country, will try and do the right thing because they are after establishing good character.

Now, all we are trying to do is find some mechanism to reduce that 5 percent, but not to the extent that it becomes suffocating on the industry. I heard some of the discussion here and I just want to point it out.

Chairman NEY. I would note that there are 6 1/2 minutes left on the vote.

Mr. KANJORSKI. Is there anyone at this table that wants us to do nothing, just get out of this field and leave it as it is?

Ms. BRYCE. I think it is important for you to continue with this bill. We support the bill as it is structured generally. One of the concerns is that you are talking about the economic marketplace and the importance of preserving that. I think it is important to continue to have competition in various markets because that gives consumers more opportunity to shop and find a better deal.

I also think that in terms of looking at the marketplace we have to protect the liquidity in the marketplace. One of the issues is assignee liability. We have seen situations where investors have said we are not going to buy these loans. We had a situation where a warehouse lender actually said we are not going to fund any more loans in the State of Massachusetts because we cannot tell which ones are high-cost loans or not, so we are not going to fund anything. We do not want to see that happen in the marketplace. We want to protect the liquidity so that there is an opportunity for competition.

Mr. KANJORSKI. Thank you very much.

I know we are very close, and I yield back. Thank you, Mr. Chairman.

Chairman NEY. Thank you.

I want to thank the witnesses and the members today for an important hearing.

I want to note that members may have additional questions for this panel and they may want to submit to the panel in writing. Without objection, the hearing record will remain open for 30 days for members to submit written questions to the witnesses and to place their responses in the record.

I want to thank the panel today. Thank you.

[Whereupon, at 11:59 a.m., the subcommittee was adjourned.]

A P P E N D I X

September 29, 2005

Opening Statement of the Honorable Bob Ney
Chairman, Subcommittee on Housing and Community Opportunity

Hearing on

"Licensing and Registration in the Mortgage Industry"

Thursday, September 29, 2004

Good morning and welcome to this hearing in the Housing Subcommittee on the topic of "Licensing and Registration in the Mortgage Industry."

This is a topic that Congressman Kanjorski and I have addressed in our anti-predatory lending legislation, H.R. 1295, The Responsible Lending Act – also known as the Ney-Kanjorski bill.

However, in the discussions surrounding this proposed legislation, this issue has not garnered a great deal of public attention and comment.

Most of the debate has centered on which potentially abusive lending practices should be curtailed or prohibited in an effort to protect borrowers from unscrupulous lenders.

But equally, if not more, important is the issue of regulating the people who provide or facilitate mortgage loans.

After all, it only takes a few bad apples to give an entire industry a bad name.

So that is what we are here to discuss today.

In an industry in which some say that opportunities exist for bad actors to exploit and take advantage of both sophisticated and unsophisticated consumers alike, how should access to that industry be regulated to help insulate consumers from such practices?

Should all those who originate mortgages be required to obtain a license and register individually?

Or, are there reasons why access to the mortgage lending industry should be regulated differently for certain participants due to their unique attributes or because of their current regulatory requirements?

In addition, there are currently a number of state laws and legislative movements on the state level that address this very topic.

Are these sufficient? Or, would some degree of minimum uniformity be helpful?

Hopefully, these questions will be answered today so that we can continue to find ways to protect consumers from both predatory lending practices and from those bad actors who would take advantage of borrowers.

The Ney-Kanjorski Responsible Lending Act attempts to do just that – protect consumers from bad practices as well as from bad actors.

This is why Congressman Kanjorski and I believe that H.R. 1295 is the most comprehensive piece of federal anti-predatory legislation ever to be introduced.

The central goal of the Ney-Kanjorski bill has been to provide consumers with the best possible protections from abusive lending without unduly and unnecessarily raising the cost of borrowing.

Thus, we must try to keep in balance the costs to borrowers of licensing and registration requirements and the benefits that the borrower would receive from such requirements.

While the current version of the bill contains provisions to establish uniform minimum standards for the licensing and registration of mortgage brokers, I recognize that some within the mortgage broker industry would like to see those standards applied more broadly to others in the loan origination business.

I also recognize that others in the loan origination industry do not believe that these standards should be applied any more broadly.

This is why we are here today – to flesh out and understand these positions as well as to hear from others outside of the industry regarding what type of federal regulation, if any, would be helpful.

I look forward to hearing from our witnesses and I want to thank all of you for taking time from your busy schedules to be with us today.

I would now like want to recognize my Ranking Member, Mrs. Waters.

The Honorable Emanuel Cleaver, II
Subcommittee on Housing and Urban Development
Hearing: Licensing and Registration in the Mortgage Industry
Opening Statement
September 29, 2005

First, let me thank the Chairman and the Ranking Member for convening this hearing on the important subject of licensing and regulation in the mortgage industry. Today's hearing is especially timely and relevant as our nation's housing markets continue to grow. The number of homeowners in the United States has surpassed 70 million, and the U.S. homeownership rate has reached record levels.

Homeownership is, no doubt, an important component of the American dream. As a nation, we should take steps to encourage homeownership and expand homeownership opportunities for underserved populations, such as minorities and the economically disadvantaged. But if we are to make a commitment to expanding homeownership and homeownership in general, we must ensure that American consumers have the tools they need to make well-informed choices regarding mortgages and lenders in an increasingly complex market. Mortgage brokers can play an important and useful role helping consumers navigate this market.

That said, I am very concerned with the preponderance of predatory and abusive mortgages, especially to the economically vulnerable, minorities, and the elderly. It is estimated that predatory mortgage lending costs Americans more than $9.1 billion each year. I am concerned that uneven regulation and oversight of mortgage brokers leave consumers vulnerable to unethical practices.

Congress should explore ways to protect borrowers from wrongful broker activities and curb predatory lending practices. Providing for the national licensing and registration of mortgage brokers may be a viable first step towards these ends, but I remained concerned that we not pre-empt those states that have enacted strong state lending laws, and inadvertently weaken consumer protections.

I hope that today's discussion will delve into these matters and look forward to the panel's testimony.

STATEMENT

of

Teresa Bryce

On

Title V

H.R. 1295

"The Responsible Lending Act of 2005"

before the

Subcommittee on Housing and Community Opportunity

Committee on Financial Services

United States House of Representatives

September 29, 2005

Good morning, and thank you Mr. Chairman, for holding this hearing and inviting the Mortgage Bankers Association (MBA)[1] to share its views on Title V of H.R. 1295, "The Responsible Lending Act of 2005." My name is Teresa Bryce and I am Senior Vice President and Director of Legal and Corporate Affairs for Nexstar Financial Corporation, a mid-size mortgage banking company located in St. Louis, MO. I am also Co-Chair of MBA's State Licensing Task Force, formed last year to review the impact that the myriad of new state licensing laws are having on mortgage bankers. MBA is particularly interested in testifying today because state licensing laws have become an issue of growing concern among mortgage bankers as we work to be the efficient financial link between homebuyers and capital markets.

Title V of H.R. 1295, "Requirements For Mortgage Brokers," mandates that states pass uniform statutes for the licensing of mortgage brokers, creates Federal mortgage broker requirements for those states that do not pass compliant legislation, and establishes a national database of licensed mortgage brokers that would be accessible by state and federal regulators, real estate finance companies employing mortgage brokers, and the general public.

MBA supports Title V because we believe it will elevate the standard of professionalism within the mortgage broker industry. Title V will also result in greater accountability among mortgage brokers while at the same time easing the compliance problems caused by different state laws for mortgage brokers who broker in multiple states. MBA would suggest some changes to Title V that would serve to strengthen the legislation.

Before I outline MBA's support for Title V and detail our suggested changes, I would like to give the subcommittee some background on the mortgage banking industry and MBA's particular interest in mortgage banker and broker licensing laws.

What Mortgage Bankers Do

Mortgage bankers provide mortgages to homeowners and homebuyers. Mortgage bankers underwrite applicants and lend their own funds or funds they have borrowed in a mortgage transaction. From the moment a loan has closed, mortgage bankers assume the credit, interest rate, compliance, and fraud risk associated with the loan.

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[1] **The Mortgage Bankers Association (MBA) is the national association representing the real estate finance industry, an industry that employs more than 500,000 people in virtually every community in the country. Headquartered in Washington, D.C., the association works to ensure the continued strength of the nation's residential and commercial real estate markets; to expand homeownership and extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters professional excellence among real estate finance employees through a wide range of educational programs and a variety of publications. Its membership of over 2,900 companies includes all elements of real estate finance: mortgage companies, mortgage brokers, commercial banks, thrifts, Wall Street conduits, life insurance companies and others in the mortgage lending field. For additional information, visit MBA's Web site: www.mortgagebankers.org.**

Mortgage bankers may then service and/or sell these closed loans to the secondary market. If a loan is sold, the mortgage banker typically transfers the future interest rate and credit risk to the investor, but maintains nearly all of the quality, compliance, and fraud risk.

In the above manner, mortgage bankers are truly financial intermediaries that bring together providers of capital (investors) and those needing such funds (homebuyers) in all regions of the country. This function moves funds from capital-surplus areas to capital-deficient regions, and helps create jobs and economic growth throughout the nation.

Mortgage bankers are organized in many forms: Federal- and state-chartered banks, thrifts, credit unions, and other depository institutions, as well as non-depository mortgage companies. Mortgage bankers also come in many different sizes, from small businesses to large multi-national corporations. Mortgage bankers use an array of methods in connecting consumers with capital: traditional branch offices, the U.S. mail, call centers, and the internet.

Mortgage bankers face several levels of regulatory oversight depending on how they are organized. Federal- and state-chartered depository institutions are regulated by the appropriate Federal or state banking agency. In 49 states and the District of Columbia, non-depository mortgage companies are licensed and regulated by state regulatory agencies. Fannie Mae, Freddie Mac, and the Federal Housing Administration (FHA) approves and oversees any mortgage banker who wishes to work with them. Additionally, private investors and mortgage insurance companies conduct audits of the lenders with whom they work.

Regardless of their internal structure, all mortgage bankers face economic regulation through the mortgages they keep in their portfolio and the mortgages they sell to investors.

If a mortgage bank retains a mortgage in its portfolio, it is relying on the continued performance of that mortgage in order to realize a profit. In this case, the mortgage bank bears the full risk of the loan.

Alternatively, if a mortgage bank sells a mortgage, the bank makes certain representations and warranties to the investor. If the investor discovers problems, such as non-compliance with applicable law or underwriting guidelines, or fraud, the investor can, and typically does, force the originating mortgage banker to repurchase the mortgage or enter into an indemnity agreement. Investors, such as the Government Sponsored Enterprises (GSEs) and private institutions, therefore, pay strict attention to the operations of the mortgage bankers from whom they purchase loans.

In this manner, mortgage banking companies are corporately responsible for every loan originated by any of their employees, and this economic regulation by the marketplace extends far beyond the loan closing.

What Mortgage Brokers Do

Mortgage brokers, on the other hand, do not fund, underwrite, or service mortgage loans. Mortgage brokers are commissioned sales people, independent of mortgage banking companies, who typically work with a number of mortgage bankers at any one time, matching homebuyers with lenders.

Mortgage brokers do not have capital at risk in a transaction and their responsibility for a loan typically ends when a loan closes and they receive their payment. In most cases, mortgage brokers operate with considerably fewer assets than mortgage bankers. In those states where mortgage brokerage companies are licensed, minimum financial requirements on these firms tend to be significantly less than mortgage bankers.

Lenders have little expectation of recovering losses from brokers and typical recourse is to simply no longer do future business with the broker. While this may prevent future losses, it does nothing to address the risks or costs that the existing portfolio of loans received from that broker imposes on the mortgage banker.

There is no Federal oversight of mortgage brokers. Since mortgage brokers do not sell mortgages on the secondary market, there is little marketplace regulation.

The Difference Between Mortgage Bankers and Mortgage Brokers

While the entrepreneurial spirit of the mortgage banking industry has created the sophisticated and innovative real estate finance system that the U.S. enjoys today, a key difference between the mortgage broker, (which is the subject of Title V's requirements), and the mortgage banker has remained the same despite the changes in the system. This key difference is that, at some point in the transaction, mortgage bankers, unlike mortgage brokers, have money at risk and must continually maintain a significant amount of financial wherewithal to back up the loans they sell.

This is evident in the requirements that investors such as Fannie Mae and Freddie Mac place upon mortgage bankers who wish to sell loans to them. It is also evident in the state statutes that have been promulgated to regulate mortgage banking companies and mortgage brokers: typically, mortgage bankers are expected to attain and retain a much higher financial and professional profile.

Another difference between mortgage bankers and mortgage brokers is the relationship to the consumer. Mortgage bankers typically offer their own financing products to consumers and do not present themselves as operating on behalf of the consumer. Mortgage brokers, on the other hand, present themselves as specifically acting in the interest of the consumer by shopping on behalf of the consumer for the best product that meets the consumer's needs and financial circumstances. Mortgage broker commissions are fundamentally based on this service offer.

MBA is aware of case law that has found fiduciary relationships in many mortgage broker-client relationships, but that the mortgagor-mortgagee relationship does not create a fiduciary relationship, as a matter of law. In the unregulated or under-regulated mortgage brokerage business, it is prudent for regulators to step in and license those individuals who have a fiduciary relationship with a consumer.

This is exactly why MBA supports Title V. We believe Title V will elevate the standards within the mortgage brokering industry and lead to greater accountability. The National Association of Mortgage Brokers (NAMB) recognizes the need for licensure among their members and has created a model state statute that would result in all mortgage brokers being licensed. Many states have likewise identified the need to imbue greater professionalism and accountability within the mortgage brokering industry and have passed laws that require licensing of individuals working as mortgage brokers.

The Current State Licensing Environment

Despite the fact that today's hearing is focused solely on mortgage broker licensing, I would like to take a moment and give the subcommittee an overview of the current licensing environment for mortgage bankers at the state level and the difficulties it is imposing on them. I believe there are lessons to be learned from the state level experience as this subcommittee considers Title V.

States have traditionally licensed mortgage banking companies as a means to monitor the mortgage lending industry in their state, prevent abusive lending, and protect consumers' interests. Licensing also provides states with revenue, which is derived from the various fees charged to obtain and maintain a license, and is often used to fund oversight activities. Currently, 49 states and the District of Columbia require mortgage bankers (who do not enjoy a federal pre-emption) to be licensed before lending funds in their state.

MBA supports state level corporate licensing of mortgage banking companies. We believe that states should be able to approve and monitor the companies that make loans to citizens within their state. And while we may, from time to time, take issue with a particular provision under a state's corporate licensing regime, we do not believe a state should be limited from knowing which mortgage banking companies are lending within their boundaries.

In conjunction with these licensing laws comes regulation by state executive agencies. This oversight takes many forms, but often includes annual reviews of financial statements, onsite reviews of operations, recertification of company principals, and requests for responses to consumer complaints.

In recent years, however, a growing number of states have added onerous requirements to existing mortgage banking company licensing. For instance, more and more states have begun to require mortgage banking companies to maintain an employee or branch physically in the state to take applications. This requirement may

unduly restrict lenders who centralize applications in a call center or utilize technologies such as the internet. Furthermore, this requirement is likely a violation of the Interstate Commerce clause of the United State Constitution. Some states inexplicably require a physical branch with an employee in the state but do not require that loan applications be taken from the state branch. Other states require separate licensing for mortgage brokering, even if a company already has a mortgage banking license. Still other states require separate licensing for different mortgage products.

Particularly arduous, though, are the states that have moved beyond mortgage banking corporate licensing and now require the licensure of individual loan officers and support staff working within a licensed mortgage banking company. These state statutes ignore the accountability that mortgage banking companies have for their loan officers and employees due to the economic regulation of the marketplace and the periodic audits by the states themselves. These state statutes do not recognize the rigorous background checks, continuous training, and ongoing performance monitoring, that mortgage banking companies put their loan officers through due to the economic regulation to which mortgage banking companies are subject.

These laws are being promulgated with an out-dated view of the mortgage origination process and do not recognize the various channels today's sophisticated residential real estate finance system has available to it in transferring national and international capital to homebuyers anywhere in the country. Collectively, these state laws raise costs of mortgage originations and threaten to dampen competition and innovation of mortgage markets within states.

Further exacerbating the collective impact of these various state laws is the lack of reciprocity provisions. This lack of reciprocity results in great redundancies. For instance, a state's reasonable requirement that a mortgage banking company's principal submit their fingerprints does not account for the fact that the same principal is submitting their fingerprints to a dozen or more other states and they all end up at the FBI. These same principals might be required to take 12 hours of continuing education annually in multiple states, without any state recognizing the education received elsewhere. As states require loan officer licensing, the lack of reciprocity means that loans officers would have to submit to multiple and redundant pre-licensure training, exams, background checks, and continuing education requirements. This is beginning to create an untenable situation for mortgage banking companies.

The situation is made worse by the inadequate funding these state agencies receive to process licensing applications with increasing onerous requirements. Despite this under-funding, the mortgage banker is required to hire a person before they can be licensed and then have them on the payroll for lengthy periods before they can perform the job they were hired to do while, the state is slowly processing the individual's licensing application.

It is important to note, that federally-chartered financial institutions that originate mortgages are considered exempt from all of these state laws and therefore do not share these problems.

Simply put, MBA believes mortgage bankers are different than mortgage brokers and these differences underscore the need for mortgage bankers and mortgage brokers to be subject to different oversight regimes. Unfortunately, MBA does not see this difference being reflected in licensing laws affecting mortgage bankers being promulgated at the state level.

Organizations such as the Conference of State Bank Supervisors (CSBS) and the American Association of Residential Mortgage Regulators (AARMR) have recognized the problems imposed by the growing patchwork of state licensing laws and are trying to create solutions to lessen the burdens, such as creating a universal licensing application and a common database of licensees. MBA has been involved in these efforts and is very supportive.

While we believe the efforts of CSBS and AARMR will have some beneficial results, we are concerned that their effort to streamline licensure and encourage uniformity will be ultimately stymied as they confront state laws that contradict each other, lack reciprocity and ultimately confound conformity.

What Title V Will Do

While states have a relatively long history of requiring licensure of mortgage banking companies, the same is not true for the mortgage brokerage industry. Mortgage brokers are not regulated at the Federal level and it is only recently that the majority of states begun to require licensure. This industry is in great need of licensure and Title V offers an opportunity to do this in a reasonable manner. Mortgage brokers regularly state in their literature that they are involved in nearly 70% of residential mortgage loans originated.

The database created by Title V has the potential to be a great resource to regulators, mortgage bankers, and the public. Currently, no single database of mortgage brokers exists, and it is not necessarily easy to access the data in those states with mortgage broker licensing laws. With the rising tide of mortgage fraud against lenders, mortgage bankers have called for better tools that allow for sharing the names of "bad actors" who are defrauding homebuyers and lenders, without the fear of legal action that to date has accompanied such sharing of information. The database contemplated by Title V could go a long way in furthering such information sharing.

Appraisers, who are licensed and regulated at the state level, have such a database managed by the Congressionally-appointed Appraisal Subcommittee. The database includes actions taken against appraisers and is accessible through the internet by the general public.

What Title V Will Not Do

Unfortunately, though, Title V will do little to help mortgage bankers manage the thickening web of burdensome state licensing laws, particular those laws that do not recognize how the modern residential finance system operates and requires the licensure of individual loan officers.

Under Title V, states must adhere to uniform standards of mortgage broker licensing laws, but are not prevented from continuing to pass laws requiring the licensing of individual loan officers of mortgage banking companies.

Therefore, the subset of the mortgage banking industry that is subject to these laws must continue to operate in an uneven competitive field that is increasingly uneven. Some mortgage banking companies may restructure under a Federal-charter so as to avoid such strict licensing regime, as the Federal banking agencies do not require licensure of individual loan officers. The mortgage banking entrepreneurial spirit will thus be somewhat constrained, not by the realities of the marketplace, but by the force of duplicative regulation.

MBA supports the licensing provisions under Title V, as we believe they will elevate and standardize the mortgage brokerage licensing requirements. MBA encourages the committee to study possible federal initiatives that will assist mortgage bankers when dealing with state level corporate licensing laws.

Improvements to Title V

MBA is aware that some have criticized the exceptions to licensing contained within Title V, stating the exceptions provide too many loopholes where an individual could easily avoid licensure, despite the fact that their primary business is mortgage brokering.

MBA suggests the subcommittee consider elaborating upon the exemption cited in Section 501 (b)(2)(F)(i) to make it clear that by "makes, services, buys, or sells mortgage loans;" the statute is clearly exempting those firms that fund the loan, a key distinction between mortgage banker and mortgage broker that I detailed earlier in my testimony. By clearly excluding mortgage banker, the statute will be clearly including all mortgage brokers. The subcommittee may wish to examine the exemption under Section 501(b)(2)(F)(i)(iii)(V), to ensure that it does not establish such a low threshold as to allow a mortgage broker an easy way to avoid licensure.

Creating statutes that appropriately license mortgage bankers and mortgage brokers can be, at times, a complex issue. MBA is grappling with this complexity with regard to state legislation and strives to be a source of information as to how states can effectively provide oversight, without constraining markets.

Likewise, we want to be a resource to this Subcommittee on Title V and are willing to work collectively, with all interests in the real estate finance system, to create oversight mechanisms that elevate accountability, but not at the expense of efficient markets nor accompanied by the price tag of greater complexity.

MBA appreciates the opportunity to testify today. We look forward to working with this Subcommittee in creating a strong mortgage broker licensing requirement.

Prepared Testimony of

Joseph L. Falk, Government Affairs Committee Chair

National Association of Mortgage Brokers

on

"Licensing and Registration in the Mortgage Industry"

before the

Subcommittee on Housing and Community Opportunity

Committee on Financial Services

U.S. House of Representatives

Thursday, September 29, 2005

Good morning Chairman Ney and members of the subcommittee, I am Joseph L. Falk, Government Affairs Committee Chair and a past president of the National Association of Mortgage Brokers (NAMB). Thank you for inviting NAMB to testify on issues relating to licensing and registration in the mortgage industry. NAMB is here today to discuss the need for national, minimum licensing and education standards for all mortgage originators, and the creation of a national database of mortgage originators. We appreciate the opportunity to address the role of the residential mortgage community and specifically, mortgage brokers, in protecting consumers, reducing the incidence of abusive lending, and elevating the level of professionalism throughout the mortgage origination industry.

NAMB is the only national trade association exclusively devoted to representing the mortgage brokerage industry. As the voice of the mortgage brokers, NAMB speaks on behalf of more than 27,000 members in all 50 states and the District of Columbia. NAMB offers educational courses and certification programs to mortgage professionals to maintain their expertise. By adhering to a strict code of ethics and best lending

practices, NAMB members guide consumers through the mortgage loan origination process.

We are here today to discuss the need for, and impact of, national, minimum licensing and education standards and a national database of mortgage originators to assist in combating abusive lending. Before discussing these important topics, NAMB wants to applaud this subcommittee for its leadership in addressing the issues relative to licensure and/or registration of mortgage originators. In particular, we commend the bipartisan effort of Representatives Ney and Kanjorski in introducing the Responsible Lending Act of 2005 (H.R. 1295) ("Act"). NAMB believes that the Act is a critical step in the right direction. We look forward to working closely with this subcommittee in further refining this bill so that it appropriately addresses the multitude of issues surrounding licensure and education of all mortgage originators, and includes a national database that serves as an effective tool for consumers, regulators, and industry professionals alike.

America enjoys an all-time record rate of homeownership today. Mortgage brokers have contributed to this achievement as we work with a large array of homebuyers and capital sources to originate the majority of residential loans in the United States. NAMB is committed to working with the House Financial Services Committee to ensure that abusive lending practices do not destroy the dream or the many benefits of homeownership for American families.

National, Minimum Licensing and Education Standards

NAMB supports efforts to expose and combat abusive lending tactics provided that these efforts do not inadvertently diminish consumer access to affordable credit or inhibit the ability of mortgage finance professionals to work closely with consumers throughout the homebuying and ownership process. There are many facets in the Act designed to combat abusive lending; our testimony today will focus only on Title V. NAMB believes that part of the solution to successfully combat abusive lending is to require licensing and education of all mortgage originators - not just mortgage brokers - as consumers should be protected regardless of which distribution channel they use.

The abusive lending acts of mortgage loan originators can be divided into two categories: intentional acts against a borrower and unintentional acts that have similar results.

Unintentional Acts

Unintentional acts include those mistakes made by a mortgage originator that result from lack of knowledge about a loan product, the mortgage process or relevant laws and regulations. These are mistakes that any mortgage originator can make, even those employed by banks and other non-depository entities. The best solution to unintentional mistakes on the part of mortgage originators is a national, minimum requirement of pre-licensure education and continuing education. Continuing education requirements should include studies on State laws, federal statutes, and ethics. Course material to include standards on ethics may help fill in the gap between the legal written requirements of any

abusive lending legislation and the intent of such legislation. The Act incorporates these key features into its licensing provisions. NAMB appreciates the inclusion of pre-licensure and continuing education requirements, as well as written examinations, into the Act's proposed licensing scheme. For the Act to serve its purpose, however, Title V should be applicable to all mortgage originators.

Intentional Acts

Intentional acts are certainly the most grievous acts committed by mortgage originators against consumers. An example of an intentional act is a mortgage originator using personal financial information provided by the consumer during the mortgage loan process illegally—in other words, using such information to commit identity theft. This Act incorporates many requirements to create red-flags to consumers and impose additional requirements for certain types of loans. Criminal background checks similarly operate as a red-flag mechanism, providing to consumers and regulators relevant and critical information about mortgage originators. NAMB appreciates the incorporation of criminal background checks into the Act's proposed licensing scheme, but again for the Act to serve its purpose, Title V should require background checks of all mortgage originators to bar employment when financial malfeasance is discovered.

All Mortgage Originators, Not Just Mortgage Brokers

To address the mistakes and consequences that arise from both intentional and unintentional acts, all mortgage originators must receive education, ethics training, and submit to a criminal background check. These three precepts form the foundation upon which adequate and effective consumer protection measures against abusive lending can be built. The Act's proposed licensing scheme falls short of protecting consumers and elevating the expertise of the industry because it fails to make the provisions applicable to all mortgage originators. Any individual that signs a 1003 form[1] should be subject to these national, minimum licensing and education standards, regardless of whether such person is employed by a mortgage broker, a mortgage banker, an internet mortgage originator, a consumer finance company, a mortgage lender, an entity with no net worth, or an entity with significant financial assets. It also should not matter if there is a parent corporation, a subsidiary corporation, a domestic company, an international owner, or any variation of the foregoing. Creating a national, minimum standard means that it applies equally and fairly to all distribution channels in the mortgage industry; that one channel is not treated differently than another; that no competitor is better or worse, no bigger or smaller; and that size and financial worth is not an accurate indicator of either honesty or integrity. There should be no channel bias that leads consumers to believe that one competitor is 'better' or 'worse' than another.

Model State Statute Initiative

The basic requirements of education, continuing education, ethics training, written exams, and using criminal background checks to bar employment can be found in

[1] A Form 1003 is a Uniform Residential Loan Application.

NAMB's ongoing work and commitment on the Model State Statute Initiative (MSSI) that NAMB began in 2002. The MSSI has long focused on licensure, pre-licensure education and continuing education requirements, as well as criminal background checks, to protect consumers and to ensure mortgage originators attain a minimum level of expertise on a state-by-state level.[2] NAMB has consistently believed that these requirements should be applicable to all mortgage originators to help reduce the incidence of abusive lending practices and improve the overall expertise of the industry.

NAMB implores Congress to embrace the concepts contained in the MSSI and create a national, minimum standard that will ensure every single mortgage originator, regardless of employer, is licensed and properly educated—no exceptions. Federal legislation that affords all residents equal protection throughout the mortgage loan application process is necessary. A federally-mandated floor for licensing and education standards that applies to all mortgage originators, but which empowers states to strengthen, implement and enforce such provisions for its residents, is the best means available to ensure that all consumers, regardless of location, receive appropriate guidance and sufficient protection throughout the mortgage loan application process.

We commend the direction that Title V of the Act is moving, nevertheless, the potential for fraud remains rampant when any licensing scheme fails to ensure that every person engaged in the licensed activity is held to the same standard of education and ethical conduct. Consumers must be secure in the fact that mortgage originators are subject to the same or similar standards and held to the same degree of professionalism. The need for this fair-handed and level standard of professionalism throughout the industry is even greater given the current environment of identity theft and fraud.

Education, Criminal Background Checks and Identity Theft

Pre-licensure education and continuing education requirements are effective measures in protecting consumers throughout the mortgage origination process. To ensure the existence of a minimal level of expertise, all mortgage originators should receive pre-licensure education. Mortgage originators should not only understand the features of the loan products they sell, but also have sufficient knowledge of the laws and regulations that govern the loan origination industry. To maintain this competency and enhance the expertise of the industry, all mortgage originators should be required to comply with continuing education requirements. The mortgage industry is not static and has changed dramatically over the years. In the past five years alone, the number of loan products available to consumers has ballooned—we no longer live in a world of only a 30-year fixed or 5/1 adjustable rate mortgage ("ARM"). Today, loan products range from a 40-year fixed to interest-only and 4-pay option loans. It is imperative that mortgage originators possess up-to-date knowledge about both loan products and relevant laws as the industry evolves.

[2] Through MSSI, NAMB sought to have individual state statutes enacted that would require pre-licensure education and mandate continuing education requirements for all residential loan originators. This model state statute would serve as a prototype for state regulators and legislatures whose states do not have such statutes or whose states need to improve their statutes to protect and better serve the community. A copy of the MSSI model state statute is attached hereto as Appendix A.

While pre-licensure and continuing education requirements further ensure that a consumer works with a knowledgeable originator, the consumer also deserves to know he or she is not working with an individual who has been convicted of a financial crime, such as fraud. If an originator has been convicted of a financial crime, he or she should not be dealing with consumers and taking mortgage applications. A valuable tool for protecting consumers from such intentional bad acts of mortgage originators is the criminal background check. Criminal background checks create a barrier to entry into the mortgage origination system by those convicted of financial and other crimes. Criminal background checks conducted periodically throughout employment also ensure that an originator who has unfettered access to sensitive financial information of consumers continues to be licensed, educated and ethical.

Identity theft and the security of sensitive customer information, including all personal financial information, are at the forefront of Congressional concern and efforts. Many members have called for national legislation that would implement tighter controls regarding the use of consumer data as well as measures to prevent these types of security breaches. It is clear that Congress wants all business entities, both large and small, to ensure that their customers' personal information is secure from security breaches. Protecting consumers from data security breaches but failing to mandate criminal background checks of those individuals to whom consumers directly give their personal data for consummation of a mortgage transaction creates a vast hole in any identity theft protection measure.

NAMB supports provisions in Title V calling for criminal background checks; however, the provision as written is applicable only to mortgage brokers. A fundamental flaw would exist in consumer protection efforts if Congress were to require criminal background checks for mortgage brokers, but not for others in the mortgage origination system. Pursuant to Title V of the Act, those deemed unfit for a state mortgage broker license because of financial improprieties found in their criminal background check could easily move to another mortgage originators' operation.

Bifurcating the loan origination world into those mortgage originators that must have criminal background checks and those that do not creates the very opportunity upon which identity thieves thrive. Requiring a mortgage originator to submit to a criminal background check is a key component which is vital to consumer protection in any licensing construct. As such, any individual who signs a 1003 form should have to submit to a criminal background check.

We are cognizant that there are differing thoughts as to what requirements should comprise the national, minimum licensing standards and who should be subject to such requirements. NAMB, however, stands firm in its conviction that for any licensing requirement to be effective, serve its objectives appropriately and curtail abusive lending practices, it must apply equally and fairly to anyone that signs a 1003 application for a residential mortgage loan. We are concerned that exceptions to such consumer protection measures will increase consumer confusion and vulnerability to fraud.

Nevertheless, NAMB recognizes the oversight of federally-regulated depository institutions by their respective federal regulators. The provisions in Title V of this Act would exempt these federally-regulated depository institutions from the purview of its licensing and education requirements. NAMB understands the complexities of functional regulations under which the depository institutions operate. NAMB supports the Act's exemption from licensing and education requirements promulgated by the states *provided* that mortgage loan originators employed (*i.e.,* W-2 employees) by federally-regulated depository institutions have substantially similar education, licensing and other requirements as their state-licensed counterparts.

Nationwide Database of Mortgage Originators

In addition to national, minimum licensing standards for all mortgage originators, another useful device for combating abusive lending is a national database of all mortgage originators. Such a system could help track unintentional and intentional behavior of those mortgage originators who should not be in the profession because of a weak mortgage educational background or because they are unscrupulous actors.

NAMB supports a national database of all mortgage originators provided the following key concepts are incorporated: (1) all mortgage loan originators should be listed; (2) any substantiated claim must be fully adjudicated by the proper governmental entity; (3) any database must assign all mortgage originators a permanent portable identification number; (4) data in the database must be populated with data pulled either from state created and maintained databases or potentially from data collected by the federal regulators; (5) the oversight and operations of the entity operating the database must be unbiased and not profit related; (6) the costs of the operations must be absorbed by the government; and (7) the database must be kept compliant with national privacy laws.

All mortgage originators should be included in the national database system with no exceptions – depository, non-depository and mortgage brokers. A database of only state-licensed mortgage brokers would not prevent an unscrupulous actor ejected from one state's licensing structure from freely moving to another state to continue their unscrupulous behavior. In addition, those ejected from the mortgage industry by a state-licensing regulator should not be able to re-enter into the mortgage origination system through employment by either depository or non-depository lenders. A nationwide database applicable to all mortgage originators would serve as a deterrent for bad behavior, whether intentional or unintentional.

Some may argue that only brokers should be subject to a database, along with national, minimum licensing standards, however, including one subset of mortgage originators does nothing more than confuse and mislead the consumer. The framework for debate here is not one of regulation, but rather one of consumer ability to make a well-informed decision. Consumers should be able to access and evaluate information about any mortgage originator—be it a mortgage broker or a loan officer operating for a large mortgage finance company—so as to make an informed decision about which one they will work with during the mortgage application process. NAMB believes that for any

national database of licensed individuals to be useful it should apply to every single individual engaging in the regulated activity.

A national database must also establish a framework to facilitate regulation within the mortgage industry; provide useful information on the licensing and regulatory status of mortgage originators that would aid consumers in their selection of a mortgage originator; and could include verified employment status. For example, information submitted to the national database would be of the type that would typically be used by a consumer when choosing a mortgage originator with whom he or she would conduct business, such as: adjudicated claims, license status, and license history.

Lastly, NAMB believes that a viable national database would maintain an appropriate equilibrium between the costs imposed and the benefits yielded from such a repository of information. Of course, the operations of such a national database would require oversight and control. This brings us to the last issue we would like to address—the need for a Consensus Committee.

Consensus Committee

NAMB supports the concept of a Consensus Committee that would be charged with a variety of tasks, including overseeing the national database and making proposed policy recommendations to the Secretary of Housing and Urban Development on housing issues such as the Real Estate Settlement Procedures Act of 1974.

We believe a Consensus Committee would be beneficial to the mortgage industry in numerous ways. It would administer the national database system with appropriate consumer and industry efficiencies. It would also provide a mechanism for the industry to jointly request appropriate standards of conduct for those participating in the mortgage industry, as well as new products that may be useful and beneficial to the market but which need clear government compliance guidance. A Consensus Committee could also act as a resource to various federal and state agencies and provide consultation on various industry concerns.

Conclusion

Any legislation to curb abusive lending practices should create a national, minimum licensing and education standard and a national database for all mortgage originators, regardless of the distribution channel — broker, banker, lender — chosen by consumers. Such legislation should also simultaneously encourage growth in homeownership by ensuring continued credit availability, competition and choice for consumers. We appreciate the opportunity to offer our views and look forward to working with this committee to address these important issues.

Model State Statute Initiative

Licensing, Pre-licensure Education and Continuing Education Requirements for All Originators

NAMB proposes a state statute initiative to protect consumers and ensure originator competency.

June 2002
Amended January 2005

The National Association of Mortgage Brokers (NAMB) is the national trade association representing the mortgage broker industry. With 49 state affiliates and more than 27,000 members, NAMB promotes the industry through programs and services such as education, professional certification and government affairs representation. NAMB members subscribe to a code of ethics and best lending practices that foster integrity, professionalism and confidentiality.

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Acknowledgements*

This Model State Statute Initiative is the result of a consensus process involving the Model State Statute Task Force, the NAMB Board of Directors and the NAMB Delegate Council and many internal committees.

NAMB wishes to thank President Joseph L. Falk, CMC, CRMS, for his leadership and commitment in proposing and promoting this major consumer protection initiative.

The Model State Statute Task Force provided inspirational leadership in developing the concepts and articles to be included in this Initiative. Thank you Mitch Medigovich, CMC, Leo Davenport, CRMS and Kate Crawford for your many hours of service and your clear thinking and thoughtfulness throughout the deliberative process.

Thank you to the Communications Committee, chaired by Al Wood, CRMS, NAMB's public relations firm of Merton G. Silbar Public Relations, Natalie Bachiri, NAMB's Director of Communications, NAMB's management firm, Association Management Group, as well as NAMB's legal counsel Robert Lotstein and staff of the firm of Lotstein Buckman.

The Legislative Committee, chaired by J.J. Sims and the Education Committee, chaired by Carol Gardner, CMC, CRMS, contributed mightily to the end product using their committee structure, committee members and other individuals to add to this national initiative.

We would also like to acknowledge and thank the NAMB Board of Directors and Delegate Council who have endorsed this proposal for protecting mortgage consumers.

* As of June 2002

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June 2002

Dear Mortgage Professional:

Buying or financing a home is one of the largest, most complicated and vitally important decisions facing consumers in the United States. Therefore, residential mortgage loan originators who work directly with the public should be educated, honest and professional.

The National Association of Mortgage Brokers is proud to announce a comprehensive initiative to better serve and protect the public through increased licensure, training and education of all residential mortgage originators. The NAMB Model State Statute Initiative is based on NAMB's firm belief that part of the solution to consumer abuse and predatory lending is mandatory licensing and education of all residential loan originators.

NAMB is taking a proactive stance on consumer protection. This model statute serves as a model for state regulators and legislators whose states do not have such statutes or whose states need to improve their statutes to protect and serve the general public.

The concept has four basic tenets:

a) It should apply to all residential mortgage loan originators
b) There should be a state licensing requirement
c) There should be a pre-licensure education requirement
d) There should be a continuing education requirement to maintain competency

Our 44 state affiliates, which comprise NAMB, support this initiative and recommend that specific concepts for licensure and education be considered based on each state's current statute(s). NAMB recognizes that some states have aggressively monitored the industry through licensure and others have made education mandatory; whereas other states have determined different levels of oversight to regulate the mortgage industry.

While each state is different, NAMB believes that this initiative will serve to help reduce the incidence of predatory lending and improve the overall competency of the industry in every state. NAMB urges each state to adopt these concepts in the best interest of the public. NAMB is committed to see this matter through to fruition and will monitor the progress of this initiative in each state.

Our state affiliates will now lead the charge to protect consumers through enhanced licensing, pre-licensure and continuing education proposals to their respective state legislatures and mortgage regulators.

Thank you for your support of this proposal for State Licensure, Pre-licensure Education and Continuing Education for all originators.

Sincerely,

Joseph L. Falk, CMC, CRMS
President

NAMB Model State Statute Initiative

Goal: To better serve and protect the public, the residential mortgage loan industry will endeavor to license, train and educate all residential mortgage originators. NAMB firmly believes that part of the solution to consumer abuse and predatory lending is mandatory licensing and education of all residential loan originators.

Concept: Buying or financing a home is one of the largest, most complicated and vitally important decisions facing consumers in the United States. Residential mortgage loan originators who work directly with the public should be educated, honest, and professional.

Overview: NAMB is taking a proactive stance on consumer protection. NAMB seeks to have individual state statutes enacted that require pre-licensure education and mandate continuing education requirements for all residential loan originators. This model statute would serve as a model for state regulators and legislators whose states do not have such statutes or whose states need to improve their statutes to protect and serve the general public.

The concept has several basic tenets:

a) **It should apply to all residential mortgage loan originators**
b) **There should be a state licensing requirement**
c) **There should be a pre-licensure education requirement**
d) **There should be a continuing educations requirement to maintain competency**

NAMB believes that such an initiative will serve to help reduce the incidence of predatory lending and improve the overall competency of the industry. NAMB urges each state to adopt these concepts in the best interest of the public. NAMB is committed to see this matter through fruition and will monitor the progress of this initiative in each state.

All residential mortgage loan originators should have formal training and should be tested on their knowledge of matters including financial analysis, ethics, federal and state disclosures, real estate law, and mathematical computations germane to real estate and mortgage lending prior to contact with the public. Residential Mortgage Loan Originators should be well qualified before they work with homeowners on mortgaging or financing their most valuable asset.

For this reason, NAMB recommends and supports a standardization of education and experience for every person who holds themselves out to the public to be a Residential Mortgage Loan Originator.

Licensing Overview

We believe that each state should enact a licensing requirement for all residential mortgage loan originators. The requirements for licensure should encompass all residential mortgage loan originators and all owners or responsible individuals of residential mortgage loan entities.*

Residential Mortgage Loan Officer Shall be defined as any individual who, for compensation or gain, takes or receives a mortgage application, assembles information, and prepares paperwork, and documentation necessary for obtaining a residential mortgage loan, or arranges for a conditional mortgage loan commitment between a borrower and a lender, or arranges for a residential loan commitment from a lender. Residential Mortgage Loan Officers also include an employee who solicits financial and mortgage information from the public for sale to another residential mortgage broker.

Principal Mortgage Owners/ Responsible Individual Defined as the owner, or managing general partner, or responsible individual, or any Officer, or stock holder, who holds themselves out to be the party accountable for residential mortgage loan originations or branch mortgage operations, with in the state, and/or the person in direct management of residential mortgage loan origination.

Exempt Any individuals who do not deal (i.e. negotiate interest rates, loan programs, offer loan locks, loan commitments) directly with borrowers. This includes persons who complete incidental services in arranging or procuring a mortgage loan, including administrative staff wherein their primary function is the verification of data provided by the borrower, assembly of documents and coordination of third party services such as ordering an appraisal, title report or credit reports.

Anyone who deals directly with a consumer and reviews, analyzes, evaluates a proposed borrowers financial statements, income, property characteristics and credit history should obtain a license.

Licensing Requirements

To obtain a state license to become a residential mortgage loan originator, the following concepts should be adopted:

1. A written application for licensure must be required. The application should require an attestation by the applicant as to the applicant's experience and knowledge of the mortgage industry.

2. The applicant should submit to a background investigation of, at a minimum, criminal records, and employment history.

   - No individual should be licensed who has had a license, or the equivalent, to practice any profession or occupation revoked, suspended or otherwise who has acted beyond legal limits.

   - No person should be licensed who has been convicted of acts against society that could be deemed 'moral turpitude'. Such acts where licenses should be denied must include duties owed by licensees to the public including acts contrary to justice and the doctrine of "fair dealing", honesty, principle or good business morals. This includes, but is not limited to theft, extortion, use of the mail to obtain property under false pretenses, tax evasion and the sale of, or the intent to sell controlled substances.

   - The licensee should provide evidence that they have managed their business and personal financial affairs with care and diligence.

3. A first time Residential Mortgage Loan Officer Licensee Applicant shall provide a certificate of satisfactory completion of a course of study, as defined by the state, consisting of the subjects listed below.

4. A Principal Mortgage Lending Entity/Owner/Responsible party Licensee Applicant shall provide a certificate of satisfactory completion of a course of study, as defined by the state, consisting of course work from the subjects listed below.[1]

5. A Licensee Applicant shall pass an examination of the applicant's knowledge after items 1-4above have been completed.

6. Licenses shall be valid for a two-year period. Upon expiration of the two-year period, the licensee should submit an application for renewal to the appropriate licensing authority. The renewal application should, at a minimum, include evidence of completion of continuing education courses, as described below.

7. The licensing authority should have the authority to request additional information from the Licensee Applicant to support statements made on the application or dispute matters discovered through investigation.

8. All initial applicants shall submit a finger print card, which shall be forwarded to the local Department of Public Safety and/or FBI for a records check.

9. The Licensee Applicant shall pay sufficient fees to pay for Licensing Authorities' costs of processing the license application and investigations.

10. Upon receipt of a Residential Mortgage Loan Officers license, the licensee shall immediately deliver the license to his/her employing broker. Upon termination of employment of a Residential Mortgage Loan Officer, the license shall be transferred to a new employing broker and the regulating authority should be notified. If the Residential Mortgage Loan Officer does not have a new employing broker, the license shall be returned to the Licensing Authority with an explanation or the reasons for termination.

11. The appropriate state regulatory authorities should maintain state licensing or registration records.

Grandfathered Persons

Every Residential Mortgage Loan Officer, currently registered, licensed or otherwise employed in the mortgage industry immediately preceding enactment of this initiative shall be permitted to continue employment as a Residential Mortgage Loan Officer. Each current originator shall be required to meet all of the necessary elements of licensure at the next renewal period specified by state law.

Unless provided for in state law, every Principal Residential Mortgage Lending Entity or Owner, currently licensed immediately preceding enactment of this initiative shall be permitted to maintain their license and position. Each current Principal Residential Mortgage Lending Entity/Owner shall be required to meet all of the necessary elements of licensure at the next renewal period specified in the state law.

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[1] Based upon the experience of many mortgage brokers, the educational requirement should be greater than that required of Residential Loan Officers.

Pre-Licensing Education

All persons making an initial application for licensing must:

a) Attend educational courses, determined by the state, when applying for a Residential Loan Officer license;
b) Attend educational courses, determined by the state, when applying for a Principal Mortgage Owner license;
c) Pass a test of core competencies;
d) Receive a certificate of completion from the school or organization that provided courses.

Each State or Licensing Authority should, with the assistance of the local mortgage professionals, establish review and approve curriculum sufficient to establish a baseline of knowledge for licensees.

Recommended Course Curriculum Pre-licensure course curriculum may include:

a. Federal Lending Laws;
b. Ethics, Diversity and Sensitivity;
c. Practices of Residential Lending.
d. Real Estate and Mortgage Mathematics;
e. Escrow Procedures, Title Insurance and Loan Settlement;
f. Appraisals and Land Survey;
g. Loan Processing and Loan Underwriting Process;
h. Secondary Mortgage Market;
i. Loan Default and Foreclosure Law;
j. State Statutes and Rules.

Continuing Education Requirements

Every residential mortgage originator, whether a Residential Loan Officer or Principal Mortgage Owner, shall, upon renewal of an existing license, submit proof of satisfactory completion of a course of study.

Subjects may include:

a) Federal and State Lending Law;
b) Local Rules and Regulations;
c) Ethics and Professional Standards;
d) General Real Estate or General Financial Studies;
e) Product Update;
f) Personal Development;
g) Diversity Training.

Continuing education courses may be offered through classroom instruction, electronic transmission, or distance learning. Qualifying hours may be obtained by attendance at a locally chartered real estate or mortgage business school, accredited college, university or community college, or vocational school or other institution approved by the state licensing agency.

The licensee should receive a completion certificate that such hours have been successfully completed. Licensees shall submit the appropriate completion certificate(s) with the license renewal form.

Conclusion

It is the intent of this initiative to engage measures to reduce the incidence of predatory lending and to raise the standards for those persons who interact with the public in the area of home financing. Every Residential Loan Originator should be licensed, responsible and accountable for his or her actions when working with the public. We at NAMB believe that establishing minimum educational requirements as well as requiring continuing education will substantially increase each Residential Loan Originator's awareness of their responsibility and duty to give consumers fair and honest service. It may be desirable for each state to consider establishing a mortgage oversight board to assist the commissioner with up-to-date material for pre-licensing and continuing educational courses.

*This initiative contemplates using the words 'license' and 'registration' interchangeably. We leave to the States to determine if this process includes an individual license, permit or an aggregated corporate registration methodology, so long as both aspects of educational requirements are maintained and criminal background investigations and prohibitions are maintained. If a corporate registration of all originators is contemplated, it should require 'employee' status and a bonding requirement should be considered. It is understood that if such a corporate methodology is utilized, paragraph 10 under Licensing Requirements is not applicable.

Recommended Course Curriculum

Pre-licensure course curriculum may include:

I. Federal Lending Laws. Licensees should develop competencies in matters of federal mortgage statutes, which may include:

a) Regulation Z, Truth in Lending Act;
b) Real Estate Settlement Procedures Act (RESPA);
c) Regulation B, the Equal Credit Opportunity Act;
d) Regulation C, the Home Mortgage Disclosure Act;
e) National Flood Insurance Act;
f) Fair Credit Reporting Act;
g) Federal Trade Commission rules concerning advertising for credit;
h) Servicing Transfer Act;
i) Privacy Act;
j) Consumer Protection Act;
k) Community Reinvestment Act.

II. Ethics, Diversity and Sensitivity. Licensees should be able to discuss the canons of:

a) Fair Housing Act;
b) Emerging Markets;
c) Redlining and Block-busting;
d) Ethical practices of mortgage lending.

III. Practices of Residential Lending. Licensees shall develop competencies in the subjects of:

a) Evolution of Residential Lending in the United States
b) The role of Government Sponsored Enterprises (GSE's)
c) Federal National Mortgage Association
d) Government National Mortgage Association
e) Federal Home Loan Mortgage Corporation
f) Federal Housing Administration
g) Veteran's Administration
h) Farmers Home Administration
i) Private Mortgage Insurance Industry Principles of Mortgage Lending, including but not limited to:
j) Assisting consumers in selection of loan programs including adjustable rate loans;
k) Evaluating the relationship between discount points and interest rates;
l) Describing the costs of originating a mortgage loan;
m) Preparing and discussing the required state and federal disclosures with a consumer;
n) Interpreting and discussing loan contingencies and covenants with the consumer;
o) Explaining the loan commitment issued by a lender;
p) Reading and understanding a real estate contract as it relates to financing of real property;
q) Identifying methods of holding title to real estate and discuss options with the consumer;
r) Describing the advantages of primary and subordinated financing options;
s) Explaining and preparing a Good Faith Estimate of costs for a consumer.

IV. Real Estate and Mortgage Mathematics. Licensees should develop competencies in basic mathematics.

The licensee should have the basic skills to:

a) Calculate gross and net loan amounts to satisfy a consumers loan request;
b) manually prepare a Good Faith Estimate of costs and Truth in Lending statement;
c) calculate and analyze ratios of mortgage payment-to-income;
d) calculate the ratio of total obligations-to-income to determine loan acceptability;
e) analyze income tax returns for self-employed borrowers to confirm sufficient income;
f) calculate loan to value ratios;
g) calculate origination fees, yield spread premiums and discount points;
h) calculate prorations for real estate taxes and insurance amounts for the reserve account;
i) calculate rate changes on adjustable rate mortgages;
j) convert hourly and weekly salaries to monthly income to compute ratios;
k) determine that the consumer has sufficient funds for closing;
l) calculate monthly principal and interest payments and the amortization of a loan;
m) calculate per diem interest amounts;
n) manually calculate the Annual Percentage Rate
o) describe the theory of Time Value of Money and the impact on the financing contract.

V. Escrow Procedures, Title Insurance and Loan Settlement. Licensees should develop competencies in matters of closing forms and the closing process. The licensee should be able to explain the documents and process so that the borrower fully understands what is taking place.

The documents to be explained include, but are not limited to:

a) the mortgage note and its provisions for default, the lenders rights and the borrowers rights;
b) the security agreement, (mortgage or deed of trust), including each of the covenants and conditions;
c) the HUD-1 closing statement and its relationship to the Good Faith Estimate of Costs;
d) the Good Faith Estimate of costs and final Truth in Lending statement;
e) the consumers right of rescission.
f) the purpose and cost of lenders title insurance;
g) the purpose and cost of owners title insurance;
h) title examination;
i) title abstract;
j) lien theory;
k) Schedule "B" exceptions to title insurance

VI. Appraisals and Land Survey. The licensee should be able to describe:

The three methods of valuation, including:

- cost approach;
- market approach;
- income Approach;

a) the theory of economic obsolescence;
b) the theory of functional obsolescence;
c) the theory of depreciation;
d) the theory of depletion;

e) the Rectangular Survey System;
f) the method of legal identification of real property in their state;
g) calculate the number of acres in a given area;
h) calculate the number of square feet in a given area.

The licensee should be able to understand and communicate with the borrower the purpose and process of the appraisal, the survey, title insurance, restrictive covenants, deed restrictions, and encroachments and pest inspections.

VII. Loan Processing and Loan Underwriting Process. Licensees should study the subjects of loan processing and underwriting. After study in this section, the licensee should be able to:

a) prepare, explain, and execute a business agreement with the consumer;
b) demonstrate the ability to understand and explain an FNMA 1003 mortgage application;
c) explain requirements for determining if the property, income and credit of borrower fit the loan offerings available through the licensee.

The licensee should have the knowledge to collect the necessary exhibits anticipated for:
a) underwriting contingencies;
b) understanding the procedures and requirements for issuing adverse action notices;
c) assembling for submission an entire loan package for underwriting.
d) evaluation of an appraisers conclusions.

The licensee should also have a basic knowledge of:
a) negotiating a rate lock;
b) investigation and confirmation of application data;
c) arranging for a property inspection;
d) evaluating and reviewing a title insurance policy;
e) owner's versus mortgagee's title insurance policies;
f) the function and operation of private mortgage insurance and knowing when it is required;
g) when private mortgage insurance can be canceled;
h) the meaning of the terms novation, assumption, and "subject to the mortgage";
i) release of liability.

The licensee should be able to demonstrate an understanding of the basics concepts of:
a) fixed versus variable rate mortgage loans;
b) negative and positive amortization principles;
c) graduated payment mortgages;
d) reverse mortgages;
e) shared appreciation mortgages;
f) bi-weekly mortgages;
g) temporary and permanent interest rate "buy-downs";
h) the concept of a wraparound mortgage.

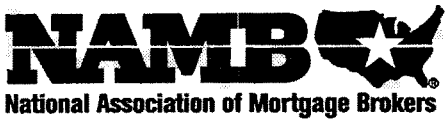
VIII. Secondary Mortgage Market. Licensees should study the process of the secondary market. The licensee should be able to describe:

a) how interest rate markets are established;
b) interest rate risks;
c) the theory of "yield spread premiums";
d) the theory and process by which loans are sold;
e) the theory and purpose of a loan purchase commitment;
f) FNMA and FHLMC standard eligibility requirements;
g) the function and method of operation of FNMA, GNMA and FHLMC;
h) the method and marketing aspects of a GNMA mortgage-backed pass-through security;
i) the theory of "service release premiums".

The licensee should also be able to explain the basic functions of;
a) mortgage servicing;
b) collections;
c) remittance of payments;
d) escrow accounts for taxes and insurance;
e) payoffs ;
f) assumptions;
g) the transfer of servicing rights.

IX. Loan Default and Foreclosure Law. Licensees should study Foreclosure Law. Licensees should be able to describe:
a) the type of foreclosure law most frequently used in their state;
b) the legal process of a judicial foreclosure;
c) the legal process of a trustee's sale and how it differs from a judicial foreclosure;
d) the borrower's rights of reinstatement;
e) the borrower's right of redemption;
f) the legal process of a forfeiture of equitable title;
g) the effects of subordinate liens after foreclosure;
h) the effects of mechanics and materialmens' liens;
i) the process of tax lien sales.

X. State Statutes and Rules. Licensees should study of State and local law. Licensees should be able to identify:
a) minimum record keeping requirements;
b) record retention requirements;
c) minimum requirements for licensing;
d) the process for examination of a licensees records;
e) standards for accounting;
f) standards for maintaining Trust Funds;
g) minimum net worth requirements;
h) minimum bonding requirements;
i) local disclosure requirements;
j) contracts and written agreements with consumers;
k) minimum requirements for supervision of employees;



The National Voice of the Mortgage Broker

Established in 1972, the National Association of Mortgage Brokers (NAMB) is the national trade association representing the mortgage broker industry. With 49 state affiliates, and more than 27,000 members, NAMB promotes the industry through programs and services such as education, professional certification and government affairs representation. NAMB members subscribe to a code of ethics and best lending practices that foster integrity, professionalism and confidentiality.

A mortgage broker is an independent real estate financing professional who specializes in the origination of residential and/or commercial mortgages. There are approximately 33,000 active mortgage broker operations across the nation that employ an estimated 240,000 people and originate 65% of all residential loans in the U.S.

A mortgage broker is also an independent contractor who markets and originates loans offered by several wholesale lenders. By offering superior market expertise, and direct access to many different loan programs, a mortgage broker provides the consumer the most efficient and cost-effective method of obtaining a mortgage that fits the consumer's financial goals and circumstances. Mortgage brokers originate more mortgages than any other single loan source group in this nation.

The brokerage industry plays a significant role in the mortgage lending process and American economy, increasing competition and driving down costs. The expansive mortgage broker network allows loan wholesalers of all sizes to immediately gain a national presence without incurring the great expense of national advertising and maintenance of branch offices.

The mortgage broker industry is regulated by 10 federal laws, five federal enforcement agencies and over 45 state laws or licensing boards. Additionally, brokers typically have some type of Quality Control requirements and NAMB members also adhere to a strict Code of Ethics and best lending practices.

Testimony of

Stephen Hailer

on behalf of the

AMERICAN **BANKERS** ASSOCIATION

before the

Housing and Community Opportunity Subcommittee

Of the

Committee on Financial Services

United States House of Representatives

September 29, 2005

Testimony of
Stephen Hailer
on behalf of the
American **Bankers** Association
before the
Housing and Community Opportunity Subcommittee
Of the
Committee on Financial Services
United States House of Representatives
September 29, 2005

Mr. Chairman and members of the Committee, my name is Stephen Hailer. I am president and CEO of the North Akron Savings Bank in Akron, Ohio. I am also vice chairman of the American Bankers Association's Housing and Federal Home Loan Bank Committee. ABA, on behalf of the more than two million men and women who work in the nation's banks, brings together all categories of banking institutions to best represent the interests of this rapidly changing industry. Its membership – which includes community, regional and money center banks and holding companies, as well as savings associations, trust companies and savings banks – makes ABA the largest banking trade association in the country.

I am pleased to be here today to present the views of ABA on Title V of H.R. 1295, the Responsible Lending Act. Title V would establish licensing requirements and minimal federal requirements for independent mortgage brokers and, among other things, require background checks and continuing education of independent brokers. Section 503 of H.R. 1295 defines a mortgage broker as "a person who engages for compensation, either directly

or indirectly, in the acceptance of applications for mortgage loans for others, solicitation of mortgage loans on behalf of borrowers, or negotiation of terms or conditions of loans on behalf of borrowers or lenders." Section 501 would not apply to brokers who perform work for banks or an affiliate of a bank, including those who fund, underwrite, service, or sell mortgage loans.

In particular, I would like to make three points in my testimony:

I. High Ethical Standards Benefit Everyone

Ensuring that consumers are treated fairly and receive high quality services is clearly in the interest of the entire mortgage industry, which depends upon the trust and patronage of homebuyers.

II. Banks are Subject to Rigorous Enforcement

The entire mortgage lending process performed by banks and their representatives is subject to a sophisticated umbrella of federal laws and regulations. The banking industry is subject to rigorous government oversight and examination. No comparable regulatory regime exists for independent mortgage brokers.

III. Extending Protections Already Required of Banks Makes Sense

Section 501 of H.R. 1295, which would create federal standards and licensing requirements for independent mortgage brokers, represents a practical means of extending existing protections for consumers beyond lenders.

ABA believes that practices that deceive, defraud, or otherwise take unfair advantage of consumers are predatory, and have no place in our financial system. Existing laws against these practices should be rigorously enforced. Practices that are routinely criticized – such as guaranteeing the borrower one loan rate and putting a second, higher rate in a mortgage contract are reprehensible – ***and are already illegal***. ABA believes all parties to the home-buying process, whether independent or associated with a bank, should act responsibly and be held accountable when they do not do so. Therefore, ABA supports minimal federal requirements for independent mortgage brokers.

I. High Ethical Standards Benefit Everyone

The success or failure of any business depends upon the satisfaction of its customers. Mortgage lending is a vast enterprise, which requires the coordination of several layers of professionals throughout the process of issuing a home loan.

The U.S. mortgage market is more competitive than ever. Consumers have hundreds of lenders to choose from and even more brokers competing for their business. Reputation plays a large role in deciding which brokers succeed over the long-term. The damage caused by deceptive or unscrupulous sales practices extends beyond the consumer who is directly targeted. News and government reports of bad actors can destroy whole businesses and ruin reputations. In contrast, ethical and efficient brokers attract more customers and generate more business for themselves and lenders.

Mortgage brokers are a critical part of the home lending market because they account for a substantial percentage of all mortgage contracts – nearly two-thirds – and, next to real estate brokers, are likely the first person a homebuyer contacts after deciding to purchase a home. Mortgage brokers often serve as guides to the process of buying a home, providing important information to consumers about down payments, loan terms, and the mortgage-closing process. Brokers who work on behalf of banks frequently present buyers with customized packaged services, while independent mortgage brokers will "shop" mortgage prices and rates offered by a host of potential lenders. Regardless of the lender, brokers are responsible for fulfilling an essential job in the home-buying process: they bring buyers and lenders together. Only the highest ethical standards can preserve this vital relationship.

II. Banks are Subject to Rigorous Enforcement

Banks and the activities of mortgage brokers who act on banks' behalf are heavily regulated and thoroughly examined for compliance with a host of federal laws and regulations. Because banks are subject to, and examined regularly for, compliance with a wide range of laws and regulations, they must hold all their employees and representatives to high standards. Banks are subject to the Truth in Lending Act, Home Mortgage Disclosure Act, the Equal Credit Opportunity Act, RESPA, and the Fair Lending Act, among other laws. Federal law contains numerous disclosure requirements relating to mortgage loans generally, and especially so-called high-cost loans. Additionally, continually updated regulatory guidance is enforced by a panoply of federal agencies.

A bank's liability for violations, which continues after consummation of the loan, provides an effective deterrent of unscrupulous behavior and the means to quickly detect outliers. Banks have an ongoing interest in ensuring that the loans made by their employees or contractors are fair, reasonable, and legitimate. In most instances, an ongoing financial interest also exists – the bank will either hold the loan in portfolio or sell it into the secondary market and could be subject to recourse should the loan quality deteriorate. In all instances, banks have a regulatory and reputational interest – their examiners will review their loan practices and hold them accountable for any violations of the many laws to which they are subject.

Independent ***mortgage brokers are not subject*** to the breadth of consumer protection law and regulations with which banks must comply and, importantly, a regulatory system does not exist to examine them for compliance even with those laws, such as RESPA, which do apply to them. In addition, because of the nature of their jobs, independent brokers may not have the same level of ongoing interest in the quality of the loan they process. Once the loan closes, and they are paid, they have no further financial interest in the loan or obligation to the borrower, although most want to preserve their reputation for long-term relationships.

To help illustrate the extent to which banks are examined for compliance with consumer protection laws, the Federal Deposit Insurance Corporation (FDIC) issues a 49-page examination manual to its examiners evaluating bank compliance with the Truth in Lending Act (TILA). The examination manual lists step-by-step procedures to evaluate bank

compliance with every aspect of TILA, instructing examiners to inspect the dating of loan documents, signatures, annual percentage rates "within the allowed tolerance of 1/8 of 1 percent for regular transactions," and other mandatory disclosures. Banks are well aware of these requirements and actively train their employees and representatives for full compliance.

TILA requires banks to provide disclosures to applicants and borrowers disclosures about important terms in an easy to read format at different times in the mortgage process. Good faith estimates of these terms must be provided within three days of application. Final disclosures must be provided before the loan is consummated. Special "early" disclosures are required for home equity lines of credit. Failure to provide proper disclosures can mean significant potential liability for the creditor. In addition to damages and statutory damages, this liability may include loss of any security interest and the refund of all interest and other fees paid up to three years.

Banks, savings associations and credit unions are also subject to the Home Mortgage Disclosure Act (HMDA). They must report certain information on home mortgage loans that they originate, purchase or refinance. However, independent brokers are not required to report any information on the mortgage applications that they process, as insured depository institutions must. Not only must depository institutions report under HMDA, but bank examiners regularly inspect the institution's loan files to determine whether the HMDA reporting was done correctly and also to review the loans for possible fair lending violations, if the institution's HMDA numbers reveal unexplained disparities in lending, denials, pricing and other reported information.

Independent mortgage brokers, though not as heavily regulated, play a vital role in the mortgage lending industry. Many banks rely on brokers as their retail outlet. It is essential that all brokers be honest, trustworthy, and reliable. While some may seek to bring all participants in the lending process into a strict examination and compliance regime (expanding coverage and enforcement of many existing laws even to those who do not fund loans), we recognize that doing so would be expensive and would require significantly enhanced governmental resources.

III. Extending Protections Already Required of Banks Makes Sense

Title V of H.R. 1295 would address the present regulatory gap in current consumer protection law in a minimally obtrusive manner by requiring that independent brokers comply with minimum licensing requirements under either state or federal law and that a database of licensed brokers be created to allow consumers to gain useful information on any broker they may consider using. Forty-five states already require licensing of independent mortgage brokers. Uniform protections would help to ensure that all consumers are dealing with honest, fair, and trustworthy loan professionals. Licensing and the creation of a publicly available nationwide database would allow consumers to have a degree of confidence that the broker they are dealing with has met minimum standards of education and training, and would let them see if the broker has any criminal record.

We believe the licensing of independent brokers is a rational step toward better consumer protection. Additionally, it would enhance lenders' ability to screen brokers they

may seek to employ, further ensuring that lenders and consumers deal only with legitimate brokers.

Thank you. I would be happy to answer any questions you may have.

"Licensing and Registration of the Mortgage Industry"
Title V, Requirements for Mortgage Brokers of HR 1295

Subcommittee on Housing and Community Development
Committee on Financial Services
U.S. House of Representatives

September 29, 2005

Testimony of
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Chairman Ney, Mrs. Waters, Members of the Committee, thank you for inviting me here to testify today regarding mortgage brokers, predatory lending and appropriate federal and state regulations. I am the Director of Mountain State Justice, a non-profit legal services program[1] in Charleston, West Virginia which exclusively represents low income people at no cost to them. We have a very active caseload of low income homeowners who are the victims of predatory lending and are in danger of losing their homes because of the unscrupulous and illegal practices of mortgage brokers, mortgage lenders and servicers.

My primary purpose in coming here today is to convince you and your colleagues to pass only legislation which safeguards existing state law currently employed to save homes from foreclosure due to predatory lending. While we would also be happy to see Congress pass legislation which effectively limited the explosion of home equity theft, our first message to you is "Don't deplete the existing remedies we have to save homes." **Passage of Title V of H.R. 1295 would strip away effective remedies against unscrupulous mortgage brokers, without replacing it with any meaningful protections. The result would be a damaging increase in foreclosures of homes.**

In this written testimony I will first explain the importance of state laws in our efforts to save homes put at risk by the fraudulent and unconscionable practices of mortgage originators. Then, I will explain how the current language of Title V of H.R. 1295 would increase predatory lending, causing the loss of more equity and homes. In the last section of this written testimony, I will respond to the questions posed in the written invitation by Chairman Ney.

The Importance of State Law Remedies in Protecting Homeowners from Broker Abuse

In my practice at Mountain State Justice we currently represent more than 600 homeowners in 60 predatory mortgage cases.[2] In these cases it is the state laws that give homeowners the protection from predatory mortgage brokers. In West Virginia, there are a number of significant consumer protections applicable to mortgage loans originated by brokers. Title V of HR 1295 would appear to preempt West Virginia protections for homeowners against overreaching and abusive broker activities including:[3]

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[1]Mountain State Justice is privately funded, largely through attorneys' fees earned by the staff through the representation of its-low income clients. I have been the Director of the program since its inception in 1996. Previously I was the Directing Attorney of Appalachian Research and Defense Fund of West Virginia, a legal services program with which I was affiliated since 1971. As a legal services attorney for over thirty years, I have handled thousands of cases representing low income people in West Virginia. During this time, in addition to a significant consumer law practice, I have also worked on cases involving education funding, institutional conditions, mental health services, juvenile justice issues and worker safety.

[2]Currently, there are approximately fifty-five individual cases and five group cases in my consumer law practice.

[3]Sec. 501(b)(2).

- Brokering a loan in excess of the market value of the home;[4]
- Brokering a non-amortizing loan;[5]
- Prohibiting brokers from participating in compensation arrangements with appraisers which influence independent judgment;[6]
- Brokering an unconscionable loan, i.e., one without economic benefit to an unsophisticated consumer;[7]
- Limitations on exorbitant broker fees which prohibit combined fees (all points and fees except unrelated third party closing costs) of more 5% without a yield spread premium, or 6% with a yield spread premium;[8]
- Brokering a real estate loan which includes a security interest in an unattached mobile home;[9]
- Brokering a loan with excessive closing attorneys fees, and duplicative broker/lender fees;[10]
- Brokering a loan in which the borrower was asked to sign loan documents with blanks to be filled in after consummation.[11]

These restrictions are among other statutory and common law limits on broker activities which have in the last few years weeded out, to some extent, the most exploitive brokers in the state. There is still much work to be done to protect homeowners from wrongful broker activities, but these enforcement actions are currently only available through the state law. Title V of H.R. 1295 threatens to cripple our abilities to protect homeowners.

State law remedies are especially important because of the lack of meaningful enforcement of existing federal laws. There is a prohibition against unfair and deceptive practices in Section 5 of the FTC Act.[12] In the 1970s, one of the worst abuses facing homeowners was the problem caused by door to door home improvement salesmen who would sign people up for high

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[4]W.V. Code Section 31-17-8(m)(8).

[5]W.V. Code Section 31-17-8(m)(7).

[6]W.V. Code Section 31-17-8(m)(2).

[7]W.V. Codes Section 46A-2-121.

[8]W.V. Code Section 31-17-8(m)(4).

[9]W.V. Code Section 31-17-8(m)(5).

[10]W.V. Code Section 31-17-8(m)(1).

[11]W.V. Code Section 31-17-8(j)(6).

[12]15 U.S.C. Section 45.

cost home secured loans even when work was either shoddy or not done at all.[13] We made numerous requests to the FTC for assistance in limiting the abuses in this industry. I even brought suit against the FTC to secure enforcement of their own prohibition against unfair and deceptive trade practices (there is no private right of action under this federal prohibition). Despite these repeated attempts, we were unsuccessful. The FTC simply lacks the resources to do anything significant on individual cases. So we turned to the courts for redress. During my 35 years of representing defrauded homeowners, ***thousands of homes have been saved from the foreclosure sale in West Virginia primarily through the application of state law.***

A few examples of the importance of state law claims in saving homes, or equity, after unscrupulous mortgage brokers have victimized homeowners, include:

- Ms. S.S., an elderly widow from Huntington, West Virginia. was flipped seven times by the same broker in a period of ten years. On every single occasion the loan was based on an increased – and fraudulent – appraisal, new fees and closing costs adding to the principal of the loan. Each refinancing became less affordable to Mrs. S.S., until the final loan called for payments completely beyond her means. Action against the mortgage broker and the lender, using state law claims including unconscionable inducement, as well as the failure to comply with other state law requirements on brokers. The resolution of the case allowed Ms. S.S. to keep her home free of all liens, in addition to receiving a cash settlement.

- An elderly Parkersburg woman named Mrs. H. was solicited by a broker who promised a mortgage loan that would lower her monthly payments. The broker charged fees far in excess of the statutory maximum, and lent her more than her house was worth. Mrs. H. pursued the action successfully on behalf of a class of 115 similar loans based on state law claims of making a loan in excess of the market value of the home and charging excess broker fees. Mrs. H was able to keep her home free of all liens and the excess broker fees are being returned to all the homeowners in the class.

- Mr. and Mrs. A. from Bluefield, West Virginia, ages 79 and 81, owned the home in which they had raised seven children free of all liens. He was disabled miner after a lifetime of working in the mines. She was still working in a bakery. They were solicited by a broker to take out a loan to pay off a few bills. The broker obtained a bogus appraisal of $69,000 on a home worth less than $10,000 to secure a loan Mr. and Mrs. A could not possibly afford. They were foreclosed upon and forced out of their home. The case is in litigation with pending state claims including brokering a loan in excess of the market value of the home and failure to make broker disclosures. The resolution will result in the return of the home.

Please do not confuse my statements regarding the importance of state laws and the need

[13]The aluminum siding salesmen of the 1970s are the loan brokers of today.

for improved enforcement of existing federal law into anything other than a strong endorsement for improved substantive laws to address predatory lending. Unfortunately, no amount of enforcement of existing laws will change the underlying dynamics of the mortgage market, which provide sufficient enticements to encourage the continued pillaging of the home equity of unsophisticated homeowners. Congressional changes to the intricate interplay of federal and state regulation of the mortgage industry created the current mess – strong new federal laws are necessary to undue this damage. Unfortunately, H.R. 1295, in its entirety, or just Title V, would exacerbate the problem of predatory lending.

The problem of abusive home lending is now much greater than it has ever been in the past because of the exploitations caused by the proliferation of free market commissioned compensated loan brokers. These broker misrepresentation-induced loans replace local bank loans with fair terms and little risk of home loss. Some brokers routinely lead homeowners into loans with promises of savings that seldom materialize. The problem is that neither the marketplace, nor the combined effect of federal and state laws, create incentives to brokers to make loans that are performing and fair.

Passage of Title V of H.R. 1295 would increase predatory lending, causing the loss of more equity and homes.

Title V of H.R. 1295 is not a consumer protection provision. Instead, it appears that it would:

1. Preempt protective state law provisions limiting mortgage broker activities;
2. Exempt from coverage under Title V's provisions the majority of all mortgage brokers;
3. Fail to apply any meaningful protections even for those few mortgage brokers to whom it would be applicable.

Preemption of State Laws. As currently written, Title V of H.R. 1295 appears to preempt state laws which regulate mortgage brokers. All requirements on mortgage brokers appear to be eliminated because of the bill's basic premise – that each state law must be uniform with the requirements in this federal bill.[14]

The requirement for uniformity appears to leave states little room for additional protections or requirements. A parsing of the requirements of Title V of H.R. 1295 appears to provide that the rules applicable to mortgage brokers in a state that does not have an entirely

[14]The word "uniform" means identical. The dictionary definition for uniform is: 1) Always the same, as in character or degree; unvarying; 2) Conforming to one principle, standard, or rule; consistent; 3) Being the same as or consonant with another or others; 4) Unvaried in texture, color, or design.

uniform law would be preempted.[15] It thus appears that any state law that used the federal law as a floor, but added more, substantive protections, would be preempted.

Exemption of Most Mortgage Brokers. At the same time, Title V appears to exempt the huge majority of mortgage brokers even from the minimal regulation that is applicable under the uniformity standard in the title. There is a long list of persons and entities which are exempted altogether from regulation under the uniform state laws and their federal counterpart:

- Most significantly, **any person who is a creditor under the Truth in Lending Act and makes more than $1,000,000 in loans per year**, which covers almost any mortgage broker who might otherwise not already be exempted. This essentially permits brokers to avoid all state and federal regulation simply by table funding a few loans a year (closing loans in their own name with immediate sale). Some brokers now use this approach.

- Not only are all **banks, savings and loans, and credit unions exempted,[16] but so are their subsidiaries and *affiliates*.** This is a significant extension of the preemption rules currently applicable to federally chartered financial institutions, which are generally limited to the preemption of state laws for the institutions themselves and their operating subsidiaries. Allowing affiliates – which are not subject to any other state or federal regulation – to be exempt from the rules leaves those institutions and their employees completely unregulated.

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[15] This conclusion is gleaned from reading the following subsections of Title V together:

> The Federal mortgage broker requirements established pursuant to this title shall apply only with respect to state that, upon expiration of the 3-year period beginning on the date of the enactment of this Act, have not enacted and do not have in effect ***uniform state laws and regulations described in subsection (b)***. (Emphasis added.)

Sec. 501(a).

> If, at any time, the Secretary determines that a State no longer has in effect laws and regulations described in subsection (a) ***or the uniformity necessary to comply with subsection (a) no longer exists with respect to a state, the Federal mortgage broker requirements shall take effect with respect to such State*** 2 years after the date on which such determination was made, unless the State has in effect such laws or regulations, or the uniformity necessary to comply with subsection (a) is satisfied, before the expiration of such 2 year period. (Emphasis added.)

Sec. 501(d).

> Not later than 3 years after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall, by regulation and in consultation with the Federal banking agencies . . . , ***establish Federal mortgage broker requirements under this section that meet the requirements established in section 501(b)(1)***. (Emphasis added.)

Sec. 502.

[16] Section 501(b)(2)(A).

- Non-profit **budget or debt counseling services**[17] are exempted altogether, although to the extent these entities are engaging in mortgage brokering services there is no reason they should not be covered.

- **Consumer reporting agencies** which are in substantial compliance with the Fair Credit Reporting Act are also exempted.[18] This is a status exemption which provides a blanket protection to these entities once they are in compliance with a law which has nothing whatsoever to do with the regulation of mortgage brokers. Just because a CRA is in compliance with one law, does not necessarily mean that they should not be required to comply with the requirements of another law.

- **Any one who makes, services, buys or sells mortgage loans and has been approved by HUD** is also exempted.[19] This is despite the fact that some of the worst abuses by mortgage brokers have been caused by FHA approved mortgage brokers.[20]

- *Any* broker approved by **Fannie Mae**[21] and **Freddie Mac**[22] or the **Veterans Administration**[23] is exempted.

It is hard to imagine any mortgage broker who would *not* be covered by these exemptions. Indeed, I don't believe that a single mortgage broker that I have sued on behalf of my low income clients in the past 36 years would not be exempted from Title V through one or more of these broad exemptions.

No Meaningful Protections. Even for those very few mortgage brokers who might be covered (and they would have to be truly bad at their jobs to be unable to squeeze into one of the bill's broad exemptions) there are no meaningful limitations on activities. The uniform state law requirements – which are identical to those for the federal law – have only two parts: one on licensing and one establishing a national database.

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[17]Section 501(b)(2)(B).

[18]Section 501(b)(2)(C).

[19]Section 501(b)(2)(F)(iii)(I).

[20]*See, e.g.* Lew Sichelman, HUD Acts to End Flipping, Realty Times, May 7, 2003, http://realtytimes.com/rtcpages/20030507_flipping2.htm.

[21]Section 501(b)(2)(F).(iii)(II).

[22]Section 501(b)(2)(F).(iii)(III).

[23]Section 501(b)(2)(F).(iii)(IV)

Licensing Requirements. A licensing requirement is a useful *first step* in the regulation of mortgage brokers, but only if there are some real requirements to obtain the license, including the posting of a realistic bond. A recent story in *The Columbus Dispatch* details the significant problems caused the state of Ohio by mortgage brokers covered by a state licensing system designed to protect the brokers, rather than the general public making Ohio the state with the highest rate of foreclosures.[24] Like Ohio's mortgage broker licensing law, Title V of H.R. 1295 has no standards for license revocation, no requirements for full disclosure of complaints about brokers to consumers, no prohibitions against licensing brokers with a criminal record, and no substantive prohibitions or consumer protections in Title V.

Mortgage Broker Database. Title V also establishes a national database of mortgage brokers.[25] This database would include a listing of each person licensed under state or federal law – which would be very few of the mortgage brokers actually brokering mortgages to the general public. However, even for those brokers which would be listed in the database, there seem to be no real protections for consumers. Indeed, the only state laws which are specifically *preserved* in Title V are those providing privacy or confidentiality to the mortgage brokers who are listed in the database.[26] State and federal laws regarding access to public information are specifically preempted.[27]

There is not even an explicit requirement in this section of the bill that complaints regarding mortgage brokers listed in the database be made available to the general public. Finally, seemingly to ensure that no damaging information about mortgage brokers reach the ears of homeowners who might be potential customers (or victims), H.R. 1295 would make it a *federal crime* for someone to "willfully disclose to any person any information concerning . . . a mortgage broker."[28] There is no mirror requirement applicable to mortgage brokers who might strip equity or cause a foreclosure. In fact, the only civil or criminal penalties in the title are placed there to *protect mortgage brokers*, not homeowners.

Answers to Questions Posed by Chairman Ney

1. *Explain the differences between "licensing" and "registry." What are the relative merits of each?*

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[24] Geoff Dutton, *Ohio's Disgrace: No. 1 in Home Foreclosures*, The Columbus Dispatch, September 18, 2005.

[25] Section 512, H.R. 1295.

[26] Section 514(a)(1), H.R. 1295.

[27] Section 514(a)(2), H.R. 1295.

[28] Section 515(b).

Licensing suggests that the licensee has met some minimal requirements as a condition of obtaining the license. While a registry is simply a listing of participants. Both a licensing regime and a registry are meaningless, a waste of government resources, and potentially *misleading to the public,* if they do not cover all persons who are engaged in the business of brokering loans for homeowners. A license "issued by the federal government" can be used to legitimize misconduct if not accompanied by substantive regulation and enforcement.

2. *Should there be uniform standards for state licensing of mortgage brokers?*

A uniform standard is only helpful if the standards are meaningful and substantive. Uniformity should not be the excuse for minimalist. H.R. 1295's standards are so un-protective of homeowners as to be completely useless to consumers. The only purpose appears to be to protect mortgage brokers from the more stringent requirements imposed by various state laws.

3. *Explain the differences between loan originators and mortgage brokers. Should licensing and/or registry be required of both?*

The term "loan originators" implies that they are arranging loans between themselves, or their employer, and the borrower. Brokers generally arrange loans for borrowers from many different lenders. Brokers hold themselves out as acting for the borrower, searching for the best deal, providing a service to the borrower of looking for the right loan fit. This is very different from the implicit message from a loan originator who is generally only working through the arrangements of a credit relationship between one lender and the borrower. Because many consumers are led to believe that the broker is acting for them, on their behalf, to assist them, the dynamics of these relationships are different, and potentially more dangerous. It is this difference in dynamics and implicit messages that would justify a different standard and degree of regulation between mortgage brokers and loan originators.

4. *Should there be uniform standards for state education requirements (including continuing education requirements) for mortgage brokers?*

I have no opinion on this question.

5. *Should a uniform standard be a minimum standard, or a preemptive standard, i.e. should the standard be implemented as a "floor" or a "ceiling?"*

If there is a uniform standard, it should be a minimum standard, a floor, not a ceiling. Housing and lending issues are different in different states, and these differences dictate different responses. There is no reason, other than convenience of the mortgage brokers, to establish a preemptive standard, above which the states cannot go to protect their resident homeowners.

6. *Explain the benefits and/or problems associated with multi-state licensing and registration requirements.*

I have no information on this.

7. *What are the benefits of a national registry of licensed mortgage brokers and/or other loan originators?*

Unless all – or at least, most – mortgage brokers are covered by the registry, and there meaningful standards applied to the licensing requirements, there are no benefits. However, if the licensing requirements applied to all mortgage brokers, and complaints – and resolutions of those complaints – were transparent to both the general public and potential customers of the members of the registry, such a database could prove useful in providing some educational service to prevent ongoing mortgage broker abuses.

8. *Explain how a registry could be implemented and managed.*

I have no information on this.

9. *Who should be required to participate in a registry?*

Everyone who brokers more than one mortgage loan a year in the United States.

10. *What impact will registration and licensing requirements have on curbing the proliferation of predatory lending?*

If Title V of H.R. 1295 passes, predatory lending will worsen and more foreclosures will result.

11. *What are the costs associated with registration and licensing requirements? What will the impact of those costs be on consumers, brokers and mortgage companies? Do the costs outweigh the benefits?*

I have no information on this.

Conclusion.

Homeowners in West Virginia and throughout the United States need strong, clear prohibitions on abusive and unfair activities by all mortgage originators. A federal law which is worthwhile would *begin* with the limitations imposed on brokers by West Virginia and other states and include real limits on fees, deceptive and unfair practices, loan terms designed to speed refinancing and trigger foreclosures. I urge you to consider substantive, meaningful provisions like these to regulate the mortgage industry and stem the tide of predatory lending and increasing numbers of foreclosures. I would be happy to provide further information to you.

NCLR
NATIONAL COUNCIL OF LA RAZA

Licensing and Registration in the Mortgage Industry

Submitted to:

U.S. House of Representatives Committee on Financial Services
Subcommittee on Housing and Community Opportunity

Submitted by:

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September 29, 2005

My name is Eric Rodriguez, Director of the Policy Analysis Center for the National Council of La Raza (NCLR). As an advocate for Latinos, I have worked for more than a decade on planning and preparing policy analysis, legislative, and advocacy activities related to economic, employment, and financial security public policy issues. I am grateful to present our views for the hearing entitled, "Licensing and Registration in the Mortgage Industry."

As you know, NCLR is a private, nonprofit, nonpartisan organization established in 1968 to reduce poverty and discrimination and improve life opportunities for the nation's Hispanics. As the largest national Hispanic organization in the U.S., NCLR serves all Hispanic nationality groups in all regions of the country through a network of more than 300 affiliate community-based organizations.

NCLR has a deep interest in increasing the rate at which Latinos own and build equity in their home and thereby accumulate wealth that will provide financial stability in the years to come. Over the past two decades, NCLR has been a leader in advocating and conducting research on affordable housing issues important to the Latino community. This work focuses on issues such as asset accumulation and barriers to homeownership, access to affordable mortgage products, and programs and legislation that support fair lending. NCLR's most recent relevant publications include *Hispanic Housing and Homeownership*; *American Dream to American Reality: Creating a Fair Housing System that Works for Latinos*; and *Jeopardizing Hispanic Homeownership: Predatory Practices in the Homebuying Market.*

In addition, since 1997, NCLR has been a national intermediary designated by the Department of Housing and Urban Development (HUD) to distribute funds for housing counseling. The NCLR Homeownership Network (NHN) consists of 38 NCLR affiliates in 19 states that provide pre-purchase bilingual homeownership counseling to low-income families in predominately Latino neighborhoods. NHN counsels more than 20,000 families each year, more than 3,500 of which become homeowners. NHN has sophisticated partnerships with some of the nation's largest providers of home mortgages such as Bank of America, Countrywide, JPMorgan Chase, Washington Mutual, Wells Fargo, Fannie Mae, and Freddie Mac. Our extensive research and service delivery experience puts us in a unique position to comment on the role and impact of mortgage brokers in increasing Latino homeownership.

Latino Homeownership

Increasing Latino homeownership is critical to the financial security of Latino families and the economic stability of the broader community. While Hispanic homeownership still falls behind that of Whites according to HUD's most recent statistics (48% versus 76%, respectively), Hispanic families are entering the mortgage market in record numbers. Between 1993 and 2003, the number of Hispanic households grew by 92% while the number of Hispanic homeowners grew by 96%. For most American families, a home is their primary asset and homeownership represents their single greatest wealth-building vehicle. Home equity affords households and families significant financial opportunities. Unfortunately, the Latino homeownership rate lags behind that of Whites by 28 percentage points. Low homeownership rates are the primary factor contributing to the 27-to-1 wealth gap between White and Latino households.

Latino families face a number of barriers when attempting to purchase their first home, including:

- **Lack of information.** Many first-time Hispanic homebuyers are also first-generation homebuyers and many lack experience with mainstream financial institutions. In addition, overall lack of effective outreach from the financial services sector has contributed to poor information flow and insufficient access to affordable mortgage products for low-income Latino families.

- **Systemic barriers.** Many Hispanic households have "thin" or no credit files. For many Latinos, a preference not to incur and carry financial debt often translates into low credit scores that do not accurately reflect their credit risk. Due to a largely "one-size-fits-all" approach to financial and credit-scoring systems, an otherwise mortgage-ready family may be unable to qualify for a loan, or may be paying more than necessary for its financing.

- **Affordability.** Although the Hispanic population is growing in many areas of the country, more than one-third live in California and New York, two of the least affordable states in which to own a home, according to the National Low Income Housing Coalition. More than two in five Hispanic households, and more than a third of Hispanic owners, dedicate more than 30% of their income to housing, the federally-recommended standard for affordability.

- **Market failure.** Many financial institutions are experimenting with pilot products and innovative underwriting criteria; however, more should be done to meet the needs of a dynamic marketplace. Most institutions use a passive product-driven outreach system that assumes that the same product is sufficient to meet the needs of all or most buyers, rather than an assertive market-oriented approach that would value different credit behaviors and use innovative underwriting criteria (such as nontraditional credit). This approach would enable financial institutions to create products that more adequately serve a dynamic market.

Mortgage Brokers in the Latino Homebuying Market

Mortgage brokers play an important role in delivering much-needed mortgage financing to potential Latino homebuyers. Annually, mortgage brokers originate nearly two-thirds of the nation's mortgages and between 65% and 80% of nonconforming mortgages. In addition to offering a wide variety of mortgage products from various lenders, many brokers have adopted outreach techniques that mainstream lenders have not employed on a large scale and that resonate well among Latino home-shoppers. For example, many brokers spend a significant amount of time with their clients in an individual setting. Some brokers visit families or conduct closings at their homes and many of those working within the Latino community are bilingual or bicultural. However, limited oversight and inconsistent regulations between states translate into inadequate accountability standards for most brokers. Latino homebuyers, many of whom are vulnerable due to the barriers to affordable homeownership described above, feel the effects of those mortgage brokers that engage in unethical lending practices. In the interest of protecting

and increasing homeownership for all families, NCLR has identified three areas of concern regarding mortgage brokers:

- **Limited accountability.** The Real Estate Settlement Procedures Act (RESPA) regulates all activities concerning the mortgage closing transaction and was passed in 1974 to prohibit excessive fees and illegal kickbacks to service providers. To the extent consumers have a complaint about being charged a fee unfairly, they can seek enforcement action under RESPA. Although HUD has jurisdiction over RESPA, neither they nor any of the other regulatory agencies have been charged with monitoring broker activities for fair housing compliance, best or sound practices, or licensing and registration requirements. In addition, there is only a limited enforcement mechanism, which is largely consumer-complaint driven. State laws vary widely, but do offer some important consumer protections such as a private right of action and lists of prohibited practices.

- **Risk of steering.** NCLR's recent report on predatory lending found that too many Hispanic homebuyers have been steered into mortgage products more expensive than their credit warranted. Mortgage brokers have a financial interest in pushing the cost of the loan higher. Known as a Yield Spread Premium (YSP), the broker profits from selling a borrower a loan with an interest rate higher than what the financial institution quoted the broker. Most borrowers are unaware their loan contained a YSP and that they may have been steered toward a more expensive mortgage product as a result.

- **Transaction lacks transparency.** The essence of the broker function is one of being an intermediary between the borrower and the lender. Many borrowers mistakenly assume that the broker is responsible for finding them the best mortgage deal for which they qualify. In reality, however, the broker's fiduciary responsibilities are not disclosed, and, in most cases, the broker is not the fiduciary agent of the borrower.

As the main interface between clients and their mortgage options, sufficient accountability standards are in the interest of the entire homeownership market. Such standards will maintain market integrity and prevent families from squandering hard-earned money on interest and fees rather than on principal that translates into home equity.

Mortgage Broker Licensing Standards

Throughout the 1990s, the mortgage market experienced dynamic and rapid growth. Now, most homebuyers have many mortgage products and lenders from which to choose. Choices regarding mortgages have become more complex because the interrelations between products and product features, banks and their subsidiaries are not always clear to the consumer. In such an environment, the broker function is an important one that holds considerable value for the consumer. In fact, NCLR has made substantial investments in housing counseling because it understands the demand for bridging the gap between lenders and borrowers. Although their clientele is slightly different – brokers work with families that are mortgage-ready and counselors work with families that need assistance before they are ready to purchase – the trust clients place in their counselor or broker and the role of an intermediary between them and a lender is very similar. Unfortunately, accountability standards have not kept pace with the

growing sophistication and complexity of the homebuying market. We commend Chairman Robert Ney, Ranking Member Maxine Waters, and the members of this subcommittee for convening on the issue of mortgage broker licensing and registration requirements. However, while licensing requirements are important, they are only one piece of a broader strategy necessary for developing stronger accountability standards for mortgage brokering transactions.

Licensing requirements for mortgage brokers can be an effective way to limit bad actors from the marketplace and foster consumer confidence. However, it is not clear that licensing requirements sufficient for this purpose have yet been proposed. For example, for a housing counselor to become certified by NeighborWorks© America, which is the industry standard, he or she must complete at least 120 hours of coursework and pass an exam. In addition, HUD certifies housing counseling agencies and maintains the Housing Counseling Handbook which outlines all their duties and requirements. HUD-certified organizations are audited by HUD every two years and must comply with bookkeeping, data collection, and annual reporting standards. Although HUD-certification is not required to offer homeownership counseling services, it is considered a seal of approval by lenders, government agencies, and funders; most downpayment assistance programs require HUD-certified counseling. By comparison, the "Responsible Lending Act" (H.R. 1295), which is the only legislation before the committee addressing this issue, would only require 24 hours of coursework and does not provide means for other accountability measures such as recordkeeping and reporting.

Another example of a comparable industry's safety and accountability standards is of the Securities and Exchange Commission (SEC) and the National Association of Securities Dealers (NASD) for stock and securities dealers. These brokers are also responsible for helping consumers navigate a complicated financial process and are responsible for significant sums of their clients' money. The success and efficiency of the securities market depends on the investors' confidence that their broker is dealing fairly and the integrity of the system that holds them accountable. Brokers are required to register with all regulatory bodies that apply to the markets in which they are trading and to comply with each regulatory agency code and standard. Investors and regulators rely on enforceable standards, such as regulatory compliance, fiduciary disclosure, licensing and registration requirements, to hold securities brokers accountable. In much the same way, homebuyers need assurance that their mortgage broker is held to meaningful standards designed to protect their investment and maintain their confidence in the market. H.R. 1295 calls for the creation of a national registry that would list all mortgage brokers in good standing with their state and alert others to brokers that have violated a state law. This, however, falls short of creating the kind of oversight and accountability necessary for an industry the size and scope of mortgage brokerage.

The homeownership market can only be strengthened by creating measures that foster and maintain consumer confidence and market integrity. State regulations vary widely in regards to licensing requirements, regulations, disclosure of fiduciary responsibility, and continuing education, but many provide important safeguards that cannot afford to be lost. For example, some states require criminal background checks and registration, list prohibited practices, and set education standards. However, there are also significant gaps in protections available. For example, 36 states do not have laws that outline a broker's fiduciary duty or responsibility to disclose on whose behalf they are working. Many states could benefit from minimum standards

and guidelines on mortgage broker education and licensing. However, the committee should also look to build on the SEC/NASD model to create a comprehensive approach to providing consumer and industry protections.

Recommendations
We would like to thank the members of the committee for convening on such an important issue. NCLR makes the following recommendations:

- **Increase market integrity.** Congress must create a new regulatory agency, fashioned after the SEC/NASD model, with a mission to foster and maintain consumer confidence and market integrity. To fulfill this mission, the new agency must have the authority to monitor mortgage brokering activity as well as individual brokers and agencies; to collect data similar to those collected from lenders and private mortgage insurance companies under Home Mortgage Disclosure Act (HMDA); and to set guidelines for recordkeeping, minimum licensing requirements, education standards, and registration. In addition, such an agency would need the authority to conduct investigations and take corrective action when necessary such as imposing fines, revoking licenses, and injunctions. H.R. 1295 proposes a national registry. This, however, does not advance the caliber of services brokers provide or consumer protections. To improve the quality of mortgage broker services effectively, new regulations and licensing requirements must increase transparency, accountability, and oversight.

- **Prevent Steering.** YSPs must be included in the Home Ownership and Equity Protection Act (HOEPA) points and fees calculation used to determine if a loan meets the definition of a "high cost loan," which thereby triggering additional protections, to curb incentives for steering clients into more expensive mortgage products. The "Prohibit Predatory Lending Act" (H.R. 1182), currently before the committee includes this protection. It is unclear whether H.R. 1295 includes a similar provision.

- **Increase transparency of mortgage broker services.** Mortgage brokers should be required to disclose their compensation and the impact of the YSP on the interest rate. A simple form would inform the consumer that they have a YSP, how this YSP compensates the broker, and the respective impact on the interest rate and fees with or without the YSP. Neither bill, H.R. 1295 or H.R. 1182, addresses this issue.

Conclusion
High quality mortgage broker services are an important part of America's homebuying market. To ensure market integrity, consumers must be assured that their mortgage broker is held to adequate standards. NCLR thanks the committee for the opportunity to share its views on this legislation.

Testimony of

JOSEPH A. SMITH, JR.
NORTH CAROLINA COMMISSIONER OF BANKS

on behalf of the
CONFERENCE OF STATE BANK SUPERVISORS

before the
HOUSE FINANCIAL SERVICES COMMITTEE
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
UNITED STATES HOUSE OF REPRESENTATIVES

September 29, 2005

Good morning Chairman Ney, Representative Waters and members of the Subcommittee. I am Joseph A. Smith, Jr., North Carolina Commissioner of Banks, and am here today testifying on behalf of the Conference of State Bank Supervisors (CSBS). I respectfully ask that the complete text of my statement be entered into the hearing record.

Thank you for inviting CSBS here today to discuss issues relating to the licensing and registration of mortgage industry participants, and for giving us an opportunity to update the subcommittee on the CSBS/AARMR Residential Mortgage Lending Initiative. This is a proactive effort by the states to reduce regulatory burden on the mortgage industry by creating uniform applications and an online registration system. Just as important, this system will also increase accountability in the industry and help fight predatory lending and mortgage fraud by identifying the bad actors and eliminating their opportunity to move from state to state.

CSBS is the professional association of state officials who charter, regulate and supervise the nation's approximately 6,200 state-chartered commercial and savings banks, and more than 400 state-licensed foreign banking offices nationwide. AARMR, which stands for the American Association of Residential Mortgage Regulators, represents the executives and employees of the various states who are charged with the responsibility for the administration and regulation of residential mortgage lending, servicing and brokering in the states. Regulation of mortgage-related businesses may reside within the agency that supervises and regulates banks, as it does in over two thirds of the states, or in another agency. Thus, many of CSBS's member agencies are also members of AARMR, and the two organizations work closely together for the protection of our citizens.

We appreciate the committee's interest in this important subject. Purchasing a home is the largest financial transaction that most individuals will ever undertake. Residential mortgage lending is a local activity, but changes in technology and deregulation make financing these loans a global industry. The damage done by predatory lending and mortgage fraud, however, is still local. The states are on the front lines when it comes to regulating transactions between mortgage lenders and the citizens of our states.

Specific Issues Before the Subcommittee

Mr. Chairman, you have asked CSBS to respond to several specific questions about licensing and registration in the mortgage industry. I will address each of these questions in turn.

1. Explain the differences between "licensing" and "registry." What are the relative merits of each?

States may choose to regulate mortgage lenders, mortgage brokers, mortgage servicers, individual mortgage originators or some combination of these. North Carolina has chosen to license lenders (whom we call "mortgage bankers"), brokers and originators (whom we call "loan officers"). Other states have chosen differently, by adopting "registration" statutes, or – in the case of only two states, Alaska and Colorado – by taking no action at all. Forty-eight states currently license or register mortgage bankers and brokers.

Licensing is the government-issued authorization to provide a certain set of services to the public. Just as states charter depository institutions, the majority of states issue licenses to mortgage bankers and brokers. Licensing protects the public by allowing the government to ensure that all businesses and individuals offering a particular service to the public are operating honestly and within the requirements of applicable law. Licensing sets minimum standards for entry into a particular business, protecting both the public and legitimate businesses from fraudulent operators. A government's ability to rescind a license to operate creates a powerful incentive for businesses and individuals to comply with the law and conduct their practices in a responsible manner.

A registry is a list of those doing business within a particular industry or area. Registries serve the public and the industry by offering a single source of information about businesses and individuals offering a service. Registries alone, however, do not indicate that any registered business or individual meets a particular standard of competence or ethics. Registries serve the public interest best when registration requires that listed companies or individuals meet substantive legal and regulatory requirements.

From 1988 to 2002, for example, North Carolina required mortgage bankers and brokers to register with my office. While the registration statute contained several normative provisions, it did not require background checks, training or demonstrated competence. By 2002, the North Carolina General Assembly had determined that this statute was inadequate to protect our citizens. It replaced the registration statute with the Mortgage Lending Act (NCMLA), which requires licenses for mortgage bankers, brokers, and individual loan officers. The license

application does include a combination of background checks, training requirements and demonstrations of competence.

Under the NCMLA, my office licenses more than 1,400 mortgage banking and brokerage firms and over 12,000 individual mortgage loan officers. These figures do not include depository institutions, their subsidiaries, or the employees of any of them. Further, the number of licensees is continually changing. My staff informs me that in spite of a reduction in loan volume, we are currently receiving between 15 and 20 new applications a day.

2. Should there be uniform standards for state licensing of mortgage brokers?

Although financing mortgages is now a global business, the needs of consumers may vary widely from one area to another. The most effective licensing system, we believe, is one that provides consistency and minimum standards while allowing for the specific needs of, for example, rural and urban populations, or more and less sophisticated borrowers.

When considering licensing requirements for firms, legislators must decide on minimum standards for (i) background of ownership; (ii) capitalization and financial resources; (iii) corporate responsibility to customers and others; (iv) supervision and training of employees; and (v) whether the firm may act through agents as well as employees.

When considering licensing for professionals, legislators must decide (i) what activities require licensing (e.g., differentiation between originators and "back office" personnel); (ii) whether to license professionals with prior criminal records; (iii) required education and training; (iv) what obligations professionals' have to consumers; and (v) whether authority to conduct business is contingent on employment by a licensed lender or broker.

Different state legislatures have addressed these issues in different ways. That said, as members of CSBS and AARMR have developed the uniform mortgage licensing applications discussed below, they have found many more similarities than differences among individual states' legislative and regulatory requirements.

Licensing laws tend to treat mortgage-related enterprises alike. While a good argument can be made for this policy, based on equal treatment of all licensees, I believe a better one can be made for altering the regulatory requirements based on the nature of the regulated enterprises.

We understand that the largest financial services providers operating in more then one state want more coordinated regulation among state agencies for licensing, examination and enforcement. The state of North Carolina, CSBS and AARMR support coordinated regulation in order to promote increased efficiency and modernization of financial services, healthy competition among providers, and greater availability of financial services and products. The CSBS/AARMR Residential Mortgage Lending Project is an opportunity both to reduce burdens on the industry and to help create more uniform nationwide markets, while increasing our citizens' protection from mortgage fraud and predatory lending.

To this end, the CSBS Board of Directors has established two task forces -- The Residential Mortgage Lending Regulatory and Legislative Task Forces -- to examine and improve the efficiency and effectiveness of the licensing, chartering and supervision of the nation's state-regulated mortgage lending industry. Six state bank supervisors serve on each task force, representing the CSBS board of directors and all fifty states.

Through the regulatory task force, CSBS, joined by AARMR, plans to identify and implement specific tools and approaches to reduce the regulatory complexity and compliance burden associated with making mortgage loans in more than one state, and to improve the state regulators' enforcement tools against abusive lending practices and improve the professionalism of the industry.

The legislative task force is examining the current framework of applicable state and federal laws for mortgage lending. The task force is charged with exploring state and federal legislative proposals to combat predatory lending and provide more uniformity for multi-state mortgage lenders.

The Regulatory Taskforce has identified three specific goals:

- Provide uniform mortgage application that meets the regulatory requirements of every state;
- Develop a comprehensive Mortgage Licensing/Supervisory Database; and
- Adopt a coordinated examination agreement.

AARMR developed a model application that started as our foundation. CSBS, working with AARMR and with the input of industry representatives and policy makers, is using this model to develop an application that all state mortgage regulators will ultimately adopt. A uniform application will dramatically reduce compliance burdens for the mortgage industry by eliminating multiple, differing state mortgage license applications and requirements.

The CSBS/AARMR Residential Mortgage Regulatory Taskforce (RMRT) Working Group has nearly finalized uniform mortgage applications for lender and broker companies, individual loan originators and branch locations (see attached). Over twenty state mortgage regulators have agreed to beta-test the forms. The RMRT Working Group is still working on a uniform renewal application and hopes to have this document finalized and approved soon. Coordinated through CSBS, the group of twenty one states is conducting monthly face-to-face meetings to accomplish these goals.

It is important to distinguish between uniform applications and uniform standards. States that accept the uniform applications will still have the right to require additional information, and to set their own standards for business practices. However, our working group and task force are looking for ways to eliminate or harmonize these differences.

3. Explain the difference between loan originators and mortgage brokers. Should licensing and/or registry be required of both? Why or why not?

A loan originator is a broad term for an industry professional who takes mortgage loan applications from consumers. There are two basic types of loan originators - retail and wholesale. A retail loan originator or loan officer is an employee of a lender who takes and funds the mortgage application. A wholesale loan originator, or mortgage broker, only takes applications from consumers and, in turn, sells completed applications to a lender who, in turn, funds the loan. There are also may other professionals involved in the loan origination process, including underwriters, processors, closers, administrative staff, etc.

The underlying question is whether licensing or registration requirements should apply only to firms (or to individuals, in the case of mortgage banking or brokerage companies that operate as sole proprietorships), or to these firms *and* their employees. All current legislation would apply these requirements to firms; the issue of applying these requirements to loan-originating employees or, in some cases, agents, is contentious.

The question of exactly what activities make an individual loan originator remains open for debate. Whether to require processors and administrative staff to be licensed has been and continues to be an issue of debate between state authorities and the industry. Failure to license or track individual originators in a meaningful way, however, will significantly reduce the effectiveness of regulation. Bad actors will be able to move among jurisdictions and employers, including "exempt" enterprises such as banks and thrifts.

In North Carolina, as I mentioned, we license individual mortgage loan officers as well as mortgage banking and brokerage firms. The courts have ruled that we cannot license loan officers affiliated with national banks or savings and loans, even if they work for nonbank mortgage subsidiaries.

The North Carolina General Assembly recently revised the NCMLA to grant the largest multi-state operations more flexibility in the licensing and assignment of their employees. In exchange, these companies take heightened responsibility for legal and regulatory claims arising from their employees' activities. The employees themselves have more limited and generally non-portable licenses to conduct business. For example, these "limited loan officers" cannot leave their employers and start their own businesses without licensing and experience as "full service" loan officers.

4. Should there be uniform standards for state education requirements (including continuing education requirements) for mortgage brokers?

Yes and no. Yes, in regard to aspects of the mortgage lending business that are very general or national in nature: basic lending terms, federal regulatory requirements. No, in regard to matters of particular state significance, such as state laws regarding real estate transfer or liens on real estate and state consumer lending laws, including those on predatory lending.

5. Should a uniform standard be a minimum standard, or a preemptive standard, *i.e.*, should the standard be implemented as a "floor" or a "ceiling"?

Since borrowers' needs may vary widely from one state to another, uniform standards should be the floor, rather than the ceiling, for the mortgage industry. That said, states understand that they must be careful to balance the costs of each additional requirement with the benefits to our citizens. Our goal is to increase healthy, responsible competition in the mortgage marketplace, not to create new burdens or unnecessary barriers to entry.

6. Explain the benefits and/or problems associated with multi-state licensing and registration requirements.

While some argue that multi-state licensing creates unnecessary duplication and expense, policymakers must measure these alleged costs against the benefits of enhancing state regulators' ability to know who is in their markets, and their ability to police these markets more effectively. As I have noted, state regulators are working diligently to reduce unnecessary friction without the loss of these substantial benefits.

Further, AARMR has developed a set of principles and examination procedures that would allow state regulators to coordinate on examinations of multi-state mortgage lenders. Working with AARMR, CSBS plans to formalize the use of these examination procedures to reflect the processes already in place for the coordinated supervision of state-chartered banks that operate branches in multiple states.

7. What are the benefits of a national registry of licensed mortgage brokers and/or other loan originators?

CSBS plans to create a robust, web-based system to draw from publicly available adjudicated information regarding the criminal history, credit history, consumer complaints, and enforcement actions for mortgage brokers, loan officers, mortgage appraisers, underwriters, and mortgage companies. The database would be available to state mortgage regulatory agencies and work within individual state laws, whether the licensing or registration requirements cover the individual loan originators or just the mortgage company itself. All licensed individuals in the system will have a unique identifying number.

This would allow states, depending on their laws, to identify fraudulent and abusive lenders and brokers when they leave one state and seek licenses in another. States could generate reports on mortgage companies based on the track records of their employees in order to identify trends and patterns. As the number of licensed individuals and companies continues to increase, state banking agencies could leverage examiner resources by focusing on firms and individuals that demonstrate a heightened need for examination scrutiny.

Identifying and removing these individuals and firms benefits consumers. Delivering such comprehensive supervision also benefits the vast majority of the mortgage banking industry by removing bad actors that have been the catalyst for the imposition of new regulatory and legislative approaches that affect both reputable and unscrupulous lenders equally.

Mortgage companies would be able to submit the uniform mortgage license application for their company and loan officers and other relevant employees through an efficient, web-based platform. When the system is fully implemented, mortgage companies would also be able to: file one application for one or more states; generate reports based on the number of individuals they have licensed throughout the country; wire licensing fees to one central source; and generate reports on the total licensing fees they are paying. CSBS has asked the industry for suggestions about other services that could be made available through the

database. We will also be discussing how the system might best function with consumer advocates.

A complete list of expected benefits from this registry is appended to this statement.

8. Explain how a registry could be implemented and managed.

CSBS and AARMR will use the uniform application forms to develop a nationwide on-line mortgage licensing database system.

CSBS is in the process of contracting with the National Association of Securities Dealers (NASD) to build, deploy and maintain an electronic mortgage licensing system. NASD is the world's largest securities self-regulatory organization, established under authority granted by the 1938 Amendments to the Securities Exchange Act of 1934. While NASD has no regulatory authority over the mortgage industry, it does have a tremendous amount of experience in building and maintaining state-of-the-art national licensing systems, such as the Central Registration Depository (CRD) for securities brokers and dealers and the Investment Adviser Registration Depository (IARD).

CSBS is working with NASD because NASD has built and maintains on-line, Internet-based, registration databases and application-processing facilities that link federal, state and self-regulatory participants and the securities industry. Given NASD's vast experience in the national licensing arena, CSBS is looking forward to working with NASD in building and maintaining the mortgage licensing system. We intend to have this system fully functional by the end of 2006.

9. Who should be required to participate in a registry?

The national registry will include all individuals and companies currently required to be licensed or registered under state law. Over time, we believe that the business advantages of being listed on this national registry will encourage most legitimate businesses and individual lenders to submit their information to the registry voluntarily, even if state law does not require them to do so.

10. What impact will registration and licensing requirements have on curbing the proliferation of predatory lending?

Licensing requirements such as North Carolina's ensure that mortgage firms and individual mortgage loan officers are legitimate, have access to adequate financial resources, are trained appropriately, and offer their customers the necessary recourse for complaints and concerns. All of these requirements, plus the threat of

losing a license for violations, make it more difficult for predatory and fraudulent businesses to operate in our state.

A national registry will make it easier for us regulators, and ultimately for consumers, to identify businesses and lenders who have a history of complaints, violations, enforcement actions, judgments and questionable business practices. Our mobile society makes it too easy for criminals and unscrupulous lenders to pack up and move across a state's border; the creation of a national registry will make it much harder for these businesses and individuals to hide.

11. What are the costs associated with registration and licensing requirements? What will the impact of those costs be on consumers, brokers and mortgage companies? Do the costs outweigh the benefits?

Mortgage companies and individuals will pay licensing fees to the state regulatory agencies, and these fees will help fund the national registry.

It is expected that there will be significant cost savings to mortgage companies who would be able to apply for a license in multiple states with just one application through this system. We anticipate that businesses will pass any additional costs along to consumers, but the costs will be so small, as a percentage of the volume of business these lenders do, that they are unlikely to have a significant impact on borrowers' costs.

As for whether these costs will outweigh the benefits, we have already seen the terrible costs to consumers of mortgage lenders that operate with no supervision or accountability. The State of North Carolina decided that those were costs it could not afford, and passed its Mortgage Lending Act in response.

Conclusion

CSBS is committed to the overall goal of enhancing a state regulatory system that works efficiently and effectively for borrowers, the industry, and regulators. CSBS is equally committed to a dialogue with federal and state policy makers and the mortgage lending and banking industries to address issues of applicable law and law enforcement aimed at ending abusive lending practices.

Chairman Ney, we commend you, Representative Waters, and Representative Kanjorski for your interest in this issue and your commitment to improving the mortgage lending environment for both consumers and businesses. We look forward to working further with you toward our common goals.

I would be happy to answer any questions the members of the Subcommittee may have.

INTENDED BENEFITS FROM THE AUTOMATED MULTI-STATE MORTGAGE LICENSING SYSTEM AND DATABASE

I. STATE REGULATORS

1. The system will result in improved access by state mortgage regulators to comprehensive databases including civil, criminal, regulatory and other actions providing greater resources and data for keeping bad actors from operating in states and better data to take appropriate regulatory action.

2. Applications will be filed, reviewed and completed by the system saving state agency staff significant time and resources (estimated between 1-4 full time positions per state, depending on your application volume).

3. Applications and amendments are received on-line, improving timeliness and reducing storage and personnel costs.

4. The system will result in more uniformity and better coordination, cooperation and communication between state and other regulators and other law enforcement to further reduce mortgage related fraud and other mortgage related abusive practices.

5. The system will likely result in better, more up-to-date and uniform state laws, rules, regulations and policies as states gain experience and reap the benefits from such a system.

6. A successful state system will enhance the image of state regulators with state and federal lawmakers, policymakers, regulators, industry and consumers.

7. The system will take advantage of technological innovations to enhance, modernize and innovate mortgage regulation going forward.

8. A successful system may encourage other state regulators to enhance their multi-state regulation of other industries, such as insurance, money transmitters, finance companies, etc., to the overall benefit of state regulation.

9. State fees will be received by NASD and forwarded to the states via ACH transfer, saving resources and troubles with bad checks, lost checks, incorrect fees, etc.

10. Eventually, renewal and branch filings and fees will be received by NASD and sent to states via ACH transfer, saving significant resources involved in processing these applications.

11. All amendments to applications will be received from NASD on-line with notifications of such amendments brought to your attention for appropriate regulatory action.

12. The system will create a regulatory "Race to the Top" with the higher standards of some states applied to companies operating in many states. For example, a state that requires audited financial statements will set that standard for all states in which a company is licensed to do business.

II. INDUSTRY

1. The system will facilitate industry hiring and retaining better employees.

2. The system will allow industry to do one-stop filing and payment of fees pursuant to more uniform applications and amendments reducing costs and regulatory burden.

3. Additions to the system of renewal and branch applications will result in even greater efficiencies and reduced burden.

III. STATE REGULATORS AND INDUSTRY

1. More uniformity in the state application process will enhance the state system and hopefully avoid further preemption or other federal alternatives.

2. A better information database will be viewed positively as a significant state effort to reduce fraud and abusive practices in mortgage lending.

3. The system will result in a significant reduction in regulatory burden for the mortgage industry, especially for those companies who operate in more than one state.

4. The system will enhance the overall image of the entire mortgage industry from the smallest to the largest companies because it will reduce fraud and abusive practices.

IV. SMALL COMPANY BENEFITS

1. The system will allow even one-state-only small companies to gain efficiencies through on-line filing, faster approvals of applications and better, more comprehensive information.

2. Small companies that may have been deterred from applying in adjoining states because of regulatory burden will now find it easier to become licensed.

3. Small companies with plans to add staff will find it easier and more efficient to license and renew staff members.

4. Through efficiencies realized by state regulators from the system, states may be able to find ways to pass along some of their savings to small in-state companies to further reduce their regulatory burden. Examples could include reduced fees, more streamlined applications or examinations, etc.

5. Even in-state-only small companies will benefit from an enhanced industry image, reduced fraud and increased efficiencies from the system.

V. CONSUMER BENEFITS

1. Reduced fraud, fewer predatory practices and abusive players in the industry.

2. Easy access through the Internet for the public about their company or potential company.

3. Improved access to regulators and better coordinated regulation.

4. More timely enforcement based on better and timelier information.

5. The system will create a much more transparent, efficient, accessible and consumer-friendly regulatory environment in the mortgage industry.

UNIFORM MORTGAGE CONTROL PERSONS INFORMATION
FORM MU2 INSTRUCTIONS

A. GENERAL INSTRUCTIONS

1. **FILING** – Form MU2 must accompany Form MU1, the Uniform Mortgage Lender/Mortgage Broker Application. Each individual, identified as a *control person* for the *applicant* on Schedule A, must complete Form MU2. An *applicant* must also refer to each *jurisdiction* in which it is applying for *jurisdiction-specific* requirements.
2. **TERMS USED** – See the following Explanation of Terms page regarding italicized words/phrases.
3. **UPDATING** – The *applicant* must update information about a *control person* as required in each applicable *jurisdiction* by submitting amendments using Form MU2. Only complete the information that is being amended as well as the name of the *control person* and circle the question being amended.

B. FILING INSTRUCTIONS

1. **FORMAT**
   - A. Each individual identified as a *control person* on Schedules A or C must complete Form MU2. A fully completed Form MU2 for each *control person* is required to be submitted to each *jurisdiction* along with the *applicant's* initial Form MU1. Form MU2 may also accompany amendments filed on Schedule C. The *applicant* should contact the appropriate *jurisdiction(s)* for additional specific filing requirements.
   - B. *Employment* history, item 5, provide the full legal name of the company, beginning with your current *employer*.
   - C. The Acknowledgement & Consent section must include notarized original manual signature.
   - D. The Mortgage Lender/Mortgage Broker *Employment* Representation section must include original manual signature.
   - E. Type all information.
   - F. Use only the current version of Form MU2 or a reproduction of it
2. **ATTACHMENTS** – Provide the following:
   - A. Pair of Fingerprint Cards if required by applicable *jurisdiction(s)* per item 2.
   - B. *Jurisdiction(s)* will conduct additional background investigations (including personal credit and *employment* history) as appropriate for each *jurisdiction*.
   - C. Depending on the *jurisdiction*, individual loan officers/solicitors/originators may also need to complete a Form MU4. Please check with your chosen *jurisdiction(s)* to verify the requirements there.
3. **FINANCIAL RESPONSIBILITY** – Check with each *jurisdiction* in which the *applicant* is applying to determine requirements for financial responsibility demonstrated by *control persons*. These may include the submission of person credit reports, financial statements, surety bond(s), minimum net worth, or other requirements.
4. ***JURISDICTION*-SPECIFIC REQUIREMENTS** – Check with each *jurisdiction* in which the *applicant* is applying for a list of requirements unique to the *jurisdiction(s)*, including applicable fees, etc.

EXPLANATION OF TERMS
(The following terms are italicized throughout form MU2.)

1. GENERAL

APPLICANT – The individual applying on or amending this form.

CONTROL – The power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. *Any person* that (i) is a director, general partner or officer exercising executive responsibility (or having similar status or functions); (ii) directly or indirectly has the right to vote 10% or more of a class of a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities; or (iii) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the capital, is presumed to control that company.

CONTROL PERSON – An individual named in Item 1A or in Schedules A, B or C that directly or indirectly exercises *control* over the *applicant*.

EMPLOYER or EMPLOYMENT – This term is used throughout this form regardless of whether the relationship involves a W-2 status "employee" or a 1099 status "independent contractor." Check with the *jurisdiction(s)* for specific requirements or restrictions as to such relationships.

JURISDICTION – A state, the District of Columbia, the Commonwealth of Puerto Rico, or any subdivision or regulatory body thereof.

PERSON – An individual, partnership, corporation, trust, or other organization.

2. **FOR THE PURPOSE OF ITEM 6**

CHARGED – Being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge).

ENJOINED – Includes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction, or a temporary restraining order.

FELONY – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *felony* is an offense punishable by a sentence of at least one year imprisonment and/or a fine of at least $1,000. The term also includes a general court martial.

FINAL ORDER – A written directive or declaratory statement issued by an appropriate federal or state agency pursuant to applicable statutory authority and procedures, that constitutes a final disposition or action by that federal or state agency.

FINANCIAL SERVICES OR FINANCIAL SERVICES-RELATED – Pertaining to securities, commodities, banking, insurance, consumer lending, or real estate (including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender or mortgage broker).

FOREIGN FINANCIAL REGULATORY AUTHORITY – Includes (1) a *financial services* authority of a foreign country; (2) other governmental body empowered by a foreign government to administer or enforce its laws relating to the regulation of *financial services* or *financial services-related* activities; and (3) a foreign membership organization, a function of which is to regulate the participation of its members in *financial services* activities listed above.

FOUND – Includes adverse final actions, including consent decrees in which the respondent has neither admitted nor denied the findings, but does not include agreements, deficiency letters, examination reports, memoranda of understanding, letters of caution, admonishments, and similar informal resolutions of matters.

INVOLVED – Doing an act or omission or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act or omission.

MISDEMEANOR – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *misdemeanor* is an offense punishable by a sentence of less than one year imprisonment and/or a fine of less than $1,000. The term also includes a special court martial.

ORDER – A written directive issued pursuant to statutory authority and procedures, including orders of denial, suspension, or revocation; does not include special stipulations, undertakings or agreements relating to payments, limitations on activity or other restrictions unless they are included in an *order*.

PROCEEDING – Includes a formal administrative or civil action initiated by a governmental agency, self-regulatory organization or a *foreign financial regulatory authority*; a *felony* criminal indictment or information (or equivalent formal charge); or a *misdemeanor* criminal information (or equivalent formal charge). The term does not include other civil litigation, investigations, or arrests or similar charges effected in the absence of a formal criminal indictment or information (or equivalent formal charge).

FORM MU2	CONTROL PERSONS INFORMATION UNIFORM MORTGAGE LENDER/MORTGAGE BROKER APPLICATION Date of filing: _____	OFFICIAL USE

WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or otherwise to comply with the provisions of law applying to the conduct of business as a mortgage lender or mortgage broker may violate the laws of the *jurisdictions* and may result in disciplinary, administrative, injunctive or criminal action.

INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS.

APPLICATION ☐ RENEWAL ☐ AMENDMENT ☐ (effective date _____) ***To amend, circle items being amended.***

1. Individual's identifying information

A. Full last, first and middle names:

Last name _____ First name _____ Full middle name _____ Suffix _____

B. (1) Social Security Number: _____ (2) Gender: ☐ Male ☐ Female

C. (1) Date of Birth (MM/DD/YYYY) _____ (2) State/Province of Birth _____ (3) Country of Birth _____

D. List all other name(s) you have used or are using, or by which you are know or have been known, other than your legal name, since the age of 18. This field should include for example, nicknames, aliases, and names used before/after marriage. (Use additional sheets as necessary).

1. Name 2. Name 3. Name 4. Name

E. If this filing makes a name change on behalf of the individual, enter the new name and attach supporting legal documentation

Last name _____ First name _____ Full middle name _____ Suffix _____

F. Office of *Employment* address: (Do not use a P.O. Box) ☐ If this address is your private residence, check this box.

(Number and Street) _____ (City) _____ (State/Country) _____ (Zip+4/Postal Code) _____

G. Current Residence address, if different:

(Number and Street) _____ (City) _____ (State/Country) _____ (Zip+4/Postal Code) _____

H. Telephone Numbers and e-mail address

Business phone (Area Code) _____ (Telephone Number) _____ Fax line (Area Code) _____ (Telephone Number) _____

Cell phone (Area Code) _____ (Telephone Number) _____ (e-mail address) _____

2. Fingerprint information filing representation:

☐ I represent that I am submitting, have submitted, or promptly will submit to the appropriate *jurisdiction(s)* two fingerprint cards as required

Fingerprint Card Barcode(s): _____ _____

☐ I am applying as a *control person* only in *jurisdiction(s)* that do not require me to submit fingerprint card(s).

CONTROL PERSON'S ACKNOWLEDGMENT & CONSENT:

1. I swear or affirm that I have read and understand the items and instructions on this form and that my answers (including attachments) are true and complete to the best of my knowledge. I understand that I am subject to administrative, civil or criminal penalties if I give false or misleading answers.

2. I authorize all my current and former *employers*, law enforcement agencies, and any other *person* to furnish to any *jurisdiction*, or any agent acting on its behalf, any information they have, including without limitation my creditworthiness, character, ability, business activities, educational background, general reputation, history of my *employment* and, in the case of former *employers*, complete reasons for my termination.

Date (MM/DD/YYYY) _____ Signature of *Control Person* _____

Subscribed and sworn before me _____ (Print Notary Public Name) this _____ day of _____ (Month), _____ (Year)

My Commission expires (MM/DD/YYYY) _____ County of _____ State of _____ Notary Signature _____

MORTGAGE LENDER/MORTGAGE BROKER *EMPLOYMENT* REPRESENTATION

(1) To the best of my knowledge and belief, the *control person* is currently bonded where required, and, at the time of approval, will be familiar with the statutes, regulations, and rules of the *jurisdiction(s)* with which this application is being filed, and will be fully qualified for the position for which application is being made herein. (2) I have taken appropriate steps to verify the accuracy and completeness of the information contained in and with this application. (3) I have provided the *control person* an opportunity to review the information contained herein and the *control person* has approved this information and signed the form.

Date (MM/DD/YYYY) _____ Name of Mortgage Lender/Mortgage Broker _____

By: _____ Signature _____ Print Name and Title _____

This page must always be completed in full with original, manual signature and notarization. Affix notary stamp or seal where applicable.

DO NOT WRITE BELOW THIS LINE - FOR OFFICIAL USE ONLY

Version 2005.1

3. Residential History: Starting with current address (item 1G), give all addresses for the past 10 years. (Attach additional sheets as necessary.)

From (MM/YYYY)	To (MM/YYYY)	Street Address	City	State or Province	Zip or Postal Code	Country

4. *Employment* History: Provide complete *employment* history for the past 10 years. Account for all time including full & part-time *employments*, self-*employment*, military service, and homemaking. Also include periods such as *unemployed*, full-time student, extended travel, etc. Indicate by "Yes" or "No" whether this *employment* was *financial service-related* business. (Attach additional sheets as needed.)

From (MM/YYYY)	To (MM/YYYY)	*Employer* (company name)	Position Held	City	State or Province	Country	Yes/No

5. Other Business: Are you currently engaged in any other business either as a proprietor, partner, officer, director, *employee*, trustee, agent or otherwise? (Please include non-*financial services-related* activity that is exclusively charitable, civic, religious, or fraternal and is recognized as tax exempt.) If YES, provide the following details: the name of the other business, whether the business is *financial services-related*; the address of the other business; the nature of the other business; your position, title, or relationship with the other business; the start date of your relationship; the approximate number of hours/month you devote to the other business, and briefly describe your duties relating to the other business. (Attach additional sheets as needed.)

☐ NO ☐ YES details: _____

6. Disclosures: If the answer to any of the following is "YES", provide complete details of all events or proceedings in an attachment. Refer to the explanation of terms section of the instructions for explanations of italicized terms.

Financial Disclosure

A. Within the past ten years:		
(1) have you filed a personal bankruptcy petition or been the subject of an involuntary bankruptcy petition?	☐	☐
(2) based upon events that occurred while you exercised *control* over it, has any organization filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition?	☐	☐
B. Has a bonding company ever denied, paid out on, or revoked a bond for you?	☐	☐
C. Do you have any unsatisfied judgments or liens against you?	☐	☐

Criminal Disclosure	YES	NO
D. Have you ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐
E. Based upon activities that occurred whil you exercised *control* over it, has an organization ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐
F. Have you ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor involving: financial services* or a *financial services-related* business or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?	☐	☐
(2) been *charged* with a *misdemeanor* specified in 6F(1)?	☐	☐
G. Based upon activities that occurred whil you exercised *control* over it, has an organization ever		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor* specified in 6F(1)	☐	☐
(2) been *charged* with a *misdemeanor* specified in 6F(1)	☐	☐
Regulatory Action Disclosure		
H. Has any State or federal regulatory agency or *foreign financial regulatory authority* ever		
(1) *found* you to have made a false statement or omission or been dishonest, unfair or unethical?	☐	☐
(2) *found* you to have been *involved* in a violation of a *financial services-related* regulation(s) or statute(s)?	☐	☐
(3) *found* you to have been a cause of a *financial services-related* business having its authorization to do business denied, suspended, revoked or restricted?	☐	☐
(4) entered an *order* against you in connection with a *financial services-related* activity?	☐	☐
(5) denied, suspended, or revoked your registration or license, disciplined you or otherwise by *order* prevented you from associatng with a *financial services-related* business or restricted your activities?	☐	☐
(6) denied, suspended, or revoked your registration or license, disciplined you or otherwise by *order*, prevented you from associating with a *financial services-related* business or restricted your activities?	☐	☐
(7) barred you from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in a *financial services-related* business?	☐	☐
(8) issued a final *order* based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?	☐	☐
I. Have you ever had an authorization to act as an attorney, accountant, or State or federal contractor that was revoked or suspended?	☐	☐
J. Are you now the subject of any regulatory *proceeding* that could result in a "yes" answer to any part of 6H or 6I?	☐	☐
Civil Judicial Disclosure		
K. (1) Has any domestic or foreign court ever:		
(a) *enjoined* you in connection with any *financial services-related* activity?	☐	☐
(b) *found* that you were *involved* in a violation of any *financial services-related* statute(s) or regulation(s)?	☐	☐
(c) dismissed, pursuant to a settlement agreement, a *financial services-related* civil action brought against you by a State, federal, or *foreign financial regulatory authority*?	☐	☐
(2) Are you named in any pending *financial services-related* civil action that could result in a "yes" answer to any part of 6K(1)?	☐	☐
Customer Arbitration/Civil Litigation Disclosure		
L. Have you ever been named as a respondent/defendant in a *financial services-related* consumer-initialted arbitration or civil litigation which:		
(1) is still pending; or	☐	☐
(2) resulted in an arbitration award or civil judgement against you, regardless of amount, or that required corrective action; or	☐	☐
(3) was settled for any amount?	☐	☐
Termination Disclosure		
M. Have you ever voluntarily resigned, been discharged, or permitted to resign after allegations were made that accused you of:		
(1) violating statute(s), regulation(s), rule(s), or industry standards of conduct?	☐	☐
(2) fraud, dishonesty, theft, or the wrongful taking of property?	☐	☐

UNIFORM MORTGAGE LENDER/MORTGAGE BROKER APPLICATION
FORM MU1 INSTRUCTIONS

. **GENERAL INSTRUCTIONS**

1. Form MU1 is the Uniform Mortgage Lender/Mortgage Broker Application. Any *applicant* for a Mortgage Lender or a Mortgage Broker license may apply to *jurisdictions* that have adopted the Uniform Application using Form MU1. An *applicant* must also refer to each *jurisdiction* in which it is applying for *jurisdiction*-specific requirements.
2. **TERMS USED** – See the following Explanation of Terms page regarding italicized words/phrases.
3. **UPDATING** – The *applicant* must update information when required in each applicable *jurisdiction* in which it is licensed by submitting amendments using Form MU1. Only complete the information that is being amended as well as the name of the *applicant* and circle the question being amended.
4. **CONTACT EMPLOYEE** – The individual listed as the contact employee must be authorized to receive all compliance and licensing information, communications, and mailings, and be responsible for disseminating it within the applicant's organization.

. **FILING INSTRUCTIONS**

1. **FORMAT**

   A. A fully completed Form MU1 is required to be submitted to each *jurisdiction* when the *applicant* is filing for the first time. The *applicant* should contact the appropriate *jurisdiction(s)* for specific filing requirements, including applicable fees.
   B. The Execution section must include notarized original manual signature, for the initial Form MU1 filing.
   C. Type all information.
   D. Use only the current version of Form MU1 and its Schedules or a reproduction of them.

2. **ATTACHMENTS** – Provide the following:

   A. Schedules A, B, and C – File Schedules A and B only with initial applications. Use Schedule C to update Schedules A and B as needed
   B. File a Form MU2 for each **individual** designated on Schedule A or C as a "*control person*".
   C. Enclose a Certificate of Good Standing from the Secretary of State or similar state authority for the state where the *applicant* obtained its legal status listed in Item 3C and for the *jurisdiction(s)* for which the *applicant* is applying.
   D. If the applicant is a partnership of any form, enclose a copy of the partnership agreement.
   E. Some *jurisdiction(s)* require separate filings for use of fictitious name/trade name/doing business as name(s). Check with the *jurisdiction(s)* to determine such requirements, and attach a copy of such filing if required by that *jurisdiction*.
   F. The name, full delivery address, and telephone number of the registered agent for service of legal process. Check with the *jurisdiction(s)* to determine if the registered agent is required to be located within the *jurisdiction(s)* in which you are applying.
   G. Depending on the *jurisdiction*, individual loan officers (also called "loan solicitors" or "loan originators") may need to complete a Form MU4. Please check with your chosen *jurisdiction(s)* to verify the requirements there.
   H. Depending on the *jurisdiction*, branch offices may need to complete a Form MU3. Please check with your chosen *jurisdiction(s)* to verify the requirements there.

3. **FINANCIAL RESPONSIBILITY** – Check with each *jurisdiction* in which the *applicant* is applying to determine requirements for financial responsibility. These may include the submission of financial statements, surety bond(s), minimum net worth, or other requirements.

4. ***JURISDICTION*-SPECIFIC REQUIREMENTS** – Check with each *jurisdiction* in which the *applicant* is applying for a list of requirements unique to the *jurisdiction(s)*, including applicable fees, records retention, etc.

EXPLANATION OF TERMS

(The following terms are italicized throughout form MU1.)

GENERAL

APPLICANT – The mortgage lender or mortgage broker applying on or amending this form. The only instance in which the *applicant* is an individual is in the case of a sole proprietorship.

CONTROL – The power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any *person* that (i) is a director, general partner or officer exercising executive responsibility (or having similar status or functions); (ii) directly or indirectly has the right to vote 10% or more of a class of a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities; or (iii) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the capital, is presumed to control that company.

CONTROL PERSON – An individual named in Item 1A or in Schedules A, B or C that directly or indirectly exercises *control* over the *applicant*.

JURISDICTION – A state, the District of Columbia, the Commonwealth of Puerto Rico, or any subdivision or regulatory body thereof.

PERSON – An individual, partnership, corporation, trust, or other organization.

FOR THE PURPOSE OF ITEM 8

CHARGED – Being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge).

CONTROL AFFILIATE – A *person* named in Item 1A or in Schedules A, B or C as a *control person* or any other individual or organization that directly or indirectly controls, is under common control with, or is controlled by, the *applicant*, including any current employee except one performing only clerical, administrative, support or similar functions, or who, regardless of title, performs no executive duties or has no senior policy making authority.

ENJOINED – Includes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction, or a temporary restraining order.

FELONY – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *felony* is an offense punishable by a sentence of at least one year imprisonment and/or a fine of at least $1,000. The term also includes a general court martial.

FINANCIAL SERVICES OR FINANCIAL SERVICES-RELATED – Pertaining to securities, commodities, banking, insurance, consumer lending, or real estate (including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender or mortgage broker).

FOREIGN FINANCIAL REGULATORY AUTHORITY – Includes (1) a *financial services* authority of a foreign country; (2) other governmental body empowered by a foreign government to administer or enforce its laws relating to the regulation of *financial services* or *financial services-related* activities; and (3) a foreign membership organization, a function of which is to regulate the participation of its members in *financial services* activities listed above.

FOUND – Includes adverse final actions, including consent decrees in which the respondent has neither admitted nor denied the findings, but does not include agreements, deficiency letters, examination reports, memoranda of understanding, letters of caution, admonishments, and similar informal resolutions of matters.

INVOLVED – Doing an act or omission or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act or omission.

MISDEMEANOR – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *misdemeanor* is an offense punishable by a sentence of less than one year imprisonment and/or a fine of less than $1,000. The term also includes a special court martial.

ORDER – A written directive issued pursuant to statutory authority and procedures, including orders of denial, suspension, or revocation; does not include special stipulations, undertakings or agreements relating to payments, limitations on activity or other restrictions unless they are included in an *order*.

PROCEEDING – Includes a formal administrative or civil action initiated by a governmental agency, self-regulatory organization or a *foreign financial regulatory authority*; a *felony* criminal indictment or information (or equivalent formal charge), or a *misdemeanor* criminal information (or equivalent formal charge). The term does not include other civil litigation, investigations, or arrests or similar charges effected in the absence of a formal criminal indictment or information (or equivalent formal charge).

FORM MU1 PAGE 1 (Execution Page)	UNIFORM MORTGAGE LENDER/MORTGAGE BROKER APPLICATION	OFFICIAL USE	Official Use Only
	Date of Filing: _____ Effective Date _____		

WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or the failure to keep accurate books and records or otherwise to comply with the provisions of law applying to the conduct of business as a mortgage lender or mortgage broker may violate the laws of the *jurisdictions* and may result in disciplinary, administrative, injunctive or criminal action

INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS.

NEW APPLICATION ☐ RENEWAL ☐ CLOSURE ☐ AMENDMENT ☐ ***To amend, circle item(s) being amended.***

1. Exact name, principal business address, mailing address, if different, and telephone numbers of *applicant:*

A. Full name of *applicant*.
(if sole proprietor, provide last, first and middle name)

B. IRS Employer Identification Number
(Social Security No is allowed for sole proprietorship)

C. (1) Name under which business primarily is or will be conducted, if different from Item 1A.

(2) List any other name(s) by which the *applicant* conducts or will conduct business and the *jurisdiction(s)* in which they are or will be used (Use additional sheets as necessary).

1. Name	*Jurisdiction*	2. Name	*Jurisdiction*
3. Name	*Jurisdiction*	4. Name	*Jurisdiction*

D. If this filing makes a name change on behalf of the *applicant*, enter the new name and specify whether the name change is of the ☐ *applicant* name (1A) or ☐ business name (1C): _____

E. Main address: (Do not use a P.O. Box)

Number and Street | City | State/Country | Zip+4/Postal Code

F. Mailing address, if different

PO Box or Number and Street | City | State/Country | Zip+4/Postal Code

G. Telephone Numbers and Website address:
Business phone — Area Code | Telephone Number
Fax line — Area Code | Telephone Number
URL
URL

H. Other than the office in 1E, does the *applicant* conduct business with consumers through branch offices or other business locations?
☐ YES ☐ NO (In certain *jurisdictions*, branch offices or other business locations must be reported or approved. Use Form MU3.)

I. Contact Employee:

Name and Title | Area Code | Telephone Number

Number and Street | City | State/Country | Zip+4/Postal Code

E-mail Address | Fax Number

J. Employee authorized to respond to consumer complaints:

Name and Title | Area Code | Telephone Number

Number and Street | City | State/Country | Zip+4/Postal Code

E-mail Address | Fax Number

K. Physical address of location where the official books and records of the *applicant* will be kept. Check each *jurisdiction* for specific records retention requirements.

Organization Name (if different from *applicant*) or Records Custodian Name | Area Code | Telephone Number

Number and Street | City | State/Country | Zip+4/Postal Code

EXECUTION:

The undersigned, being first duly sworn, deposes and says that he/she has executed this form on behalf of, and with the authority of, said *applicant*. The undersigned and *applicant* represent that the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part hereof, are current, true and complete. The undersigned and *applicant* further represent that to the extent any information previously submitted is not amended such information is currently accurate and complete.

Date (MM/DD/YYYY) | Name of Applicant

By: Signature | Print Name and Title

Subscribed and sworn before me _____ this _____ day of _____, _____
Print Notary Public Name | Month | Year

My Commission expires (MM/DD/YYYY) | County of | State of | Notary Signature

This page must always be completed in full with original, manual signature and notarization. Affix notary stamp or seal where applicable.

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2. Enter appropriate number in the box(es) for each *jurisdiction*:
Enter "0" if *applicant* **is not and does not intend to do business** in that *jurisdiction* as a mortgage lender (ML) and/or mortgage broker (MB)
Enter "1" if *applicant* **is newly applying** in that *jurisdiction* as a mortgage lender (ML) and/or mortgage broker (MB).
Enter "2" if *applicant* has a **pending application** in that *jurisdiction* as a mortgage lender (ML) and/or mortgage broker (MB).
Enter "3" if *applicant* **is already licensed/registered** in that *jurisdiction* as a mortgage lender (ML) and/or mortgage broker (MB).
Enter "4" if *applicant* is doing or will do business there, but that *jurisdiction* **does not license/register** this business activity.

	ML	MB		ML	MB		ML	MB		ML	MB
abama			Illinois			Montana			Puerto Rico		
aska			Indiana			Nebraska			Rhode Island		
izona			Iowa			Nevada			South Carolina		
kansas			Kansas			New Hampshire			South Dakota		
alifornia – DRE			Kentucky			New Jersey			Tennessee		
alifornia – DOC			Louisiana			New Mexico			Texas – OCCC		
olorado			Maine			New York			Texas – SML		
onnecticut			Maryland			North Carolina			Utah		
elaware			Massachusetts			North Dakota			Vermont		
strict of Columbia			Michigan			Ohio			Virginia		
orida			Minnesota			Oklahoma			Washington		
eorgia			Mississippi			Oregon			West Virginia		
awaii			Missouri			Pennsylvania			Wisconsin		
aho			Missouri			Pennsylvania			Wyoming		

3. A. Indicate legal status of *applicant*.

☐ Corporation ☐ Sole Proprietorship ☐ Other *(specify)* _____
☐ Partnership ☐ Limited Liability Company

B. *Applicant's* fiscal year end (MM/DD): _____

C. If other than a sole proprietorship, indicate date and place *applicant* obtained its legal status (i.e., state or country where incorporated, where partnership agreement was filed, or where *applicant* entity was formed):

State/Country of formation: _____ Date of formation (MM/DD/YYYY): _____

D. If *applicant* is a publicly traded corporation, please insert stock symbol: _____

A. Directly or indirectly, does *applicant control*, is *applicant controlled* by, or is *applicant* under common *control* with, any *person* that is engaged in the business of a mortgage lender or mortgage broker? *If no, go to 4B.* YES ☐ NO ☐

(check only one for each relationship, attach additional copies as needed)

This Partnership, Corporation, or Organization _____
Partnership, Corporation, or Organization Name

☐ *controls applicant* ☐ is *controlled* by *applicant* ☐ is under common *control* with *applicant*

_____
Number and Street City State/Country Zip+4/Postal Code

Briefly describe the *control* relationship, including an organizational chart which shows the relationship. Use additional sheets for comments if necessary.

_____

B. Directly or indirectly, is *applicant controlled* by any of the following? *If no, go to 5.* YES ☐ NO ☐

☐ Bank Holding Company ☐ National Bank ☐ State Member Bank of the Federal Reserve System
☐ State Non-Member Bank ☐ Savings Association/Savings Bank ☐ Credit Union ☐ Foreign Bank ☐ Thrift Holding Company

_____
Financial Institution Name

_____
Number and Street City State/Country Zip+4/Postal Code

Briefly describe the control relationship, including an organizational chart which shows the relationship. Use additional sheets for comments if necessary.

_____

Schedule A and, if applicable, Schedule B must be completed as part of all initial applications.
Amendments to schedules A and B must be provided on Schedule C as changes occur.

5. Check type(s) of mortgage related business engaged in (or to be engaged in, if not yet active) by *applicant*	YES
A. First mortgage loans	☐
B. Second mortgage loans	☐
C. Home equity loans, including lines of credit	☐
D. Loans guaranteed by the Federal Housing Administration (FHA)	☐
E. Loans guaranteed by the Veterans Administration (VA)	☐
F. Reverse mortgage loans	☐
G. High cost home loans (refer to various state definitions of covered transactions)	☐
H. Mortgage Servicing	☐
I. Other mortgage products and services(If "yes", briefly describe below)	☐
J. Credit insurance	☐

6. Does *applicant* engage in any non-mortgage-related business? If "yes" briefly describe _____	YES	NO
	☐	☐

7. Does *applicant* occupy or share space with, or jointly market with, a real estate company or settlement company? If "yes" provide the name of that other company. _____	YES	NO
	☐	☐

8. If the answer to any of the following is "YES", provide complete details of all events or proceedings in an attachment. Refer to the explanation of terms section of the instructions for explanations of italicized terms. **Remember to file updates of these disclosures as needed over time.**

Criminal Disclosure	YES	NO
A. Has the *applicant* or a *control affiliate* ever: (1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐
B. In the past ten years has the *applicant* or a *control affiliate*: (1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor involving: financial services* or a *financial services-related* business or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?	☐	☐
(2) been *charged* with a *misdemeanor* specified in 5B(1)?	☐	☐
Regulatory Action Disclosure		
C. Has any State or federal regulatory agency or *foreign financial regulatory authority* ever: (1) *found* the *applicant* or a *control affiliate* to have made a false statement or omission or been dishonest, unfair or unethical?	☐	☐
(2) *found* the *applicant* or a *control affiliate* to have been *involved* in a violation of a *financial services-related* regulation(s) or statute(s)?	☐	☐
(3) *found* the *applicant* or a *control affiliate* to have been a cause of a *financial services-related* business having its authorization to do business denied, suspended, revoked or restricted?	☐	☐
(4) entered an *order* against the *applicant* or a *control affiliate* in connection with a *financial services-related* activity?	☐	☐
(5) denied, suspended, or revoked the *applicant's* or a *control affiliate's* registration or license or otherwise, by *order*, prevented it from associating with a *financial services-related* business or restricted its activities?	☐	☐
D. Has the *applicant's* or a *control affiliate's* authorization to act as an attorney, accountant, or State or federal contractor ever been revoked or suspended?	☐	☐
E. Is the *applicant* or a *control affiliate* now the subject of any regulatory *proceeding* that could result in a "yes" answer to any part of 5C?	☐	☐
Civil Judicial Disclosure		
F. (1) Has any domestic or foreign court: (a) in the past ten years *enjoined* the *applicant* or a *control affiliate* in connection with any *financial services-related* activity?	☐	☐
(b) ever *found* the *applicant* or a *control affiliate* was *involved* in a violation of any *financial services-related* statute(s) or regulation(s)?	☐	☐
(c) ever dismissed, pursuant to a settlement agreement, a *financial services-related* civil action brought against the *applicant* or *control affiliate* by a State or *foreign financial regulatory authority*?	☐	☐
(2) Is the *applicant* or a *control affiliate* named in any pending *financial services-related* civil action that could result in a "yes" answer to any part of 5F(1)?	☐	☐
Financial Disclosure		
G. In the past ten years has the *applicant* or a *control affiliate* been a mortgage lender or a mortgage broker or a *control affiliate* of a mortgage lender or a mortgage broker that has been the subject of a bankruptcy petition?	☐	☐
H. Has a bonding company ever denied, paid out on, or revoked a bond for the *applicant*?	☐	☐
I. Does the *applicant* have any unsatisfied judgments or liens against it?	☐	☐

Sc A DIREC AND EXEC ERS (Answ m 4)	*Applicant* Name: _____ Date: _____	OFFICIAL USE

1. Use only in new applications to provide information on **direct** owners and executive officers of the *applicant*. Use Schedule B in new appli information on **indirect** owners. File all amendments on Schedule C. **Complete each column.**

2. List below i ies of:
   (a) each c *person* and executive officer, including Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief liance Officer, Director, and individuals with similar status or functions;
   (b) in the of an *applicant* that is a corporation, each shareholder that directly owns 10% or more of a class of a voting security of the *applicant*, unles *plicant* is a publicly traded company;
   Direc s include any *person* that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 10% or more of a class security of the *applicant*. For purposes of this Schedule, a *person* beneficially owns any securities (i) owned by his/her child, stepc child, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister oring the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant or right to se the security.
   (c) in the c an *applicant* that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolu have contributed, 10% or more of the partnership's capital;
   (d) in the c a trust that directly owns 10% or more of a class of a voting security of the *applicant*, or that has the right to receive upon dissolution, or have ributed, 10% or more of the *applicant's* capital, the trust and each trustee;
   (e) in the c an *applicant* that is a Limited Liability Company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contrib 10% or more of the LLC's capital, and (ii) if managed by elected managers, all elected managers; and
   (f) in certa *isdictions*, other required *persons*, including "qualified *persons*" or branch supervisors. Check with the *jurisdiction(s)* in which the *applica* plying for details.

3. Are there an ect owners of the *applicant* required to be reported on Schedule B? ☐ Yes ☐ No

4. Complete the or Status" column by entering board/management titles; status as a partner, trustee, sole proprietor, or shareholder; and for shareholders ss of securities owned (if more than one is issued).

5. (a) In the *Control Person*" column, enter "Yes" if the *person* has "*control*" as defined in the instructions to this form, and "No" if the *person* does not have *contro* e that under this definition, most executive officers and all 10% owners, general partners, and trustees would be "*control persons*".
   (b) In the "Publicly Traded" column, if the owner is a publicly traded company, enter the stock symbol; otherwise enter "NA".

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name	Title or Status	% Ownership	*Control Person*	Publicly Traded	S.S. No., IRS Tax No. or Employer ID

Schedule B **INDIRECT OWNERS** (Answer for Form MU1 Item 4)	*Applicant* Name: _____ Date: _____	**OFFICIAL USE**

Use Schedule B only in new applications to provide information on the **indirect** owners of the *applicant*. Use Schedule A in new applications to provide information on **direct** owners. File all amendments on Schedule C. **Complete each column.**

With respect to each owner listed on Schedule A, (except individual owners), list below:

(a) in the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25% or more of a class of a voting security of that corporation;
For purposes of this Schedule, a *person* beneficially owns any securities (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence, or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant or right to purchase the security.

(b) in the case of an owner that is a partnership, **all** general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25% or more of the partnership's capital;

(d) in the case of an owner that is a trust, the trust and each trustee; and

(e) in the case of an owner that is a Limited Liability Company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 25% or more of the LLC's capital, and (ii) if managed by elected managers, all elected managers.

Continue up the chain of ownership listing all 25% or more owners at each level. Once a public reporting company is reached, no ownership information further up the chain of ownership need be given.

Complete the "Status" column by entering status as a partner, trustee, shareholder, etc. and if shareholder, class of securities owned (if more than one is issued)

In the "Publicly Traded" column, if the owner is a publicly traded company, enter the stock symbol; otherwise enter "NA".

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name	Entity in Which Interest is Owned	Status	% Ownership	Publicly Traded	S.S. No., IRS Tax No. or Employer ID

Schedule C **AMENDMENTS TO SCHEDULES A & B** (Amendments to [illegible] for Form MU1 [illegible]	*Applicant* Name: _____ Date: _____	**OFFICIAL USE**

. This Schedule is used to amend Schedules A and B of Form MU1. Refer to those schedules for specific instructions for completing this Schedule C. **Complete each column.**

2. In the Type of Amendment ("Type of Amd.") column, indicate "A" (addition), "D" (deletion), or "C" (change in information about the same *person*).

3. **List below all changes to Schedule A (DIRECT OWNERS AND EXECUTIVE OFFICERS):**

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name	Type of Amd.	Title or Status	% Ownership	*Control Person*	Publicly Traded	S.S. No., IRS Tax No. or Employer ID

4. **List below all changes to Schedule B (INDIRECT OWNERS):**

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name	Type of Amd.	Entity in Which Interest is Owned	Status	% Ownership	Publicly Traded	S.S. No., IRS Tax No. or Employer ID

UNIFORM MORTGAGE LENDER/MORTGAGE BROKER APPLICATION
FORM MU1 INSTRUCTIONS

. GENERAL INSTRUCTIONS

1. Form MU1 is the Uniform Mortgage Lender/Mortgage Broker Application. Any *applicant* for a Mortgage Lender or a Mortgage Broker license may apply to *jurisdictions* that have adopted the Uniform Application using Form MU1. An *applicant* must also refer to each *jurisdiction* in which it is applying for *jurisdiction*-specific requirements.
2. **TERMS USED** – See the following Explanation of Terms page regarding italicized words/phrases.
3. **UPDATING** – The *applicant* must update information when required in each applicable *jurisdiction* in which it is licensed by submitting amendments using Form MU1. Only complete the information that is being amended as well as the name of the *applicant* and circle the question being amended.
4. **CONTACT EMPLOYEE** – The individual listed as the contact employee must be authorized to receive all compliance and licensing information, communications, and mailings, and be responsible for disseminating it within the applicant's organization.

. FILING INSTRUCTIONS

1. **FORMAT**

   A. A fully completed Form MU1 is required to be submitted to each *jurisdiction* when the *applicant* is filing for the first time. The *applicant* should contact the appropriate *jurisdiction(s)* for specific filing requirements, including applicable fees.
   B. The Execution section must include notarized original manual signature, for the initial Form MU1 filing.
   C. Type all information.
   D. Use only the current version of Form MU1 and its Schedules or a reproduction of them.

2. **ATTACHMENTS** – Provide the following.

   A. Schedules A, B, and C – File Schedules A and B only with initial applications. Use Schedule C to update Schedules A and B as needed.
   B. File a Form MU2 for each **individual** designated on Schedule A or C as a "*control person*".
   C. Enclose a Certificate of Good Standing from the Secretary of State or similar state authority for the state where the *applicant* obtained its legal status listed in Item 3C and for the *jurisdiction(s)* for which the *applicant* is applying.
   D. If the applicant is a partnership of any form, enclose a copy of the partnership agreement.
   E. Some *jurisdiction(s)* require separate filings for use of fictitious name/trade name/doing business as name(s). Check with the *jurisdiction(s)* to determine such requirements, and attach a copy of such filing if required by that *jurisdiction*.
   F. The name, full delivery address, and telephone number of the registered agent for service of legal process. Check with the *jurisdiction(s)* to determine if the registered agent is required to be located within the *jurisdiction(s)* in which you are applying.
   G. Depending on the *jurisdiction*, individual loan officers (also called "loan solicitors" or "loan originators") may need to complete a Form MU4. Please check with your chosen *jurisdiction(s)* to verify the requirements there.
   H. Depending on the *jurisdiction*, branch offices may need to complete a Form MU3. Please check with your chosen *jurisdiction(s)* to verify the requirements there.

3. **FINANCIAL RESPONSIBILITY** – Check with each *jurisdiction* in which the *applicant* is applying to determine requirements for financial responsibility. These may include the submission of financial statements, surety bond(s), minimum net worth, or other requirements.

4. ***JURISDICTION*-SPECIFIC REQUIREMENTS** – Check with each *jurisdiction* in which the *applicant* is applying for a list of requirements unique to the *jurisdiction(s)*, including applicable fees, records retention, etc.

EXPLANATION OF TERMS

(The following terms are italicized throughout form MU1.)

GENERAL

APPLICANT – The mortgage lender or mortgage broker applying on or amending this form. The only instance in which the *applicant* is an individual is in the case of a sole proprietorship.

CONTROL – The power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any *person* that (i) is a director, general partner or officer exercising executive responsibility (or having similar status or functions); (ii) directly or indirectly has the right to vote 10% or more of a class of a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities; or (iii) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the capital, is presumed to control that company.

CONTROL PERSON – An individual named in Item 1A or in Schedules A, B or C that directly or indirectly exercises *control* over the *applicant*.

JURISDICTION – A state, the District of Columbia, the Commonwealth of Puerto Rico, or any subdivision or regulatory body thereof.

PERSON – An individual, partnership, corporation, trust, or other organization.

FOR THE PURPOSE OF ITEM 8

CHARGED – Being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge).

CONTROL AFFILIATE – A *person* named in Item 1A or in Schedules A, B or C as a *control person* or any other individual or organization that directly or indirectly controls, is under common control with, or is controlled by, the *applicant*, including any current employee except one performing only clerical, administrative, support or similar functions, or who, regardless of title, performs no executive duties or has no senior policy making authority.

ENJOINED – Includes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction, or a temporary restraining order.

FELONY – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *felony* is an offense punishable by a sentence of at least one year imprisonment and/or a fine of at least $1,000. The term also includes a general court martial.

FINANCIAL SERVICES OR FINANCIAL SERVICES-RELATED – Pertaining to securities, commodities, banking, insurance, consumer lending, or real estate (including, but not limited to, acting as or being associated with a bank or savings association, credit union, mortgage lender or mortgage broker).

FOREIGN FINANCIAL REGULATORY AUTHORITY – Includes (1) a *financial services* authority of a foreign country; (2) other governmental body empowered by a foreign government to administer or enforce its laws relating to the regulation of *financial services* or *financial services-related* activities; and (3) a foreign membership organization, a function of which is to regulate the participation of its members in *financial services* activities listed above.

FOUND – Includes adverse final actions, including consent decrees in which the respondent has neither admitted nor denied the findings, but does not include agreements, deficiency letters, examination reports, memoranda of understanding, letters of caution, admonishments, and similar informal resolutions of matters.

INVOLVED – Doing an act or omission or aiding, abetting, counseling, commanding, inducing, conspiring with or failing reasonably to supervise another in doing an act or omission.

MISDEMEANOR – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *misdemeanor* is an offense punishable by a sentence of less than one year imprisonment and/or a fine of less than $1,000. The term also includes a special court martial.

ORDER – A written directive issued pursuant to statutory authority and procedures, including orders of denial, suspension, or revocation; does not include special stipulations, undertakings or agreements relating to payments, limitations on activity or other restrictions unless they are included in an *order*.

PROCEEDING – Includes a formal administrative or civil action initiated by a governmental agency, self-regulatory organization or a *foreign financial regulatory authority*; a *felony* criminal indictment or information (or equivalent formal charge); or a *misdemeanor* criminal information (or equivalent formal charge). The term does not include other civil litigation, investigations, or arrests or similar charges effected in the absence of a formal criminal indictment or information (or equivalent formal charge).

FORM MU1 PAGE 1 (Execution Page)	**UNIFORM MORTGAGE LENDER/MORTGAGE BROKER APPLICATION**	**OFFICIAL USE**	Official Use Only
	Date of Filing: _____ Effective Date _____		

WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or the failure to keep accurate books and records or otherwise to comply with the provisions of law applying to the conduct of business as a mortgage lender or mortgage broker may violate the laws of the *jurisdictions* and may result in disciplinary, administrative, injunctive or criminal action.

INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS.

NEW APPLICATION ☐ RENEWAL ☐ CLOSURE ☐ AMENDMENT ☐ ***To amend, circle item(s) being amended.***

I. Exact name, principal business address, mailing address, if different, and telephone numbers of *applicant:*

A. Full name of *applicant*:
(if sole proprietor, provide last, first and middle name)

B. IRS Employer Identification Number
(Social Security No is allowed for sole proprietorship)

C. (1) Name under which business primarily is or will be conducted, if different from Item 1A.

(2) List any other name(s) by which the *applicant* conducts or will conduct business and the *jurisdiction(s)* in which they are or will be used (Use additional sheets as necessary).

1. Name	*Jurisdiction*	2. Name	*Jurisdiction*
3. Name	*Jurisdiction*	4. Name	*Jurisdiction*

D. If this filing makes a name change on behalf of the *applicant*, enter the new name and specify whether the name change is of the ☐ *applicant* name (1A) or ☐ business name (1C). _____

E. Main address: (Do not use a P.O. Box)

Number and Street | City | State/Country | Zip+4/Postal Code

F. Mailing address, if different

PO Box or Number and Street | City | State/Country | Zip+4/Postal Code

G. Telephone Numbers and Website address:
Business phone — Area Code | Telephone Number
Fax line — Area Code | Telephone Number
URL
URL

H. Other than the office in 1E, does the *applicant* conduct business with consumers through branch offices or other business locations?
☐ YES ☐ NO (In certain *jurisdictions*, branch offices or other business locations must be reported or approved. Use Form MU3.)

I. Contact Employee:

Name and Title | Area Code | Telephone Number

Number and Street | City | State/Country | Zip+4/Postal Code

E-mail Address | Fax Number

J. Employee authorized to respond to consumer complaints:

Name and Title | Area Code | Telephone Number

Number and Street | City | State/Country | Zip+4/Postal Code

E-mail Address | Fax Number

K. Physical address of location where the official books and records of the *applicant* will be kept. Check each *jurisdiction* for specific records retention requirements.

Organization Name (if different from applicant) or Records Custodian Name | Area Code | Telephone Number

Number and Street | City | State/Country | Zip+4/Postal Code

EXECUTION:

The undersigned, being first duly sworn, deposes and says that he/she has executed this form on behalf of, and with the authority of, said *applicant*. The undersigned and *applicant* represent that the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part hereof, are current, true and complete. The undersigned and *applicant* further represent that to the extent any information previously submitted is not amended such information is currently accurate and complete.

Date (MM/DD/YYYY) | Name of Applicant

By: Signature | Print Name and Title

Subscribed and sworn before me _____ (Print Notary Public Name) this _____ day of _____ (Month), _____ (Year)

My Commission expires (MM/DD/YYYY) | County of | State of | Notary Signature

This page must always be completed in full with original, manual signature and notarization. Affix notary stamp or seal where applicable.

Version 2005 Sep1

2. Enter appropriate number in the box(es) for each *jurisdiction*:
Enter "0" if *applicant* **is not and does not intend to do business** in that *jurisdiction* as a mortgage lender (ML) and/or mortgage broker (MB).
Enter "1" if *applicant* **is newly applying** in that *jurisdiction* as a mortgage lender (ML) and/or mortgage broker (MB).
Enter "2" if *applicant* has a **pending application** in that *jurisdiction* as a mortgage lender (ML) and/or mortgage broker (MB).
Enter "3" if *applicant* **is already licensed/registered** in that *jurisdiction* as a mortgage lender (ML) and/or mortgage broker (MB).
Enter "4" if *applicant* is doing or will do business there, but that *jurisdiction* **does not license/register** this business activity.

	ML	MB		ML	MB		ML	MB		ML	MB
abama			llinois			Montana			Puerto Rico		
aska			Indiana			Nebraska			Rhode Island		
izona			Iowa			Nevada			South Carolina		
kansas			Kansas			New Hampshire			South Dakota		
lifornia – DRE			Kentucky			New Jersey			Tennessee		
lifornia – DOC			Louisiana			New Mexico			Texas – OCCC		
olorado			Maine			New York			Texas – SML		
onnecticut			Maryland			North Carolina			Utah		
laware			Massachusetts			North Dakota			Vermont		
strict of Columbia			Michigan			Ohio			Virginia		
orida			Minnesota			Oklahoma			Washington		
eorgia			Mississippi			Oregon			West Virginia		
awaii			Missouri			Pennsylvania			Wisconsin		
aho			Missouri			Pennsylvania			Wyoming		

3. A. Indicate legal status of *applicant*.

☐ Corporation ☐ Sole Proprietorship ☐ Other *(specify)* _____
☐ Partnership ☐ Limited Liability Company

B. *Applicant's* fiscal year end (MM/DD): _____

C. If other than a sole proprietorship, indicate date and place *applicant* obtained its legal status (i.e., state or country where incorporated, where partnership agreement was filed, or where *applicant* entity was formed):

State/Country of formation: _____ Date of formation (MM/DD/YYYY): _____

D. If *applicant* is a publicly traded corporation, please insert stock symbol: _____

4. A. Directly or indirectly, does *applicant control*, is *applicant controlled* by, or is *applicant* under common *control* with, any *person* that is engaged in the business of a mortgage lender or mortgage broker? *If no, go to 4B.* YES ☐ NO ☐

(check only one for each relationship, attach additional copies as needed)

This Partnership, Corporation, or Organization _____
Partnership, Corporation, or Organization Name

☐ *controls applicant* ☐ is *controlled* by *applicant* ☐ is under common *control* with *applicant*

_____
Number and Street City State/Country Zip+4/Postal Code

Briefly describe the *control* relationship, including an organizational chart which shows the relationship. Use additional sheets for comments if necessary.

_____

B. Directly or indirectly, is *applicant controlled* by any of the following? *If no, go to 5.* YES ☐ NO ☐

☐ Bank Holding Company ☐ National Bank ☐ State Member Bank of the Federal Reserve System
☐ State Non-Member Bank ☐ Savings Association/Savings Bank ☐ Credit Union ☐ Foreign Bank ☐ Thrift Holding Company

_____
Financial Institution Name

_____
Number and Street City State/Country Zip+4/Postal Code

Briefly describe the control relationship, including an organizational chart which shows the relationship. Use additional sheets for comments if necessary.

_____

Schedule A and, if applicable, Schedule B must be completed as part of all initial applications.
Amendments to schedules A and B must be provided on Schedule C as changes occur.

5. Check type(s) of mortgage related business engaged in (or to be engaged in, if not yet active) by *applicant*	YES
A. First mortgage loans	☐
B. Second mortgage loans	☐
C. Home equity loans, including lines of credit	☐
D. Loans guaranteed by the Federal Housing Administration (FHA)	☐
E. Loans guaranteed by the Veterans Administration (VA)	☐
F. Reverse mortgage loans	☐
G. High cost home loans (refer to various state definitions of covered transactions)	☐
H. Mortgage Servicing	☐
I. Other mortgage products and services(If "yes", briefly describe below)	☐
J. Credit insurance	☐

	YES	NO
6. Does *applicant* engage in any non-mortgage-related business? If "yes" briefly describe. _____	☐	☐
7. Does *applicant* occupy or share space with, or jointly market with, a real estate company or settlement company? If "yes" provide the name of that other company. _____	☐	☐

8. If the answer to any of the following is "YES", provide complete details of all events or proceedings in an attachment. Refer to the explanation of terms section of the instructions for explanations of italicized terms. **Remember to file updates of these disclosures as needed over time.**

Criminal Disclosure	YES	NO
A. Has the *applicant* or a *control affiliate* ever. (1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐
B. In the past ten years has the *applicant* or a *control affiliate*: (1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor involving: financial services* or a *financial services-related* business or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?	☐	☐
(2) been *charged* with a *misdemeanor* specified in 5B(1)?	☐	☐
Regulatory Action Disclosure		
C. Has any State or federal regulatory agency or *foreign financial regulatory authority* ever: (1) *found* the *applicant* or a *control affiliate* to have made a false statement or omission or been dishonest, unfair or unethical?	☐	☐
(2) *found* the *applicant* or a *control affiliate* to have been *involved* in a violation of a *financial services-related* regulation(s) or statute(s)?	☐	☐
(3) *found* the *applicant* or a *control affiliate* to have been a cause of a *financial services-related* business having its authorization to do business denied, suspended, revoked or restricted?	☐	☐
(4) entered an *order* against the *applicant* or a *control affiliate* in connection with a *financial services-related* activity?	☐	☐
(5) denied, suspended, or revoked the *applicant's* or a *control affiliate's* registration or license or otherwise, by *order*, prevented it from associating with a *financial services-related* business or restricted its activities?	☐	☐
D. Has the *applicant's* or a *control affiliate's* authorization to act as an attorney, accountant, or State or federal contractor ever been revoked or suspended?	☐	☐
E. Is the *applicant* or a *control affiliate* now the subject of any regulatory *proceeding* that could result in a "yes" answer to any part of 5C?	☐	☐
Civil Judicial Disclosure		
F. (1) Has any domestic or foreign court: (a) in the past ten years *enjoined* the *applicant* or a *control affiliate* in connection with any *financial services-related* activity?	☐	☐
(b) ever *found* the *applicant* or a *control affiliate* was *involved* in a violation of any *financial services-related* statute(s) or regulation(s)?	☐	☐
(c) ever dismissed, pursuant to a settlement agreement, a *financial services-related* civil action brought against the *applicant* or *control affiliate* by a State or *foreign financial regulatory authority*?	☐	☐
(2) Is the *applicant* or a *control affiliate* named in any pending *financial services-related* civil action that could result in a "yes" answer to any part of 5F(1)?	☐	☐
Financial Disclosure		
G. In the past ten years has the *applicant* or a *control affiliate* been a mortgage lender or a mortgage broker or a *control affiliate* of a mortgage lender or a mortgage broker that has been the subject of a bankruptcy petition?	☐	☐
H. Has a bonding company ever denied, paid out on, or revoked a bond for the *applicant*?	☐	☐
I. Does the *applicant* have any unsatisfied judgments or liens against it?	☐	☐

Schedule A **DIRECT OWNERS AND EXECUTIVE OFFICERS** (Answer for Form MU1 Item 4)	*Applicant* Name: _____ Date: _____	**OFFICIAL USE**

1. Use Schedule A only in new applications to provide information on the **direct** owners and executive officers of the *applicant*. Use Schedule B in new applications to provide information on **indirect** owners. File all amendments on Schedule C. **Complete each column.**

2. List below the names of:

   (a) each *control person* and executive officer, including Chief Executive Officer, Chief Financial Officer, Chief Operations Officer, Chief Legal Officer, Chief Compliance Officer, Director, and individuals with similar status or functions;

   (b) in the case of an *applicant* that is a corporation, each shareholder that directly owns 10% or more of a class of a voting security of the *applicant*, unless the *applicant* is a publicly traded company;
   Direct owners include any *person* that owns, beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 10% or more of a class of a voting security of the *applicant*. For purposes of this Schedule, a *person* beneficially owns any securities (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant or right to purchase the security.

   (c) in the case of an *applicant* that is a partnership, all general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 10% or more of the partnership's capital;

   (d) in the case of a trust that directly owns 10% or more of a class of a voting security of the *applicant*, or that has the right to receive upon dissolution, or have contributed, 10% or more of the *applicant's* capital, the trust and each trustee;

   (e) in the case of an *applicant* that is a Limited Liability Company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 10% or more of the LLC's capital, and (ii) if managed by elected managers, all elected managers; and

   (f) in certain *jurisdictions*, other required *persons*, including "qualified *persons*" or branch supervisors. Check with the *jurisdiction(s)* in which the *applicant* is applying for details.

3. Are there any indirect owners of the *applicant* required to be reported on Schedule B? ☐ Yes ☐ No

4. Complete the "Title or Status" column by entering board/management titles; status as a partner, trustee, sole proprietor, or shareholder; and for shareholders, the class of securities owned (if more than one is issued).

5. (a) In the "*Control Person*" column, enter "Yes" if the *person* has "*control*" as defined in the instructions to this form, and "No" if the *person* does not have *control*. Note that under this definition, most executive officers and all 10% owners, general partners, and trustees would be "*control persons*".
   (b) In the "Publicly Traded" column, if the owner is a publicly traded company, enter the stock symbol; otherwise enter "NA".

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name	Title or Status	% Ownership	*Control Person*	Publicly Traded	S.S. No., IRS Tax No. or Employer ID

Schedule B **INDIRECT OWNERS** (Answer for Form MU1 Item 4)	*Applicant* Name: _____ Date: _____	**OFFICIAL USE**

1. Use Schedule B only in new applications to provide information on the **indirect** owners of the *applicant*. Use Schedule A in new applications to provide information on **direct** owners. File all amendments on Schedule C. **Complete each column.**

2. With respect to each owner listed on Schedule A, (except individual owners), list below:

   (a) in the case of an owner that is a corporation, each of its shareholders that beneficially owns, has the right to vote, or has the power to sell or direct the sale of, 25% or more of a class of a voting security of that corporation;
   For purposes of this Schedule, a *person* beneficially owns any securities (i) owned by his/her child, stepchild, grandchild, parent, stepparent, grandparent, spouse, sibling, mother-in-law, father-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law, sharing the same residence; or (ii) that he/she has the right to acquire, within 60 days, through the exercise of any option, warrant or right to purchase the security.

   (b) in the case of an owner that is a partnership, **all** general partners and those limited and special partners that have the right to receive upon dissolution, or have contributed, 25% or more of the partnership's capital;

   (d) in the case of an owner that is a trust, the trust and each trustee; and

   (e) in the case of an owner that is a Limited Liability Company ("LLC"), (i) those members that have the right to receive upon dissolution, or have contributed, 25% or more of the LLC's capital, and (ii) if managed by elected managers, all elected managers

3. Continue up the chain of ownership listing all 25% or more owners at each level. Once a public reporting company is reached, no ownership information further up the chain of ownership need be given.

4. Complete the "Status" column by entering status as a partner, trustee, shareholder, etc. and if shareholder, class of securities owned (if more than one is issued).

5. In the "Publicly Traded" column, if the owner is a publicly traded company, enter the stock symbol; otherwise enter "NA".

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name	Entity in Which Interest is Owned	Status	% Ownership	Publicly Traded	S.S. No., IRS Tax No or Employer ID

Schedule C **AMENDMENTS TO SCHEDULES A & B** (Amendments to answers for Form MU1 Item 4)	*Applicant* Name: _____ Date: _____	**OFFICIAL USE**

1. This Schedule is used to amend Schedules A and B of Form MU1. Refer to those schedules for specific instructions for completing this Schedule C. **Complete each column.**

2. In the Type of Amendment ("Type of Amd.") column, indicate "A" (addition), "D" (deletion), or "C" (change in information about the same *person*).

3. **List below all changes to Schedule A (DIRECT OWNERS AND EXECUTIVE OFFICERS):**

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name	Type of Amd.	Title or Status	% Ownership	*Control Person*	Publicly Traded	S.S. No., IRS Tax No. or Employer ID

4. **List below all changes to Schedule B (INDIRECT OWNERS):**

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name	Type of Amd.	Entity in Which Interest is Owned	Status	% Ownership	Publicly Traded	S.S. No., IRS Tax No. or Employer ID

UNIFORM MORTGAGE CONTROL PERSONS INFORMATION
FORM MU2 INSTRUCTIONS

A. GENERAL INSTRUCTIONS

1. **FILING** – Form MU2 must accompany Form MU1, the Uniform Mortgage Lender/Mortgage Broker Application. Each individual, identified as a *control person* for the *applicant* on Schedule A, must complete Form MU2. An *applicant* must also refer to each *jurisdiction* in which it is applying for *jurisdiction*-specific requirements.
2. **TERMS USED** – See the following Explanation of Terms page regarding italicized words/phrases.
3. **UPDATING** – The *applicant* must update information about a *control person* as required in each applicable *jurisdiction* by submitting amendments using Form MU2. Only complete the information that is being amended as well as the name of the *control person* and circle the question being amended.

B. FILING INSTRUCTIONS

1. **FORMAT**
   - A. Each individual identified as a *control person* on Schedules A or C must complete Form MU2. A fully completed Form MU2 for each *control person* is required to be submitted to each *jurisdiction* along with the *applicant's* initial Form MU1. Form MU2 may also accompany amendments filed on Schedule C. The *applicant* should contact the appropriate *jurisdiction(s)* for additional specific filing requirements.
   - B. *Employment* history, item 5, provide the full legal name of the company, beginning with your current *employer*.
   - C. The Acknowledgement & Consent section must include notarized original manual signature.
   - D. The Mortgage Lender/Mortgage Broker *Employment* Representation section must include original manual signature.
   - E. Type all information.
   - F. Use only the current version of Form MU2 or a reproduction of it.
2. **ATTACHMENTS** – Provide the following:
   - A. Pair of Fingerprint Cards if required by applicable *jurisdiction(s)* per item 2.
   - B. *Jurisdiction(s)* will conduct additional background investigations (including personal credit and *employment* history) as appropriate for each *jurisdiction*.
   - C. Depending on the *jurisdiction*, individual loan officers/solicitors/originators may also need to complete a Form MU4. Please check with your chosen *jurisdiction(s)* to verify the requirements there.
3. **FINANCIAL RESPONSIBILITY** – Check with each *jurisdiction* in which the *applicant* is applying to determine requirements for financial responsibility demonstrated by *control persons*. These may include the submission of personal credit reports, financial statements, surety bond(s), minimum net worth, or other requirements.
4. ***JURISDICTION*-SPECIFIC REQUIREMENTS** – Check with each *jurisdiction* in which the *applicant* is applying for a list of requirements unique to the *jurisdiction(s)*, including applicable fees, etc.

EXPLANATION OF TERMS
(The following terms are italicized throughout form MU2.)

1. GENERAL

APPLICANT – The individual applying on or amending this form.

CONTROL – The power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any *person* that (i) is a director, general partner or officer exercising executive responsibility (or having similar status or functions); (ii) directly or indirectly has the right to vote 10% or more of a class of a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities; or (iii) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the capital, is presumed to control that company.

CONTROL PERSON – An individual named in Item 1A or in Schedules A, B or C that directly or indirectly exercises *control* over the *applicant*.

EMPLOYER or EMPLOYMENT – This term is used throughout this form regardless of whether the relationship involves a W-2 status "employee" or a 1099 status "independent contractor." Check with the *jurisdiction(s)* for specific requirements or restrictions as to such relationships.

JUR **CTION** – A state, the District of Columbia, the Commonwealth of Puerto Rico, or any subdivision or regulatory body the

PE n individual, partnership, corporation, trust, or other organization.

2. **FO** **URPOSE OF ITEM 6**

CH – Being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge).

EN – Includes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction, or a tem estraining order.

FEL For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *felony* is an offense pun by a sentence of at least one year imprisonment and/or a fine of at least $1,000. The term also includes a ge t martial.

FIN R – A written directive or declaratory statement issued by an appropriate federal or state agency pur applicable statutory authority and procedures, that constitutes a final disposition or action by that federal or sta y

FIN **SERVICES OR FINANCIAL SERVICES-RELATED** – Pertaining to securities, commodities, banking, insu consumer lending, or real estate (including, but not limited to, acting as or being associated with a bank or savi iation, credit union, mortgage lender or mortgage broker).

FOR **NANCIAL REGULATORY AUTHORITY** – Includes (1) a *financial services* authority of a foreign country; (2) ernmental body empowered by a foreign government to administer or enforce its laws relating to the regul *financial services* or *financial services-related* activities; and (3) a foreign membership organization, a func which is to regulate the participation of its members in *financial services* activities listed above.

FOU cludes adverse final actions, including consent decrees in which the respondent has neither admitted nor den indings, but does not include agreements, deficiency letters, examination reports, memoranda of und g, letters of caution, admonishments, and similar informal resolutions of matters.

INVO – Doing an act or omission or aiding, abetting, counseling, commanding, inducing, conspiring with or fai ably to supervise another in doing an act or omission.

MIS **NOR** – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *misdemeanor* is an unishable by a sentence of less than one year imprisonment and/or a fine of less than $1,000. The term als a special court martial.

OR written directive issued pursuant to statutory authority and procedures, including orders of denial, susp revocation; does not include special stipulations, undertakings or agreements relating to payments, limit activity or other restrictions unless they are included in an *order*.

PRO **G** – Includes a formal administrative or civil action initiated by a governmental agency, self-regulatory org r a *foreign financial regulatory authority*; a *felony* criminal indictment or information (or equivalent formal ch *misdemeanor* criminal information (or equivalent formal charge). The term does not include other civil litiga estigations, or arrests or similar charges effected in the absence of a formal criminal indictment or information (or equivalent formal charge).

FORM MU2	CONTROL PERSONS INFORMATION UNIFORM MORTGAGE LENDER/MORTGAGE BROKER APPLICATION Date of filing: _____	OFFICIAL USE

WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or otherwise to comply with the provisions of law applying to the conduct of business as a mortgage lender or mortgage broker may violate the laws of the *jurisdictions* and may result in disciplinary, administrative, injunctive or criminal action.

INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS.

APPLICATION ☐ RENEWAL ☐ AMENDMENT ☐ (effective date _____) ***To amend, circle items being amended.***

1. Individual's identifying information:

A. Full last, first and middle names:

Last name _____ First name _____ Full middle name _____ Suffix _____

B. (1) Social Security Number: _____ (2) Gender: ☐ Male ☐ Female

C. (1) Date of Birth (MM/DD/YYYY) _____ (2) State/Province of Birth _____ (3) Country of Birth _____

D. List all other name(s) you have used or are using, or by which you are know or have been known, other than your legal name, since the age of 18. This field should include for example, nicknames, aliases, and names used before/after marriage. (Use additional sheets as necessary)

1. Name 2. Name 3. Name 4. Name

E. If this filing makes a name change on behalf of the individual, enter the new name and attach supporting legal documentation

Last name _____ First name _____ Full middle name _____ Suffix _____

F. Office of *Employment* address: (Do not use a P.O. Box) ☐ If this address is your private residence, check this box.

(Number and Street) _____ (City) _____ (State/Country) _____ (Zip+4/Postal Code) _____

G. Current Residence address, if different

(Number and Street) _____ (City) _____ (State/Country) _____ (Zip+4/Postal Code) _____

H. Telephone Numbers and e-mail address

Business phone (Area Code) _____ (Telephone Number) _____ Fax line (Area Code) _____ (Telephone Number) _____

Cell phone (Area Code) _____ (Telephone Number) _____ (e-mail address) _____

2. Fingerprint information filing representation:

☐ I represent that I am submitting, have submitted, or promptly will submit to the appropriate *jurisdiction(s)* two fingerprint cards as required

Fingerprint Card Barcode(s): _____ _____

☐ I am applying as a *control person* only in *jurisdiction(s)* that do not require me to submit fingerprint card(s).

CONTROL PERSON'S ACKNOWLEDGMENT & CONSENT:

1. I swear or affirm that I have read and understand the items and instructions on this form and that my answers (including attachments) are true and complete to the best of my knowledge. I understand that I am subject to administrative, civil or criminal penalties if I give false or misleading answers.

2. I authorize all my current and former *employers*, law enforcement agencies, and any other *person* to furnish to any *jurisdiction*, or any agent acting on its behalf, any information they have, including without limitation my creditworthiness, character, ability, business activities, educational background, general reputation, history of my *employment* and, in the case of former *employers*, complete reasons for my termination.

Date (MM/DD/YYYY) _____ Signature of *Control Person* _____

Subscribed and sworn before me _____ (Print Notary Public Name) this _____ day of _____ (Month), _____ (Year)

My Commission expires (MM/DD/YYYY) _____ County of _____ State of _____ Notary Signature _____

MORTGAGE LENDER/MORTGAGE BROKER *EMPLOYMENT* REPRESENTATION

(1) To the best of my knowledge and belief, the *control person* is currently bonded where required, and, at the time of approval, will be familiar with the statutes, regulations, and rules of the *jurisdiction(s)* with which this application is being filed, and will be fully qualified for the position for which application is being made herein. (2) I have taken appropriate steps to verify the accuracy and completeness of the information contained in and with this application. (3) I have provided the *control person* an opportunity to review the information contained herein and the *control person* has approved this information and signed the form.

Date (MM/DD/YYYY) _____ Name of Mortgage Lender/Mortgage Broker _____

By: _____ Signature _____ Print Name and Title _____

This page must always be completed in full with original, manual signature and notarization. Affix notary stamp or seal where applicable.

DO NOT WRITE BELOW THIS LINE - FOR OFFICIAL USE ONLY

Version 2005.1

3. Residential History: Starting with current address (item 1G), give all addresses for the past 10 years. (Attach additional sheets as necessary.)

From (MM/YYYY)	To (MM/YYYY)	Street Address	City	State or Province	Zip or Postal Code	Country

4. *Employment* History: Provide complete *employment* history for the past 10 years. Account for all time including full & part-time *employments*, self-*employment*, military service, and homemaking. Also include periods such as *unemployed*, full-time student, extended travel, etc. Indicate by "Yes" or "No" whether this *employment* was *financial service-related* business. (Attach additional sheets as needed.)

From (MM/YYYY)	To (MM/YYYY)	*Employer* (company name)	Position Held	City	State or Province	Country	Yes/No

5. Other Business: Are you currently engaged in any other business either as a proprietor, partner, officer, director, *employee*, trustee, agent or otherwise? (Please include non-*financial services-related* activity that is exclusively charitable, civic, religious, or fraternal and is recognized as tax exempt.) If YES, provide the following details: the name of the other business; whether the business is *financial services-related*; the address of the other business; the nature of the other business; your position, title, or relationship with the other business; the start date of your relationship; the approximate number of hours/month you devote to the other business; and briefly describe your duties relating to the other business. (Attach additional sheets as needed.)

☐ NO ☐ YES details:

6. Disclosures: If the answer to any of the following is "YES", provide complete details of all events or proceedings in an attachment. Refer to the explanation of terms section of the instructions for explanations of italicized terms.

Financial Disclosure

A. Within the past ten years:		
(1) have you filed a personal bankruptcy petition or been the subject of an involuntary bankruptcy petition?	☐	☐
(2) based upon events that occurred while you exercised *control* over it, has any organization filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition?	☐	☐
B. Has a bonding company ever denied, paid out on, or revoked a bond for you?	☐	☐
C. Do you have any unsatisfied judgments or liens against you?	☐	☐

Criminal Disclosure	YES	NO
D. Have you ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐
E. Based upon activities that occurred whil you exercised *control* over it, has an organization ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐
F. Have you ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor involving: financial services* or a *financial services-related* business or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?	☐	☐
(2) been *charged* with a *misdemeanor* specified in 6F(1)?	☐	☐
G. Based upon activities that occurred whil you exercised *control* over it, has an organization ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor* specified in 6F(1)	☐	☐
(2) been *charged* with a *misdemeanor* specified in 6F(1)	☐	☐
Regulatory Action Disclosure		
H. Has any State or federal regulatory agency or *foreign financial regulatory authority* ever:		
(1) *found* you to have made a false statement or omission or been dishonest, unfair or unethical?	☐	☐
(2) *found* you to have been *involved* in a violation of a *financial services-related* regulation(s) or statute(s)?	☐	☐
(3) *found* you to have been a cause of a *financial services-related* business having its authorization to do business denied, suspended, revoked or restricted?	☐	☐
(4) entered an *order* against you in connection with a *financial services-related* activity?	☐	☐
(5) denied, suspended, or revoked your registration or license, disciplined you, or otherwise by *order* prevented you from associating with a *financial services-related* business or restricted your activities?	☐	☐
(6) denied, suspended, or revoked your registration or license, disciplined you, or otherwise by *order*, prevented you from associating with a *financial services-related* business or restricted your activities?	☐	☐
(7) barred you from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in a *financial services-related* business?	☐	☐
(8) issued a final *order* based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?	☐	☐
I. Have you ever had an authorization to act as an attorney, accountant, or State or federal contractor that was revoked or suspended?	☐	☐
J. Are you now the subject of any regulatory *proceeding* that could result in a "yes" answer to any part of 6H or 6I?	☐	☐
Civil Judicial Disclosure		
K. (1) Has any domestic or foreign court ever:		
(a) *enjoined* you in connection with any *financial services-related* activity?	☐	☐
(b) *found* that you were *involved* in a violation of any *financial services-related* statute(s) or regulation(s)?	☐	☐
(c) dismissed, pursuant to a settlement agreement, a *financial services-related* civil action brought against you by a State, federal, or *foreign financial regulatory authority*?	☐	☐
(2) Are you named in any pending *financial services-related* civil action that could result in a "yes" answer to any part of 6K(1)?	☐	☐
Customer Arbitration/Civil Litigation Disclosure		
L. Have you ever been named as a respondent/defendant in a *financial services-related* consumer-initialted arbitration or civil litigation which:		
(1) is still pending; or	☐	☐
(2) resulted in an arbitration award or civil judgement against you, regardless of amount, or that required corrective action; or	☐	☐
(3) was settled for any amount?	☐	☐
Termination Disclosure		
M. Have you ever voluntarily resigned, been discharged, or permitted to resign after allegations were made that accused you of:		
(1) violating statute(s), regulation(s), rule(s), or industry standards of conduct?	☐	☐
(2) fraud, dishonesty, theft, or the wrongful taking of property?	☐	☐

UNIFORM MORTGAGE BRANCH APPLICATION
FORM MU3 INSTRUCTIONS

. GENERAL INSTRUCTIONS

1. Form MU3 is the Branch Office Application accompanying the Uniform Mortgage Lender/Mortgage Broker form (MU1). A licensed *applicant* for a Mortgage Lender or a Mortgage Broker license may apply for a branch office to *jurisdictions* that have adopted the Uniform Application using Form MU3. *Applicants* must also refer to each *jurisdiction* in which it is applying for *jurisdiction*-specific requirements relating to branch offices.
2. **TERMS USED** – See the following Explanation of Terms regarding italicized words.
3. **UPDATING** – The *applicant* must update information when required in each applicable *jurisdiction* in which it is licensed by submitting amendments using Form MU3. Only complete the information that is being amended as well as the name of the *applicant* and circle the question being amended.
4. **CONTACT EMPLOYEE** – The individual listed on the *applicant's* (company's main office) Form MU1 as the contact employee will be contacted by *jurisdiction(s)* if needed, about this branch application form MU3.

. FILING INSTRUCTIONS

1. **FORMAT**
   A. Form MU3 may accompany a new company filing on Form MU1, or may follow at a later date. A fully completed Form MU3 must be submitted to each applicable *jurisdiction* when the *applicant* is filing for branch authorization the first time. The *applicant* should contact the appropriate *jurisdiction(s)* for specific branch filing requirements, including applicable fees.
   B. The Execution section must include notarized original manual signature, for the initial Form MU3 filing for each branch office.
   C. Type all information.
   D. Use only the current version of Form MU3 or a reproduction of them.
2. **ATTACHMENTS** – Provide the following:
   A. File a Form MU2 for each branch manager identified in item 4.
   B. Some *jurisdiction(s)* require separate filings for use of fictitious name/trade name/doing business as name(s) as seen in item 3. Check with the *jurisdiction(s)* to determine such requirements, and attach a copy of such filing if required by that *jurisdiction*.
   C. Depending on the *jurisdiction*, individual *loan officers* (also called "loan solicitors" or "loan originators") may need to file a Form MU4. Please check with your chosen *jurisdiction(s)* to verify the requirements there.
3. ***JURISDICTION*-SPECIFIC REQUIREMENTS** – Check with each *jurisdiction* in which the *applicant* is applying for a list of requirements unique to the *jurisdiction(s)*, including applicable fees, records retention, branch-related bonding, resume, etc.

. EXPLANATION OF TERMS (The following terms are italicized throughout Form MU3.)

1. **APPLICANT** – The mortgage lender or mortgage broker applying on or amending this form. The only instance in which the *applicant* is an individual is in the case of a sole proprietorship.
2. **JURISDICTION** – A state, the District of Columbia, the Commonwealth of Puerto Rico, or any subdivision or regulatory body thereof.
3. **PERSON** – An individual, partnership, corporation, trust, or other organization.
4. **LOAN OFFICER** – An individual who, in exchange for compensation, accepts or offers to accept applications for mortgage loans directly from consumers.

FORM MU3 (Branch)	UNIFORM MORTGAGE BRANCH OFFICE APPLICATION	OFFICIAL USE
MORTGAGE BROKER ☐ MORTGAGE LENDER ☐	*Applicant* full legal name: _____ Date of Filing: _____ Effective Date _____	

1. NEW BRANCH APPLICATION ☐ | RENEWAL ☐ | CLOSURE ☐ | AMENDMENT ☐ ***Circle item(s) being amended.***

2. A. Branch Physical Address (no PO Box):

Number and Street | City | State/Country | Zip+4/Postal Code

B. Mailing Address (if different):

PO Box or Number and Street | City | State/Country | Zip+4/Postal Code

C. Telephone Numbers and Website Address(es):

Business phone: Area Code | Telephone Number
Fax line: Area Code | Telephone Number

URL | URL

D. Physical address of location where the official books and records generated by this branch office will be kept. Check each *jurisdiction* for specific records retention requirements.

Organization Name (if different from applicant) or Records Custodian Name | Area Code | Telephone Number

Number and Street | City | State/Country | Zip+4/Postal Code

3. Trade name or "dba" used at this branch | Trade name or "dba" used at this branch

4. Branch Manager Name(last, first, middle) | Branch Manager Social Security Number

Supervisor Name

		YES	NO
5.	Does this branch office occupy or share space with, or jointly market with, a real estate company or settlement company? If "yes" provide the name of the other company: _____	☐	☐
6.	Will this branch office operate pursuant to a written agreement or contract with the *applicant's* main office? If "yes" provide the name(s) of the *person(s)* with whom the agreement or contract was entered. _____	☐	☐
7.	Will this branch office have primary responsibility for decisions relating to the employment & remuneration of *loan officers*?	☐	☐
8.	Does this branch office assume liability for its own expenses?	☐	☐

EXECUTION:

The undersigned, being first duly sworn, deposes and says that he/she has executed this form on behalf of, and with the authority of, said *applicant*. The undersigned and *applicant* represent that the information and statements contained herein, including exhibits attached hereto, and other information filed herewith, all of which are made a part hereof, are current, true and complete. The undersigned and *applicant* further represent that to the extent any information previously submitted is not amended such information is currently accurate and complete.

Date (MM/DD/YYYY) | Name of Applicant

By: _____ Signature | _____ Print Name and Title

Subscribed and sworn before me _____ Print Notary Public Name this _____ day of _____ Month _____ Year

My Commission expires (MM/DD/YYYY) | County of | State of | Notary Signature

This page must always be completed in full with original, manual signature and notarization. Affix notary stamp or seal where applicable.

9. Enter appropriate number in the box(es) for each *jurisdiction* by location or manager:
Enter "0" if *applicant* is **not and does not intend to** do business in that *jurisdiction* as a mortgage branch office (location) or branch manager.
Enter "1" if *applicant* is **newly applying** in that *jurisdiction* as a mortgage branch office (location) or branch manager
Enter "2" if *applicant* has a **pending application** in that *jurisdiction* as a mortgage branch office (location) or branch manager.
Enter "3" if *applicant* is **already licensed/registered** in that *jurisdiction* as a mortgage branch office (location) or branch manager.

	location	manager		location	manager		location	manager		location	manager
abama			Illinois			Montana			Puerto Rico		
aska			Indiana			Nebraska			Rhode Island		
izona			Iowa			Nevada			South Carolina		
kansas			Kansas			New Hampshire			South Dakota		
alifornia – DRE			Kentucky			New Jersey			Tennessee		
alifornia – DOC			Louisiana			New Mexico			Texas – OCCC		
olorado			Maine			New York			Texas – SML		
onnecticut			Maryland			North Carolina			Utah		
elaware			Massachusetts			North Dakota			Vermont		
strict of Columbia			Michigan			Ohio			Virginia		
orida			Minnesota			Oklahoma			Washington		
eorgia			Mississippi			Oregon			West Virginia		
awaii			Missouri			Pennsylvania			Wisconsin		
aho			Missouri			Pennsylvania			Wyoming		

10. Check types of business engaged in (or to be engaged in, if not yet active) by *applicant* at this branch office.

	YES
A. First mortgage loans	☐
B. Second mortgage loans	☐
C. Home equity loans, including lines of credit	☐
D. Loans guaranteed by the Federal Housing Administration (FHA)	☐
E. Loans guaranteed by the Veterans Administration (VA)	☐
F. Reverse mortgage loans	☐
G. High cost home loans (refer to various state definitions of covered transactions)	☐
H. Mortgage Servicing	☐
I. Other mortgage products and services(If "yes", briefly describe below)	☐
J. Credit insurance	☐

11. Does *applicant* engage in any non-mortgage-related business from this branch office? YES ☐ NO ☐
If "yes" briefly describe. _____

12. Does any *person*, other than the applicant, have responsibility, directly or indirectly, for paying the expenses of this branch office or otherwise have a financial interest in this branch office or its activities? (If "NO" go to item 13) YES ☐ NO ☐
(a) If yes, provide an explanation of the expense payment and/or financial interest arrangement: _____
(b) If yes, provide the following information for each *person* responsible for the expenses or with a financial interest (attach additional sheets if needed):

FULL LEGAL NAME (Individuals: Last Name, First Name, Middle Name)	Address, City, ST, Zip	Telephone	SSN, IRS Tax No. or Employer ID	Separately Licensed?
				Yes ☐ No ☐
				Yes ☐ No ☐
				Yes ☐ No ☐

13. Including the Branch Manager, list the *loan officer(s)* working from this branch office (attach additional sheets if needed):

FULL LEGAL NAME (Last Name, First Name, Middle Name	Date of Birth	SSN	Compensation reported to IRS on:	Licensed as a *Loan Officer?*
			W-2 ☐ 1099 ☐	Yes ☐ No ☐
			W-2 ☐ 1099 ☐	Yes ☐ No ☐
			W-2 ☐ 1099 ☐	Yes ☐ No ☐

UNIFORM MORTGAGE LOAN OFFICER INDIVIDUAL APPLICATION
FORM MU4 INSTRUCTIONS

A. GENERAL INSTRUCTIONS

1. **FILING** – Form MU4 is the Uniform Mortgage *Loan Officer* Individual Application. Any *applicant* for a *Loan Officer* license/registration may apply to *jurisdictions* that have adopted the Uniform *Loan Officer* Application using Form MU4. An *applicant* must also refer to each *jurisdiction* in which it is applying for state-specific requirements.
2. **TERMS USED** – See the following Explanation of Terms page regarding italicized words/phrases.
3. **UPDATING** – The *applicant* must update information as required in each applicable *jurisdiction* by submitting amendments using Form MU2. Only complete the information that is being amended as well as the name of the *loan officer* and circle the question being amended.

B. FILING INSTRUCTIONS

1. **FORMAT**
   - A. A fully completed Form MU4 is required to be submitted to each *jurisdiction* where the *applicant* is filing. The *applicant* should contact the appropriate *jurisdiction(s)* for specific filing requirements, including applicable fees.
   - B. *Employment* history, item 5, provide the full legal name of the company, beginning with your current *employer*.
   - C. The Acknowledgement & Consent section must include notarized original manual signature
   - D. Type all information.
   - E. Use only the current version of Form MU4 or a reproduction of it
2. **ATTACHMENTS** – Provide the following:
   - A. Pair of Fingerprint Cards if required by applicable *jurisdiction(s)* per item 2.
   - B. *Jurisdiction(s)* will conduct additional background investigations (including personal credit and *employment* history) as appropriate for each *jurisdiction*.
3. **FINANCIAL RESPONSIBILITY** – Check with each *jurisdiction* in which the *applicant* is applying to determine requirements for demonstrated financial responsibility. These may include the submission of person credit reports, financial statements, surety bond(s), minimum net worth, or other requirements.
4. **EDUCATION/EXPERIENCE** – Check with each *jurisdiction* in which the *applicant* is applying to determine requirements for experience, initial education, continuing education, etc.
5. ***JURISDICTION*-SPECIFIC REQUIREMENTS** – Check with each *jurisdiction* in which the *applicant* is applying for a list of requirements unique to the *jurisdiction(s)*, including applicable fees, etc.

EXPLANATION OF TERMS
(The following terms are italicized throughout form MU4.)

C. GENERAL

APPLICANT – The individual applying on or amending this form.

CONTROL – The power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any *person* that (i) is a director, general partner or officer exercising executive responsibility (or having similar status or functions); (ii) directly or indirectly has the right to vote 10% or more of a class of a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities; or (iii) in the case of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the capital, is presumed to control that company.

CONTROL PERSON – An individual named in Form MU1 Item 1A or in Schedules A, B or C that directly or indirectly exercises *control* over a Mortgage Lender/Mortgage Broker company.

EMPLOYER or EMPLOYMENT – Terms are used throughout this form regardless of whether the relationship involves a W-2 status "employee" or a 1099 status "independent contractor." Check with the *jurisdiction(s)* for specific requirements or restrictions as to such relationships.

JUR [illegible]**TION** – A state, the District of Columbia, the Commonwealth of Puerto Rico, or any subdivision or regulatory bod[illegible]

LO[illegible]**ER** – An individual who, in exchange for compensation as an *employee* of a mortgage lender/mortgage bro[illegible] or offers to accept applications for mortgage loans. The *jurisdictions* may have different terms (such as [illegible]nator, mortgage agent, mortgage broker, loan solicitor, etc.) for the registration/license required locally. "Loan [illegible] will be used throughout this form in lieu of these various other terms.

PERSON – An individual, partnership, corporation, trust, or other organization.

D. FOR THE PURPOSE OF ITEM 7

CHA[illegible] – Being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge).

EN[illegible] [illegible]ncludes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction, or a tem[illegible]taining order.

FEL[illegible] – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *felony* is an offense puni[illegible] a sentence of at least one year imprisonment and/or a fine of at least $1,000. The term also includes a gene[illegible] martial.

FIN[illegible]**ER** – A written directive or declaratory statement issued by an appropriate federal or state agency purs[illegible]plicable statutory authority and procedures, that constitutes a final disposition or action by that federal or stat[illegible]

FIN[illegible]**SERVICES OR FINANCIAL SERVICES-RELATED** – Pertaining to securities, commodities, banking, insu[illegible]nsumer lending, or real estate (including, but not limited to, acting as or being associated with a bank or sav[illegible]ation, credit union, mortgage lender or mortgage broker).

FO[illegible]**ANCIAL REGULATORY AUTHORITY** – Includes (1) a *financial services* authority of a foreign country; (2) [illegible]nmental body empowered by a foreign government to administer or enforce its laws relating to the regu[illegible] *financial services* or *financial services-related* activities; and (3) a foreign membership organization, a fun[illegible]ch is to regulate the participation of its members in *financial services* activities listed above.

FO[illegible]udes adverse final actions, including consent decrees in which the respondent has neither admitted nor den[illegible]indings, but does not include agreements, deficiency letters, examination reports, memoranda of und[illegible] letters of caution, admonishments, and similar informal resolutions of matters.

INV[illegible] – Doing an act or omission or aiding, abetting, counseling, commanding, inducing, conspiring with or faili[illegible]bly to supervise another in doing an act or omission.

MISD[illegible]**ANOR** – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *misdemeanor* is an o[illegible]unishable by a sentence of less than one year imprisonment and/or a fine of less than $1,000. The term also[illegible] a special court martial.

ORD[illegible] – A written directive issued pursuant to statutory authority and procedures, including orders of denial, susp[illegible] or revocation; does not include special stipulations, undertakings or agreements relating to payments, limit[illegible]n activity or other restrictions unless they are included in an *order*.

PRO[illegible]**ING** – Includes a formal administrative or civil action initiated by a governmental agency, self-regulatory orga[illegible]n or a *foreign financial regulatory authority*; a *felony* criminal indictment or information (or equivalent formal charge); [illegible] *misdemeanor* criminal information (or equivalent formal charge). The term does not include other civil litigatio[illegible]vestigations, or arrests or similar charges effected in the absence of a formal criminal indictment or information (or equivalent formal charge).

FORM MU4	UNIFORM INDIVIDUAL MORTGAGE LICENSE/REGISTRATION APPLICATION	OFFICIAL USE
	Date of filing: _____	

WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or otherwise to comply with the provisions of law applying to the conduct of business as a mortgage lender or mortgage broker may violate the laws of the *jurisdictions* and may result in disciplinary, administrative, injunctive or criminal action.

INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS.

APPLICATION ☐ RENEWAL ☐ AMENDMENT ☐ (effective date _____) ***To amend, circle items being amended.***

1. Individual's identifying information:

A. Full last, first and middle names:

Last name _____ First name _____ Full middle name _____ Suffix _____

B. (1) Social Security Number: _____ (2) Gender: ☐ Male ☐ Female

C. (1) Date of Birth (MM/DD/YYYY) _____ (2) State/Province of Birth _____ (3) Country of Birth _____

D. List all other name(s) you have used or are using, or by which you are know or have been known, other than your legal name, since the age of 18. This field should include for example, nicknames, aliases, and names used before/after marriage. (Use additional sheets as necessary).

1. Name _____ 2. Name _____ 3. Name _____ 4. Name _____

E. If this filing makes a name change on behalf of the individual, enter the new name and attach supporting legal documentation

Last name _____ First name _____ Full middle name _____ Suffix _____

F. Office of *Employment* address: (Do not use a P.O. Box) ☐ If this address is your private residence, check this box.

(Number and Street) _____ (City) _____ (State/Country) _____ (Zip+4/Postal Code) _____

G. Current Residence address, if different

(Number and Street) _____ (City) _____ (State/Country) _____ (Zip+4/Postal Code) _____

H. Telephone Numbers and e-mail address:

Business phone (Area Code) _____ (Telephone Number) _____ Fax line (Area Code) _____ (Telephone Number) _____

Cell phone (Area Code) _____ (Telephone Number) _____ (e-mail address) _____

2. Fingerprint Information filing representation:

☐ I represent that I am submitting, have submitted, or promptly will submit to the appropriate *jurisdiction(s)* two fingerprint cards as required

Fingerprint Card Barcode(s): _____

☐ I am applying as a *loan officer* only in *jurisdiction(s)* that do not require me to submit fingerprint card(s).

INDIVIDUAL'S ACKNOWLEDGMENT & CONSENT:

I swear or affirm that I have read and understand the items and instructions on this form and that my answers (including attachments) are true and complete to the best of my knowledge. I understand that I am subject to administrative, civil or criminal penalties if I give false or misleading answers.

I authorize all my current and former *employers*, law enforcement agencies, and any other *person* to furnish to any *jurisdiction*, or any agent acting on its behalf, any information they have, including without limitation my creditworthiness, character, ability, business activities, educational background, general reputation, history of my *employment* and, in the case of former *employers*, complete reasons for my termination.

Date (MM/DD/YYYY) _____ Signature of *applicant* _____

Subscribed and sworn before me _____ (Print Notary Public Name) this _____ day of _____ (Month), _____ (Year)

My Commission expires (MM/DD/YYYY) _____ County of _____ State of _____ Notary Signature _____

This page must always be completed in full with original, manual signature and notarization. Affix notary stamp or seal where applicable.

DO NOT WRITE BELOW THIS LINE - FOR OFFICIAL USE ONLY

3. Enter appropriate number in the box for each *jurisdiction*:
Enter "0" if you are not and do not intend to do business in that *jurisdiction* as a mortgage *loan officer*.
Enter "1" if you are **newly applying** in that *jurisdiction* as a mortgage *loan officer*.
Enter "2" if you have a **pending application** in that *jurisdiction* as a mortgage *loan officer*.
Enter "3" if you are **already licensed/registered** in that *jurisdiction* as a mortgage *loan officer*.
Enter "4" if that *jurisdiction* **does not license/register** this business activity.

Alabama		Illinois		Montana		Puerto Rico	
Alaska		Indiana		Nebraska		Rhode Island	
Arizona		Iowa		Nevada		South Carolina	
Arkansas		Kansas		New Hampshire		South Dakota	
California – DRE		Kentucky		New Jersey		Tennessee	
California – DOC		Louisiana		New Mexico		Texas – OCCC	
Colorado		Maine		New York		Texas – SML	
Connecticut		Maryland		North Carolina		Utah	
Delaware		Massachusetts		North Dakota		Vermont	
District of Columbia		Michigan		Ohio		Virginia	
Florida		Minnesota		Oklahoma		Washington	
Georgia		Mississippi		Oregon		West Virginia	
Hawaii		Missouri		Pennsylvania		Wisconsin	
Idaho		Missouri		Pennsylvania		Wyoming	

4. Residential History: Starting with current address (item 1G), give all addresses for the past 10 years. (Attach additional sheets as necessary.)

From (MM/YYYY)	To (MM/YYYY)	Street Address	City	State or Province	Zip or Postal Code	Country

5. *Employment* History: Provide complete *employment* history for the past 10 years. Account for all time including full & part-time *employments*, self-*employment*, military service, and homemaking. Also include periods such as *unemployed*, full-time student, extended travel, etc. Indicate by "Yes" or "No" whether this *employment* was *financial service-related* business. (Attach additional sheets as needed.)

From (MM/YYYY)	To (MM/YYYY)	*Employer* (company name)	Position Held	City	State or Province	Country	Yes/No

6. Other Business: Are you currently engaged in any other business either as a proprietor, partner, officer, director, *employee*, trustee, agent or otherwise? (Please include non-*financial services-related* activity that is exclusively charitable, civic, religious, or fraternal and is recognized as tax exempt.) If YES, provide the following details: the name of the other business; whether the business is *financial services-related*; the address of the other business; the nature of the other business; your position, title, or relationship with the other business; the start date of your relationship; the approximate number of hours/month you devote to the other business; and briefly describe your duties relating to the other business. (Attach additional sheets as needed.)

☐ NO ☐ YES details: _____

7. Disclosures: If the answer to any of the following is "YES", provide complete details of all events or proceedings in an attachment. Refer to the explanation of terms section of the instructions for explanations of italicized terms.

Financial Disclosure

A. Within the past ten years: (1) have you filed a personal bankruptcy petition or been the subject of an involuntary bankruptcy petition?	☐	☐
(2) based upon events that occurred while you exercised *control* over it, has any organization filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition?	☐	☐
B. Has a bonding company ever denied, paid out on, or revoked a bond for you?	☐	☐
C. Do you have any unsatisfied judgments or liens against you?	☐	☐

Criminal Disclosure	YES	NO
D. Have you ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐
E. Based upon activities that occurred whil you exercised *control* over it, has an organization ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐
F. Have you ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor involving: financial services* or a *financial services-related* business or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?	☐	☐
(2) been *charged* with a *misdemeanor* specified in 6F(1)?	☐	☐
G. Based upon activities that occurred whil you exercised *control* over it, has an organization ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor* specified in 6F(1)	☐	☐
(2) been *charged* with a *misdemeanor* specified in 6F(1)	☐	☐
Regulatory Action Disclosure		
H. Has any State or federal regulatory agency or *foreign financial regulatory authority* ever:		
(1) *found* you to have made a false statement or omission or been dishonest, unfair or unethical?	☐	☐
(2) *found* you to have been *involved* in a violation of a *financial services-related* regulation(s) or statute(s)?	☐	☐
(3) *found* you to have been a cause of a *financial services-related* business having its authorization to do business denied, suspended, revoked or restricted?	☐	☐
(4) entered an *order* against you in connection with a *financial services-related* activity?	☐	☐
(5) denied, suspended, or revoked your registration or license, disciplined you, or otherwise by *order*, prevented you from associating with a *financial services-related* business or restricted your activities?	☐	☐
(6) denied, suspended, or revoked your registration or license, disciplined you, or otherwise by *order*, prevented you from associating with a *financial services-related* business or restricted your activities?	☐	☐
(7) barred you from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in a *financial services-related* business?	☐	☐
(8) issued a final *order* based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?	☐	☐
I. Have you ever had an authorization to act as an attorney, accountant, or State or federal contractor that was revoked or suspended?	☐	☐
J. Are you now the subject of any regulatory *proceeding* that could result in a "yes" answer to any part of 7H or 7I?	☐	☐
Civil Judicial Disclosure		
K. (1) Has any domestic or foreign court ever:		
(a) *enjoined* you in connection with any *financial services-related* activity?	☐	☐
(b) *found* that you were *involved* in a violation of any *financial services-related* statute(s) or regulation(s)?	☐	☐
(c) dismissed, pursuant to a settlement agreement, a *financial services-related* civil action brought against you by a State, federal, or *foreign financial regulatory authority*?	☐	☐
(2) Are you named in any pending *financial services-related* civil action that could result in a "yes" answer to any part of 7K(1)?	☐	☐
Customer Arbitration/Civil Litigation Disclosure		
L. Have you ever been named as a respondent/defendant in a *financial services-related* consumer-initiated arbitration or civil litigation which:		
(1) is still pending; or	☐	☐
(2) resulted in an arbitration award or civil judgement against you, regardless of amount, or that required corrective action; or	☐	☐
(3) was settled for any amount?	☐	☐
Termination Disclosure		
M. Have you ever voluntarily resigned, been discharged, or permitted to resign after allegations were made that accused you of:		
(1) violating statute(s), regulation(s), rule(s), or industry standards of conduct?	☐	☐
(2) fraud, dishonesty, theft, or the wrongful taking of property?	☐	☐

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES
P.O. Box 41200 • Olympia, Washington 98504-1200
Telephone (360) 902-8703 • TDD (360) 664-8126 • FAX (360) 664-2258 • http://www.dfi.wa.gov

FORM MU1 UNIFORM MORTGAGE LENDER/MORTGAGE BROKER APPLICATION
JURISDICTION-SPECIFIC REQUIREMENTS FOR WASHINGTON STATE

MORTGAGE BROKER ATTACHMENTS

In addition to the attachments required in the Form MU1 instructions, send the following to the WA Department of Financial Institutions (DFI). Use your company's letterhead to provide information for items 3, 4, 6, and 7 below. Please leave at least 2" from the top of the page before typing the information labeled by item number.

1. FEE – Make your check payable to the "Washington State Treasurer." Clip it (no staples) to the top of the application package.
   a. Initial License Applications: $371.60 deposit toward time spent processing the application
   b. Renewals: $530.86 per location is the Annual Assessment
   c. Amendments: no fee required
   d. Closures: Annual Assessment fee must be brought current
2. FINANCIAL RESPONSIBILITY – Use the *Calculation of Average Number of Loan Originators* form to determine the minimum amount pursuant to *WAC 208-660-080*. Choose one of these alternatives and send the original document with your application package.
   a. *Surety Bond to Operate Mortgage Broker Business (W-2)* – with two original signatures, surety seal, and attached power of attorney.
   b. *Surety Bond to Operate Mortgage Broker Business with Independent Contractor (1099)* – with two original signatures, surety seal, and attached power of attorney. (see #7)
   c. *Assignment of Account or Time Deposit* – with original signatures and bank's portion notarized.
   d. Irrevocable Letter of Credit – Review *WAC 208-660-08005* carefully and contact your bank to obtain an irrevocable letter of credit. Your bank may choose to fax draft language to DFI for approval, prior to final signatures – please phone (see #8) before faxing such a draft.
3. WA STATE PRE-REQUSITE LICENSE(S) – Type your WA State UBI number on your letterhead:
   a. Contact the Washington State Department of Licensing (DOL) at (360)902-3600 or online at www.dol.wa.gov to apply for your Washington State Master Business License which will display your Unified Business Identifier (UBI) number. A copy of this document is **not** required with your application package. DFI will verify information directly with DOL.
   b. If a corporation, partnership, or LLC, please contact the Washington Secretary of State (SOS) Division of Corporations at (360)753-7115 or online at www.secstate.wa.gov to register your company. A copy of this document is **not** required with your WA application (even though the Form MU1 instructions do say to attach it). DFI will verify information directly with SOS.
4. REGISTERED AGENT – On your letterhead, provide the name, address, phone number, social security number, and date of birth of the individual named as registered agent.
   a. If your office is outside the borders of Washington State, you **must** maintain a registered agent inside Washington
   b. If your office is within the borders of Washington State, the use of a registered agent is **optional** (your office staff may serve as registered agent). If your company has used a registered agent when filing with DOL or SOS, please provide DFI with information about **that** registered agent.

FORM MU1
WASHINGTON STATE
MORTGAGE BROKER ATTACHMENTS

5. TRUST ACCOUNTING – Choose one of these alternatives and send the original document with your application package. Review *RCW 19.146.050* and *WAC 208-660-08010* through *-08040* carefully!
   Do you intend to accept borrowers' funds to pay for third party services?
   a. If no, you NEVER (not even reimbursement at closing) intend to accept monies from borrowers or on behalf of borrowers for the payment of third party service providers, you may complete the *Alternative Certificate of Compliance* form.
   b. If yes, use a *Certificate of Compliance and Authorization to Examine Trust Accounts* form to report each trust account you'll use with WA loans. The trust account(s) must be located in Washington State. You'll complete the top portion of the form, have the bank complete the bottom portion and notarize it.
      - You may not deposit your own funds into the trust account, not even to open the account. The trust account should be a non-interest-bearing account. Bank charges for maintenance of the trust account (eg: monthly service fees, check printing fees, etc) should be withdrawn from your general operations account, not from the trust account.
      - If your bank won't open a zero-balance trust account, provide a statement on your letterhead indicating that no deposits have been or will be accepted from borrowers until a license is issued. After your license is issued, and upon receipt of any customer funds, you must immediately establish a trust account and forward the *Certificate of Compliance and Authorization to Examine Trust Accounts* form to the DFI. DFI may issue a conditional interim license contingent upon receipt of the trust certificate within a specified time frame.
6. DESIGNATED BROKER – On your letterhead, tell us who will be your "Designated Broker" (DB), and what date they passed the test? Attach copies of certificate(s) and/or proof of experience. Your DB must also file a Form MU2/MU4.
   a. Your DB must be on-site at your main licensed location for serving WA consumers; **and**
   b. Your DB must **have passed** the written test administered at DFI's offices (see *Exam Test Schedule and Registration* form) **and**
   c. Your DB must **either**
      (i) Complete an approved course of education (online click the *Education & Testing* link for a list of approved schools and attach certificate) **or**
      (ii) Prove 2 years of experience in the residential mortgage loan industry. Acceptable proof includes W-2 or 1099 forms, or a letter from wholesale lender (not employer) to whom DB has submitted satisfactory loan packages stating such experience exists.
7. LOAN OFFICERS – Answer these questions on your letterhead:
   a. When averaged over a year, how many people will originate WA loans for your company?
   b. Of these loan originators, will any be compensated as Independent Contractors (IRS form 1099)?
   c. For each 1099 Independent Contractor loan originator, provide a copy of the signed *License Independent Contractor Agreement*. If you prefer, you may file a signed copy of your own contract satisfying the requirements of *RCW 19.146.200* instead of using DFI's form. (see #2b)
8. STILL NEED HELP? Contact DFI's Division of Consumer Services licensing staff by phone at 360-902-8756 or send your questions via e-mail to DCS@dfi.wa.gov for additional assistance.
9. DELIVERY – Send Form MU1 and all attachments to:

Via US Postal Service
Dept of Financial Institutions
Division of Consumer Services
PO Box 41200
Olympia WA 98504-1200

Via other couriers (eg: FedEx, UPS, etc)
Dept of Financial Institutions
Division of Consumer Services
150 Israel Rd SW
Tumwater WA 98501

*documents shown in *italics* are online at http://www.dfi.wa.gov/cs/mortgage/htm for your convenience

STATE OF WASHINGTON
DEPARTMENT OF FINANCIAL INSTITUTIONS
DIVISION OF CONSUMER SERVICES
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FORM MU1 UNIFORM MORTGAGE LENDER/MORTGAGE BROKER APPLICATION
JURISDICTION-SPECIFIC REQUIREMENTS FOR WASHINGTON STATE

Thank you for your interest in mortgage licensing in Washington State. Washington is among the several jurisdictions that have adopted the Form MU1, Uniform Mortgage Lender/Mortgage Broker Application.

Because the laws in various jurisdictions were passed at different times by different bodies, the terms used in each jurisdic[illegible] [illegible]gulation may not match the Form MU1 terms. In Washington, we issue a "Mortgage Broker" license and a "Cons[illegible]on" license. Both of these licenses are location-specific, so if you serve Washington consumers from multiple [illegible]ns, you'll also want to use the Form MU3, Uniform Mortgage Brand Application.

The Mort[illegible] Broker license is issued pursuant to the Mortgage Broker Practices Act (RCW 19.146) and supporting rules (WAC 20[illegible]). These documents are linked from our website at http://www.dfi.wa.gov/cs/mortgage.htm for your review. [illegible] reviewing these documents, you decide to apply for this license, check the "Broker" boxes on Form MU1 and Form MU3.

The Consumer Loan license is issued pursuant to the Consumer Loan Act (RCW 31.04) and supporting rules (WAC 208-620). [illegible]uments are linked from our website at http://www.dfi.wa.gov/cs/loan.htm for your review. If after review [illegible] documents, you decide to apply for this license, check the "Lender" boxes on Form MU1 and Form MU3. Conse[illegible] licensees may also make non-mortgage loans (eg: secured by personal property or unsecured loans) to consu[illegible] but should still use the "Lender" boxes on Form MU1 and Form MU3.

Althou[illegible] permitted to hold both licenses, most companies choose to apply for only one or other of these two licenses. A M[illegible]oker may close non-usurious loans in their own name, and a Consumer Loan company may fund loans (when [illegible]ous or not) or broker them away. Answer these questions for a quick way to determine which license might be rig[illegible] company:

1) Do [illegible] to negotiate new loans (purchase, refi, HELOC) directly with consumers, or receive the loan packages from oth[illegible]ators (eg: mortgage brokers)?
   a) [illegible] negotiating directly with the borrower, continue to #2
   b) [illegible] receiving packages from others so you're acting as a "wholesale lender", go to #3
2) Do you [illegible] to offer only first lien mortgages? Or seconds as well?
   a) if only firsts, go to #4
   b) if firsts and seconds, go to #3
3) Do you want the opportunity for the interest rate on a junior lien ("second") to approach Usury (approx 12%)?
   a) i[illegible] high interest seconds, go to #5
   b) if seconds will never approach Usury (see RCW 19.52 and monitor your own compliance), go to #4
4) You intend to only offer firsts or low interest seconds:
   a) If direct lending, explore licensure or exemption under the Mortgage Broker Practices Act (RCW 19.146)
   b) If wholesale lending, review the Mortgage Broker Practices Act (RCW 19.146) which may not apply to your business
5) If direct or wholesale lending and want the opportunity to exceed Usury, explore licensure under the Consumer Loan Act (RCW 31.04)

COMBINED UNIFORM MORTGAGE INDIVIDUAL INFORMATION
FORM MU2/4 INSTRUCTIONS

A. GENERAL INSTRUCTIONS

1. **FILING**
   a. Form MU2 Control Persons information must accompany Form MU1, the Uniform Mortgage Lender/Mortgage Broker Application. Each individual, identified as a *control person* for the *applicant* on Schedule A, must complete Form MU2. An *applicant* must also refer to each *jurisdiction* in which it is applying for *jurisdiction*-specific requirements.
   b. Form MU4 is the Uniform Mortgage *Loan Officer* Individual Application. Any *applicant* for a *Loan Officer* license/registration may apply to *jurisdictions* that have adopted the Uniform *Loan Officer* Application using Form MU4. An *applicant* must also refer to each *jurisdiction* in which it is applying for state-specific requirements.
2. **TERMS USED** – See the following Explanation of Terms page regarding italicized words/phrases.
3. **UPDATING** – The *applicant* must update information as required in each applicable *jurisdiction* by submitting amendments using Form MU2/4. Only complete the information that is being amended as well as the name of the individual and circle the question being amended.

B. FILING INSTRUCTIONS

1. **FORMAT**
   A. Each individual identified as a *control person* on Schedules A or C must complete Form MU2. A fully completed Form MU2 for each *control person* is required to be submitted to each *jurisdiction* along with the *applicant's* initial Form MU1. Form MU2 may also accompany amendments filed on Schedule C. The *applicant* should contact the appropriate *jurisdiction(s)* for additional specific filing requirements.
   B. A fully completed Form MU4 is required to be submitted to each *jurisdiction* where the *applicant* is filing. The *applicant* should contact the appropriate *jurisdiction(s)* for specific filing requirements, including applicable fees.
   C. *Employment* history, item 5, provide the full legal name of the company, beginning with your current *employer*.
   D. The Acknowledgement & Consent section must include notarized original manual signature.
   E. The Mortgage Lender/Mortgage Broker *Employment* Representation section must include original manual signature.
   F. Type all information.
   G. Use only the current version of Form MU2/4 or a reproduction of it.
2. **ATTACHMENTS** – Provide the following:
   A. Pair of Fingerprint Cards if required by applicable *jurisdiction(s)* per item 2
   B. *Jurisdiction(s)* will conduct additional background investigations (including personal credit and *employment* history) as appropriate for each *jurisdiction*.
3. **FINANCIAL RESPONSIBILITY** – Check with each *jurisdiction* in which the *applicant* is applying to determine requirements for financial responsibility demonstrated by individuals. These may include the submission of person credit reports, financial statements, surety bond(s), minimum net worth, or other requirements.
4. **EDUCATION/EXPERIENCE** – Check with each *jurisdiction* in which the *applicant* is applying to determine requirements for experience, initial education, continuing education, etc.
5. ***JURISDICTION*-SPECIFIC REQUIREMENTS** – Check with each *jurisdiction* in which the *applicant* is applying for a list of requirements unique to the *jurisdiction(s)*, including applicable fees, etc.

EXPLANATION OF TERMS
(The following terms are italicized throughout form MU2.)

1. **GENERAL**

APPLICANT – The individual applying on or amending this form.

CONTROL – The power, directly or indirectly, to direct the management or policies of a company, whether through ownership of securities, by contract, or otherwise. Any *person* that (i) is a director, general partner or officer exercising executive responsibility (or having similar status or functions); (ii) directly or indirectly has the right to vote 10% or more

of a c[illegible] a voting security or has the power to sell or direct the sale of 10% or more of a class of voting securities; or (iii) [illegible]se of a partnership, has the right to receive upon dissolution, or has contributed, 10% or more of the capi[illegible]ned to control that company.

CONT[illegible]RSON – An individual named in Item 1A or in Schedules A, B or C that directly or indirectly exercises *contro[illegible] applicant.*

EMPL[illegible] or EMPLOYMENT – This term is used throughout this form regardless of whether the relationship involv[illegible] status "employee" or a 1099 status "independent contractor." Check with the *jurisdiction(s)* for specific requir[illegible] or restrictions as to such relationships.

JURIS[illegible]ON – A state, the District of Columbia, the Commonwealth of Puerto Rico, or any subdivision or regulatory body t[illegible]

LOAN[illegible]ER – An individual who, in exchange for compensation as an *employee* of a mortgage lender/mortgage broke[illegible] or offers to accept applications for mortgage loans. The *jurisdictions* may have different terms (such as: l[illegible]ator, mortgage agent, mortgage broker, loan solicitor, etc.) for the registration/license required locally. "Loan[illegible] will be used throughout this form in lieu of these various other terms.

PER[illegible] An individual, partnership, corporation, trust, or other organization.

2. **FOR T[illegible]URPOSE OF ITEM 6**

CHAR[illegible] – Being accused of a crime in a formal complaint, information, or indictment (or equivalent formal charge).

ENJO[illegible] – Includes being subject to a mandatory injunction, prohibitory injunction, preliminary injunction, or a tempo[illegible]straining order.

FEL[illegible] – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *felony* is an offense punis[illegible] a sentence of at least one year imprisonment and/or a fine of at least $1,000. The term also includes a gene[illegible] martial.

FINA[illegible]ER – A written directive or declaratory statement issued by an appropriate federal or state agency purs[illegible] applicable statutory authority and procedures, that constitutes a final disposition or action by that federal or stat[illegible]

FIN[illegible]ERVICES OR FINANCIAL SERVICES-RELATED – Pertaining to securities, commodities, banking, insu[illegible]sumer lending, or real estate (including, but not limited to, acting as or being associated with a bank or savi[illegible]tion, credit union, mortgage lender or mortgage broker).

FO[illegible]ANCIAL REGULATORY AUTHORITY – Includes (1) a *financial services* authority of a foreign country; (2) [illegible]ernmental body empowered by a foreign government to administer or enforce its laws relating to the regu[illegible] *financial services* or *financial services-related* activities; and (3) a foreign membership organization, a func[illegible] hich is to regulate the participation of its members in *financial services* activities listed above.

FOL[illegible] – Includes adverse final actions, including consent decrees in which the respondent has neither admitted nor deni[illegible] findings, but does not include agreements, deficiency letters, examination reports, memoranda of unde[illegible]ing, letters of caution, admonishments, and similar informal resolutions of matters.

INVO[illegible] – Doing an act or omission or aiding, abetting, counseling, commanding, inducing, conspiring with or failin[illegible]ably to supervise another in doing an act or omission.

MISD[illegible]NOR – For *jurisdictions* that do not differentiate between a *felony* and a *misdemeanor*, a *misdemeanor* is an off[illegible] punishable by a sentence of less than one year imprisonment and/or a fine of less than $1,000. The term also i[illegible]es a special court martial.

ORDE[illegible] – A written directive issued pursuant to statutory authority and procedures, including orders of denial, suspen[illegible], or revocation; does not include special stipulations, undertakings or agreements relating to payments, limitatio[illegible] on activity or other restrictions unless they are included in an *order*.

PROCEEDING – Includes a formal administrative or civil action initiated by a governmental agency, self-regulatory organization or a *foreign financial regulatory authority*; a *felony* criminal indictment or information (or equivalent formal charge); or a *misdemeanor* criminal information (or equivalent formal charge). The term does not include other civil litigation, investigations, or arrests or similar charges effected in the absence of a formal criminal indictment or information (or equivalent formal charge).

FORM MU2/4	UNIFORM MORTGAGE INDIVIDUAL INFORMATION **DRAFT COMBI** Date of filing: _____	OFFICIAL USE

WARNING: Failure to keep this form current and to file accurate supplementary information on a timely basis, or otherwise to comply with the provisions of law applying to the conduct of business as a mortgage lender or mortgage broker may violate the laws of the *jurisdictions* and may result in disciplinary, administrative, injunctive or criminal action.

INTENTIONAL MISSTATEMENTS OR OMISSIONS OF FACTS MAY CONSTITUTE CRIMINAL VIOLATIONS.

APPLICATION ☐ RENEWAL ☐ AMENDMENT ☐ (effective date _____) ***To amend, circle items being amended.***

1 Individual's identifying information:

A. Full last, first and middle names:

Last name _____ First name _____ Full middle name _____ Suffix _____

B. (1) Social Security Number: _____ (2) Gender: ☐ Male ☐ Female

C. (1) Date of Birth (MM/DD/YYYY) _____ (2) State/Province of Birth _____ (3) Country of Birth _____

D. List all other name(s) you have used or are using, or by which you are know or have been known, other than your legal name, since the age of 18. This field should include for example, nicknames, aliases, and names used before/after marriage. (Use additional sheets as necessary).

1. Name 2. Name 3. Name 4. Name

E. If this filing makes a name change on behalf of the individual, enter the new name and attach supporting legal documentation

Last name _____ First name _____ Full middle name _____ Suffix _____

F. Office of *Employment* address. (Do not use a P.O. Box) ☐ If this address is your private residence, check this box

(Number and Street) _____ (City) _____ (State/Country) _____ (Zip+4/Postal Code) _____

G. Current Residence address, if different

(Number and Street) _____ (City) _____ (State/Country) _____ (Zip+4/Postal Code) _____

H. Telephone Numbers and e-mail address:

Business phone (Area Code) _____ (Telephone Number) _____ Fax line (Area Code) _____ (Telephone Number) _____

Cell phone (Area Code) _____ (Telephone Number) _____ (e-mail address) _____

2. Fingerprint information filing representation:

☐ I represent that I am submitting, have submitted, or promptly will submit to the appropriate *jurisdiction(s)* two fingerprint cards as required

Fingerprint Card Barcode(s): _____ _____

☐ I am applying as a *control person/loan officer* only in *jurisdiction(s)* that do not require me to submit fingerprint card(s).

INDIVIDUAL'S ACKNOWLEDGMENT & CONSENT:

1. I swear or affirm that I have read and understand the items and instructions on this form and that my answers (including attachments) are true and complete to the best of my knowledge. I understand that I am subject to administrative, civil or criminal penalties if I give false or misleading answers.

2. I authorize all my current and former *employers*, law enforcement agencies, and any other *person* to furnish to any *jurisdiction*, or any agent acting on its behalf, any information they have, including without limitation my creditworthiness, character, ability, business activities, educational background, general reputation, history of my *employment* and, in the case of former *employers*, complete reasons for my termination.

Date (MM/DD/YYYY) _____ Signature of *Individual* _____

Subscribed and sworn before me _____ (Print Notary Public Name) this _____ day of _____ (Month), _____ (Year)

My Commission expires (MM/DD/YYYY) _____ County of _____ State of _____ Notary Signature _____

MORTGAGE LENDER/MORTGAGE BROKER *EMPLOYMENT* REPRESENTATION (*optional by jurisdiction*)

(1) To the best of my knowledge and belief, the *control person/loan officer* is currently bonded where required, and, at the time of approval, will be familiar with the statutes, regulations, and rules of the *jurisdiction(s)* with which this application is being filed, and will be fully qualified for the position for which application is being made herein. (2) I have taken appropriate steps to verify the accuracy and completeness of the information contained in and with this application. (3) I have provided the individual an opportunity to review the information contained herein and the individual has approved this information and signed the form.

Date (MM/DD/YYYY) _____ Name of Mortgage Lender/Mortgage Broker _____

By: _____ (Signature) _____ (Print Name and Title)

This page must always be completed in full with original, manual signature and notarization. Affix notary stamp or seal where applicable.

DO NOT WRITE BELOW THIS LINE - FOR OFFICIAL USE ONLY

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3. Residential History. Starting with current address (item 1G), give all addresses for the past 10 years. (Attach additional sheets as necessary.)

From (MM/YYYY)	To (MM/YYYY)	Street Address	City	State or Province	Zip or Postal Code	Country

4. *Employment* History: Provide complete *employment* history for the past 10 years. Account for all time including full & part-time *employments*, self-*employment*, military service, and homemaking. Also include periods such as *unemployed*, full-time student, extended travel, etc. Indicate by "Yes" or "No" whether this *employment* was *financial service-related* business. (Attach additional sheets as needed.)

From (MM/YYYY)	To (MM/YYYY)	*Employer* (company name)	Position Held	City	State or Province	Country	Yes/No

5. Other Business: Are you currently engaged in any other business either as a proprietor, partner, officer, director, *employee*, trustee, agent or otherwise? (Please include non-*financial services-related* activity that is exclusively charitable, civic, religious, or fraternal and is recognized as tax exempt.) If YES, provide the following details: the name of the other business; whether the business is *financial services-related;* the address of the other business; the nature of the other business; your position, title, or relationship with the other business; the start date of your relationship; the approximate number of hours/month you devote to the other business; and briefly describe your duties relating to the other business. (Attach additional sheets as needed.)

☐ NO ☐ YES details:

6. Disclosures: If the answer to any of the following is "YES", provide complete details of all events or proceedings in an attachment. Refer to the explanation of terms section of the instructions for explanations of italicized terms.

Financial Disclosure

A. Within the past ten years:		
(1) have you filed a personal bankruptcy petition or been the subject of an involuntary bankruptcy petition?	☐	☐
(2) based upon events that occurred while you exercised *control* over it, has any organization filed a bankruptcy petition or been the subject of an involuntary bankruptcy petition?	☐	☐
B. Has a bonding company ever denied, paid out on, or revoked a bond for you?	☐	☐
C. Do you have any unsatisfied judgments or liens against you?	☐	☐

Criminal Disclosure	YES	NO
D. Have you ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐
E. Based upon activities that occurred whil you exercised *control* over it, has an organization ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to any *felony*?	☐	☐
(2) been *charged* with any *felony*?	☐	☐
F. Have you ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor involving: financial services* or a *financial services-related* business or any fraud, false statements or omissions, theft or any wrongful taking of property, bribery, perjury, forgery, counterfeiting, extortion, or a conspiracy to commit any of these offenses?	☐	☐
(2) been *charged* with a *misdemeanor* specified in 6F(1)?	☐	☐
G. Based upon activities that occurred whil you exercised *control* over it, has an organization ever:		
(1) been convicted of or pled guilty or nolo contendere ("no contest") in a domestic, foreign, or military court to a *misdemeanor* specified in 6F(1)	☐	☐
(2) been *charged* with a *misdemeanor* specified in 6F(1)	☐	☐
Regulatory Action Disclosure		
H. Has any State or federal regulatory agency or *foreign financial regulatory authority* ever:		
(1) *found* you to have made a false statement or omission or been dishonest, unfair or unethical?	☐	☐
(2) *found* you to have been *involved* in a violation of a *financial services-related* regulation(s) or statute(s)?	☐	☐
(3) *found* you to have been a cause of a *financial services-related* business having its authorization to do business denied, suspended, revoked or restricted?	☐	☐
(4) entered an *order* against you in connection with a *financial services-related* activity?	☐	☐
(5) denied, suspended, or revoked your registration or license, disciplined you, or otherwise by *order*, prevented you from associating with a *financial services-related* business or restricted your activities?	☐	☐
(6) denied, suspended, or revoked your registration or license, disciplined you, or otherwise by *order*, prevented you from associating with a *financial services-related* business or restricted your activities?	☐	☐
(7) barred you from association with an entity regulated by such commission, authority, agency, or officer, or from engaging in a *financial services-related* business?	☐	☐
(8) issued a final *order* based on violations of any law or regulations that prohibit fraudulent, manipulative, or deceptive conduct?	☐	☐
I. Have you ever had an authorization to act as an attorney, accountant, or State or federal contractor that was revoked or suspended?	☐	☐
J. Are you now the subject of any regulatory *proceeding* that could result in a "yes" answer to any part of 6E or 6F?	☐	☐
Civil Judicial Disclosure		
K. (1) Has any domestic or foreign court ever:		
(a) *enjoined* you in connection with any *financial services-related* activity?	☐	☐
(b) *found* that you were *involved* in a violation of any *financial services-related* statute(s) or regulation(s)?	☐	☐
(c) dismissed, pursuant to a settlement agreement, a *financial services-related* civil action brought against you by a State, federal, or *foreign financial regulatory authority*?	☐	☐
(2) Are you named in any pending *financial services-related* civil action that could result in a "yes" answer to any part of 6H(1)?	☐	☐
Customer Arbitration/Civil Litigation Disclosure		
L. Have you ever been named as a respondent/defendant in a *financial services-related* consumer-initiated arbitration or civil litigation which:		
(1) is still pending; or	☐	☐
(2) resulted in an arbitration award or civil judgement against you, regardless of amount, or that required corrective action; or	☐	☐
(3) was settled for any amount?	☐	☐
Termination Disclosure		
M. Have you ever voluntarily resigned, been discharged, or permitted to resign after allegations were made that accused you of:		
(1) violating statute(s), regulation(s), rule(s), or industry standards of conduct?	☐	☐
(2) fraud, dishonesty, theft, or the wrongful taking of property?	☐	☐

7. Enter appropriate number in the box for each *jurisdiction*:
   Enter "1" if you are not and do not intend to do business in that *jurisdiction* as a mortgage *loan officer*.
   Enter "2" if you are **newly applying** in that *jurisdiction* as a mortgage *loan officer*.
   Enter "3" if you have a ***pending application*** in that *jurisdiction* as a mortgage *loan officer*.
   Enter "3" if you are **already licensed/registered** in that *jurisdiction* as a mortgage *loan officer*.
   Enter "4" if that *jurisdiction* does not license/register this business activity.

Alabama		Illinois		Montana		Puerto Rico	
Alaska		Indiana		Nebraska		Rhode Island	
Arizona		Iowa		Nevada		South Carolina	
Arkansas		Kansas		New Hampshire		South Dakota	
California – DRE		Kentucky		New Jersey		Tennessee	
California – DOC		Louisiana		New Mexico		Texas – OCCC	
Colorado		Maine		New York		Texas – SML	
Connecticut		Maryland		North Carolina		Utah	
Delaware		Massachusetts		North Dakota		Vermont	
District of Columbia		Michigan		Ohio		Virginia	
Florida		Minnesota		Oklahoma		Washington	
Georgia		Mississippi		Oregon		West Virginia	
Hawaii		Missouri		Pennsylvania		Wisconsin	
Idaho		Missouri		Pennsylvania		Wyoming	

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