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HOUSE BILL 895

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Ben Lujan

AN ACT

**RELATING TO LICENSING; LICENSING MORTGAGE COMPANIES, MORTGAGE
BROKERS AND LOAN OFFICERS; CREATING AN ADVISORY COMMITTEE;
DEFINING ITS POWERS; CREATING A FUND; AMENDING, REPEALING AND
ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION.**

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**Section 1. Section 56-8-7 NMSA 1978 (being Laws 1912,
Chapter 31, Section 1, as amended) is amended to read:**

**"56-8-7. PROCURING LOANS--RATE OF COMMISSION--
EXCEPTIONS.--For negotiating or securing any loan, no person,
association of persons or corporation shall charge, collect or
receive in excess of the following amounts:**

**A. upon any loan not exceeding five hundred
dollars (\$500), four percent;**

B. upon any loan exceeding five hundred dollars

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1 (\$500) and not exceeding two thousand dollars (\$2,000), four
2 percent upon the first five hundred dollars (\$500) and three
3 percent upon the remainder; and

4 C. upon any loan exceeding two thousand dollars
5 (\$2,000), four percent upon the first one thousand dollars
6 (\$1,000) and two percent upon the remainder; provided that
7 this section shall not apply to ~~[any]~~ a loan in excess of
8 fifty thousand dollars (\$50,000) when such loan is made for
9 business, commercial or agricultural purposes ~~[not]~~ or to
10 ~~[any]~~ a loan negotiated or secured by a ~~[registrant]~~ licensee
11 under the Mortgage ~~[Loan Company and Loan]~~ Broker Act. In
12 such instances, broker's fees shall be negotiable but shall
13 not exceed six percent of the principal amount of the loan. "

14 Section 2. Section 58-21-1 NMSA 1978 (being Laws 1983,
15 Chapter 86, Section 1, as amended) is amended to read:

16 "58-21-1. SHORT TITLE. --Chapter 58, Article 21 NMSA 1978
17 may be cited as the "Mortgage ~~[Loan Company and Loan]~~ Broker
18 Act". "

19 Section 3. Section 58-21-2 NMSA 1978 (being Laws 1983,
20 Chapter 86, Section 2, as amended) is amended to read:

21 "58-21-2. DEFINITIONS. --As used in the Mortgage ~~[Loan~~
22 ~~Company and Loan]~~ Broker Act:

23 A. "affiliate" means ~~[any]~~ a person who, directly
24 or indirectly, through one or more intermediaries, controls or
25 is controlled by or is under common control with another

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1 person;

2 B. "division" means the financial institutions
3 division of the regulation and licensing department;

4 C. "director" means the director of the financial
5 institutions division of the regulation and licensing
6 department;

7 D. "fund" means the mortgage broker recovery fund;

8 E. "loan officer" means a person sponsored by a
9 licensed mortgage broker to perform the acts of a mortgage
10 broker;

11 F. "mortgage applicant" means a person who is
12 solicited to use or who uses a mortgage broker to obtain a
13 mortgage loan;

14 [~~D. "loan~~] G. "mortgage broker" means [any] a
15 person who acts as a finder or agent of a lender or borrower
16 of money for the purpose of procuring a mortgage loan, or
17 both;

18 [~~E.~~] H. "mortgage loan" means [any] a loan secured
19 by a mortgage, deed of trust or other lien on real or personal
20 property;

21 [~~F.~~] I. "mortgage loan company" means [any] a
22 person who, directly or indirectly:

23 (1) holds himself out as [being] able to
24 serve as an agent for [any] a person in an attempt to obtain a
25 loan [which] that will be secured by a lien or mortgage on

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1 real or personal property;

2 (2) holds himself out as ~~[being]~~ able to
3 serve as an agent for ~~[any]~~ a person ~~[who has]~~ with money to
4 lend, which loan is or will be secured by a lien or mortgage
5 on real or personal property; or

6 (3) holds himself out as ~~[being]~~ able to make
7 loans secured by liens or mortgages on real or personal
8 property; ~~[and~~

9 ~~G-]~~ J. "person" means an individual, corporation,
10 partnership, association, joint-stock company, trust where the
11 interests of the beneficiaries are evidenced by a security,
12 unincorporated organization, government or political
13 subdivision of a government; and

14 K. "real estate professional" means a licensed
15 broker, qualifying broker, brokerage or real estate
16 salesperson as defined in Chapter 61, Article 29 NMSA 1978."

17 Section 4. Section 58-21-3 NMSA 1978 (being Laws 1983,
18 Chapter 86, Section 3) is amended to read:

19 "58-21-3. ~~[REGISTRATION-CERTIFICATE]~~ LICENSE REQUIRED. --
20 It is unlawful for ~~[any]~~ a person to transact business in the
21 state of New Mexico, either directly or indirectly, as a
22 mortgage loan company, ~~[or loan]~~ mortgage broker or loan
23 officer without first filing an application with the director
24 and obtaining a ~~[registration certificate under]~~ license
25 pursuant to the Mortgage [Loan Company and Loan] Broker Act,

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1 unless ~~[such]~~ the person is exempt from the provisions of the
2 Mortgage ~~[Loan Company and Loan]~~ Broker Act under the
3 provisions of Section ~~[6 of that act]~~ 58-21-6 NMSA 1978. "

4 Section 5. Section 58-21-4 NMSA 1978 (being Laws 1983,
5 Chapter 86, Section 4, as amended) is amended to read:

6 "58-21-4. APPLICATION FOR ~~[REGISTRATION]~~ LICENSE OR
7 RENEWAL. --

8 A. ~~[Each]~~ An application for ~~[registration]~~ a
9 license or renewal as a mortgage loan company or ~~[loan]~~
10 mortgage broker shall be filed in writing with the director,
11 shall be verified and shall contain the following:

12 ~~[A.-]~~ (1) the name of the applicant and of
13 each of the applicant's affiliates, engaged in the business of
14 a ~~[loan]~~ mortgage broker or a mortgage loan company, and the
15 name under which the applicant will conduct business in New
16 Mexico, together with the articles of incorporation or
17 articles of partnership;

18 ~~[B.-]~~ (2) the location of the applicant's
19 principal office and of each branch office in New Mexico;

20 ~~[C.-]~~ (3) the name, residence and business
21 address of each person having an interest in the business as
22 principal, partner, officer, trustee, director or ~~manager,~~
23 specifying the capacity and title of each;

24 ~~[D.-]~~ (4) a certified financial statement of
25 the applicant, and if the applicant is a corporation, the

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1 statement must be prepared by an independent certified public
2 accountant or registered public accountant;

3 ~~[E-]~~ (5) the length of time the applicant has
4 been engaged in business in other jurisdictions;

5 ~~[F-]~~ (6) disclosure of any action or
6 proceeding, civil or criminal, judicial or administrative,
7 completed or in progress against the applicant or any
8 director, officer, employee or affiliate of the applicant;

9 ~~[G-]~~ (7) the ~~[registration]~~ licensure fee;
10 and

11 ~~[H-]~~ (8) such other information ~~[and]~~ or
12 documentation as the director may require.

13 B. An application for a license or renewal as a
14 loan officer shall be filed in writing with the director,
15 shall be verified and shall contain the following:

16 (1) the name of the applicant and the name of
17 the mortgage broker that is the sponsor of the applicant;

18 (2) the location of the applicant's principal
19 office and of each branch office;

20 (3) the length of time the applicant has been
21 engaged in business in other jurisdictions;

22 (4) disclosure of any action or proceeding,
23 civil or criminal, judicial or administrative, completed or in
24 progress, against the applicant or a director, officer,
25 employee or affiliate of the applicant;

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1 (5) the licensure fee; and
2 (6) such other information or documentation
3 as the director may require."

4 Section 6. Section 58-21-5 NMSA 1978 (being Laws 1983,
5 Chapter 86, Section 5, as amended) is amended to read:

6 "58-21-5. ~~[REGISTRATION]~~ LICENSURE FEES--DURATION OF
7 [REGISTRATION] LICENSE. --

8 A. Mortgage broker applicants shall, at the time
9 of application, pay to the division four hundred dollars
10 (\$400) for initial ~~[registration and]~~ licensure and three
11 hundred dollars (\$300) for each renewal ~~[registration]~~
12 license. ~~[Additionally]~~ The director shall charge and collect
13 from an applicant a fee of ten dollars (\$10.00) per day or
14 three hundred dollars (\$300), whichever is less, for the late
15 ~~[filings]~~ filing of a renewal ~~[registration or three hundred~~
16 ~~dollars (\$300), whichever is less]~~ license.

17 B. A ~~[registration]~~ mortgage broker license shall
18 continue for a period of twelve months from the date of
19 ~~[registration]~~ licensure. ~~[Each registrant]~~ A licensee shall
20 submit a renewal application at least thirty days before the
21 expiration of his existing ~~[registration]~~ license.

22 C. ~~[Persons claiming exemption pursuant to~~
23 ~~Subsection H of Section 58-21-6 NMSA 1978 shall, at the time~~
24 ~~of such claim, pay to the division three hundred dollars~~
25 ~~(\$300). Additionally, the director shall charge and collect~~

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1 ~~from a claimant a fee of ten dollars (\$10.00) per day for late~~
2 ~~filings of an exemption certification form or three hundred~~
3 ~~dollars (\$300), whichever is less.] If a mortgage broker~~
4 maintains more than one place of business in this state, he
5 shall apply for and pay a fee of fifty dollars (\$50.00) for an
6 additional license to be known as a branch office license for
7 each additional office maintained by the mortgage broker.

8 D. A loan officer license shall continue for a
9 period of twelve months from the date of licensure. A
10 licensee shall submit a renewal application at least thirty
11 days before the expiration of his existing license.

12 E. Loan officer license applicants shall, at the
13 time of application, pay to the division one hundred seventy-
14 five dollars (\$175) for initial licensure and one hundred
15 dollars (\$100) for each renewal license. The director shall
16 charge and collect from an applicant a fee of five dollars
17 (\$5.00) per day or one hundred fifty dollars (\$150), whichever
18 is less, for the late filing of a renewal license."

19 Section 7. Section 58-21-6 NMSA 1978 (being Laws 1983,
20 Chapter 86, Section 6, as amended) is amended to read:

21 "58-21-6. PERSONS EXEMPT FROM [REGISTRATION]
22 LICENSURE. --The following persons shall be exempt from all
23 provisions of the Mortgage [~~Loan Company and Loan~~] Broker Act:

24 A. banks, trust companies, savings and loan
25 associations, credit unions, consumer finance companies,

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1 insurance companies or real estate investment trusts as
2 defined in 26 U.S.C. Sec. 856;

3 B. an attorney licensed to practice law in New
4 Mexico who is not principally engaged in the business of
5 negotiating loans secured by real or personal property, when
6 such person renders services in the course of his practice as
7 an attorney at law;

8 ~~[C. a New Mexico-licensed real estate broker~~
9 ~~rendering service in the performance of his duties as a real~~
10 ~~estate broker who obtains financing for a real estate~~
11 ~~transaction involving an actual bona fide sale of real estate~~
12 ~~or real estate contract handled by such broker and who~~
13 ~~receives only the customary real estate broker's commission in~~
14 ~~connection with the transaction;~~

15 ~~D.]~~ C. [any] a person doing [any] an act under
16 order of [any] a court;

17 ~~[E.]~~ D. [any] a person making or acquiring a
18 mortgage loan with his own funds for his own investment
19 without the intent to resell the mortgage loan;

20 ~~[F.]~~ E. the United States of America, state of New
21 Mexico or any of their branches, agencies, departments,
22 boards, instrumentalities or institutions and all political
23 subdivisions of the state and their agencies,
24 instrumentalities and institutions; and

25 ~~[G.]~~ F. a company [~~which~~] that is licensed as a

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1 small business investment company under the Small Business
2 Investment Act of 1958 [and

3 ~~H. any person doing business in New Mexico who has~~
4 ~~as one of his principal purposes the brokering, making or~~
5 ~~originating of loans secured by real estate mortgages and who~~
6 ~~does not place or sell more than ten percent of such loans to~~
7 ~~persons other than institutional investors. For purposes of~~
8 ~~this subsection, an institutional investor is:~~

9 (1) ~~any person exempt from the provisions of~~
10 ~~the Mortgage Loan Company and Loan Broker Act pursuant to~~
11 ~~Subsection A of this section;~~

12 (2) ~~the federal national mortgage~~
13 ~~association, the government national mortgage association, the~~
14 ~~federal home loan mortgage corporation, the New Mexico~~
15 ~~mortgage finance authority and any other entity which is an~~
16 ~~instrumentality of or sponsored by the federal government or~~
17 ~~the state of New Mexico, and any successors to any of the~~
18 ~~foregoing, or the state itself; and~~

19 (3) ~~any other person who in the twelve months~~
20 ~~immediately preceding any such transaction has acquired real~~
21 ~~estate mortgage loans in an aggregate principal amount equal~~
22 ~~to at least twenty-five million dollars (\$25,000,000).~~

23 For the purposes of this subsection, a loan shall be
24 considered placed or sold if all or a major part of the loan
25 indebtedness, as evidenced by the delivery of the loan note

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1 ~~itself or a certificate of loan participation, is sold~~
2 ~~directly to such institutional investor or is included in a~~
3 ~~pass-through certificate, collateralized mortgage obligation~~
4 ~~or similar instrument issued by such institutional investor.~~

5 ~~In order to claim the exemption provided by this~~
6 ~~subsection, a mortgage loan company or loan broker must~~
7 ~~certify to the director, on a form acceptable to the director,~~
8 ~~on or before the later of June 30, 1985, or thirty days after~~
9 ~~the person first transacts business in New Mexico as a~~
10 ~~mortgage loan company or loan broker, that such person~~
11 ~~qualifies for the exemption. The director may require the~~
12 ~~person to identify on the certification form the institutional~~
13 ~~investors to whom the person brokers or sells its real estate~~
14 ~~mortgage loans. The director may require any person to~~
15 ~~recertify for this exemption in January of each calendar year,~~
16 ~~beginning with January, 1986 or at any other time as may be~~
17 ~~prescribed by rule or regulation.~~

18 ~~Notwithstanding the foregoing, no person may rely in any~~
19 ~~calendar year on the exemption provided by this subsection if,~~
20 ~~during such calendar year, such person makes a loan secured by~~
21 ~~a real estate mortgage on the borrower's principal residence,~~
22 ~~the annual percentage rate computed in accordance with federal~~
23 ~~truth-in-lending laws on which exceeds twice the highest~~
24 ~~reported yield during the preceding four weeks from the date~~
25 ~~the loan disclosure statement is signed, as reported by the~~

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1 ~~federal reserve system for the United States treasury~~
2 ~~securities calculated at thirty-year constant maturity]. "~~

3 Section 8. A new section of the Mortgage Broker Act is
4 enacted to read:

5 "[NEW MATERIAL] QUALIFICATIONS FOR MORTGAGE BROKER'S
6 LICENSE. --

7 A. A license shall be granted only to a person
8 deemed by the director to be of good repute and competent to
9 transact the business of a mortgage broker in a manner that
10 safeguards the interests of the public. The director may
11 require information as he deems necessary from an applicant to
12 determine the applicant's honesty, trustworthiness and
13 competency.

14 B. An applicant for a mortgage broker's license
15 shall be a legal resident of the United States, have reached
16 the age of majority and provide the director evidence that the
17 applicant:

18 (1) has received a bachelor's degree in an
19 area relating to finance, banking or business administration
20 from an accredited college or university and has twelve months
21 of experience in the mortgage or lending field as evidenced by
22 documentary proof of full-time employment as a mortgage broker
23 or loan officer working with a mortgage broker or a person
24 exempt under Section 58-21-6 NMSA 1978;

25 (2) has performed actively as a mortgage

1 broker for at least twenty-four months out of the preceding
2 thirty-six months immediately prior to filing the application
3 as evidenced by documentary proof of full-time employment as a
4 loan officer working with a mortgage broker or a person exempt
5 under Section 58-21-6 NMSA 1978; or

6 (3) is a registered loan broker in good
7 standing on June 30, 2001.

8 C. Corporations, partnerships or associations
9 shall be entitled to hold a mortgage broker's license issued
10 in the name of the corporation, partnership or association;
11 provided that at least one member of the partnership or
12 association or one officer or employee of a corporation who
13 actively engages in the mortgage lending business first
14 secures a mortgage broker's license. The license shall be
15 issued in the name of the corporation, partnership or
16 association, naming the partner, associate, officer or
17 employee as qualifying broker for the corporation, partnership
18 or association.

19 D. The licensee shall maintain a physical office
20 in this state and designate that office in the application.

21 E. The licensee shall demonstrate evidence of
22 compliance with the financial requirements of the Mortgage
23 Broker Act. "

24 Section 9. A new section of the Mortgage Broker Act is
25 enacted to read:

1 " [NEW MATERIAL] QUALIFICATIONS FOR LOAN OFFICER' S

2 LICENSE. --

3 A. A license shall be granted only to a person
4 deemed by the director to be of good repute and competent to
5 transact the business of a loan officer in a manner that
6 safeguards the interests of the public. The director may
7 require information as he deems necessary from an applicant to
8 determine the applicant's honesty, trustworthiness and
9 competency.

10 B. An applicant for a loan officer's license shall
11 be a legal resident of the United States and have reached the
12 age of majority. An applicant shall provide the director
13 evidence that the applicant:

14 (1) has received a bachelor's degree in an
15 area relating to finance, banking or business administration
16 from an accredited college or university;

17 (2) has successfully completed sixty hours of
18 education courses approved by the director. The courses shall
19 include instruction on all applicable state and federal laws
20 and regulations relating to mortgage loans by a licensed
21 mortgage broker;

22 (3) has eighteen months' experience as a loan
23 officer as evidenced by documentary proof of full-time
24 employment as a loan officer working with a mortgage broker or
25 person exempt under Section 58-21-6 NMSA 1978; or

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1 (4) is employed as a loan officer on June 30,
2 2001. "

3 Section 10. Section 58-21-7 NMSA 1978 (being Laws 1983,
4 Chapter 86, Section 7) is amended to read:

5 "58-21-7. SURETY BOND. --

6 A. ~~[Each]~~ A mortgage loan company or ~~[loan]~~
7 mortgage broker shall post and maintain with the director a
8 corporate surety bond in the amount of twenty-five thousand
9 dollars (\$25,000). ~~[Every]~~ The bond shall provide for suit
10 thereon by ~~[any]~~ a person who has a cause of action under the
11 Mortgage ~~[Loan Company and Loan]~~ Broker Act. In no event
12 shall the total liability of the surety to all persons,
13 cumulative or otherwise, exceed the amount specified in the
14 bond. ~~[Every]~~ The bond shall provide that ~~[no]~~ a suit ~~[shall]~~
15 may not be maintained to enforce ~~[any]~~ liability on the bond
16 unless brought within three years after the act upon which
17 ~~[it]~~ the suit is based.

18 B. The bond shall be in substantially the form as
19 the director prescribes.

20 C. The term of the bond must coincide with the
21 term of the license."

22 Section 11. Section 58-21-8 NMSA 1978 (being Laws 1983,
23 Chapter 86, Section 8, as amended) is amended to read:

24 "58-21-8. DENIAL, SUSPENSION OR REVOCATION OF
25 ~~[REGISTRATION]~~ LICENSE. --The director may deny, suspend or

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1 revoke [~~any registration~~] a license when the applicant or
2 [~~registrant~~] licensee, or [~~any~~] a director, officer, employee
3 or affiliate of the applicant or [~~registrant~~] licensee:

4 A. lacks a good business reputation;

5 B. has violated [~~any~~] a provision of the Mortgage
6 [~~Loan Company and Loan~~] Broker Act;

7 C. charges, collects or receives fees for
8 procuring, negotiating or securing [~~any~~] a loan in excess of
9 the [~~amounts~~] amount allowed by the Mortgage [~~Loan Company and~~
10 ~~Loan~~] Broker Act or by [~~regulations~~] rules issued by the
11 director;

12 D. has committed fraud in connection with [~~any~~] a
13 transaction subject to the Mortgage [~~Loan Company and Loan~~]
14 Broker Act;

15 E. has made [~~any misrepresentations~~] a
16 misrepresentation or false [~~statements~~] statement to or
17 concealed [~~any~~] an essential or material fact from [~~any~~] a
18 person in the course of the [~~loan~~] mortgage broker or mortgage
19 loan company business;

20 F. has knowingly made or caused to be made [~~any~~] a
21 false representation of material fact or has suppressed or
22 withheld from the director [~~any~~] information [~~which~~] that the
23 applicant or [~~registrant~~] licensee possesses and [~~which~~] that
24 if submitted by him would have rendered the applicant or
25 [~~registrant~~] licensee ineligible [~~to be registered~~] for

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1 licensure under the Mortgage [~~Loan Company and Loan~~] Broker
2 Act;

3 G. has violated [~~any provisions~~] a provision of
4 [~~any~~] a New Mexico statute relating to escrow agents or escrow
5 companies;

6 H. has refused to permit an examination by the
7 director of his books and records or has refused or failed,
8 within a reasonable time, to furnish [~~any~~] information or make
9 [~~any~~] a report [~~that may be~~] required by the director under
10 the provisions of the Mortgage [~~Loan Company and Loan~~] Broker
11 Act; or

12 I. has been convicted of a felony or [~~any~~]
13 misdemeanor involving moral turpitude; subject, however, to
14 the provisions of the Criminal Offender Employment Act. "

15 Section 12. A new section of the Mortgage Broker Act is
16 enacted to read:

17 "[NEW MATERIAL] ISSUANCE OF LICENSE--DISPLAY OF LICENSE--
18 PROVISIONAL LICENSE. --

19 A. The director shall issue a license to an
20 applicant for a mortgage broker's license or loan officer's
21 license if the director finds that the applicant meets all of
22 the requirements and conditions for the license as prescribed
23 in the Mortgage Broker Act.

24 B. The address of the office shall be designated
25 on the license certificate.

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1 C. The license of a mortgage broker shall be at
2 all times prominently displayed in the mortgage broker's
3 office. The branch office certificate shall be at all times
4 prominently displayed in the mortgage broker's branch office.

5 D. The license of a loan officer shall be at all
6 times prominently displayed in the office of the mortgage
7 broker for whom the loan officer primarily conducts business.

8 E. In accordance with rules promulgated by the
9 director under the Mortgage Broker Act, the director may issue
10 a provisional license to an applicant if a significant delay
11 is necessary to process the application, review information
12 related to the application or obtain information related to
13 the application. The director may revoke a provisional
14 license for any reason he could have denied issuance of the
15 license on the application. "

16 Section 13. Section 58-21-9 NMSA 1978 (being Laws 1983,
17 Chapter 86, Section 9, as amended) is amended to read:

18 "58-21-9. POWERS AND DUTIES OF DIRECTOR. --

19 A. The director shall exercise general supervision
20 and control over mortgage loan companies, [~~and loan~~] mortgage
21 brokers and loan officers doing business in New Mexico. In
22 addition to the other duties imposed on him by law, and with
23 the advice and assistance of the mortgage broker advisory
24 committee, the director shall:

25 (1) make reasonable rules [~~and regulations~~]

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1 as may be necessary for ~~[the]~~ implementation of the Mortgage
2 ~~[Loan Company and Loan]~~ Broker Act; provided that such rules
3 ~~[and regulations]~~ shall be subject to ~~[the]~~ judicial review in
4 the manner set forth in Section 12-8-8 NMSA 1978;

5 (2) conduct ~~[such]~~ investigations as may be
6 necessary to determine whether ~~[any]~~ a person has engaged in
7 or is about to engage in ~~[any]~~ an act or practice constituting
8 a violation of ~~[any]~~ a provision of the Mortgage ~~[Loan Company~~
9 ~~and Loan]~~ Broker Act; and

10 (3) conduct examinations, investigations and
11 hearings in addition to those specifically provided for by law
12 as ~~[may be]~~ necessary and proper to the efficient
13 administration of the Mortgage ~~[Loan Company and Loan]~~ Broker
14 Act.

15 B. The director may conduct an investigation upon
16 complaint, when it appears that a mortgage loan company, ~~[or~~
17 ~~loan]~~ mortgage broker or loan officer is conducting business
18 in a manner injurious to consumers or brokers, or when it
19 appears that ~~[any]~~ a person has improperly claimed an
20 exemption pursuant to Subsection ~~[E or H]~~ D of Section 58-21-6
21 NMSA 1978. "

22 Section 14. Section 58-21-10 NMSA 1978 (being Laws 1983,
23 Chapter 86, Section 10) is amended to read:

24 "58-21-10. SUBPOENAS, OATHS AND EXAMINATION OF
25 WITNESSES-- PENALTIES. --

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1 A. In the conduct of ~~[any]~~ an examination,
2 investigation or hearing, the director may:

3 (1) compel the attendance of ~~[any]~~ a person
4 or obtain ~~[any]~~ documents by subpoena;

5 (2) administer oaths; and

6 (3) examine ~~[any]~~ a person under oath
7 concerning the business of any person subject to the
8 provisions of the Mortgage ~~[Loan Company and Loan]~~ Broker Act
9 and in connection therewith require the production of ~~[any]~~
10 books, records or papers relevant to the inquiry.

11 B. In case of refusal to obey a subpoena issued to
12 ~~[any]~~ a person, the district court of the first judicial
13 district of Santa Fe county, upon application by the director,
14 may issue to the person an order requiring him to appear
15 before the director or the staff member designated by the
16 director ~~[there]~~ to produce documentary evidence if so ordered
17 or to give evidence relating to the matter under investigation
18 or in question. Failure to obey the order of the court may be
19 punished by the court as ~~[a]~~ contempt of court. "

20 Section 15. Section 58-21-11 NMSA 1978 (being Laws 1983,
21 Chapter 86, Section 11) is amended to read:

22 "58-21-11. KEEPING OF RECORDS AND FILING OF REPORTS. --
23 ~~[Every]~~ Each mortgage loan company, ~~[and loan]~~ mortgage broker
24 and loan officer shall make and keep ~~[such]~~ accounts,
25 correspondence, memoranda, papers, books, data and other

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1 records as the director by rule prescribes. ~~[All]~~ Records so
2 required shall be preserved for six years. ~~[Every]~~ Each
3 mortgage loan company and ~~[loan]~~ mortgage broker shall file
4 financial reports as the director by rule prescribes. If the
5 information contained in ~~[any]~~ a document filed with the
6 director is or becomes inaccurate or incomplete in ~~[any]~~ a
7 material respect, the ~~[registrant]~~ licensee shall file a
8 correcting amendment within thirty days. "

9 Section 16. Section 58-21-12 NMSA 1978 (being Laws 1983,
10 Chapter 86, Section 12, as amended) is amended to read:

11 "58-21-12. EXAMINATION OF RECORDS. -- ~~[All]~~ The records
12 required to be maintained ~~[by]~~ pursuant to the Mortgage ~~[Loan~~
13 ~~Company and Loan]~~ Broker Act are subject to annual
14 examinations by representatives of the director, within or
15 without New Mexico, together with such special or other
16 examinations as the director deems necessary or appropriate in
17 the public interest or for the protection of investors. The
18 mortgage loan company, ~~[or loan]~~ mortgage broker or loan
19 officer so examined shall pay a fee for each ~~[such]~~
20 examination at the rate of one hundred fifty dollars (\$150)
21 per day, or fraction thereof, for each authorized
22 representative engaged in the examination. If the examination
23 is conducted outside the state, the actual cost of travel for
24 the examiners shall also be reimbursed to the state by the
25 mortgage loan company, ~~[or loan]~~ mortgage broker or loan

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1 officer so examined. "

2 Section 17. Section 58-21-13 NMSA 1978 (being Laws 1983,
3 Chapter 86, Section 13) is amended to read:

4 "58-21-13. PUBLIC INSPECTION OF APPLICATIONS. --

5 Applications for [~~registration~~] licensure or renewal and all
6 papers, documents, reports and other written instruments filed
7 with the director under the Mortgage [~~Loan Company and Loan~~
8 Broker Act are public documents and open to public inspection
9 except for files on investigations relating to violations of
10 that act, which investigations do not culminate, or have not
11 yet culminated, in administrative, civil or criminal action. "

12 Section 18. Section 58-21-14 NMSA 1978 (being Laws 1983,
13 Chapter 86, Section 14) is amended to read:

14 "58-21-14. NOTICE OF PROPOSED ORDER OF SUSPENSION,
15 REVOCATION OR DENIAL OF [~~REGISTRATION~~] LICENSE-- HEARING. --

16 A. Notice of [~~any~~] a proposed order of suspension,
17 revocation or denial of [~~registration~~] a license of [~~any~~] a
18 mortgage loan company, [~~or loan~~] mortgage broker or loan
19 officer, together with the grounds therefor, shall be given in
20 writing, served personally or sent by certified mail to the
21 person affected.

22 B. The mortgage loan company, [~~or loan~~] mortgage
23 broker or loan officer, upon application, is entitled to a
24 hearing; but if no such application is made within ten days
25 after the receipt of or refusal to accept [~~such~~] the notice,

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1 the director shall enter a final order. "

2 Section 19. Section 58-21-15 NMSA 1978 (being Laws 1983,
3 Chapter 86, Section 15) is amended to read:

4 "58-21-15. INVESTIGATIONS BY DIRECTOR--INJUNCTIONS.--

5 A. [~~When~~] If the director has reason to believe
6 that a mortgage loan company, [~~or loan~~] mortgage broker or
7 loan officer is conducting its business in violation of the
8 Mortgage [~~Loan Company and Loan~~] Broker Act or that [~~any~~] a
9 person is engaging in the mortgage loan company or [~~loan~~]
10 mortgage broker business without [being registered] a license
11 under the provisions of the Mortgage [Loan Company and Loan]
12 Broker Act, unless exempt therefrom under the provisions of
13 Section [6 of that act] 58-21-6 NMSA 1978, he may [make such]
14 conduct an investigation as he deems necessary.

15 B. On the signed written complaint of an
16 individual, the director shall investigate the actions and
17 records of a person licensed under the Mortgage Broker Act if
18 the complaint, or the complaint and documentary or other
19 evidence presented in connection with the complaint, provides
20 reasonable cause as deemed by the director. The director,
21 before commencing an investigation, shall notify a mortgage
22 loan company, mortgage broker or loan officer in writing of
23 the complaint and of the director's intent to investigate such
24 complaint.

25 [~~B.—When~~] C. If the director finds upon

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1 sufficient evidence that [~~any~~] a mortgage loan company, [~~or~~
2 ~~loan~~] mortgage broker, loan officer or other person has
3 engaged in or is about to engage in [~~any~~] an act or practice
4 in violation of the Mortgage [~~Loan Company and Loan~~] Broker
5 Act, the director may:

6 (1) refer the evidence concerning alleged
7 violations of the Mortgage [~~Loan Company and Loan~~] Broker Act
8 to the appropriate district attorney, or to the attorney
9 general, who may, with or without such reference, institute
10 the appropriate criminal proceedings under the Mortgage [~~Loan~~
11 ~~Company and Loan~~] Broker Act; and

12 (2) summarily order the mortgage loan
13 company, [~~or loan~~] mortgage broker, loan officer or other
14 person to cease and desist from [~~such~~] the act or practice or
15 apply to [~~any~~] a district court having venue to enjoin the act
16 or practice and to enforce compliance with the Mortgage [~~Loan~~
17 ~~Company and Loan~~] Broker Act, or both. If the director
18 applies to the court for relief, upon proper showing, a
19 permanent or temporary injunction, restraining order or writ
20 of mandamus shall be granted, a receiver or conservator may be
21 appointed for the defendant or defendant's assets and the
22 court may provide such other equitable relief as it may deem
23 appropriate. The court shall not require the director to post
24 a bond. "

25 Section 20. Section 58-21-17 NMSA 1978 (being Laws 1983,

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1 Chapter 86, Section 17) is amended to read:

2 "58-21-17. ESCROW SERVICES. -- ~~[Any registrant]~~ A licensee
3 under the Mortgage ~~[Loan Company and Loan]~~ Broker Act who also
4 performs ~~[any acts]~~ an act that ~~[are]~~ is within the scope of
5 activities regulated by ~~[any statutes]~~ a statute of the state
6 relating to escrow agents shall also comply with all
7 provisions of those statutes, and ~~[registration]~~ licensure
8 under the Mortgage ~~[Loan Company and Loan]~~ Broker Act shall
9 not serve to relieve the ~~[registrant]~~ licensee from compliance
10 with the provisions of such other statutes. "

11 Section 21. A new section of the Mortgage Broker Act is
12 enacted to read:

13 "[NEW MATERIAL] AFFILIATED BUSINESS. -- Affiliated or
14 controlled business arrangements or loan origination services
15 by or between mortgage brokers and real estate professionals
16 are prohibited. A licensed mortgage broker may, however, also
17 be licensed as a real estate broker in any state but may not
18 be active in real estate brokerage or own more than a five
19 percent interest in a partnership or corporation active in
20 real estate defined as receiving commissions on more than four
21 transactions per year. "

22 Section 22. Section 58-21-18 NMSA 1978 (being Laws 1983,
23 Chapter 86, Section 18, as amended) is amended to read:

24 "58-21-18. PROHIBITED CHARGES. -- In connection with ~~[any]~~
25 a loan originated, brokered, negotiated or made by a

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1 [registrant] licensee under the Mortgage [~~Loan Company and~~
2 ~~Loan~~] Broker Act, no charges other than interest shall be
3 made, except the following:

4 A. the actual and reasonable expenditures for an
5 abstract of title, title examination, title insurance
6 premiums, property survey, appraisal fees, notary fees,
7 preparation of deeds, mortgages or other documents, credit
8 reports and filing and recording fees;

9 B. broker's fees not in excess of six percent of
10 the principal amount of the loan;

11 C. a one-time charge of an amount not to exceed
12 fifteen dollars (\$15.00) when the loan is made to a natural
13 person, primarily for personal, family or household purposes,
14 to help defray the actual cost of preparing truth-in-lending
15 disclosure statements, equal credit opportunity disclosure
16 statements and other disclosures required by law; and

17 D. such other fees as the director by [~~regulation~~]
18 rule may permit. "

19 Section 23. Section 58-21-19 NMSA 1978 (being Laws 1983,
20 Chapter 86, Section 19, as amended) is amended to read:

21 "58-21-19. PROHIBITED WITHHOLDING AND ESCROWING OF LOAN
22 PROCEEDS--DISCLOSURE--PENALTY.--

23 A. In connection with [~~any~~] a loan originated,
24 brokered, negotiated or made by a [~~registrant under, and which~~
25 ~~loan is subject to~~] licensee pursuant to the Mortgage [Loan

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1 ~~Company and Loan~~ Broker Act:

2 [A. ~~the loan shall not require or provide~~]

3 (1) there shall be no requirement or
4 provision for [the] withholding or escrowing [of any] a
5 portion of the loan proceeds to cover [any] future payments,
6 whether principal or interest or both, to the mortgagee or
7 obligee of [such] the loan;

8 [B.] (2) the loan agreement shall not require
9 or provide for the withholding or escrowing of [any] a portion
10 of the loan proceeds to cover [any] payments to be made in the
11 future on [any] a prior encumbrance or lien, except for a
12 reasonable amount to be applied toward the next annual payment
13 of property taxes;

14 [C.] (3) prepaid interest in the nature of
15 points, regardless of how characterized, shall not be charged;
16 [and

17 [D.] (4) at least three business days prior to
18 closing a loan, the [registrant] licensee shall provide to the
19 borrower disclosure in accordance with the provisions of
20 [Section 56-8-11.2 NMSA 1978] federal law. [Any registrant] A
21 licensee who fails to comply with the disclosure requirements
22 or who provides information [which] that is substantially
23 incorrect as to the rate or charge shall forfeit all interest,
24 charges or other advantage for the loan to the borrower; and

25 (5) the mortgage broker shall provide to the

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1 applicant a written disclosure that specifies the nature of
2 the relationship between the applicant and broker, the duties
3 the broker has to the applicant and how the broker will be
4 compensated.

5 B. The director, by rule, shall promulgate a
6 standard disclosure form to be used by the mortgage broker."

7 Section 24. Section 58-21-20 NMSA 1978 (being Laws 1983,
8 Chapter 86, Section 20) is amended to read:

9 "58-21-20. FALSE STATEMENT UNLAWFUL. --It is unlawful for
10 [any] a person to make or cause to be made in [any] a document
11 filed with the director in [~~any proceedings~~] a proceeding
12 under the Mortgage [~~Loan Company and Loan~~] Broker Act [any] a
13 statement [~~which~~] that is at the time and in the light of the
14 circumstances under which it is made false or misleading in
15 [any] a material respect. "

16 Section 25. Section 58-21-21 NMSA 1978 (being Laws 1983,
17 Chapter 86, Section 21) is amended to read:

18 "58-21-21. FRAUD UNLAWFUL. --It is unlawful for [any] a
19 mortgage company, [~~or loan~~] mortgage broker or loan officer in
20 connection with the origination, brokering or making of [any]
21 a mortgage loan, directly or indirectly, to:

22 A. employ [any] a device, scheme or artifice to
23 defraud; or

24 B. engage in [any] an act, practice or course of
25 business [~~which~~] that operates or would operate as a fraud or

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1 deceit upon ~~[any]~~ a person. "

2 Section 26. Section 58-21-22 NMSA 1978 (being Laws 1983,
3 Chapter 86, Section 22) is amended to read:

4 "58-21-22. PENALTIES. -- ~~[Any]~~ A person who violates
5 ~~[Sections 3, 18, 19 or 21 of the Mortgage Loan Company and~~
6 ~~Loan Broker Act]~~ Section 58-21-3, 58-21-18, 58-21-19 or
7 58-21-21 NMSA 1978 or who violates Section ~~[20 of that act]~~
8 58-21-20 NMSA 1978, knowing the statement to be false or
9 misleading in ~~[any]~~ a material respect, ~~[shall be]~~ is guilty
10 of a fourth degree felony and upon conviction shall be
11 sentenced as provided ~~[for]~~ in the Criminal Sentencing Act. "

12 Section 27. Section 58-21-23 NMSA 1978 (being Laws 1983,
13 Chapter 86, Section 23) is amended to read:

14 "58-21-23. FILING AND DESTRUCTION OF DOCUMENTS. -- A
15 document is filed when it is received by the director. The
16 director may permit the destruction of ~~[any]~~ a document filed
17 under the Mortgage ~~[Loan Company and Loan]~~ Broker Act with the
18 division or the director after:

- 19 A. six years from the date of filing documents; or
20 B. the reproduction of documents by photograph or
21 microphotograph of a permanent nature. "

22 Section 28. Section 58-21-24 NMSA 1978 (being Laws 1983,
23 Chapter 86, Section 24) is amended to read:

24 "58-21-24. EFFECT ON EXISTING MORTGAGE LOAN COMPANIES OR
25 LOAN BROKERS. --

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1 A. ~~[Any]~~ A mortgage loan company, ~~[or loan]~~
2 mortgage broker or loan officer engaged in activities covered
3 by the Mortgage ~~[Loan Company and Loan]~~ Broker Act for a
4 period of at least ninety days prior to the effective date of
5 that act shall have thirty days from the effective date of the
6 Mortgage ~~[Loan Company and Loan]~~ Broker Act in which to file a
7 proper and complete application for a ~~[registration~~
8 ~~certificate]~~ license together with the surety bond required by
9 Section ~~[7 of that act]~~ 58-21-7 NMSA 1978 and the required
10 fee. During the thirty-day period and until the director acts
11 on the application, the applicant shall be entitled to operate
12 without a ~~[registration certificate]~~ license but shall
13 otherwise comply with all other provisions of the Mortgage
14 ~~[Loan Company and Loan]~~ Broker Act.

15 B. A mortgage loan company or mortgage broker
16 registered under the Mortgage Broker Act as of June 30, 2001
17 shall, upon expiration of its current registration, comply
18 with the provisions of Subsection A of this section."

19 Section 29. Section 58-21-25 NMSA 1978 (being Laws 1983,
20 Chapter 86, Section 25) is amended to read:

21 "58-21-25. NO IMPAIRMENT OF OTHER REMEDIES. -- The
22 Mortgage ~~[Loan Company and Loan]~~ Broker Act is not intended to
23 impair any remedies available to injured parties under other
24 statutes or under common law."

25 Section 30. Section 58-21-27 NMSA 1978 (being Laws 1987,

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1 Chapter 343, Section 1) is amended to read:

2 "58-21-27. MORTGAGE SERVICING--SERVICING ENTITY TO HAVE
3 OFFICE OR AGENT FOR SERVICING PURPOSES IN NEW MEXICO. -- ~~[Any]~~ A
4 business, organization or similar entity ~~[which]~~ that services
5 single-unit residential mortgages on New Mexico real property
6 shall either maintain its principal office, a branch office or
7 an agent in New Mexico for the purpose of providing
8 information, including ~~[but not limited to]~~ providing answers
9 to inquiries from mortgagors or their designated agents
10 pertaining to data about their mortgage. Response to the
11 mortgagor's inquiry shall be made within ten working days from
12 the date of inquiry."

13 Section 31. A new section of the Mortgage Broker Act is
14 enacted to read:

15 "[NEW MATERIAL] MORTGAGE BROKER ADVISORY COMMITTEE
16 CREATED-- MEMBERSHIP-- POWERS. --

17 A. The "mortgage broker advisory committee" is
18 created to advise and assist the director. The committee
19 shall consist of five members who are New Mexico residents.
20 Members of the committee shall be appointed by the governor.
21 The governor shall make initial appointments of two two-year
22 terms, two three-year terms and one four-year term to produce
23 staggered terms. Thereafter, appointments shall be for terms
24 of three years. Three members of the committee shall be
25 public members who have not been licensed as mortgage brokers

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1 or loan officers and have no financial interest, direct or
2 indirect, in the mortgage loan profession and two members of
3 the committee shall be licensed mortgage brokers. The
4 committee shall meet at least twice a year at the call of the
5 director.

6 B. In the event of a vacancy during a term, the
7 governor shall fill the vacancy for the unexpired remainder of
8 the term with a person who meets the qualifications of the
9 vacated position.

10 C. In addition to other powers and duties
11 delegated to it by the director, the mortgage broker advisory
12 committee shall advise the director with respect to the
13 following:

14 (1) the proposal and adoption of rules
15 relating to the licensing of mortgage brokers;

16 (2) education and experience requirements for
17 licensing mortgage brokers and loan officers;

18 (3) rules of conduct and ethics for mortgage
19 brokers and loan officers, continuing education for licensed
20 mortgage brokers and loan officers and the types of courses
21 acceptable as continuing education courses pursuant to the
22 Mortgage Broker Act;

23 (4) the granting or denying of an application
24 or request for renewal of a mortgage broker license or loan
25 officer license;

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1 (5) the form of or format for an application
2 or other document under the Mortgage Broker Act; and

3 (6) the interpretation, implementation or
4 enforcement of the Mortgage Broker Act.

5 D. Each member of the mortgage broker advisory
6 committee shall receive per diem and mileage as provided for
7 nonsalaried public officers in the Per Diem and Mileage Act
8 and shall receive no other compensation, perquisite or
9 allowance. "

10 Section 32. A new section of the Mortgage Broker Act is
11 enacted to read:

12 "[NEW MATERIAL] MORTGAGE BROKER RECOVERY FUND CREATED. --
13 The "mortgage broker recovery fund" is created in the state
14 treasury. The fund shall be administered by the director in
15 accordance with the provisions of the Mortgage Broker Act.
16 All money received by the division pursuant to the Mortgage
17 Broker Act shall be credited to the fund. The state treasurer
18 may invest money in the fund in United States bonds or
19 treasury certificates pursuant to rules as prescribed by the
20 state board of finance; however that he may not make
21 investments that impair the necessary liquidity required to
22 satisfy judgment payments awarded pursuant to the Mortgage
23 Broker Act. All interest earned from such investments shall
24 be credited to the fund. All money in an amount in excess of
25 one hundred fifty thousand dollars (\$150,000) remaining in the

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1 fund at the end of a fiscal year shall revert to the general
2 fund. If the fund falls below one hundred fifty thousand
3 dollars (\$150,000), the director may adjust the amount of fees
4 to be charged licensees. "

5 Section 33. A new section of the Mortgage Broker Act is
6 enacted to read:

7 "[NEW MATERIAL] JUDGMENT AGAINST MORTGAGE BROKER OR LOAN
8 OFFICER. --

9 A. An aggrieved person who claims a pecuniary loss
10 caused by a mortgage broker or loan officer may, within one
11 year after obtaining a final judgment and the termination of
12 all proceedings, including appeals in connection with the
13 judgment, file a verified petition with the director for
14 payment from the fund if:

15 (1) the loss is based upon fraud, knowing or
16 willful misrepresentation or wrongful conversion of funds by
17 the mortgage broker or loan officer;

18 (2) the loss arises out of a transaction for
19 which a mortgage broker or loan officer license is required;
20 and

21 (3) the loss arises out of a transaction
22 involving a mortgage loan in which the cause of action arises
23 on or after July 1, 2002.

24 B. The aggrieved person may receive payment for
25 the actual damages included in the judgment and unpaid, but

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1 not in an amount exceeding ten thousand dollars (\$10,000) per
2 judgment, regardless of the number of persons aggrieved or
3 mortgage loans involved in the transaction.

4 C. The aggregate amount recoverable per judgment
5 by all claimants for losses caused by any one judgment debtor
6 shall not exceed thirty thousand dollars (\$30,000).

7 D. A copy of the petition shall be served upon the
8 director in the manner provided by law for service of a civil
9 summons.

10 E. After service of the petition upon the director
11 he shall conduct a hearing on the petition in substantially
12 the same manner as set forth in the Uniform Licensing Act.
13 Review of the director's decision shall be in the manner
14 provided by Section 58-21-16 NMSA 1978. At the hearing, the
15 petitioner shall be required to show that he:

16 (1) is not the spouse of the judgment debtor,
17 the personal representative of the spouse or related to the
18 third degree of consanguinity or affinity to the judgment
19 debtor whose conduct is alleged to have caused the loss;

20 (2) has complied with the requirements of the
21 Mortgage Broker Act;

22 (3) has obtained a judgment of the kind
23 described in Subsection A of this section, including the
24 amount awarded and the amount owing at the date of the
25 petition;

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1 (4) has had execution issued upon the
2 judgment and that the officer executing the writ has made a
3 return showing that the judgment debtor has no property within
4 the state subject to execution. If execution is levied
5 against the property of the judgment debtor, the petitioner
6 shall show that the amount realized on the sale was
7 insufficient to satisfy the judgment and shall set forth the
8 amount realized from the sale and the balance remaining due on
9 the judgment after application of the amount realized;

10 (5) has made reasonable searches and
11 inquiries to ascertain whether the judgment debtor possesses
12 real or personal property or other assets liable to be sold or
13 applied in satisfaction of the judgment, including partnership
14 assets, the judgment debtor's estate or any bond or insurance,
15 and has exercised reasonable diligence to secure payment of
16 the judgment from the assets of the judgment debtor; and

17 (6) has a judgment that is not:

18 (a) covered by a bond, insurance,
19 surety agreement or indemnity agreement;

20 (b) a loss incurred by a partner, joint
21 venturer, employer, employee or associate of the judgment
22 debtor whose conduct is alleged to have caused the loss; or a
23 corporate officer or director of a corporation in which the
24 judgment debtor is also an officer, director or employee; or

25 (c) a loss incurred by a business or

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1 other entity in which the judgment debtor whose conduct is
2 alleged to have caused the loss has an interest at the time of
3 the conduct alleged to have caused the loss.

4 Section 34. A new section of the Mortgage Broker Act is
5 enacted to read:

6 "[NEW MATERIAL] INSUFFICIENT FUNDS.--If at any time the
7 balance in the fund is insufficient to satisfy an authorized
8 claim for payment from the fund, the director shall, when
9 sufficient money has been deposited in the fund, satisfy
10 unpaid claims in the order that they were originally filed,
11 together with accumulated interest at the rate of eight
12 percent per year. "

13 Section 35. A new section of the Mortgage Broker Act is
14 enacted to read:

15 "[NEW MATERIAL] SUBROGATION.--When the director makes a
16 payment from the fund to a judgment creditor, the director
17 shall be subrogated to all rights of the judgment creditor for
18 the amounts paid out of the fund and any amount and interest
19 so recovered by the director shall be deposited in the fund.
20 The director may, pursuant to the provisions of the Uniform
21 Licensing Act, revoke, suspend or refuse to renew the license
22 of a mortgage broker or loan officer for whom payment from the
23 fund has been made in accordance with the provisions of the
24 Mortgage Broker Act. Further, the director may refuse to
25 issue or renew the license of a person for whom payment from

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1 the fund has been made until that person reimburses the fund
2 for all payments made on his behalf. "

3 Section 36. A new section of the Mortgage Broker Act is
4 enacted to read:

5 "[NEW MATERIAL] WAIVER. --The failure of a person to
6 comply with the provisions of the Mortgage Broker Act shall
7 constitute a waiver of all rights pursuant to that act. "

8 Section 37. A new section of the Mortgage Broker Act is
9 enacted to read:

10 "[NEW MATERIAL] DISCIPLINARY ACTION NOT LIMITED. --Nothing
11 in the Mortgage Broker Act shall limit the authority of the
12 director to take disciplinary action against a licensee for a
13 violation of a provision of that act or of the rules of the
14 division, nor shall the repayment in full of all obligations
15 to the fund by a licensee nullify or modify the effect of
16 other disciplinary proceedings brought pursuant to the
17 provisions of that act or the rules promulgated by the
18 director. "

19 Section 38. REPEAL. --Section 58-21-26 NMSA 1978 (being
20 Laws 1983, Chapter 86, Section 26) is repealed.