

FIRST REGULAR SESSION

# HOUSE BILL NO. 139

## 93RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES PORTWOOD (Sponsor) AND LeVOTA (Co-sponsor).

Pre-filed December 29, 2004 and copies ordered printed.

STEPHEN S. DAVIS, Chief Clerk

0683L.01I

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### AN ACT

To repeal sections 443.803, 443.805, 443.816, 443.821, 443.823, 443.827, 443.833, 443.839, 443.849, 443.851, 443.855, 443.857, 443.859, and 443.885, RSMo, and to enact in lieu thereof fifteen new sections relating to mortgage broker licensure.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 443.803, 443.805, 443.816, 443.821, 443.823, 443.827, 443.833, 2 443.839, 443.849, 443.851, 443.855, 443.857, 443.859, and 443.885, RSMo, are repealed and 3 fifteen new sections enacted in lieu thereof, to be known as sections 443.803, 443.805, 443.816, 4 443.818, 443.821, 443.823, 443.827, 443.833, 443.839, 443.849, 443.851, 443.855, 443.857, 5 443.859, and 443.885, to read as follows:

443.803. 1. For the purposes of sections 443.800 to 443.893, the following terms mean:

2 (1) "Advertisement", the attempt by publication, dissemination or circulation to induce, 3 directly or indirectly, any person to apply for a loan to be secured by residential real estate;

4 (2) "Affiliate":

5 (a) Any entity that directly controls, or is controlled by, the licensee and any other 6 company that is directly affecting activities regulated by sections 443.800 to 443.893 that is 7 controlled by the company that controls the licensee;

8 (b) Any entity:

9 a. That is controlled, directly or indirectly, by a trust or otherwise by, or for the benefit 10 of, shareholders who beneficially, or otherwise, control, directly or indirectly, by trust or 11 otherwise, the licensee or any company that controls the licensee; or

12 b. A majority of the directors or trustees of which constitute a majority of the persons

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 holding any such office with the licensee or any company that controls the licensee;

14 (c) Any company, including a real estate investment trust, that is sponsored and advised  
15 on a contractual basis by the licensee or any subsidiary or affiliate of the licensee;

16 (3) "Annual audit", a certified audit of the licensee's books and records and systems of  
17 internal control performed by a certified public accountant in accordance with generally accepted  
18 accounting principles and generally accepted auditing standards;

19 (4) "Board", the residential mortgage board, created in section 443.816;

20 (5) "Borrower", the person or persons who use the services of a [loan] **mortgage** broker,  
21 originator or lender;

22 (6) **"Continuing education" or "certified course of continuing education", a course**  
23 **or study consisting of sixteen hours of classroom education every two years relating to loan**  
24 **originating which is approved by the board;**

25 (7) "Director", the director of the division of finance within the department of economic  
26 development;

27 [(7)] (8) "Escrow agent", a third party, individual or entity, charged with the fiduciary  
28 obligation for holding escrow funds on a residential mortgage loan pending final payout of those  
29 funds in accordance with the terms of the residential mortgage loan;

30 [(8)] (9) "Exempt entity", the following entities:

31 (a) Any bank or trust company organized under the laws of this or any other state or any  
32 national bank or any foreign banking corporation licensed by the division of finance or the  
33 United States Comptroller of the Currency to transact business in this state;

34 (b) Any state or federal savings and loan association, savings bank or credit union or any  
35 consumer finance company licensed under sections 367.100 to 367.215, RSMo, which is actively  
36 engaged in consumer credit lending;

37 (c) Any insurance company **or licensed insurance agent, broker, or producer**  
38 **authorized to transact business in this or any other state;**

39 (d) Any person engaged solely in commercial mortgage lending or any person making  
40 or acquiring residential or commercial construction loans with the person's own funds for the  
41 person's own investment;

42 (e) Any service corporation of a federally chartered or state- chartered savings and loan  
43 association, savings bank or credit union;

44 (f) Any first-tier subsidiary of a national or state bank that has its principal place of  
45 business in this state, provided that such first-tier subsidiary is regularly examined by the  
46 division of finance or the Comptroller of the Currency or a consumer compliance examination  
47 of it is regularly conducted by the Federal Reserve;

48 (g) Any person engaged solely in the business of securing loans on the secondary market  
49 provided such person does not make decisions about the extension of credit to the borrower;

50 (h) **For purposes of mortgage broker licensure only**, any mortgage banker as defined  
51 in subdivision [(19)] **(21)** of this subsection; or

52 (i) Any wholesale mortgage lender who purchases mortgage loans originated by a  
53 licensee provided such wholesale lender does not make decisions about the extension of credit  
54 to the borrower;

55 (j) Any person making or acquiring residential mortgage loans with the person's own  
56 funds for the person's own investment;

57 (k) [Any person employed or contracted by a licensee to assist in the performance of the  
58 activities regulated by sections 443.800 to 443.893 who is compensated in any manner by only  
59 one licensee;

60 (l) Any person licensed pursuant to the real estate agents and brokers licensing law,  
61 chapter 339, RSMo, who engages in servicing or the taking of applications and credit and  
62 appraisal information to forward to a licensee or an exempt entity for transactions in which the  
63 licensee is acting as a real estate broker and who is compensated by either a licensee or an  
64 exempt entity;

65 [(m)] **(I)** Any person who originates, services or brokers residential mortgagee loans and  
66 who receives no compensation for those activities, subject to the director's regulations regarding  
67 the nature and amount of compensation;

68 **(m) Any person who performs the activities of a loan originator and who is**  
69 **employed by or under exclusive contract with a licensee that has a net worth on file with**  
70 **the director that exceeds twenty-five million dollars and who only offers loan products of**  
71 **affiliated lenders that are wholly owned by the same publicly traded company as the**  
72 **licensee;**

73 [(9)] **(10)** "Financial institution", a savings and loan association, savings bank, credit  
74 union, mortgage banker or bank organized under the laws of Missouri or the laws of the United  
75 States with its principal place of business in Missouri;

76 [(10)] **(11)** "First-tier subsidiary", as defined by administrative rule promulgated by the  
77 director;

78 [(11)] **(12)** "Full-service office", office and staff in Missouri reasonably adequate to  
79 handle efficiently communications, questions and other matters relating to any application for  
80 a new, or existing, home mortgage loan which the licensee is brokering, funding, originating,  
81 purchasing or servicing. The management and operation of each full-service office must include  
82 observance of good business practices such as adequate, organized and accurate books and  
83 records, ample phone lines, hours of business, staff training and supervision and provision for  
84 a mechanism to resolve consumer inquiries, complaints and problems. The director shall  
85 promulgate regulations with regard to the requirements of this subdivision and shall include an  
86 evaluation of compliance with this subdivision in the periodic examination of the licensee;

87 [(12)] (13) "Government-insured mortgage loan", any mortgage loan made on the  
88 security of residential real estate insured by the Department of Housing and Urban Development  
89 or Farmers Home Loan Administration, or guaranteed by the Veterans Administration;

90 [(13)] (14) "Lender", any person who either lends money for or invests money in  
91 residential mortgage loans;

92 [(14)] (15) "Licensee" [or "residential mortgage licensee"], a person who is licensed to  
93 engage in [the] **mortgage brokering or loan originating** activities as defined in and regulated  
94 by sections 443.800 to 443.893;

95 [(15)] (16) "Loan broker" or "broker", a person exempted from licensing pursuant to  
96 subdivision [(8)] (9) of this subsection, who performs the activities described in subdivisions  
97 [(17)] (19) and [(32)] (36) of this subsection;

98 (17) **"Loan originator", a person who, for compensation or gain, solicits or receives**  
99 **a mortgage application, assembles information and prepares paperwork and**  
100 **documentation necessary for obtaining a residential mortgage loan, or arranges for a**  
101 **conditional mortgage loan commitment between a borrower and a lender, or arranges for**  
102 **a residential loan commitment from a lender, or solicits financial and mortgage**  
103 **information from the public for sale to another residential mortgage broker, but does not**  
104 **include a person who does not deal directly with borrowers, negotiate interest rates, advise**  
105 **on loan programs, offer loan locks or loan commitments, or individuals who complete**  
106 **incidental services in arranging or procuring a mortgage loan, including administrative**  
107 **staff whose primary function is the verification of data provided by the borrower, assembly**  
108 **of documents, and coordination of third party services such as ordering an appraisal, title**  
109 **report, or credit report;**

110 [(16)] (18) "Loan brokerage agreement", a written agreement in which a broker agrees  
111 to do either of the following:

112 (a) Obtain a residential mortgage loan for the borrower or assist the borrower in  
113 obtaining a residential mortgage loan; or

114 (b) Consider making a residential mortgage loan to the borrower;

115 [(17)] (19) "Loan brokering", "mortgage brokering", or "mortgage brokerage service",  
116 the act of helping to obtain for an investor or from an investor for a borrower, a loan secured by  
117 residential real estate situated in Missouri or assisting an investor or a borrower in obtaining a  
118 loan secured by residential real estate in return for consideration;

119 [(18)] (20) "Making a residential mortgage loan" or "funding a residential mortgage  
120 loan", for compensation or gain, either, directly or indirectly, advancing funds or making a  
121 commitment to an applicant for a residential mortgage loan;

122 [(19)] (21) "Mortgage banker", a mortgage loan company which is subject to licensing,  
123 supervision, or annual audit requirements by the Federal National Mortgage Association

124 (FNMA), or the Federal Home Loan Mortgage Corporation (FHLMC), or the United States  
125 Veterans Administration (VA), or the United States Department of Housing and Urban  
126 Development (HUD), or a successor of any of the foregoing agencies or entities, as an approved  
127 lender, loan correspondent, seller, or servicer;

128 **(22) "Mortgage broker" or "broker", a person licensed under this chapter who**  
129 **performs mortgage brokering and servicing;**

130 [(20)] **(23) "Mortgage loan" or "residential mortgage loan", a loan to, or for the benefit**  
131 **of, any natural person made primarily for personal, family or household use, including a reverse**  
132 **mortgage loan, primarily secured by either a mortgage or reverse mortgage on residential real**  
133 **property or certificates of stock or other evidence of ownership interests in, and proprietary**  
134 **leases from, corporations or partnerships formed for the purpose of cooperative ownership of**  
135 **residential real property;**

136 [(21)] **(24) "Net worth", as provided in section 443.859;**

137 [(22)] **(25) "Originating", the advertising, soliciting, taking applications, processing, closing,**  
138 **or issuing of commitments for, and funding of, residential mortgage loans;**

139 **(23) (25) "Originate" or "originating", those activities associated with a loan**  
140 **originator;**

141 **(26) "Party to a residential mortgage financing transaction", a borrower, lender or loan**  
142 **broker in a residential mortgage financing transaction;**

143 [(24)] **(27) "Payments", payment of all, or any part of, the following: principal, interest**  
144 **and escrow reserves for taxes, insurance and other related reserves and reimbursement for lender**  
145 **advances;**

146 [(25)] **(28) "Person", any individual, firm, partnership, corporation, company or**  
147 **association and the legal successors thereof;**

148 [(26)] **(29) "Personal residence address", a street address, but shall not include a post**  
149 **office box number;**

150 [(27)] **(30) "Purchasing", the purchase of conventional or government-insured mortgage**  
151 **loans secured by residential real estate from either the lender or from the secondary market;**

152 **(31) "Residential loan originator license certification course", a course of study**  
153 **consisting of sixteen hours of education followed by a one-hundred-question examination**  
154 **relating to loan originating which is approved by the board;**

155 [(28)] **(32) "Residential mortgage board", the residential mortgage board created in**  
156 **section 443.816;**

157 [(29)] **(33) "Residential mortgage financing transaction", the negotiation, acquisition,**  
158 **sale or arrangement for, or the offer to negotiate, acquire, sell or arrange for, a residential**  
159 **mortgage loan or residential mortgage loan commitment;**

160 [(30)] **(34) "Residential mortgage loan commitment", a written conditional agreement**

161 to finance a residential mortgage loan;

162 [(31)] (35) "Residential real property" or "residential real estate", real property located  
163 in this state improved by a one-family to four-family dwelling;

164 [(32)] (36) "Servicing", the collection or remittance for, or the right or obligation to  
165 collect or remit for, any lender, noteowner, noteholder or for a licensee's own account, of  
166 payments, interests, principal and trust items such as hazard insurance and taxes on a residential  
167 mortgage loan and includes loan payment follow-up, delinquency loan follow-up, loan analysis  
168 and any notifications to the borrower that are necessary to enable the borrower to keep the loan  
169 current and in good standing;

170 [(33)] (37) "Soliciting, processing, placing or negotiating a residential mortgage loan",  
171 for compensation or gain, either, directly or indirectly, accepting or offering to accept an  
172 application for a residential mortgage loan, assisting or offering to assist in the processing of an  
173 application for a residential mortgage loan on behalf of a borrower, or negotiating or offering to  
174 negotiate the terms or conditions of a residential mortgage loan with a lender on behalf of a  
175 borrower including, but not limited to, the submission of credit packages for the approval of  
176 lenders, the preparation of residential mortgage loan closing documents, and including a closing  
177 in the name of a broker;

178 [(34)] (38) "Ultimate equitable owner", a person who, directly or indirectly, owns or  
179 controls an ownership interest in a corporation, foreign corporation, alien business organization,  
180 trust or any other form of business organization regardless of whether the person owns or  
181 controls the ownership interest through one or more persons or one or more proxies, powers of  
182 attorney, nominees, corporations, associations, partnerships, trusts, joint stock companies or  
183 other entities or devices, or any combination thereof.

184 2. The director may define by rule any terms used in sections 443.800 to 443.893 for  
185 efficient and clear administration. **Any rule or portion of a rule, as that term is defined in**  
186 **section 536.010, RSMo, that is created under the authority delegated in this section shall**  
187 **become effective only if it complies with and is subject to all of the provisions of chapter**  
188 **536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,**  
189 **RSMo, are nonseverable and if any of the powers vested with the general assembly**  
190 **pursuant to chapter 536, RSMo, to review, to delay the effective date, or to disapprove and**  
191 **annul a rule are subsequently held unconstitutional, then the grant of rulemaking**  
192 **authority and any rule proposed or adopted after August 28, 2005, shall be invalid and**  
193 **void.**

443.805. 1. No person shall engage in the business of brokering, funding, originating,  
2 servicing or purchasing of residential mortgage loans without first obtaining [a] **the applicable**  
3 **mortgage broker or loan originator** license from the director, pursuant to sections 443.800 to  
4 443.893 and the regulations promulgated thereunder. The licensing provisions [of sections

5 443.805 to 443.812] shall not apply to any **exempt** entity [engaged solely in commercial  
6 mortgage lending or to any person exempt as provided in section 443.803 or pursuant to  
7 regulations promulgated as provided in sections 443.800 to 443.893], **as defined in subsection**  
8 **1 of section 443.803, or employees of such exempt entity.**

9         2. No person except a licensee or exempt entity shall do any business under any name  
10 or title or circulate or use any advertising or make any representation or give any information to  
11 any person which indicates or reasonably implies activity within the scope of the provisions of  
12 sections 443.800 to 443.893.

13         **3. The provisions of this section shall not apply to mortgage brokers or loan**  
14 **originators who were registered, licensed, or otherwise employed to originate loans prior**  
15 **to August 28, 2005. On and after such date, such individuals shall have until August 28,**  
16 **2006, or their next license renewal date, whichever is earlier, to meet all loan originator**  
17 **licensing requirements as provided in sections 443.800 to 443.893.**

443.816. There is hereby created in the division of finance a "Residential Mortgage  
2 Board" which shall have such powers and duties as are now or hereafter conferred upon it by  
3 law. The board shall consist of five members who shall be appointed by the governor. The  
4 members of the board shall be residents of this state, and one of the members shall be a member  
5 of the Missouri Bar in good standing. Three members of the board shall be experienced in  
6 mortgage brokering and the remaining members of the board shall have no financial interest in  
7 any mortgage brokering business. Not more than three members of the board shall be members  
8 of the same political party. The term of office of each member shall be three years, except for  
9 those first appointed. Two shall be appointed for terms of two years and one shall be appointed  
10 for a term of one year. Members shall serve until their successors are duly appointed and have  
11 qualified. Each member shall serve for the remainder of the term for which the member was  
12 appointed. The board shall select one of the members as chairman and one of the members as  
13 secretary. Vacancies on the board shall be filled for the unexpired term in the same manner as  
14 in the case of an original appointment. The members of the board shall receive as compensation  
15 the sum of one hundred dollars per day while discharging their duties, and they shall be  
16 reimbursed for their actual and necessary expenses incurred in the performance of their duties.  
17 A majority of the members of the board shall constitute a quorum and the decision of a majority  
18 of a quorum shall be the decision of the board. The board shall meet upon call of the chairman,  
19 or of the director, or of any two members of the board, and may meet at any place in this state.  
20 The board shall:

21         (1) [Approve or disapprove] **Advise the director of the necessity of** each regulation  
22 proposed by the director pertaining to mortgage brokering; and

23         (2) [Hear and determine] **Conduct an independent public hearing within ninety days**  
24 **of the filing of any appeal to the director** from a denial or revocation of a mortgage broker

25 license or decision of the director pertaining to mortgage brokering, **and within thirty days**  
26 **submit a written opinion to the director advising the director as to the merits of the**  
27 **licensee's appeal.**

**443.818. The director shall consider all advice of the board provided to the director**  
2 **during the comment period in the promulgation of any rule. The director shall consider**  
3 **the written opinion of the board in any appeal from a decision to deny or revoke a license.**  
4 **Within the director's final written decision on any appeal of a license denial or revocation,**  
5 **the director shall address the timely submitted written opinion of the board.**

443.821. The director shall issue a license upon completion of the following:

2 (1) The filing of [an application] **a mortgage broker application or loan originator**  
3 **application, both of which shall include evidence of the satisfactory completion of the**  
4 **residential loan originator license certification course and examination;**

5 (2) The filing with the director of a listing of judgments entered against, and bankruptcy  
6 petitions by, the applicant for the preceding seven years;

7 (3) The payment of investigation and application fees to be established by administrative  
8 rule; and

9 (4) An investigation of the averments required by **subdivisions (1) to (21) of section**  
10 **443.827[, which] for a mortgage broker applicant and subdivisions (8) to (21) of section**  
11 **443.827 for a loan originator applicant. The investigation must allow the director to issue**  
12 **positive findings stating that the financial responsibility, experience, character and general fitness**  
13 **of the applicant, and of the members thereof, if the applicant is a partnership or association, and**  
14 **of the officers and directors thereof if the applicant is a corporation, are such as to command the**  
15 **confidence of the community and to warrant belief that the business will be operated honestly,**  
16 **fairly and efficiently within the scope of sections 443.800 to 443.893. If the director does not**  
17 **find the applicant's business and personal conduct warrants the issuance of a license, the director**  
18 **shall notify the applicant of the denial with the reasons stated for such denial. An applicant may**  
19 **appeal such denial to the [board] director, at which time notice of the appeal shall be**  
20 **provided to the board. The director shall, in a timely fashion, provide to the board a copy**  
21 **of all relevant documents necessary for the board's independent public hearing regarding**  
22 **such denial under subdivision (2) of section 443.816.**

443.823. 1. All licenses shall be issued in duplicate with one copy being transmitted to  
2 the license applicant and the second being retained with the director. Upon receipt of such  
3 license, a [residential mortgage] licensee may engage in a business regulated by sections 443.800  
4 to 443.893. Such license shall remain in full force and effect until it expires without renewal,  
5 is surrendered by the licensee or is revoked or suspended as provided in sections 443.800 to  
6 443.893.

7 2. Upon receipt of a loan originator license, the licensee shall immediately deliver



8 **the license to the licensee's current employer. Upon termination of employment, the license**  
9 **shall be transferred to a new employer and the director shall be notified. If the loan**  
10 **originator does not have a new employer, the license shall be returned to the director with**  
11 **a written explanation or the reasons for termination. The license may be returned to the**  
12 **licensee as determined by the director.**

443.827. Each **broker** application shall be accompanied by an averment of subdivisions  
2 **(1) to (21) of this section, and each loan originator application shall be accompanied by an**  
3 **averment of subdivisions (8) to (21) of this section** that the applicant:

4 (1) Will maintain at least one full-service office within the state of Missouri as provided  
5 in section 443.857;

6 (2) Will maintain staff reasonably adequate to meet the requirements of section 443.857;

7 (3) Will keep and maintain for thirty-six months the same written records as required by  
8 the federal Equal Credit Opportunity Act, 15 U.S.C. 1691, et seq., and any other information  
9 required by rules of the director;

10 (4) Will timely file any report required pursuant to sections 443.800 to 443.893;

11 (5) Will not engage, whether as principal or agent, in the practice of rejecting residential  
12 mortgage applications or varying terms or application procedures without reasonable cause, on  
13 real estate within any specific geographic area from the terms or procedures generally provided  
14 by the licensee within other geographic areas of the state;

15 (6) Will not engage in fraudulent home mortgage underwriting practices;

16 (7) Will not make payments, whether directly or indirectly, of any kind to any in-house  
17 or fee appraiser of any government or private money lending agency with which an application  
18 for a home mortgage has been filed for the purpose of influencing the independent judgment of  
19 the appraiser with respect to the value of any real estate which is to be covered by such home  
20 mortgage;

21 (8) Has filed tax returns, both state and federal, for the past three years or filed with the  
22 director a personal, an accountant's or attorney's statement as to why no return was filed;

23 (9) Will not engage in any activities prohibited by section 443.863;

24 (10) Will not knowingly misrepresent, circumvent or conceal any material particulars  
25 regarding a transaction to which the applicant is a party;

26 (11) Will disburse funds in accordance with the applicant's agreements through a  
27 licensed and bonded disbursing agent or licensed real estate broker;

28 (12) Has not committed any crime against the laws of this state, or any other state or of  
29 the United States, involving moral turpitude, fraudulent or dishonest dealings and that no final  
30 judgment has been entered against the applicant in a civil action upon grounds of fraud,  
31 misrepresentation or deceit which has not been previously reported to the director;

32 (13) Will account for and deliver to any person any personal property, including, but not

33 limited to, money, funds, deposits, checks, drafts, mortgages or any other thing of value, which  
34 has come into the applicant's possession and which is not the applicant's property or which the  
35 applicant is not in law or equity entitled to retain under the circumstances, at the time which has  
36 been agreed upon or is required by law, or, in the absence of a fixed time, upon demand of the  
37 person entitled to such accounting and delivery;

38 (14) Has not engaged in any conduct which would be cause for denial of a license;

39 (15) Has not become insolvent;

40 (16) Has not submitted an application which contains a material misstatement;

41 (17) Has not demonstrated negligence or incompetence in the performance of any  
42 activity required to hold a license under sections 443.800 to 443.893;

43 (18) Will advise the director in writing of any changes to the information submitted on  
44 the most recent application for license within forty-five days of such change. The written notice  
45 must be signed in the same form as the application for the license being amended;

46 (19) Will comply with the provisions of sections 443.800 to 443.893, or with any lawful  
47 order or rule made thereunder;

48 (20) When probable cause exists, will submit to periodic examinations by the director  
49 as required by sections 443.800 to 443.893; and

50 (21) Will advise the director in writing of any judgments entered against, and bankruptcy  
51 petitions by, the license applicant within five days of the occurrence of the judgment or petition.

443.833. 1. Licenses shall be renewed on the first anniversary of the date of issuance  
2 and every two years thereafter. Renewal application forms and fees shall be submitted to the  
3 director at least sixty days before the renewal date. **A renewal application shall include**  
4 **evidence of the satisfactory completion of sixteen hours of continuing education.**

5 2. The director shall send notice at least ninety days before the licensee's renewal date,  
6 but failure to send or receive such notice is no defense for failure to timely renew, except when  
7 an extension for good cause is granted by the director. If the director does not grant an extension  
8 and the licensee fails to submit a completed renewal application form and the proper fees in a  
9 timely manner, the director may assess additional fees as follows:

10 (1) A fee of five hundred dollars shall be assessed the licensee thirty days after the proper  
11 renewal date, and one thousand dollars each month thereafter, until the license is either renewed  
12 or expires pursuant to subsections 3 and 4 of this section;

13 (2) Such fee shall be assessed without prior notice to the licensee, but shall be assessed  
14 only in cases where the director possesses documentation of the licensee's continuing activity for  
15 which the unexpired license was issued.

16 3. A license which is not renewed by the date required in this section shall automatically  
17 become inactive. No activity regulated by sections 443.800 to 443.893 shall be conducted by  
18 the licensee when a license becomes inactive. An inactive license may be reactivated by filing

19 a completed reactivation application with the director, payment of the renewal fee, and payment  
20 of a reactivation fee equal to the renewal fee.

21 4. A license which is not renewed within one year of becoming inactive shall expire.

443.839. 1. A **mortgage broker** licensee may apply for authority to open and maintain  
2 additional offices by:

3 (1) Giving the director prior notice of the licensee's intention in such form as prescribed  
4 by the director;

5 (2) Paying a fee to be established by the director by administrative rule.

6 2. Upon receipt of the notice and fee required by subsection 1 of this section, the director  
7 shall issue a certificate for the additional office. The certificate shall be conspicuously displayed  
8 in the respective additional office.

443.849. A corporate surety bond in the principal sum of [twenty] **fifty** thousand dollars  
2 shall accompany each application for a **mortgage broker** license. The bond shall be in a form  
3 satisfactory to the director and shall be issued by a bonding company or insurance company  
4 authorized to do business in this state, to secure the faithful performance of the obligations of  
5 the applicant and the agents and subagents of the applicant in connection with the activities of  
6 originating, servicing or acquiring mortgage loans. An applicant or licensee may, in lieu of filing  
7 the bond required pursuant to this section, provide the director with a [twenty] **fifty** thousand  
8 dollar irrevocable letter of credit, as defined in section 400.5-103, RSMo, issued by any financial  
9 institution.

443.851. 1. At the end of the **mortgage broker** licensee's fiscal year, but in no case  
2 more than twelve months after the last audit conducted pursuant to this section and section  
3 443.853, each **mortgage broker** licensee shall cause the **mortgage broker** licensee's books and  
4 accounts to be audited by a certified public accountant not connected with such **mortgage**  
5 **broker** licensee. The books and records of all **mortgage broker** licensees shall be maintained  
6 on an accrual basis. The audit shall be sufficiently comprehensive in scope to permit the  
7 expression of an opinion on the financial statements in the report and must be performed in  
8 accordance with generally accepted accounting principles and generally accepted auditing  
9 standards.

10 2. As used in this section and section 443.853, the term "expression of opinion" includes  
11 either:

12 (1) An unqualified opinion;

13 (2) A qualified opinion;

14 (3) A disclaimer of opinion; or

15 (4) An adverse opinion.

16 3. If a qualified or adverse opinion is expressed or if an opinion is disclaimed, the  
17 reasons therefor shall be fully explained. An opinion, qualified as to a scope limitation, shall not

18 be acceptable.

19 4. The audit report shall be filed with the director within one hundred twenty days of the  
20 audit date. The report filed with the director shall be certified by the certified public accountant  
21 conducting the audit. The director may promulgate rules regarding late audit reports.

22 5. As an alternative to the audit requirements of subsections 1 to 4 of this section, a  
23 **mortgage broker** licensee may meet the requirements of this section without filing an audit  
24 report by posting and maintaining a corporate surety bond, in addition to that described in section  
25 443.849, in the amount of [one] **two** hundred thousand dollars. The bond shall be in form  
26 specified by and satisfactory to the director and payable to the director and shall be issued by a  
27 bonding company or insurance company authorized to do business in this state, to secure the  
28 faithful performance of the obligations of the **mortgage broker** licensee, its agents and  
29 subagents in connection with the activities of originating, servicing or acquiring mortgage loans.  
30 A **mortgage broker** licensee may, in lieu of this bond, provide the director with a [one] **two**  
31 hundred thousand dollar irrevocable letter of credit, as defined in section 400.5-103, RSMo,  
32 issued by any financial institution.

443.855. In addition to such other rules the director may promulgate to effectuate  
2 sections 443.800 to 443.893, the director shall prescribe rules governing the advertising of  
3 mortgage loans, including, without limitation, the following requirements:

4 (1) Advertising for loans transacted pursuant to the requirements of sections 443.800 to  
5 443.893 may not be false, misleading or deceptive. No person whose activities are regulated  
6 pursuant to the provisions of sections 443.800 to 443.893 may advertise in any manner so as to  
7 indicate or imply that the person's interest rates or charges for loans are in any way  
8 recommended, approved, set or established by the state or by the provisions of sections 443.800  
9 to 443.893;

10 (2) All advertisements by a **mortgage broker** licensee shall contain the name and an  
11 office address of such entity, which shall conform to a name and address on record with the  
12 director.

443.857. Each **mortgage broker** licensee shall maintain, in the state of Missouri, at least  
2 one full-service office with staff reasonably adequate to efficiently handle all matters relating to  
3 any proposed or existing home mortgage with respect to which such licensee is performing  
4 services.

443.859. Effective [May 21, 1998] **January 1, 2006**, every **mortgage broker** licensee  
2 shall have and maintain a net worth of not less than [twenty-five] **fifty** thousand dollars. The  
3 director may promulgate rules with respect to net worth definitions and requirements for  
4 **mortgage broker** licensees as necessary to accomplish the purposes of sections 443.800 to  
5 443.893. [In lieu of the net worth requirement established by this section, the director may  
6 accept evidence of conformance by the licensee with the net worth requirements of the United

7 States Department of Housing and Urban Development.]

443.885. On or before March first of each year, each **mortgage broker** licensee, except  
2 those exempt entities provided for in subsection 8 of section 443.803, shall file a report with the  
3 director which shall disclose the following information with respect to the immediately preceding  
4 calendar year:

5 (1) A list of home mortgages granted, issued, originated or closed during the report  
6 period, with respect to which such licensee has had any connection. The list shall show for each  
7 census tract, in regions where such census tracts have been established and by zip code in all  
8 other regions, the number and aggregate dollar amount of applications for and the number  
9 granted and aggregate dollar amount of:

10 (a) Conventional mortgage loans;

11 (b) Mortgage loans insured under the National Housing Act, 12 U.S.C. 1701, et seq.; and

12 (c) Mortgage loans guaranteed under the provisions of the Federal Veterans' Benefits  
13 Act, 38 U.S.C. 3710 et seq.;

14 (2) List by zip code in those areas having no census tract:

15 (a) The total number of home mortgages on real estate situated in this state with respect  
16 to which the licensee has had any connection and which are in default on the last day of the  
17 reporting period; and

18 (b) The total number of claims paid during the reporting period on home mortgages with  
19 respect to which the licensee has had any connection, including the date of the first default  
20 thereon and the date each such foreclosure proceeding was instituted;

21 (3) If the director finds that another report that the licensee is required to compile is  
22 equivalent to the annual report of mortgage activity, then the director may accept such report as  
23 fulfilling the reporting requirements of this section;

24 (4) The director may also require by rule that licensees report such additional  
25 information as is necessary to assure strict compliance with the provisions of sections 443.800  
26 to 443.893.