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KEN BENNETT
SECRETARY OF STATE

State of Arizona
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First Regular Session
2009

CHAPTER 108

HOUSE BILL 2486

AN ACT

AMENDING SECTIONS 6-126, 6-901, 6-903, 6-904 AND 6-991.01, ARIZONA REVISED
STATUTES; RELATING TO MORTGAGE BROKERS AND LOAN ORIGINATORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 6-126, Arizona Revised Statutes, is amended to
3 read:

4 6-126. Application fees for financial institutions and enterprises

5 A. The following nonrefundable fees are payable to the department with
6 the filing of the following applications:

7 1. To apply for a banking permit, ten thousand dollars.

8 2. To apply for an amendment to a banking or savings and loan
9 association permit, one thousand dollars.

10 3. To establish each banking branch office, one thousand five hundred
11 dollars.

12 4. To move a banking office to other than an established office of a
13 bank, one thousand dollars.

14 5. To apply for a savings and loan association permit, ten thousand
15 dollars.

16 6. To establish each savings and loan association branch office, one
17 thousand five hundred dollars.

18 7. To move an office of a savings and loan association to other than
19 an established office, one thousand dollars.

20 8. To organize and establish a credit union, one hundred dollars.

21 9. To establish each credit union branch or credit union freestanding
22 automated teller machine or to move a credit union office to other than an
23 established office of a credit union, two hundred fifty dollars.

24 10. To organize and establish any other financial institutions for
25 which an application or investigation fee is not otherwise provided by law,
26 two thousand five hundred dollars.

27 11. To acquire control of a financial institution, other than a
28 consumer lender, five thousand dollars.

29 12. To apply for a trust company license, five thousand dollars.

30 13. To apply for a commercial mortgage banker, mortgage banker, escrow
31 agent or consumer lender license, one thousand five hundred dollars.

32 14. To apply for a mortgage broker, COMMERCIAL MORTGAGE BROKER, sales
33 finance company or debt management company license, eight hundred dollars.

34 15. To apply for a collection agency license, one thousand five hundred
35 dollars.

36 16. To apply for a deferred presentment company license, one thousand
37 dollars.

38 17. To apply for a motor vehicle dealer license, three hundred dollars.

39 18. To apply for a branch office of an escrow agent, consumer lender,
40 commercial mortgage banker, mortgage banker, trust company, money
41 transmitter, collection agency or deferred presentment company, five hundred
42 dollars.

43 19. To apply for a branch office of a mortgage broker, COMMERCIAL
44 MORTGAGE BROKER, debt management company or sales finance company, two
45 hundred fifty dollars.

- 1 20. To apply for approval of the articles of incorporation of a
2 business development corporation, five hundred dollars.
- 3 21. To establish each freestanding automated teller machine, not
4 otherwise provided by law, five hundred dollars.
- 5 22. To apply for approval for the merger or consolidation of two or
6 more financial institutions, five thousand dollars per institution.
- 7 23. To apply for approval to convert from a national bank or federal
8 savings and loan charter to a state chartered institution, five thousand
9 dollars.
- 10 24. To apply for approval to convert from a federal credit union to a
11 state chartered credit union, one thousand dollars.
- 12 25. To apply for approval to merge or consolidate two or more credit
13 unions, five hundred dollars per credit union.
- 14 26. To move an established office of an enterprise to other than an
15 established office, fifty dollars.
- 16 27. To issue a duplicate or replace a lost enterprise's license, one
17 hundred dollars.
- 18 28. To change a responsible person on a mortgage broker's, COMMERCIAL
19 MORTGAGE BROKER'S, commercial mortgage banker's or a mortgage banker's
20 license, two hundred fifty dollars.
- 21 29. To change an active manager on a collection agency license or a
22 manager of a money transmitter branch office license, two hundred fifty
23 dollars.
- 24 30. To change the licensee name on a financial institution or
25 enterprise license, two hundred fifty dollars.
- 26 31. To apply for a money transmitter license, one thousand five hundred
27 dollars plus twenty-five dollars for each branch office and authorized
28 delegate to a maximum of four thousand five hundred dollars.
- 29 32. To acquire control of any money transmitter or controlling person
30 pursuant to chapter 12 of this title, two thousand five hundred dollars.
- 31 33. To receive the following publications:
32 (a) Quarterly bank and savings and loan statement of condition, not
33 more than ten dollars per copy.
34 (b) Monthly summary of actions report, not more than five dollars per
35 copy.
36 (c) A list of licensees, a monthly pending actions report and all
37 other in-house prepared reports or listings made available to the public, not
38 more than one dollar per page.
- 39 34. To apply for a loan originator license, an amount to be determined
40 by the superintendent.
- 41 35. TO APPLY FOR A LOAN ORIGINATOR LICENSE TRANSFER, AN AMOUNT TO BE
42 DETERMINED BY THE SUPERINTENDENT.
- 43 B. On issuance of a license or permit for a financial institution or
44 enterprise, the superintendent shall collect the first year's annual
45 assessment or renewal fee for the financial institution or enterprise

1 prorated according to the number of quarters remaining until the date of the
2 next annual assessment or renewal.

3 C. The following annual renewal fees shall be paid each year:

4 1. For an escrow agent, or trust company, one thousand dollars plus
5 two hundred fifty dollars for each branch office.

6 2. For a debt management company or sales finance company, five
7 hundred dollars plus two hundred dollars for each branch office.

8 3. For a collection agency, six hundred dollars plus two hundred
9 dollars for each branch office.

10 4. For a motor vehicle dealer, one hundred fifty dollars.

11 5. For an inactive mortgage broker OR COMMERCIAL MORTGAGE BROKER, two
12 hundred fifty dollars.

13 6. For a mortgage banker that negotiates or closes in the aggregate
14 one hundred loans or less in the immediately preceding calendar year, seven
15 hundred fifty dollars, and for a mortgage banker that negotiates or closes in
16 the aggregate over one hundred loans in the immediately preceding calendar
17 year, one thousand two hundred fifty dollars. In addition, a mortgage banker
18 shall pay two hundred fifty dollars for each branch office.

19 7. For a commercial mortgage banker, one thousand two hundred fifty
20 dollars. In addition, a commercial mortgage banker shall pay two hundred
21 fifty dollars for each branch office.

22 8. For a mortgage broker OR COMMERCIAL MORTGAGE BROKER that negotiates
23 or closes in the aggregate fifty loans or less in the immediately preceding
24 calendar year, two hundred fifty dollars and for a mortgage broker OR
25 COMMERCIAL MORTGAGE BROKER that negotiates or closes in the aggregate more
26 than fifty loans in the immediately preceding calendar year, five hundred
27 dollars. In addition, a mortgage broker OR COMMERCIAL MORTGAGE BROKER shall
28 pay two hundred dollars for each branch office.

29 9. For a consumer lender, one thousand dollars plus two hundred
30 dollars for each branch office.

31 10. For a money transmitter, five hundred dollars plus twenty-five
32 dollars for each branch office and each authorized delegate to a maximum of
33 two thousand five hundred dollars.

34 11. For a deferred presentment company, four hundred dollars. In
35 addition, a deferred presentment company shall pay two hundred dollars for
36 each branch office.

37 12. For a loan originator, an amount to be determined by the
38 superintendent.

39 13. For an inactive status loan originator, an amount to be determined
40 by the superintendent.

41 ~~14. For a loan originator license transfer, an amount to be determined~~
42 ~~by the superintendent.~~

43 D. The license, renewal or branch office permit fee for a premium
44 finance company for each calendar year or part thereof shall not be less than
45 one hundred dollars or more than three hundred dollars as set by the

1 superintendent. If the license is issued or the branch office is opened
2 after June 30 in any year, the fees shall not be less than fifty dollars or
3 more than one hundred fifty dollars for that year.

4 Sec. 2. Section 6-901, Arizona Revised Statutes, is amended to read:
5 6-901. Definitions

6 In this article, unless the context otherwise requires:

7 1. "Affiliate" means an entity which directly or indirectly, through
8 one or more intermediaries, controls, is controlled by or is under common
9 control with the entity specified.

10 2. "COMMERCIAL MORTGAGE BROKER" MEANS A PERSON WHO FOR COMPENSATION OR
11 IN THE EXPECTATION OF COMPENSATION EITHER DIRECTLY OR INDIRECTLY MAKES,
12 NEGOTIATES OR OFFERS TO MAKE OR NEGOTIATE A COMMERCIAL MORTGAGE LOAN.

13 3. "COMMERCIAL MORTGAGE LOAN" MEANS A LOAN THAT IS DIRECTLY OR
14 INDIRECTLY SECURED BY A MORTGAGE OR DEED OF TRUST OR ANY LIEN INTEREST ON
15 COMMERCIAL PROPERTY AND THAT IS CREATED WITH THE CONSENT OF THE OWNER OF THE
16 COMMERCIAL PROPERTY.

17 4. "COMMERCIAL PROPERTY" MEANS REAL PROPERTY THAT IS NOT A RESIDENTIAL
18 DWELLING OF ONE TO FOUR UNITS.

19 ~~2-~~ 5. "Compensation" means anything of value or any benefit,
20 including points, commissions, bonuses, referral fees, loan origination fees
21 and other similar fees but excluding periodic interest resulting from the
22 application of the note rate of interest to the outstanding principal balance
23 remaining unpaid from time to time.

24 ~~3-~~ 6. "Continuing education unit" means a fifty minute period of time
25 in a continuing education course that relates to the mortgage industry or to
26 mortgage transactions, including courses taken to maintain recognized
27 industry designations.

28 ~~4-~~ 7. "Investor" means a person who lends or invests money in
29 mortgage loans.

30 ~~5-~~ 8. "License" means a license issued under this article.

31 ~~6-~~ 9. "Licensee" means a person licensed under this article.

32 ~~7-~~ 10. "Loan originator" has the same meaning prescribed in section
33 6-991.

34 ~~8-~~ 11. "Mortgage broker" means a person who is not exempt under
35 section 6-902 and who for compensation or in the expectation of compensation
36 either directly or indirectly makes, negotiates or offers to make or
37 negotiate a mortgage loan.

38 ~~9-~~ 12. "Mortgage loan" means a loan secured by a mortgage or deed of
39 trust or any lien interest on real estate located in this state created with
40 the consent of the owner of the real estate.

41 ~~10-~~ 13. "Mortgage loan closing" means the day by which all documents
42 relating to the mortgage loan have been executed and recorded and all monies
43 have been accounted for under the terms of the escrow instructions.

44 14. "RESIDENTIAL MORTGAGE LOAN" MEANS A MORTGAGE LOAN THAT HAS SECURITY
45 IN THE FORM OF A RESIDENTIAL DWELLING OF ONE TO FOUR UNITS.

1 Sec. 3. Section 6-903, Arizona Revised Statutes, is amended to read:
2 6-903. Licensing of mortgage brokers required; qualifications;
3 application; bond; fees; renewal

4 A. A person shall not act as a mortgage broker if the person is not
5 licensed under this article. A PERSON WHO BROKERS ONLY COMMERCIAL MORTGAGE
6 LOANS SHALL OBTAIN EITHER A MORTGAGE BROKER LICENSE OR A COMMERCIAL MORTGAGE
7 BROKER LICENSE. A PERSON WHO BROKERS RESIDENTIAL MORTGAGE LOANS SHALL OBTAIN
8 A MORTGAGE BROKER LICENSE.

9 B. The superintendent shall not grant a mortgage broker's license OR A
10 COMMERCIAL MORTGAGE BROKER'S LICENSE to a person, other than a natural
11 person, who is not registered to do business in this state on the date of
12 granting the license.

13 C. An applicant for an original mortgage broker's license shall:

14 1. Have not less than three years' experience as a mortgage broker,
15 or equivalent lending experience in a related business during the five years
16 immediately preceding the time of application.

17 2. Have satisfactorily completed a course of study approved by the
18 superintendent during the three years immediately preceding the time of
19 application.

20 3. Have passed a mortgage broker's test, pursuant to section 6-908,
21 not more than one year before the granting of the license.

22 D. AN APPLICANT FOR AN ORIGINAL COMMERCIAL MORTGAGE BROKER'S LICENSE
23 SHALL:

24 1. HAVE NOT LESS THAN THREE YEARS' EXPERIENCE IN THE COMMERCIAL
25 MORTGAGE BROKER BUSINESS OR EQUIVALENT LENDING EXPERIENCE IN A RELATED
26 BUSINESS DURING THE FIVE YEARS IMMEDIATELY PRECEDING THE TIME OF APPLICATION.

27 2. HAVE MADE IN THE PAST OR INTEND TO MAKE OR NEGOTIATE OR OFFER TO
28 MAKE OR NEGOTIATE COMMERCIAL MORTGAGE LOANS.

29 3. PROVIDE THE SUPERINTENDENT WITH THE FOLLOWING:

30 (a) A BALANCE SHEET PREPARED WITHIN THE IMMEDIATELY PRECEDING SIX
31 MONTHS AND CERTIFIED BY THE LICENSEE. THE SUPERINTENDENT MAY REQUIRE A MORE
32 RECENT BALANCE SHEET.

33 (b) IF THE APPLICANT HAS BEGUN OPERATIONS, A STATEMENT OF OPERATIONS
34 AND RETAINED EARNINGS AND A STATEMENT OF CHANGES IN FINANCIAL POSITION.

35 (c) NOTES TO THE FINANCIAL STATEMENT IF APPLICABLE.

36 E. NOTWITHSTANDING SUBSECTION D, PARAGRAPH 3 OF THIS SECTION,
37 COMMERCIAL MORTGAGE BROKER LICENSEES AND COMMERCIAL MORTGAGE BROKER LICENSE
38 APPLICANTS WHOSE OWN RESOURCES ARE DERIVED EXCLUSIVELY FROM CORRESPONDENT
39 CONTRACTS WITH INSTITUTIONAL INVESTORS SHALL PROVIDE THE SUPERINTENDENT WITH
40 A CURRENT FINANCIAL STATEMENT OR THAT OF ITS PARENT COMPANY PREPARED
41 ACCORDING TO GENERALLY ACCEPTED ACCOUNTING PRINCIPLES, INCLUDING:

42 1. A BALANCE SHEET PREPARED WITHIN THE IMMEDIATELY PRECEDING SIX
43 MONTHS AND CERTIFIED BY THE LICENSEE. THE SUPERINTENDENT MAY REQUIRE A MORE
44 RECENT BALANCE SHEET.

1 2. IF THE APPLICANT HAS BEGUN OPERATIONS, A STATEMENT OF OPERATIONS
2 AND RETAINED EARNINGS AND A STATEMENT OF CHANGES IN FINANCIAL POSITION.

3 3. NOTES TO THE FINANCIAL STATEMENT IF APPLICABLE.

4 ~~E.~~ F. A person shall make an application for a license or for a
5 renewal of a license in writing on the forms, in the manner and accompanied
6 by the information prescribed by the superintendent. The superintendent may
7 require additional information on the experience, background, honesty,
8 truthfulness, integrity and competency of the applicant and any responsible
9 individual designated by the applicant. If the applicant is a person other
10 than a natural person, the superintendent may require information as to the
11 honesty, truthfulness, integrity and competency of any officer, director,
12 shareholder or other interested party of the association, corporation or
13 group.

14 ~~D.~~ G. The nonrefundable application fee and annual renewal fee are as
15 prescribed in section 6-126. The nonrefundable application fee shall
16 accompany each application for an original license only. The superintendent
17 shall deposit, pursuant to sections 35-146 and 35-147, the monies in the
18 state general fund.

19 ~~E.~~ H. If a licensee is a person other than a natural person, the
20 license issued to it entitles all officers, directors, members, partners,
21 trustees and employees of the licensed corporation, partnership, association
22 or trust to engage in the mortgage business if one officer, director, member,
23 partner, employee or trustee of the person is designated in the license as
24 the individual responsible for the person under this article. If a licensee
25 is a natural person, the license entitles all employees of the licensee to
26 engage in the mortgage business. If the natural person is not a resident of
27 this state, an employee of the licensee shall be designated in the license as
28 the individual responsible for the licensee under the provisions of this
29 article. For the purposes of this subsection, an employee does not include an
30 independent contractor. A responsible individual shall be a resident of this
31 state, shall be in active management of the activities of the licensee
32 governed by this article and shall meet the qualifications set forth in
33 subsection ~~B- C OR D~~ of this section for a licensee.

34 ~~F.~~ I. A licensee shall notify the superintendent that its responsible
35 individual will cease to be in active management of the activities of the
36 licensee within ten days of learning that fact. The licensee has ninety days
37 after the notification is received by the superintendent within which to
38 replace the responsible individual with a qualified replacement and to so
39 notify the superintendent. If the license is not placed under active
40 management of a qualified responsible individual and if notice is not given
41 to the superintendent within the ninety day period, the license of the
42 licensee expires.

43 ~~G.~~ J. Every person licensed as a mortgage broker OR A COMMERCIAL
44 MORTGAGE BROKER shall deposit with the superintendent, before doing business
45 as a mortgage broker OR A COMMERCIAL MORTGAGE BROKER, a bond executed by the

1 licensee as principal and a surety company authorized to do business in this
2 state as surety. The bond shall be conditioned on the faithful compliance of
3 the licensee, including the licensee's directors, officers, members,
4 partners, trustees and employees, with this article. The bond is payable to
5 any person injured by the wrongful act, default, fraud or misrepresentation
6 of the licensee or the licensee's employees and to this state for the benefit
7 of the person injured. Only one bond is required for any person, firm,
8 association or corporation irrespective of the number of officers, directors,
9 members, partners or trustees who are employed by or are members of such
10 firm, association or corporation. No suit may be commenced on the bond after
11 the expiration of one year following the commission of the act on which the
12 suit is based, except that claims for fraud or mistake are limited to the
13 limitation period provided in section 12-543, paragraph 3. If an injured
14 person commences an action for a judgment to collect from the bond, the
15 injured person shall notify the superintendent of the action in writing at
16 the time of the commencement of the action and shall provide copies of all
17 documents relating to the action to the superintendent on request.

18 ~~H~~ K. The bond required by this section shall be ten thousand dollars
19 for licensees whose investors are limited solely to institutional investors,
20 and fifteen thousand dollars for licensees whose investors include any
21 noninstitutional investors.

22 ~~I~~ L. For the purposes of subsection ~~H~~ K of this section:

23 1. "Institutional investor" means a state or national bank, a state or
24 federal savings and loan association, a state or federal savings bank, a
25 state or federal credit union, a federal government agency or
26 instrumentality, a quasi-federal government agency, a financial enterprise, a
27 licensed real estate broker or salesman, a profit sharing or pension trust,
28 or an insurance company.

29 2. "Investor" means any person who directly or indirectly provides to
30 a mortgage broker funds that are, or are intended to be, used in the making
31 of a loan, and any person who purchases a loan, or any interest therein, from
32 a mortgage broker or in a transaction that has been directly or indirectly
33 arranged or negotiated by a mortgage broker.

34 ~~J~~ M. Notwithstanding section 35-155, in lieu of the bond described
35 in this section, an applicant for a license or a licensee may deposit with
36 the superintendent a deposit in the form of cash or alternatives to cash in
37 the same amount as the bond required under subsection ~~G~~ J of this
38 section. The superintendent may accept any of the following as an
39 alternative to cash:

40 1. Certificates of deposits or investment certificates that are
41 payable or assigned to the state treasurer, issued by banks or savings banks
42 doing business in this state and fully insured by the federal deposit
43 insurance corporation or any successor institution.

44 2. Certificates of deposit, investment certificates or share accounts
45 that are payable or assigned to the state treasurer, issued by a savings and

1 loan association doing business in this state and fully insured by the
2 federal deposit insurance corporation or any successor institution.

3 3. Certificates of deposit, investment certificates or share accounts
4 that are payable or assigned to the state treasurer, issued by a credit union
5 doing business in this state and fully insured by the national credit union
6 administration or any successor institution.

7 ~~K~~ N. The superintendent shall deposit the cash or alternatives to
8 cash received under this section with the state treasurer. The state
9 treasurer shall hold the cash or alternatives to cash in the name of this
10 state to guarantee the faithful performance of all legal obligations of the
11 person required to post bond pursuant to this section. The person is
12 entitled to receive any accrued interest earned from the alternatives to
13 cash. The state treasurer may impose a fee to reimburse the state treasurer
14 for administrative expenses. The fee shall not exceed ten dollars for each
15 cash or alternatives to cash deposit and shall be paid by the applicant or
16 licensee. The state treasurer may prescribe rules relating to the terms and
17 conditions of each type of security provided by this section.

18 ~~L~~ O. In addition to such other terms and conditions as the
19 superintendent prescribes by rule or order, the principal amount of the
20 deposit shall be released only on written authorization of the superintendent
21 or on the order of a court of competent jurisdiction. The principal amount
22 of the deposit shall not be released before the expiration of three years
23 from the first to occur of any of the following:

- 24 1. The date of substitution of a bond for a cash alternative.
- 25 2. The surrender of the license.
- 26 3. The revocation of the license.
- 27 4. The expiration of the license.

28 ~~M~~ P. A licensee or an employee of the licensee shall not advertise
29 for or solicit mortgage business in any manner without using the name and
30 license number as issued on the mortgage broker's principal place of business
31 license, except that a licensee may employ or refer to the commonly used name
32 and any trademarks or service marks of any affiliate. If a license is issued
33 in the name of a natural person, nothing in the advertising or solicitation
34 may imply the license is in the name of another person or entity. For the
35 purposes of this subsection, "advertise" does not include business cards,
36 radio and television advertising directed at national or regional markets and
37 promotional items except if those items contain rates or terms on which a
38 mortgage loan may be obtained.

39 ~~N~~ Q. A licensee shall not employ any person unless the licensee:

- 40 1. Conducts a reasonable investigation of the background, honesty,
41 truthfulness, integrity and competency of the employee before hiring.
- 42 2. Keeps a record of the investigation for not less than two years
43 after termination.

44 ~~O~~ R. A license is not transferable or assignable and control of a
45 licensee may not be acquired through a stock purchase or other device without

1 the prior written consent of the superintendent. Written consent shall not
2 be given if the superintendent finds that any of the grounds for denial,
3 revocation or suspension of a license as set forth in section 6-905 are
4 applicable to the acquiring person. For the purposes of this subsection,
5 "control" means the power to vote more than twenty per cent of outstanding
6 voting shares of a licensed corporation, partnership, association or trust.

7 ~~P~~ S. The licensee is liable for any damage caused by any of the
8 licensee's employees while acting as an employee of the licensee.

9 ~~Q~~ T. A licensee shall comply with the requirements of section 6-114
10 relating to balloon payments.

11 ~~R~~ U. The examination and course of study requirements of this
12 section shall be waived by the superintendent for any person applying for a
13 license who, within the six months immediately prior to the submission of the
14 application, has been a licensee or a responsible person pursuant to this
15 chapter.

16 ~~S~~ V. If the applicant for renewal of a mortgage broker license is a
17 natural person, the applicant shall have satisfactorily completed twelve
18 continuing education units by a continuing education provider approved by the
19 superintendent before submitting the renewal application. If the applicant
20 is other than a natural person, the designated responsible individual shall
21 have satisfactorily completed twelve continuing education units by a
22 continuing education provider approved by the superintendent before
23 submitting the renewal application. AN APPLICANT FOR RENEWAL OF A COMMERCIAL
24 MORTGAGE BROKER LICENSE IS NOT SUBJECT TO THE CONTINUING EDUCATION
25 REQUIREMENTS PRESCRIBED BY THIS ARTICLE.

26 ~~T~~ W. A licensee who employs a loan originator shall comply with
27 section 6-991.03.

28 Sec. 4. Section 6-904, Arizona Revised Statutes, is amended to read:
29 6-904. Issuance of license; renewal; inactive status; branch
30 office license; application; fee

31 A. The superintendent, on determining that the applicant is qualified
32 and has paid the fees, shall issue a mortgage broker's license OR A
33 COMMERCIAL MORTGAGE BROKER'S LICENSE to the applicant which is evidenced by a
34 continuous certificate. The superintendent shall grant or deny a license
35 within one hundred twenty days after receipt of the completed application and
36 fees. An applicant who has been denied a license may not reapply for such a
37 license before one year from the date of the previous application.

38 B. For licenses approved on or before September 30, 2008, a licensee
39 shall pay the renewal fee on or before September 30, 2008 and on or before
40 December 31 for subsequent years beginning on or before December 31,
41 2009. Licenses not renewed by September 30, 2008 are suspended, and the
42 licensee shall not act as a mortgage broker OR A COMMERCIAL MORTGAGE BROKER
43 until the license is renewed or a new license is issued pursuant to this
44 article. A person may renew a suspended license by paying the renewal fee
45 plus twenty-five dollars for each day after September 30, 2008 that a license

1 renewal fee is not received by the superintendent and making application for
2 renewal as prescribed by the superintendent. Licenses which are not renewed
3 by October 31, 2008 expire. A license shall not be granted to the holder of
4 an expired license except as provided in this article for the issuance of an
5 original license.

6 C. For licenses approved on or before September 30, 2008, a licensee
7 may request inactive status on or before September 30, 2008 for the following
8 license year, and the license shall be placed on inactive status after
9 payment to the superintendent of the inactive status renewal fee prescribed
10 in section 6-126, subsection C and the surrender of the license to the
11 superintendent. During inactive status, an inactive licensee is not required
12 to maintain a bond and shall not act as a mortgage broker OR A COMMERCIAL
13 MORTGAGE BROKER. A licensee may not be on inactive status for more than two
14 consecutive years, nor for more than four years in any ten year period. The
15 license is deemed expired on violation of any of the limitations of this
16 subsection.

17 D. For licenses approved after or renewed on September 30, 2008, a
18 licensee shall pay the renewal fee on or before December 31, 2009 and on or
19 before December 31 of each subsequent year. Licenses not renewed by December
20 31 are suspended, and the licensee shall not act as a mortgage broker OR A
21 COMMERCIAL MORTGAGE BROKER until the license is renewed or a new license is
22 issued pursuant to this article. A person may renew a suspended license by
23 paying the renewal fee plus twenty-five dollars for each day after December
24 31 that a license renewal fee is not received by the superintendent and
25 applying for renewal as prescribed by the superintendent. A license that is
26 not renewed by January 31 expires. A license shall not be granted to the
27 holder of an expired license except as provided in this article for the
28 issuance of an original license.

29 E. For licenses approved after or renewed on September 30, 2008,
30 beginning in 2009 and each subsequent year, a licensee may request inactive
31 status for the following license year if the licensee makes the request on or
32 before December 31. The license shall be placed on inactive status after the
33 licensee pays to the superintendent the inactive status renewal fee
34 prescribed in section 6-126, subsection C and surrenders the license to the
35 superintendent. During inactive status, an inactive licensee is not required
36 to maintain a bond and shall not act as a mortgage broker OR A COMMERCIAL
37 MORTGAGE BROKER. A licensee may not be on inactive status for more than two
38 consecutive years or for more than four years in any ten year period. The
39 license expires on violation of this subsection.

40 F. An inactive licensee may return to active status notwithstanding
41 the requirements of section 6-903, ~~subsection~~ SUBSECTIONS B- C AND D by
42 making a written request to the superintendent for reactivation and paying
43 the prorated portion of the annual assessment that would have been charged to
44 the licensee. The licensee shall also provide the superintendent with proof
45 that the licensee meets all of the other requirements for acting as a

1 mortgage broker OR A COMMERCIAL MORTGAGE BROKER, including required bond
2 coverage or the deposit of a cash alternative.

3 G. A licensee shall prominently display the mortgage broker license OR
4 COMMERCIAL MORTGAGE BROKER LICENSE in the office of the mortgage broker OR
5 COMMERCIAL MORTGAGE BROKER.

6 H. Every licensed mortgage broker AND LICENSED COMMERCIAL MORTGAGE
7 BROKER shall designate and maintain a principal place of business in this
8 state for the transaction of business. The license shall specify the address
9 of the licensee's principal place of business. If a licensee wishes to
10 maintain one or more locations in addition to a principal place of business,
11 the licensee shall first obtain a branch office license from the
12 superintendent and designate a person for each branch office to oversee the
13 operations of that office. The licensee shall submit a fee as set forth in
14 section 6-126 for each branch office license. If the superintendent
15 determines that the applicant is qualified, the superintendent shall issue a
16 branch office license indicating the address of the branch office. The
17 licensee shall conspicuously display the branch office license in the branch
18 office. If the address of the principal place of business or of any branch
19 office is changed, the licensee shall immediately notify the superintendent
20 of the change and the superintendent shall endorse the change of address on
21 the license for a fee as prescribed in section 6-126.

22 Sec. 5. Section 6-991.01, Arizona Revised Statutes, is amended to
23 read:

24 6-991.01. Exemptions

25 This article does not apply to:

26 1. A natural person employed by a person who does business under any
27 other law of this state, or law of another state while regulated by an
28 agency of the other state or the United States, relating to banks, savings
29 banks, trust companies, savings and loan associations, profit sharing and
30 pension trusts, credit unions, insurance companies or consumer lenders, or
31 receiverships, including directly or indirectly making, negotiating or
32 offering to make or negotiate a mortgage loan, if the mortgage transactions
33 are regulated by the other law or are under the jurisdiction of a court.
34 Employees of subsidiaries and service corporations of these institutions are
35 exempt and are not subject to this article if preempted by federal law.

36 2. A person who is licensed pursuant to article 1, 2 or 3 of this
37 chapter.

38 3. A person who is a responsible individual as described in section
39 6-903 and who does not act as a loan originator pursuant to article 1, 2 or 3
40 of this chapter.

41 4. An employee of a commercial mortgage banker licensed pursuant to
42 article 3 of this chapter.

43 5. An employee of a person licensed pursuant to this chapter if the
44 licensee affirms in writing to the superintendent that the licensee will not

1 make or negotiate a mortgage loan that has security in the form of a
2 residential dwelling of one to four units.

3 6. A person who, as seller of real property, receives one or more
4 mortgages or deeds of trust as security for a purchase money obligation.

5 7. Any entity subject to regulation and supervision by a federal
6 banking agency, and any operating subsidiary or affiliate of the foregoing,
7 including any employee or exclusive agent of any such entity.

8 8. AN EMPLOYEE OR THE PERSON WHO IS THE RESPONSIBLE INDIVIDUAL OF A
9 FINANCIAL INSTITUTION WHO IS LICENSED PURSUANT TO ARTICLE 1, 2 OR 3 OF THIS
10 CHAPTER IF THE RESPONSIBLE INDIVIDUAL CERTIFIES IN WRITING TO THE
11 SUPERINTENDENT THAT THE EMPLOYEE OR THE RESPONSIBLE INDIVIDUAL, OR BOTH THE
12 EMPLOYEE AND THE RESPONSIBLE INDIVIDUAL, WILL ONLY ORIGINATE COMMERCIAL
13 MORTGAGE LOANS AS DEFINED IN SECTION 6-901.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 13, 2009.

Passed the House June 9, 2009

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

Passed the Senate June 23, 2009

by the following vote: 27 Ayes,

1 Nays, 2 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

15th day of July, 2009

at 8:25 o'clock A. M.

[Signature]
Secretary to the Governor

Approved this 10th day of

July 2009

at 4:53 o'clock P. M.

[Signature]
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13 day of July, 2009

at 9:15 o'clock A. M.

[Signature]
Secretary of State