CHAPTER 45

SENATE BILL 1394

AN ACT

AMENDING TITLE 6, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 6-117; AMENDING SECTIONS 6-606, 6-714, 6-903, 6-943, 6-977, 6-991.02 AND 44-282, ARIZONA REVISED STATUTES; RELATING TO THE DEPARTMENT OF INSURANCE AND FINANCIAL INSTITUTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 6, chapter 1, article 2, Arizona Revised Statutes, is amended by adding section 6-117, to read:

6-117. Assumed business name; trade name; notification; definition

A. UNLESS OTHERWISE REQUIRED BY THIS TITLE OR RULES ADOPTED BY THE DEPARTMENT, AN ENTERPRISE OR A CONSUMER LENDER IS NOT REQUIRED TO OBTAIN A SEPARATE LICENSE WHEN DOING BUSINESS UNDER AN ASSUMED NAME OR A TRADE NAME IF THE ENTERPRISE OR CONSUMER LENDER NOTIFIES THE DEPARTMENT IN WRITING, ON A FORM PRESCRIBED BY THE DIRECTOR, BEFORE USING THE ASSUMED NAME OR TRADE NAME.

B. A LICENSEE MAY NOT USE AN ASSUMED NAME OR TRADE NAME THAT EITHER:
1. IS SO SUBSTANTIALLY SIMILAR TO THE ASSUMED NAME OR TRADE NAME OF ANOTHER DEPARTMENT LICENSEE THAT IT MAY CAUSE UNCERTAINTY OR CONFUSION AMONG THE PUBLIC.
2. TENDS TO DECEIVE OR MISLEAD THE PUBLIC AS TO THE NATURE OF BUSINESS THAT THE LICENSEE CONDUCTS.

C. AN INDIVIDUAL MAY NOT USE AN ASSUMED NAME OR A TRADE NAME IF THE INDIVIDUAL IS LICENSED, CERTIFIED OR REGISTERED PURSUANT TO EITHER:
1. CHAPTER 9, ARTICLE 4 OF THIS TITLE.
2. TITLE 32, CHAPTER 36, ARTICLE 2 OR 4.

D. A PERSON USING AN ASSUMED NAME OR A TRADE NAME SHALL NOTIFY THE DIRECTOR WITHIN FIFTEEN DAYS AFTER ANY MATERIAL CHANGE TO THE INFORMATION PROVIDED IN SUBSECTION A OF THIS SECTION.

E. FOR THE PURPOSES OF THIS SECTION, "CONSUMER LENDER" HAS THE SAME MEANING PRESCRIBED IN SECTION 6-601.

Sec. 2. Section 6-606, Arizona Revised Statutes, is amended to read:

6-606. Business limited to licensed locations; restrictions

A. Except as provided in subsection B of this section, a licensee may NOT conduct the business of making consumer lender loans pursuant to this chapter under any name or at any place of business in this state other than the name and place stated in the licensee's consumer lender license or branch office license.

B. Subsection A of this section does not prohibit a licensee from:
1. Making consumer lender loans by mail or electronic means.
2. On request, making accommodations to consumers at any location requested by the consumer.
3. Conducting any administrative, loan servicing or recordkeeping activity at any other location not open to the public, if the deputy director is notified in advance of that activity.
4. Closing a consumer lender loan secured by real property at an office of a financial institution, title company, licensed escrow agent, licensed mortgage broker or licensed mortgage banker.
5. Giving a consumer an advance on a consumer revolving loan or
home equity revolving loan from any location.

6. CONDUCTING BUSINESS PURSUANT TO THIS CHAPTER UNDER AN ASSUMED
NAME OR A TRADE NAME THAT IS SUBMITTED TO THE DEPARTMENT PURSUANT TO
SECTION 6-117.

C. On approval by the deputy director, the licensee may conduct any
of the activities listed in subsection B of this section outside of this
state.

D. A licensee may change the location of its licensed office or
licensed branch office by giving written notice to the deputy director,
who shall amend the license accordingly.

E. All consumer lender loans that are made at the location of a
licensed office or branch office are subject to the requirements of
article 2 of this chapter, whether made by a licensee, any person
otherwise exempt from this chapter pursuant to section 6-602 or any other
person.

F. No licensee may NOT conduct the business of making consumer
lender loans pursuant to this chapter from within any licensed office or
branch office in which any other business not licensed pursuant to this
title is solicited or engaged in, or in association or conjunction with
any other business not licensed pursuant to this title, without giving
prior notice to the deputy director. If it appears to the deputy director
that the other business is of such a nature or is being conducted in such
a manner as to conceal an evasion of this chapter or is contrary to the
public interest or otherwise being conducted in an unlawful manner, the
deputy director may act pursuant to section 6-137 to restrict the licensee
from conducting its business in conjunction with that other business. For
the purposes of this subsection, "public interest" means the laws of this
state or of the United States or rules adopted by the deputy director.

Sec. 3. Section 6-714, Arizona Revised Statutes, is amended to
read:

6-714. Advertising
The rules and regulations of the deputy director shall include
standards and criteria for proper advertising and may include specific
prohibitions as to improper advertising by a licensee. A DEBT MANAGEMENT
COMPANY'S ADVERTISING, COMMUNICATION AND SALES MATERIALS SHALL CONTAIN THE
LICENSE NAME OR OTHER ASSUMED NAME OR TRADE NAME THAT IS SUBMITTED TO THE
DEPARTMENT PURSUANT TO SECTION 6-117.

Sec. 4. Section 6-903, Arizona Revised Statutes, is amended to
read:

6-903. Licensing of mortgage brokers required;
qualifications; application; bond; fees; renewal
A. A person shall not act as a mortgage broker if the person is not
licensed under this article. A person who brokers only commercial
mortgage loans shall obtain either a mortgage broker license or a
commercial mortgage broker license. A person who brokers residential mortgage loans shall obtain a mortgage broker license.

B. The deputy director shall not grant a mortgage broker's license or a commercial mortgage broker's license to a person, other than a natural person, who is not registered to do business in this state on the date of granting the license.

C. An applicant for an original mortgage broker's license shall:
   1. Have not less than three years' experience as a mortgage broker or loan originator or equivalent lending experience in a related business during the five years immediately preceding the time of application.
   2. Have satisfactorily completed a course of study approved by the deputy director during the three years immediately preceding the time of application.
   3. Have passed a mortgage broker's test pursuant to section 6-908.

D. An applicant for an original commercial mortgage broker's license shall:
   1. Have not less than three years' experience in the commercial mortgage broker business or equivalent lending experience in a related business during the five years immediately preceding the time of application.
   2. Have made in the past or intend to make or negotiate or offer to make or negotiate commercial mortgage loans.
   3. Provide the deputy director with the following:
      (a) A balance sheet prepared within the immediately preceding six months and certified by the licensee. The deputy director may require a more recent balance sheet.
      (b) If the applicant has begun operations, a statement of operations and retained earnings and a statement of changes in financial position.
      (c) Notes to the financial statement if applicable.

E. Notwithstanding subsection D, paragraph 3 of this section, commercial mortgage broker licensees and commercial mortgage broker license applicants whose own resources are derived exclusively from correspondent contracts with institutional investors shall provide the deputy director with a current financial statement or that of its parent company prepared according to generally accepted accounting principles, including:
   1. A balance sheet prepared within the immediately preceding six months and certified by the licensee. The deputy director may require a more recent balance sheet.
   2. If the applicant has begun operations, a statement of operations and retained earnings and a statement of changes in financial position.
   3. Notes to the financial statement if applicable.
F. A person shall make an application APPLY for a license or for a renewal of a license in writing on the forms, in the manner and accompanied by the information prescribed by the deputy director. The deputy director may require additional information on the experience, background, honesty, truthfulness, integrity and competency of the applicant and any responsible individual designated by the applicant. If the applicant is a person other than a natural person, the deputy director may require information as to the honesty, truthfulness, integrity and competency of any officer, director, shareholder or other interested party of the association, corporation or group.

G. The nonrefundable application fee and annual renewal fee are as prescribed in section 6-126. The nonrefundable application fee shall accompany each application for an original license only. The deputy director shall deposit, pursuant to sections 35-146 and 35-147, the monies in the state general fund.

H. If a licensee is a person other than a natural person, the license issued to it entitles all officers, directors, members, partners, trustees and employees of the licensed corporation, partnership, association or trust to engage in the mortgage business if one officer, director, member, partner, employee or trustee of the person is designated in the license as the individual responsible for the person under this article. If a licensee is a natural person, the license entitles all employees of the licensee to engage in the mortgage business. If the natural person is not a resident of this state, an employee of the licensee shall be designated in the license as the individual responsible for the licensee under the provisions of this article. For the purposes of this subsection, an employee does not include an independent contractor. A responsible individual shall be a resident of this state, shall be in active management of the activities of the licensee governed by this article and shall meet the qualifications set forth in subsection C or D of this section for a licensee.

I. A licensee shall notify the deputy director that its responsible individual will cease to be in active management of the activities of the licensee within ten days after learning that fact. The licensee has ninety days after the notification is received by the deputy director within which to replace the responsible individual with a qualified replacement and to so notify the deputy director. If the license is not placed under active management of a qualified responsible individual and if notice is not given to the deputy director within the ninety-day period, the license of the licensee expires.

J. Every person licensed as a mortgage broker or a commercial mortgage broker shall deposit with the deputy director, before doing business as a mortgage broker or a commercial mortgage broker, a bond executed by the licensee as principal and a surety company authorized to do business in this state as surety. The bond shall be conditioned on the
faithful compliance of the licensee, including the licensee's directors, officers, members, partners, trustees and employees, with this article. The bond is payable to any person injured by the wrongful act, default, fraud or misrepresentation of the licensee or the licensee's employees and to this state for the benefit of the person injured. Only one bond is required for any person, firm, association or corporation irrespective of the number of officers, directors, members, partners or trustees who are employed by or are members of such firm, association or corporation. No suit may NOT be commenced on the bond after the expiration of one year following the commission of the act on which the suit is based, except that claims for fraud or mistake are limited to the limitation period provided in section 12-543, paragraph 3. If an injured person commences an action for a judgment to collect from the bond, the injured person shall notify the deputy director of the action in writing at the time of the commencement of the action and shall provide copies of all documents relating to the action to the deputy director on request.

K. The bond required by this section shall be $10,000 for licensees whose investors are limited solely to institutional investors and $15,000 for licensees whose investors include any noninstitutional investors.

L. For the purposes of subsection K of this section:

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

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

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

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

2. Certificates of deposit, investment certificates or share accounts that are payable or assigned to the state treasurer, issued by a savings and loan association doing business in this state and fully
insured by the federal deposit insurance corporation or any successor institution.

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

N. The deputy director shall deposit the cash or alternatives to cash received under this section with the state treasurer. The state treasurer shall hold the cash or alternatives to cash in the name of this state to guarantee the faithful performance of all legal obligations of the person required to post bond pursuant to this section. The person is entitled to receive any accrued interest earned from the alternatives to cash. The state treasurer may impose a fee to reimburse the state treasurer for administrative expenses. The fee shall not exceed $10 for each cash or alternatives to cash deposit and shall be paid by the applicant or licensee. The state treasurer may prescribe rules relating to the terms and conditions of each type of security provided by this section.

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

1. The date of substitution of a bond for a cash alternative.
2. The surrender of the license.
3. The revocation of the license.
4. The expiration of the license.

P. A licensee or an employee of the licensee shall not advertise for or solicit mortgage business in any manner without using the LICENSE name, OR OTHER ASSUMED NAME OR TRADE NAME THAT IS SUBMITTED TO THE DEPARTMENT PURSUANT TO SECTION 6-117, and THE license number. as issued on the mortgage broker's principal place of business license, except that a licensee may employ or refer to the commonly used name and any trademarks or service marks of any affiliate. If a license is issued in the name of a natural person, nothing in the advertising or solicitation may NOT imply the license is in the name of another person or entity. For the purposes of this subsection, "advertise" does not include business cards, radio and television advertising directed at national or regional markets and promotional items except if those items contain rates or terms on which a mortgage loan may be obtained.

Q. A licensee shall not employ any person unless the licensee:
1. Conducts a reasonable investigation of the background, honesty, truthfulness, integrity and competency of the employee before hiring.
2. Keeps a record of the investigation for not less than two years after termination.

R. A license is not transferable or assignable and control of a licensee may not be acquired through a stock purchase or other device without the prior written consent of the deputy director. Written consent shall not be given if the deputy director finds that any of the grounds for denial, revocation or suspension of a license as set forth in section 6-905 are applicable to the acquiring person. For the purposes of this subsection, "control" means the power to vote more than twenty percent of outstanding voting shares of a licensed corporation, partnership, association or trust.

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

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

U. The examination and course of study requirements of this section shall be waived by the deputy director for any person applying for a license who, within the six months immediately prior to the submission of the application, has been a licensee or a responsible person pursuant to this chapter.

V. If the applicant for renewal of a mortgage broker license is a natural person, the applicant shall have satisfactorily completed twelve continuing education units by a continuing education provider approved by the deputy director before submitting the renewal application. If the applicant is other than a natural person, the designated responsible individual shall have satisfactorily completed twelve continuing education units by a continuing education provider approved by the deputy director before submitting the renewal application. An applicant for renewal of a commercial mortgage broker license is not subject to the continuing education requirements prescribed by this article.

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

Sec. 5. Section 6-943, Arizona Revised Statutes, is amended to read:

6-943. Licensing of mortgage bankers required; qualifications; application; bond; fees; renewal

A. A person shall not act as a mortgage banker if the person is not licensed under this article.

B. The deputy director shall not grant a mortgage banker's license to a person, other than a natural person, who is not registered to do business in this state on the date of application for a license. The deputy director shall not issue a mortgage banker's license or a renewal of a license to an applicant unless the applicant meets all of the requirements prescribed in subsection C of this section. The deputy director shall determine whether the applicant meets the requirements
based on the application and evidence presented at a hearing, if any, or any other evidence that the deputy director may have regarding qualifications of the applicant.

C. In order to qualify for a mortgage banker license or a renewal of a license, an applicant shall:
   1. Have not fewer than three years' experience in the business of making mortgage banking loans or equivalent lending experience in a related business. If the applicant is a person other than a natural person, the responsible individual shall meet this requirement.
   2. Have engaged or intend to engage in the business of making mortgage loans or mortgage banking loans.
   3. Either:
      (a) Be authorized to do business with any of the following:
        (i) The federal housing administration.
        (ii) The United States department of veterans affairs.
        (iii) The federal national mortgage association.
        (iv) The federal home loan mortgage corporation.
      (b) Notwithstanding paragraph 5 of this subsection, at all times have and maintain a net worth of not less than $100,000.
   4. Provide the deputy director with a current audited financial statement, or that of its parent company, THAT IS prepared by an independent certified public accountant in accordance with generally accepted accounting principles including AND THAT INCLUDES:
      (a) The certified public accountant's opinion as to the fairness of the presentation in conformity with generally accepted accounting principles.
      (b) A balance sheet prepared within the previous six months and certified by the licensee. The deputy director may require a more recent balance sheet.
      (c) A statement of operations and retained earnings and a statement of changes in financial position provided IF the applicant has commenced operations.
      (d) Notes to the financial statement if applicable.
   5. At all times have and maintain a net worth of not less than $100,000.

D. A person shall make an application APPLY for a license or for a renewal of a license in writing on the forms, in the manner and accompanied by the information prescribed by the deputy director, including the requirements prescribed in subsection C of this section. The deputy director may require additional information on the experience, background, honesty, truthfulness, integrity and competency of the applicant and any responsible individual designated by the applicant. If the applicant is a person other than a natural person, the deputy director may require information as to the honesty, truthfulness, integrity and competency of any officer, director, shareholder, member,
E. The nonrefundable application fee and annual renewal fee shall be as prescribed in section 6-126. The nonrefundable application fee shall accompany each application for an original license only.

F. If a licensee is a person other than a natural person, the license issued to it entitles all officers, directors, members, partners, trustees and employees of the licensed corporation, partnership, association or trust to engage in the mortgage banking business if one officer, director, member, partner, employee or trustee of the person is designated in the license as the individual responsible for the person under this article. If a licensee is a natural person, the license entitles all employees of the licensee to engage in the mortgage banking business. If the natural person is not a resident of this state, an employee of the licensee shall be designated in the license as the individual responsible for the licensee under this article. For the purposes of this article, an employee does not include an independent contractor. For the purposes of this article, a responsible individual shall be a resident of this state, shall be in active management of the activities of the licensee governed by this article and shall have not less than three years' experience in the business of making mortgage banking loans or equivalent experience in a related business.

G. A licensee shall notify the deputy director that its responsible individual will cease to be in active management of the licensee within ten days after learning that fact. Not more than ninety days after the deputy director receives the notice, the licensee shall place itself under the active management of a qualified responsible person and notify the deputy director. If the licensee is not placed under active management of a qualified responsible individual and if notice is not received by the deputy director within the ninety-day period, the license of the licensee expires.

H. Every person licensed as a mortgage banker shall deposit with the deputy director, before doing business as a mortgage banker, a bond executed by the licensee as principal and a surety company authorized to do business in this state as surety. The bond shall be conditioned on the faithful compliance of the licensee, including the licensee's directors, officers, members, partners, trustees and employees, with this article. Only one bond is required for a person, firm, association or corporation irrespective of the number of officers, directors, members, partners or trustees who are employed by or are members of the firm, association or corporation. The bond is payable to any person injured by the wrongful act, default, fraud or misrepresentation of the licensee and to this state for the benefit of any injured person. The coverage shall be maintained in the minimum amount prescribed in this subsection, computed on a base consisting of the total assets of the licensee plus the
unpaid balance of loans it has contracted to service for others as of the end of the licensee's fiscal year.

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<th>Base</th>
<th>Minimum Bond</th>
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<td>Not over $1,000,000</td>
<td>$25,000 for the first $500,000 plus $5,000 for each $100,000 or fraction thereof over $500,000</td>
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<tr>
<td>$1,000,001 to $10,000,000</td>
<td>$50,000 plus $5,000 for each $1,800,000 or fraction thereof over $1,000,000</td>
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<tr>
<td>$10,000,001 to $100,000,000</td>
<td>$75,000 plus $5,000 for each $18,000,000 or fraction thereof over $10,000,000</td>
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<td>$100,000,001 and over</td>
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A suit may NOT be commenced on the bond after the expiration of one year following the commission of the act on which the suit is based, except that claims for fraud or mistake are limited to the limitation period provided in section 12-543, paragraph 3. If any injured person commences an action for a judgment to collect on the bond, the injured person shall notify the deputy director of the action in writing at the time of the commencement of the action and shall provide copies of all documents relating to the action to the deputy director on request.

I. Notwithstanding subsection H of this section, the bond required shall be IS $25,000 for licensees whose investors are limited solely to institutional investors.

J. For the purposes of subsection I of this section:

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

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

K. Notwithstanding section 35-155, in lieu of the bond described in this section, an applicant for a license or a licensee may deposit with the deputy director a deposit in the form of cash or alternatives to cash in the amount prescribed in subsection H or I of this section, as applicable. The deputy director may accept any of the following as an alternative to cash:

1. Certificates of deposit or investment certificates that are payable or assigned to the state treasurer, issued by banks or savings banks doing business in this state and fully insured by the federal deposit insurance corporation or any successor institution.
2. Certificates of deposit, investment certificates or share accounts that are payable or assigned to the state treasurer, issued by a savings and loan association doing business in this state and fully insured by the federal deposit insurance corporation or any successor institution.

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

L. The deputy director shall deposit the cash or alternatives to cash received under this section with the state treasurer. The state treasurer shall hold the cash or alternatives to cash in the name of this state to guarantee the faithful performance of all legal obligations of the person required to post bond pursuant to this section. The person is entitled to receive any accrued interest earned from the alternatives to cash. The state treasurer may impose a fee to reimburse the state treasurer for administrative expenses. The fee shall not exceed $10 for each cash or alternatives to cash deposit and shall be paid by the applicant or licensee. The state treasurer may prescribe rules relating to the terms and conditions of each type of security provided by this section.

M. In addition to such other terms and conditions as the deputy director prescribes by rule or order, the principal amount of the deposit shall be released only on written authorization of the deputy director or on the order of a court of competent jurisdiction. The principal amount of the deposit shall not be released before the expiration of three years from the first to occur of any of the following:

1. The date of substitution of a bond for a cash alternative.
2. The surrender of the license.
3. The revocation of the license.
4. The expiration of the license.

N. A licensee or an employee of the licensee shall not advertise for or solicit mortgage banking business in any manner without using the LICENSE name, OR OTHER ASSUMED NAME OR TRADE NAME THAT IS SUBMITTED TO THE DEPARTMENT PURSUANT TO SECTION 6-117, and THE license number. as issued on the mortgage banker's principal place of business license, except that a licensee may also employ or refer to the commonly used name and any trademarks or service marks of any affiliate. If a license is issued in the name of a natural person, nothing in the advertising or solicitation may NOT imply that the license is in the name of another person or entity. For the purposes of this subsection, advertise does not include business cards, radio and television advertising directed at national or regional markets and promotional items except if those items contain rates or terms on which a mortgage loan or mortgage banking loan may be obtained.
O. A licensee shall not employ any person unless the licensee:

1. Conducts a reasonable investigation of the background, honesty, truthfulness, integrity and competency of the employee before hiring.

2. Keeps a record of the investigation for not less than two years after termination.

P. The licensee is liable for any damage caused by any of its employees while engaged in the business of making mortgage loans or mortgage banking loans.

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

R. Notwithstanding subsection C, paragraph 4 of this section, licensees and applicants whose own resources are derived exclusively from correspondent contracts between mortgage bankers and banks, savings banks, trust companies, savings and loan associations, credit unions, profit sharing or pension trusts, consumer lenders or insurance companies shall provide the deputy director with a current financial statement, or that of its parent company, prepared in accordance with generally accepted accounting principles including:

1. A balance sheet prepared within the previous six months and certified by the licensee. The deputy director may require a more recent balance sheet.

2. A statement of operations and retained earnings and a statement of changes in financial position provided if the applicant has commenced operations.

3. Notes to the financial statement if applicable.

S. In addition to the grounds specified in section 6-945, subsection A, failure of a licensee to operate the business of making mortgage loans or mortgage banking loans for a continuous period of twelve months or more shall constitute grounds for revocation of such license. The deputy director, on good cause shown, may extend the time for operating such business for a single fixed period, which shall not exceed twelve months.

T. If the applicant for renewal of a mortgage banker license is a natural person, the applicant shall have satisfactorily completed twelve continuing education units by a continuing education provider approved by the deputy director before submitting the renewal application. If the applicant is other than a natural person, the designated responsible individual shall have satisfactorily completed twelve continuing education units by a continuing education provider approved by the deputy director before submitting the renewal application.

U. A licensee who employs a loan originator shall comply with section 6-991.03.
Sec. 6. Section 6-977, Arizona Revised Statutes, is amended to read:

6-977. Displaying and using license number
A. A licensee shall prominently display the commercial mortgage banker license in the office of the commercial mortgage banker.
B. A licensee or an employee of the licensee shall not advertise for or solicit commercial mortgage loans in any manner without using the LICENSE name, OR OTHER ASSUMED NAME OR TRADE NAME THAT IS SUBMITTED TO THE DEPARTMENT PURSUANT TO SECTION 6-117, and THE license number. If a license is issued in the name of a natural person, nothing in the advertising or solicitation may NOT imply that the license is in the name of another person or entity. For the purposes of this subsection, "advertise" does not include business cards, radio and television advertising directed at national or regional markets and promotional items unless those items contain rates or terms on which a commercial mortgage loan may be obtained.

Sec. 7. Section 6-991.02, Arizona Revised Statutes, is amended to read:

6-991.02. Prohibited acts
A. A loan originator acting on the loan originator's own behalf shall not accept any monies or documents in connection with an application for a mortgage loan.
B. An individual is not entitled to receive compensation in connection with arranging for or negotiating a mortgage loan if the individual is not licensed pursuant to this chapter. An individual who is not specifically exempted from licensure pursuant to this article shall not engage in the business of a loan originator with respect to any dwelling in this state without first obtaining and maintaining annually a license pursuant to this article. Each licensed loan originator must register with and maintain a valid unique identifier issued by the nationwide mortgage licensing system and registry established by the secure and fair enforcement for mortgage licensing act of 2008 (P.L. 110-289; 122 Stat. 2810; 12 United States Code sections 5101 through 5116) or its successor.
C. A loan originator acting on the loan originator's own behalf shall not advertise, display, distribute, broadcast or televise, or cause or allow to be advertised, displayed, distributed, broadcast or televised, in any manner, any solicitation of mortgage business.
D. A loan originator shall not make, negotiate or offer to make or negotiate for compensation, either directly or indirectly, a loan that is either:
1. Less than the minimum amount that the loan originator's employer is allowed to make.
2. Not secured by a mortgage or deed of trust or other lien interest in real property unless employed by a consumer lender.
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E. A loan originator who is employed by a mortgage broker or mortgage banker to act in the capacity of the mortgage broker or mortgage banker shall not be employed concurrently by any other mortgage broker or mortgage banker.

F. A loan originator shall not collect compensation for rendering services as a real estate broker or real estate salesperson licensed pursuant to title 32, chapter 20 unless both of the following apply:
   1. The loan originator is licensed pursuant to title 32, chapter 20.
   2. The employing mortgage broker or mortgage banker has disclosed to the person from whom the compensation is collected at the time a mortgage loan application is received that the loan originator is receiving compensation both for mortgage broker or mortgage banker services, if applicable, and for real estate broker or real estate salesperson services.

G. A loan originator shall not accept any assignment of the borrower's wages or salary in connection with activities governed by this article.

H. A loan originator shall not receive or disburse monies in servicing or arranging a mortgage loan.

I. A loan originator shall not make a false promise or misrepresentation or conceal an essential or material fact in the course of the mortgage broker or mortgage banker business.

J. A loan originator shall not fail to truthfully account for the monies belonging to a party to a mortgage loan transaction or fail to disburse monies in accordance with the employing mortgage broker or mortgage banker agreements.

K. A loan originator shall not engage in illegal or improper business practices.

L. A loan originator shall not require a person seeking a loan secured by real property to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the property insurer.

M. A loan originator shall not originate a mortgage loan unless employed by a mortgage broker, mortgage banker or consumer lender or under an exclusive contract with an exempt person who is registered pursuant to section 6-912.

N. A loan originator shall not advertise for or solicit mortgage business in any manner without all of the following:
   1. The EMPLOYER'S name, OR OTHER ASSUMED NAME OR TRADE NAME THAT IS SUBMITTED TO THE DEPARTMENT PURSUANT TO SECTION 6-117, and THE EMPLOYER'S license number as issued on the employing mortgage broker's, mortgage banker's, consumer lender's or registered exempt person's principal place of business license.
2. Approval of the employing mortgage broker, mortgage banker, consumer lender or registered exempt person.

3. The unique identifier the loan originator maintains with the nationwide mortgage licensing system and registry established by the secure and fair enforcement for mortgage licensing act of 2008 (P.L. 110-289; 122 Stat. 2810; 12 United States Code sections 5101 through 5116) or its successor.

O. On request, a loan originator shall make available to the deputy director the books and records relating to the loan originator's operations. The deputy director may have access to the books and records and interview the officers, principals, employees, independent contractors, agents and customers of the loan originator concerning their business. In connection with a request pursuant to this subsection, a person may not knowingly withhold, abstract, remove, mutilate, destroy or secrete any books, records or other information.

P. A loan processor or underwriter who is an independent contractor may not engage in the activities of a loan processor or underwriter unless the loan processor or underwriter obtains and maintains a license pursuant to section 6-991.03. Each independent contractor loan processor or underwriter licensed as a loan originator must have and maintain a valid unique identifier.

Q. An individual engaging solely in loan processor or underwriter activities shall not represent to the public through advertising or other means of communicating that the individual can or will perform any of the activities of a loan originator.

Sec. 8. Section 44-282, Arizona Revised Statutes, is amended to read:

44-282. Licensing of sales finance companies required; penalty

A. A person shall not engage in the business of a sales finance company in this state without a sales finance company license as provided in this article. A motor vehicle dealer shall not sell or transfer any contract to a person in this state not licensed under the terms of this chapter.

B. The application for a license shall be in writing, under oath and in the form prescribed by the administrator. The application shall contain the name of the applicant, the date of incorporation if incorporated, the address where the business is or is to be conducted and similar information as to any branch office of the applicant, the name and resident address of the owners or partners or, if a corporation or association, of the directors, trustees and principal officers, and such other pertinent information the administrator may require.

C. The license fee for a sales finance company is the fee prescribed in section 6-126.
D. To coincide with the licensing of motor vehicle dealers pursuant to title 28, chapter 10, the administrator may issue a sales finance company license pursuant to this article with staggered continuation dates to distribute the continuation workload as uniformly as practicable throughout the twelve months of the calendar year. In order to initiate a staggered license continuation system, the administrator may issue a license for more or less than a twelve-month period, but not more than eighteen months, and may prorate the license fee.

E. A licensee shall submit its renewal application and applicable renewal fees to the department of insurance and financial institutions on or before the license continuation date. For the purposes of renewal, the license continuation date is as follows:

1. If the licensee is also a licensed motor vehicle dealer pursuant to title 28, chapter 10, the date prescribed by the initial licensing department, either the department of transportation or the department of insurance and financial institutions.

2. If the licensee is not also a licensed motor vehicle dealer pursuant to title 28, chapter 10, the date prescribed by the department of insurance and financial institutions.

F. A penalty of $25 per day shall be assessed against any licensee for each day after the license continuation date that the licensee's renewal application and fee are not received by the department of insurance and financial institutions. Licenses not renewed within thirty days after their license continuation date expire.

G. A license shall be obtained for each separate place of business at or from which a licensee transacts business. Each license shall specify the location of the office or branch and must be conspicuously displayed there. In case if such location is changed, the administrator shall endorse the change of location on the license on the payment of the fee prescribed in section 6-126, subsection A.

H. On the filing of the application and the payment of the required fee, the administrator shall issue a license to the applicant to engage in the business of a sales finance company under and in accordance with this article. All licenses issued under this article shall remain in full force and effect until surrendered, revoked, suspended or canceled by failure to renew under this article. A licensee shall not transact any business provided for by this article under any other name without using the license name or other assumed name or trade name that is submitted to the department pursuant to section 6-117.

I. A license is not transferable or assignable and control of a licensee may not be acquired through a stock purchase or any other device without the prior written consent of the administrator. Written consent shall not be given if the administrator finds that any of the grounds for denial, revocation or suspension of a license as set forth in section 44-283 are applicable to the acquiring person. For the purposes of this
subsection, "control" means the power to vote more than twenty percent of the outstanding voting shares of a licensed corporation, partnership, association or trust.

J. A person doing business under the laws of this state or the United States as a bank, savings bank, savings and loan association or credit union is exempt from the licensing requirements of this section but shall comply with all other requirements of this chapter, except that affiliates of banks, savings banks, savings and loan associations or credit unions shall comply with this section. For the purposes of this subsection, "affiliate" means an entity that directly or indirectly, through one or more intermediaries, controls, is controlled by or is under common control with the entity specified.

APPROVED BY THE GOVERNOR MARCH 23, 2022.