

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 31

Session of
1989

INTRODUCED BY HOLL, JANUARY 23, 1989

AS REPORTED FROM COMMITTEE ON BUSINESS AND COMMERCE, HOUSE
OF REPRESENTATIVES, AS AMENDED, JUNE 26, 1989

AN ACT

1 Providing for the regulation and licensing of mortgage bankers
2 and mortgage brokers; imposing additional powers and duties
3 on the Department of Banking AND THE STATE REAL ESTATE
4 COMMISSION; and providing penalties. <—

5 TABLE OF CONTENTS

- 6 Section 1. Short title.
- 7 Section 2. Definitions.
- 8 Section 3. License requirements and exemptions.
- 9 Section 4. Application for license.
- 10 Section 5. Annual license fee.
- 11 Section 6. Issuance of license.
- 12 Section 7. License duration.
- 13 Section 8. Licensee requirements.
- 14 Section 9. Licensee limitations.
- 15 Section 10. Authority of department OR COMMISSION. <—
- 16 Section 11. Surrender of license.
- 17 Section 12. Suspension, revocation or refusal.

1 Section 13. Penalties.

2 Section 14. Scope of act.

3 Section 15. Effective date.

4 The General Assembly of the Commonwealth of Pennsylvania
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Mortgage
8 Bankers and Brokers Act.

9 Section 2. Definitions.

10 The following words and phrases when used in this act shall
11 have the meanings given to them in this section unless the
12 context clearly indicates otherwise:

13 "Advance fee." Any funds requested by or to be paid to a
14 mortgage broker in advance of or during the processing of a
15 mortgage loan application, excluding those fees paid by an
16 applicant borrower directly to a credit agency reporting bureau,
17 title company or real estate appraiser.

18 "COMMISSION." THE STATE REAL ESTATE COMMISSION. <—

19 "Department." The Department of Banking of the Commonwealth.

20 "Licensee." A person who is licensed under this act.

21 "Mortgage banker." A person who directly or indirectly
22 originates and closes mortgage loans with its own funds in the
23 primary market.

24 "Mortgage broker." A person who directly or indirectly
25 negotiates or places mortgage loans for others in the primary
26 market.

27 "Mortgage loan." A loan which is secured by a first mortgage
28 or other similar instrument or document which creates a first
29 lien on real property, which real property is used as a one-
30 family to four-family dwelling, a portion of which may be used

1 for nonresidential purposes.

2 "Person." An individual, association, joint venture or
3 joint-stock company, partnership, limited partnership, limited
4 partnership association, business corporation, nonprofit
5 corporation, or any other group of individuals, however
6 organized.

7 "Primary market." The market wherein mortgage loans are
8 originated between a lender and a borrower.

9 Section 3. License requirements and exemptions.

10 (a) License required.--On and after the effective date of
11 this act, no person shall act as a mortgage banker or mortgage
12 broker in this Commonwealth without a license as provided for in
13 this act, provided, however, that any person licensed as a
14 mortgage banker may also act as a mortgage broker without a
15 separate license. A person licensed as a mortgage broker may
16 only perform the services of a mortgage broker as defined in
17 section 2.

18 (b) Exceptions.--The following persons shall not be required
19 to be licensed under this act in order to conduct the activities
20 of a mortgage banker or mortgage broker but shall be subject to
21 the provisions of section 9(a)(4) and, in addition, any other
22 provisions of this act as specifically provided in this section:

23 (1) A State-chartered bank, bank and trust company,
24 savings bank, private bank or national bank, a State or
25 federally chartered savings and loan association, a federally
26 chartered savings bank or a State or federally chartered
27 credit union.

28 (2) An attorney authorized to practice law in this
29 Commonwealth, who acts as a mortgage broker in negotiating or
30 placing a mortgage loan in the normal course of legal

1 practice.

2 (3) A person licensed pursuant to the provisions of the
3 act of February 19, 1980 (P.L.15, No.9), known as the Real
4 Estate Licensing and Registration Act, who is principally
5 engaged in a third-party real estate brokerage business, but
6 only to the extent that he provides information, verbal or
7 written, to or negotiates or places a mortgage loan for a
8 buyer of real estate and is not compensated by the buyer or
9 any other person for providing such information or
10 negotiating or placing such mortgage loan. If he is
11 compensated for providing such information or negotiating or
12 placing such mortgage loan, he shall be subject to the
13 provisions of sections 8, 10 and 13(b), excluding section
14 8(a)(1).

15 (4) A seller of a dwelling, if he has resided in the
16 dwelling at least one year and as part of the purchase price
17 receives a first mortgage executed by the purchaser.

18 (5) A person who either originates or negotiates less
19 than 12 mortgage loans in a calendar year in this
20 Commonwealth.

21 (6) Builders, when obtaining mortgages for their own
22 construction or for the sale of their own construction.

23 (7) Any agency or instrumentality of the Federal
24 Government or a corporation otherwise created by an act of
25 the United States Congress, including, but not limited to,
26 the Federal National Mortgage Association, the Government
27 National Mortgage Association, the Veterans' Administration,
28 the Federal Home Loan Mortgage Corporation and the Federal
29 Housing Administration.

30 (8) The Pennsylvania Housing Finance Agency.

1 (9) A licensee under the act of April 8, 1937 (P.L.262,
2 No.66), known as the Consumer Discount Company Act, except
3 that any such licensee who makes a mortgage loan other than
4 under the provisions of that act shall be subject to the
5 provisions of sections 4(b)(2) and (3), 8, 10 and 13(b) of
6 this act, excluding section 8(a)(1).

7 (10) Except for licensees described in paragraph (9),
8 subsidiaries and affiliates of the following institutions:
9 Pennsylvania State-chartered banks, bank and trust companies,
10 savings banks, private banks, savings and loan associations
11 and credit unions or national banks, federally chartered
12 savings and loan associations, federally chartered savings
13 banks and federally chartered credit unions, ~~provided such~~ <—
14 ~~institutions are located in Pennsylvania,~~ except that all
15 subsidiaries and affiliates of institutions enumerated in
16 this paragraph shall:

17 (i) be subject to the provisions of sections 8,
18 9(a)(3), 10 and 13(b) of this act excluding section
19 8(a)(1); and

20 (ii) deliver to the department annually copies of
21 financial reports made to all supervisory agencies.

22 (11) Employees of a licensee or excepted persons acting
23 for their employers.

24 (12) An insurance company, association or exchange
25 authorized to transact business in this Commonwealth under
26 the act of May 17, 1921 (P.L.682, No.284), known as The
27 Insurance Company Law of 1921, and any subsidiaries and
28 affiliates thereof, except that such subsidiaries and
29 affiliates shall:

30 (i) be subject to the provisions of sections 8,

1 9(a)(3), 10 and 13(b) of this act excluding section
2 8(a)(1); and
3 (ii) deliver to the department annually copies of
4 financial reports made to all supervisory agencies.

5 (c) Loans for business or commercial purposes.--This act
6 shall not apply to mortgage loans made for business or
7 commercial purposes.

8 Section 4. Application for license.

9 (a) Contents.--An application for a license to act as a
10 mortgage banker or mortgage broker shall be on such forms as may
11 be prescribed and provided by the department. Each application
12 shall include the address or addresses where business is to be
13 conducted, the full name, official title and business address of
14 each director and principal officer of the business and any
15 other information that may be required by the department.

16 (b) Mortgage banker's license.--The department shall issue a
17 mortgage banker's license applied for pursuant to this act if
18 the applicant establishes that he has met the following
19 conditions:

20 (1) That he is approved by or meets the current criteria
21 for approval of at least one of the following:

22 (i) Federal National Mortgage Association.

23 (ii) Federal Home Loan Mortgage Corporation.

24 (iii) Federal Housing Administration.

25 (2) That he maintains or is approved for, and will
26 continue to maintain as a licensee, a line of credit or
27 equivalent mortgage funding capability of not less than
28 \$1,000,000.

29 (3) That he has a minimum tangible net worth of \$250,000
30 at the time of application and will, at all times thereafter,

1 maintain such minimum net worth, provided, however, that
2 those applicants who were in business prior to January 1,
3 1987, may be licensed with a minimum tangible net worth of
4 \$100,000 if, in the opinion of the department, the applicant
5 has established that it has an otherwise adequate financial
6 structure and operating history.

7 (4) That he will maintain fidelity bond coverage in
8 accordance with the guidelines established by the Federal
9 National Mortgage Association or the Federal Home Loan
10 Mortgage Corporation.

11 (c) Mortgage broker's license.--The department shall issue a
12 mortgage broker's license applied for pursuant to this act if
13 the applicant establishes that he has met the following
14 conditions:

15 (1) That he is eligible to and will obtain a bond in the
16 amount of \$100,000, in a form prescribed by the regulations
17 of the department, prior to the issuance of the license, from
18 a surety company authorized to do business in this
19 Commonwealth, which bond shall run to the Commonwealth for
20 the benefit of any person injured by the wrongful act,
21 default or misrepresentation of the mortgage broker. No bond
22 shall comply with the requirements of this section unless it
23 contains a provision that it shall not be canceled for any
24 cause unless notice of intention to cancel is given to the
25 department at least 30 days before the day upon which
26 cancellation shall take effect.

27 (2) In lieu of the bond required by subsection (c)(1),
28 the applicant may deposit, with the department or with the
29 State Treasurer, bonds, notes, debentures or other
30 obligations of the United States or any agency or

1 instrumentality thereof if guaranteed by the United States,
2 or such bonds, notes, debentures or other obligations of the
3 Commonwealth or of a political subdivision thereof having a
4 market value of at least \$100,000; and it shall be the
5 obligation of the licensee to see to it that the securities
6 on deposit shall have a market value of at least \$100,000 at
7 all times. The depositor shall be entitled to receive all
8 interest and dividends thereon, and shall have the right,
9 with the approval of the department, to substitute other
10 securities for those deposited. Should the securities on
11 deposit at any time have a market value of less than
12 \$100,000, the department may revoke the license as
13 hereinafter provided. All securities deposited shall be held
14 under the same conditions and subject to the same right of
15 execution as the bond provided for in subsection (c)(1).

16 (3) Mortgage brokers who can demonstrate to the
17 satisfaction of the department that they do not accept
18 advance fees shall be exempt from the requirement of this
19 subsection.

20 (d) Foreign corporation.--If the applicant is a foreign
21 corporation, that corporation shall be authorized to do business
22 in this Commonwealth in accordance with the law of this
23 Commonwealth regulating corporations and shall maintain at least
24 one office in this Commonwealth which is the office that shall
25 be licensed as the principal place of business for the purposes
26 of this act. The corporation shall file with the application an
27 irrevocable consent, duly acknowledged, that suits and actions
28 may be commenced against that licensee in the courts of this
29 Commonwealth by the service of process of any pleading upon the
30 department in the usual manner provided for service of process

1 and pleadings by the statutes and court rules of this
2 Commonwealth. The consent shall provide that this service shall
3 be as valid and binding as if service had been made personally
4 upon the licensee in this Commonwealth. In all cases where
5 process or pleadings are served upon the department pursuant to
6 the provisions of this section, such process or pleadings shall
7 be served in triplicate; one copy shall be filed in the Office
8 of the Secretary of Banking and the others shall be forwarded by
9 the department, by certified or registered mail, return receipt
10 requested, to the last known principal place of business in the
11 Commonwealth and to the corporation's principal place of
12 business.

13 Section 5. Annual license fee.

14 An applicant shall pay to the department at the time an
15 application is filed an initial license fee of \$500 for the
16 principal place of business and an additional license fee of \$50
17 for each branch office in this Commonwealth. On or before July 1
18 of each year and thereafter, a licensee shall pay a license
19 renewal fee of \$200 for the principal place of business and an
20 additional license renewal fee of \$25 for each branch office in
21 this Commonwealth. No abatement of any license fee shall be made
22 if the license is issued for a period of less than one year. The
23 department shall be entitled to recover any cost of
24 investigation in excess of license or renewal fees from the
25 licensee or from any person who is not licensed under this act
26 but who is presumed to be engaged in business contemplated by
27 this act.

28 Section 6. Issuance of license.

29 (a) Time limit.--Within 60 days after an application is
30 received, the department shall either issue a license or, for

1 any reason for which the department may suspend, revoke or
2 refuse to renew a license as provided for by section 12, refuse
3 to issue a license.

4 (b) Appeal of denial.--If the department refuses to issue a
5 license, it shall notify the applicant, in writing, of the
6 denial and the reason therefor and of the applicant's right to
7 appeal from such action to the Commonwealth Court. An appeal
8 from the department's refusal to approve an application for a
9 license shall be filed by the applicant within 30 days of notice
10 thereof.

11 (c) Contents of license.--Each license issued by the
12 department shall specify:

13 (1) The name and address of the licensee, the address so
14 specified to be that of the licensee's principal place of
15 business within this Commonwealth.

16 (2) The licensee's reference number, which may remain
17 the same from year to year despite variations in annual
18 license numbers which may result from the renewal of licenses
19 by mechanical techniques.

20 (3) Such other information as the department shall
21 require to carry out the purposes of this act.

22 Section 7. License duration.

23 A license issued by the department shall:

24 (1) Be renewed on July 1 of each year upon payment of
25 the annual renewal fee and after a determination that the
26 licensee is conducting business in accordance with the
27 provisions of this act is made by the department. No refund
28 of any portion of the license fee shall be made if the
29 license is voluntarily surrendered to the department or
30 suspended or revoked by the department prior to its

1 expiration date.

2 (2) Be invalid if the mortgage banker's corporate
3 charter is voided in accordance with the provisions of any
4 law of this Commonwealth or any other state.

5 (3) Not be assignable by operation of law or otherwise
6 without the written consent of the department.

7 Section 8. Licensee requirements.

8 (a) Requirements on licensee.--A licensee shall:

9 (1) Conspicuously display its license at each licensed
10 place of business.

11 (2) Maintain, at its principal place of business within
12 this Commonwealth, or at such place within or outside this
13 Commonwealth, if agreed to by the Secretary of Banking OR THE <—
14 COMMISSION, either the original or a copy of such books,
15 accounts, records and documents, or electronic or other
16 similar access thereto, of the business conducted under the
17 license as may be prescribed by the department ~~to enable it~~ <—
18 OR COMMISSION TO ENABLE THEM to determine whether the <—
19 business of the licensee is being conducted in accordance
20 with the provisions of this act and the orders, rules and
21 regulations issued under this act.

22 (3) Annually, before May 1, file a report with the
23 department OR COMMISSION which shall set forth such <—
24 information as the department OR COMMISSION shall require <—
25 concerning the business conducted as a licensee during the
26 preceding calendar year. The report shall be in writing,
27 under oath, and on a form provided by the department.

28 (4) Be subject to examination by the department OR <—
29 COMMISSION at the discretion of the department OR COMMISSION <—
30 at which time the department OR COMMISSION shall have free <—

1 access, during regular business hours, to the licensee's
2 place or places of business in this Commonwealth and to all
3 instruments, documents, accounts, books and records which
4 pertain to a licensee's mortgage loan business. The
5 department OR COMMISSION may examine a licensee at any time <—
6 if the department OR COMMISSION deems such examination to be <—
7 necessary or desirable. The cost of any such examination
8 shall be borne by the licensee.

9 (5) Comply with all provisions of the act of January 30,
10 1974 (P.L.13, No.6), referred to as the Loan Interest and
11 Protection Law, provided, however, that this shall not be
12 deemed an override of section 501 of the Depository
13 Institutions Deregulation and Monetary Control Act of 1980
14 (94 Stat. 161, 12 U.S.C. § 1735f-7 note).

15 (6) Comply with the provisions of the act of December
16 23, 1983 (P.L.385, No.91), entitled "An act amending the act
17 of December 3, 1959 (P.L.1688, No.621), entitled, as amended,
18 'An act to promote the health, safety and welfare of the
19 people of the Commonwealth by broadening the market for
20 housing for persons and families of low and moderate income
21 and alleviating shortages thereof, and by assisting in the
22 provision of housing for elderly persons through the creation
23 of the Pennsylvania Housing Finance Agency as a public
24 corporation and government instrumentality; providing for the
25 organization, membership and administration of the agency,
26 prescribing its general powers and duties and the manner in
27 which its funds are kept and audited, empowering the agency
28 to make housing loans to qualified mortgagors upon the
29 security of insured and uninsured mortgages, defining
30 qualified mortgagors and providing for priorities among

1 tenants in certain instances, prescribing interest rates and
2 other terms of housing loans, permitting the agency to
3 acquire real or personal property, permitting the agency to
4 make agreements with financial institutions and Federal
5 agencies, providing for the purchase by persons of low and
6 moderate income of housing units, and approving the sale of
7 housing units, permitting the agency to sell housing loans,
8 providing for the promulgation of regulations and forms by
9 the agency, prescribing penalties for furnishing false
10 information, empowering the agency to borrow money upon its
11 own credit by the issuance and sale of bonds and notes and by
12 giving security therefor, permitting the refunding,
13 redemption and purchase of such obligations by the agency,
14 prescribing remedies of holders of such bonds and notes,
15 exempting bonds and notes of the agency, the income
16 therefrom, and the income and revenues of the agency from
17 taxation, except transfer, death and gift taxes; making such
18 bonds and notes legal investments for certain purposes; and
19 indicating how the act shall become effective,' providing for
20 homeowner's emergency assistance."

21 (7) Provide for periodic accounting of any escrow
22 accounts held by the licensee to the borrowers not less than
23 annually, showing the amounts received from the borrower and
24 the amounts disbursed.

25 (8) Refund all fees, other than those fees paid by the
26 licensee to a third party, paid by an applicant borrower when
27 a mortgage loan is not produced within the time specified by
28 the mortgage banker or mortgage broker at the rate, term and
29 overall cost agreed to by the borrower, provided, however,
30 that this provision shall not apply when the failure to

1 produce a loan is due solely to the borrower's negligence,
2 his refusal to accept and close on a loan commitment or his
3 refusal or inability to provide information necessary for
4 processing, including, but not limited to, employment
5 verifications and verifications of deposits. The licensee
6 shall disclose to the borrower, in writing, at the time of a
7 loan application which fees paid or to be paid are
8 nonrefundable.

9 (b) Accounting records.--After the effective date of this
10 act, the licensee's accounting records must be constructed and
11 maintained in compliance with generally accepted accounting
12 principles, and all of the aforementioned instruments,
13 documents, accounts, books and records shall be kept separate
14 and apart from the records of any other business conducted by
15 the licensee and shall be preserved and kept available for
16 investigation or examination by the department OR COMMISSION for <—
17 at least two years after a mortgage loan has been paid in full.
18 The provisions of this subsection shall not apply to any
19 instrument, document, account, book or record that is assigned,
20 sold or transferred to another person, nor shall the two-year
21 requirement apply to an instrument or document which must be
22 returned to a borrower at the time a mortgage loan is paid in
23 full.

24 (c) Copies.--If copies of instruments, documents, accounts,
25 books or records are maintained under subsection (a)(2), they
26 may be photostatic, microfilm or electronic copies or copies
27 provided in some other manner approved by the Secretary of
28 Banking OR THE COMMISSION, as long as access to information <—
29 required by the secretary OR COMMISSION exists electronically at <—
30 all times within this Commonwealth.

(D) LIMITED POWERS.--THE POWERS CONFERRED UPON THE COMMISSION BY THIS SECTION, EXCLUDING SUBSECTION (A)(1), SHALL ONLY BE EXERCISED BY THE COMMISSION IN RELATION TO PERSONS LICENSED PURSUANT TO THE PROVISIONS OF THE ACT OF FEBRUARY 19, 1980 (P.L.15, NO.9), KNOWN AS THE REAL ESTATE LICENSING AND REGISTRATION ACT, WHO ARE SUBJECT TO THIS SECTION UNDER SECTION 3(B)(3) AND THE EXERCISE OF SUCH POWER BY THE COMMISSION IN RELATION TO SUCH PERSONS SHALL BE EXCLUSIVE.

Section 9. Licensee limitations.

(a) Prohibitions.--A licensee shall not:

(1) Transact any business subject to the provisions of this act under any other name except those designated in its license. A licensee that changes its name or place or places of business shall immediately notify the department, which shall issue a certificate, if appropriate, to the licensee which shall specify the licensee's new name or address.

(2) Conduct any business other than any business regulated by the department in any place of business licensed pursuant to this act without at least 90 days prior written notification to the department.

(3) Disburse the proceeds of a mortgage loan in any form other than cash, electronic fund transfer, certified check or cashier's check.

(4) Pay a finder's fee, service fee or any other compensation to any person in connection with any transaction if that person is receiving compensation from any other person for any services in connection with the same transaction or the real estate transfer leading to such transaction.

(b) Authority to close loans in attorneys' and title

1 insurance companies or agencies' offices.--Nothing contained in
2 this act shall prohibit any licensee or person exempt from
3 licensure hereunder from closing any loans made under the
4 provisions of this act in the offices of attorneys-at-law
5 licensed by and located in this Commonwealth and title insurance
6 companies or agencies licensed by and located in this
7 Commonwealth.

8 Section 10. Authority of department OR COMMISSION. <—

9 ~~The department shall have the authority to:~~ <—

10 ~~(1) Issue rules and regulations and orders as may be~~
11 ~~necessary for the proper conduct of the business of a~~
12 ~~mortgage banker or a mortgage broker and for the enforcement~~
13 ~~of this act.~~

14 (A) DEPARTMENT REGULATIONS.--EXCEPT AS PROVIDED IN <—

15 SUBSECTION (B), THE DEPARTMENT SHALL, WITHIN 180 DAYS AFTER
16 FINAL ENACTMENT OF THIS ACT, ISSUE RULES AND REGULATIONS AND
17 ORDERS NECESSARY TO CARRY OUT THE PURPOSES OF THIS ACT.

18 (B) JOINT REGULATIONS.--WITHIN 180 DAYS AFTER FINAL
19 ENACTMENT OF THIS ACT, THE DEPARTMENT AND THE COMMISSION SHALL
20 JOINTLY ISSUE RULES AND REGULATIONS NECESSARY TO CARRY OUT THE
21 PURPOSES OF SECTIONS 8, 10 AND 13(B), EXCLUDING SECTION 8(A)(1).

22 (C) POWERS.--THE DEPARTMENT AND THE COMMISSION SHALL HAVE
23 THE AUTHORITY TO:

24 ~~(2)~~ (1) Examine any instrument, document, account, book, <—
25 record or file of a licensee or any other person, or make
26 such other investigation as may be necessary to administer
27 the provisions of this act.

28 ~~(3)~~ (2) Conduct administrative hearings on any matter <—
29 pertaining to this act, issue subpoenas to compel the
30 attendance of witnesses and the production of instruments,

documents, accounts, books and records at any such hearing,
which may be retained by the department OR COMMISSION until
the completion of all proceedings in connection with which
they were produced, and administer oaths and affirmations to
any person whose testimony is required. In the event a person
fails to comply with a subpoena issued by the department OR
COMMISSION or to testify on any matter concerning which he
may be lawfully interrogated, on application by the
department OR COMMISSION, the Commonwealth Court may issue an
order requiring the attendance of such person, the production
of instruments, documents, accounts, books or records or the
giving of testimony.

(D) LIMITED POWERS.--THE POWERS CONFERRED UPON THE
COMMISSION BY SUBSECTION (C) SHALL ONLY BE EXERCISED BY THE
COMMISSION IN RELATION TO PERSONS LICENSED PURSUANT TO THE
PROVISIONS OF THE ACT OF FEBRUARY 19, 1980 (P.L.15, NO.9), KNOWN
AS THE REAL ESTATE LICENSING AND REGISTRATION ACT, WHO ARE
SUBJECT TO SUBSECTION (C) UNDER SECTION 3(B)(3) AND THE EXERCISE
OF SUCH POWER BY THE COMMISSION IN RELATION TO SUCH PERSONS
SHALL BE EXCLUSIVE.

Section 11. Surrender of license.

Upon satisfying the department that all creditors have been
paid or that other arrangements satisfactory to the creditors
and the department have been made, a licensee shall surrender
its license to the department by delivering its license to the
department with written notice that the license is being
voluntarily surrendered, but such an action by a licensee shall
not affect the licensee's civil or criminal liability for acts
committed.

Section 12. Suspension, revocation or refusal.

1 (a) Departmental action.--The department may suspend, revoke
2 or refuse to renew any license issued pursuant to this act after
3 giving 30 days' written notice forwarded to the licensee's
4 principal place of business, by registered or certified mail,
5 return receipt requested, stating the contemplated action and
6 the reason therefor, if the department shall find, after the
7 licensee has had an opportunity to be heard, that the licensee
8 has:

9 (1) Made any material misstatement in his application.

10 (2) Failed to comply with or violated any provision of
11 this act or any rule, regulation or order promulgated by the
12 department pursuant to this act.

13 (3) If licensed under section 4(c)(3), accepts an
14 advance fee.

15 The hearing and notice provisions of this section shall not
16 apply if the licensee's corporate charter is voided in
17 accordance with the provisions of any law of this or any other
18 state, in which event the department may suspend or revoke the
19 license.

20 (b) Reinstatement.--The department may subsequently
21 reinstate a license which has been suspended or revoked or renew
22 a license which had previously been refused for renewal if the
23 condition which warranted the original action has been corrected
24 and the department has reason to believe that such condition is
25 not likely to occur again and the licensee satisfies the
26 requirements of this act.

27 Section 13. Penalties.

28 (a) Nonlicensees.--Any person who is not licensed by the
29 department or is not exempted from the licensing requirements in
30 accordance with the provisions of this act and who engages in

1 the business of a mortgage banker or mortgage broker commits a
2 felony of the third degree.

3 (b) Nonlicensees subject to the provisions of this act.--Any
4 person who is subject to the provisions of this act, even though
5 not licensed hereunder, who violates any of the provisions to
6 which it is subject shall be subject to a fine levied by the
7 department OR COMMISSION of up to \$2,000 for each offense. Any <—
8 such nonlicensed person who commits three or more offenses may,
9 at the discretion of the department OR COMMISSION, be prohibited <—
10 from engaging in the business of a mortgage broker or mortgage
11 banker unless licensed under this act.

12 (c) Violations by licensees.--Any person licensed under the
13 provisions of this act or any director, officer, employee or
14 agent of a licensee who shall violate the provisions of this act
15 or shall direct or consent to such violations shall be subject
16 to a fine levied by the department of up to \$2,000 for each
17 offense.

18 (D) LIMITED POWERS.--THE POWERS CONFERRED UPON THE <—
19 COMMISSION BY SUBSECTION (B) SHALL ONLY BE EXERCISED BY THE
20 COMMISSION IN RELATION TO PERSONS LICENSED PURSUANT TO THE
21 PROVISIONS OF THE ACT OF FEBRUARY 19, 1980 (P.L.15, NO.9), KNOWN
22 AS THE REAL ESTATE LICENSING AND REGISTRATION ACT, WHO ARE
23 SUBJECT TO SUBSECTION (B) UNDER SECTION 3(B)(3) AND THE EXERCISE
24 OF SUCH POWER BY THE COMMISSION IN RELATION TO SUCH PERSONS
25 SHALL BE EXCLUSIVE.

26 Section 14. Scope of act.

27 The provisions of this act shall apply to any mortgage loan
28 which is:

29 (1) negotiated, offered or otherwise transacted within
30 this Commonwealth, in whole or in part, whether by the

1 ultimate lender or any other person;
2 (2) made or executed within this Commonwealth; or
3 (3) notwithstanding the place of execution, secured by
4 real property located in this Commonwealth.
5 Section 15. Effective date.
6 This act shall take effect in 180 days.