

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1654 Session of
2009

INTRODUCED BY DALEY AND HESS, JUNE 10, 2009

SENATOR D. WHITE, BANKING AND INSURANCE, IN SENATE, AS AMENDED,
JULY 15, 2009

AN ACT

1 Amending Title 7 (Banks and Banking) of the Pennsylvania
2 Consolidated Statutes, in mortgage loan industry licensure
3 and consumer protection, further providing for scope, for
4 definitions, for license requirements, for exceptions to
5 license requirements, for general requirements, for powers of
6 licensees in mortgage loan business, for mortgage lending
7 authority and for license applications; providing for
8 prelicensing and continuing education; further providing for
9 license fees, for license issuance, for licensee
10 requirements, for administration and for sanctions; and
11 providing for procedure for determination of noncompliance
12 with Federal law.

13 The General Assembly of the Commonwealth of Pennsylvania
14 hereby enacts as follows:

15 Section 1. Section 6101 of Title 7 of the Pennsylvania
16 Consolidated Statutes is amended to read:

17 § 6101. Scope [of chapter] and short title.

18 (a) Scope.--This chapter relates to mortgage loan industry
19 licensing and consumer protection. This chapter does not apply
20 to a banking institution or federally chartered or State-
21 chartered credit union, if the primary regulator of the banking
22 institution or federally or State-chartered credit union

1 supervises the banking institution or federally or State-
2 chartered credit union.

3 (b) Short title.--This chapter shall be known and may be
4 cited as the Mortgage Licensing Act.

5 Section 2. The definitions of "branch," "finder's fee" or
6 "referral fee," "first mortgage loan," "mortgage originator,"
7 "principal place of business," "secondary mortgage loan" and
8 "tangible net worth" in section 6102 of Title 7 are amended and
9 the section is amended by adding definitions to read:

10 § 6102. Definitions.

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

14 * * *

15 "Branch." An office or other place of business, other than
16 the principal place of business, [located in this Commonwealth
17 or any other state,] where a person engages in the mortgage loan
18 business subject to this chapter.

19 "Clerical or support duties." Any of the following:

20 (1) The receipt, collection, distribution and analysis
21 of information common for the processing or underwriting of a
22 mortgage loan.

23 (2) Communicating with a consumer to obtain the
24 information necessary for the processing or underwriting of a
25 mortgage loan, to the extent that the communication does not
26 include:

27 (i) offering or negotiating mortgage loan rates or
28 terms; or

29 (ii) counseling consumers about mortgage loan rates
30 or terms.

1 * * *

2 "Dwelling." As defined in section 103(v) of the Truth in
3 Lending Act (Public Law 90-321, 15 U.S.C. § 1602(v)).

4 "Federal banking agency." Any of the following:

5 (1) The Board of Governors of the Federal Reserve
6 System.

7 (2) The Office of the Comptroller of the Currency.

8 (3) The Office of Thrift Supervision.

9 (4) The National Credit Union Administration.

10 (5) The Federal Deposit Insurance Corporation.

11 "Finder's [fee" or "referral] fee." Any payment of money or
12 other consideration for the referral of a mortgage loan to a
13 licensee, except for consideration paid for goods or facilities
14 actually furnished or services actually performed.

15 "First mortgage loan." A loan which is:

16 (1) made primarily for personal, family or household
17 use; and

18 (2) secured [in whole or in part by a] by any first lien
19 [upon any interest in real property created by a security
20 agreement, including a mortgage, indenture, deed of trust or
21 any other similar instrument or document, which real property
22 is used as a one-family to four-family dwelling, a portion of
23 which may be used for nonresidential purposes] mortgage, deed
24 of trust or equivalent consensual security interest on a
25 dwelling or on residential real estate.

26 * * *

27 "Immediate family." A parent, spouse, child, brother or
28 sister.

29 * * *

30 "Loan processor or underwriter." An individual who performs

1 clerical or support duties as an employee at the direction of
2 and subject to the supervision and instruction of a person
3 licensed or exempt from licensing under this chapter.

4 * * *

5 "Mortgage originator."

6 (1) An individual [not licensed as a mortgage lender,
7 mortgage broker or loan correspondent under this chapter who
8 solicits, accepts or offers to accept mortgage loan
9 applications, or negotiates mortgage loan terms, in other
10 than a clerical or ministerial capacity and] who [is
11 personally in direct contact, in writing, including
12 electronic messaging, or by voice communication, with
13 consumers with regard to the solicitations, acceptances,
14 offers or negotiations. The term does not include directors,
15 partners or ultimate equitable owners of 10% or more of a
16 licensee.] takes a mortgage loan application or offers or
17 negotiates terms of a mortgage loan for compensation or gain.

18 (2) The term does not include any of the following:

19 (i) An individual engaged solely as a loan processor
20 or underwriter consistent with section 6112(8) (relating
21 to exceptions to license requirements).

22 (ii) A person or entity solely involved in
23 extensions of credit relating to timeshare plans. As used
24 in this paragraph, the term "timeshare plan" has the
25 meaning given in 11 U.S.C. § 101(53D) (relating to
26 definitions).

27 (3) Except as set forth in paragraph (4), the term does
28 not include an employee of a licensee or person exempt or
29 excepted from licensure under this chapter who solely
30 renegotiates terms for existing mortgage loans held or

1 serviced by that licensee or person and who does not
2 otherwise act as a mortgage originator.

3 (4) The exclusion under paragraph (3) shall not apply if
4 the Department of Housing and Urban Development or a court of
5 competent jurisdiction determines that the S.A.F.E. Mortgage
6 Licensing Act of 2008 (110 Stat. 289, 12 U.S.C. § 5101 et
7 seq.) requires such an employee to be licensed as a mortgage
8 originator under state laws implementing the S.A.F.E.
9 Mortgage Licensing Act of 2008. This paragraph is subject to
10 section 6154 (relating to procedure for determination of
11 noncompliance with Federal law).

12 "Nationwide Mortgage Licensing System and Registry." The
13 licensing system developed and maintained by the Conference of
14 State Bank Supervisors and the American Association of
15 Residential Mortgage Regulators.

16 "Net worth." Assets less liabilities and assets unacceptable
17 to the United States Department of Housing and Urban Development
18 for purposes of complying with 24 CFR § 202.5(n) (relating to
19 general approval standards) or 202.8(b)(1) (relating to loan
20 correspondent lenders and mortgagees), as applicable.

21 "Nontraditional mortgage loan." A mortgage loan other than a
22 30-year fixed rate mortgage loan.

23 * * *

24 "Principal place of business." The primary office of a
25 person [located in this Commonwealth,] which is staffed on a
26 full-time basis and at which the person's books, records,
27 accounts and documents are maintained.

28 "Registered mortgage loan originator." An individual who
29 complies with all of the following paragraphs:

30 (1) Meets the definition of mortgage originator and is

1 an employee of:

2 (i) a banking institution or federally chartered or
3 State-chartered credit union;

4 (ii) a subsidiary owned and controlled by a
5 federally chartered or State-chartered credit union and
6 supervised by a Federal banking agency; or

7 (iii) an institution regulated by the Farm Credit
8 Administration.

9 (2) Is registered with and maintains a unique identifier
10 through the Nationwide Mortgage Licensing System and
11 Registry.

12 "Residential real estate." Real property upon which is
13 constructed or intended to be constructed a dwelling.

14 "Secondary mortgage loan." A loan which is:

15 (1) made primarily for personal, family or household
16 use; and

17 (2) secured [in whole or in part by a first] by any
18 secondary lien [upon any interest in real property created by
19 a security agreement, including a mortgage, indenture, deed
20 of trust or any other similar instrument or document, which
21 real property is subject to a prior lien and which is used as
22 a one-family to four-family dwelling, a portion of which may
23 be used for nonresidential purposes] mortgage, deed of trust
24 or equivalent consensual security interest on a dwelling or
25 on residential real estate.

26 * * *

27 "Service mortgage loan." A collecting or remitting payment
28 for another, or the right to collect or remit payments for
29 another, of principal, interest, tax, insurance or other payment
30 under a mortgage loan.

1 ["Tangible net worth." Net worth less the following assets:

2 (1) That portion of any assets pledged to secure
3 obligations of any person other than that of the applicant.

4 (2) Any asset, except construction loan receivables
5 secured by first mortgages from related companies, due from
6 officers or stockholders of the applicant or related
7 companies in which the applicant's officers or stockholders
8 have an interest.

9 (3) That portion of the value of any marketable
10 security, listed or unlisted, not shown at the lower of the
11 cost or market value, except for any shares of Federal
12 National Mortgage Association stock required to be held under
13 a servicing agreement, which are carried at cost.

14 (4) Any amount in excess of the lower of the cost or
15 market value of mortgages in foreclosures, construction loans
16 or foreclosed property acquired by the applicant through
17 foreclosure.

18 (5) Any investment shown on the balance sheet in the
19 applicant's joint ventures, subsidiaries, affiliates or
20 related companies which is greater than the value of the
21 assets at equity.

22 (6) Goodwill.

23 (7) The value placed on insurance renewals or property
24 management contract renewals or other similar intangibles of
25 the applicant.

26 (8) Organization costs of the applicant.

27 (9) The value of any servicing contracts held by the
28 applicant not determined in accordance with the American
29 Institute of Certified Public Accountants Statement of
30 Position 76-2, dated August 25, 1976, or subsequent revisions

1 thereto.

2 (10) Any real estate held for investment where
3 development will not start within two years from the date of
4 its initial acquisition.

5 (11) Any leasehold improvements not being amortized over
6 the lesser of the expected life of the asset or the remaining
7 term of the lease.

8 (12) Any fees paid or collected which are not
9 recoverable through the closing or selling of loans.]

10 "Unique identifier." A number or other identifier assigned
11 by the Nationwide Mortgage Licensing System and Registry.

12 * * *

13 Section 3. Sections 6111(a) and (b) and 6112(2), (3), (4),
14 (5), (6), (7), (8), (9), (10), (11) and (12) of Title 7 are
15 amended to read:

16 § 6111. License requirements.

17 (a) General rule.--Except as provided under subsections (b)
18 and (c) and section 6112 (relating to exceptions to license
19 requirements), on and after the effective date of this section,
20 no person shall engage in the mortgage loan business in this
21 Commonwealth without being licensed as a mortgage broker,
22 mortgage lender, mortgage loan correspondent or mortgage
23 originator as provided under this chapter. A mortgage originator
24 may not engage in the mortgage loan business unless the mortgage
25 originator is employed and supervised by a licensed mortgage
26 broker, mortgage lender or mortgage loan correspondent, person
27 excepted from this chapter or person excepted from licensure
28 under section 6112.

29 (b) Licensed activity exceptions.--

30 (1) A mortgage lender may act as a mortgage broker or

1 mortgage loan correspondent without a separate mortgage
2 broker or mortgage loan correspondent license [and, if
3 licensed as an individual, may perform the services of a
4 mortgage originator without a separate mortgage originator
5 license].

6 (2) A mortgage loan correspondent may act as a mortgage
7 broker without a separate mortgage broker license [and, if
8 licensed as an individual, may perform the services of a
9 mortgage originator without a separate mortgage originator
10 license].

11 (3) A person licensed as a mortgage broker may only
12 perform the services of a mortgage broker. [If a mortgage
13 broker is licensed as an individual, a mortgage broker may
14 perform the services of a mortgage originator without a
15 separate mortgage originator license.]

16 * * *

17 § 6112. Exceptions to license requirements.

18 The following persons shall not be required to be licensed
19 under this chapter in order to conduct the mortgage loan
20 business:

21 * * *

22 (2) An attorney [authorized to practice law in this
23 Commonwealth] at law not otherwise engaged in or holding
24 himself or herself out to the public as being engaged in the
25 mortgage loan business who acts as a mortgage broker or a
26 mortgage originator in negotiating or placing a mortgage loan
27 in the normal course of legal practice. The exception under
28 this paragraph shall not apply if the attorney is compensated
29 by any of the following:

30 (i) A mortgage broker.

1 (ii) A mortgage lender.

2 (iii) A mortgage loan correspondent.

3 (iv) A person excepted from licensure under this
4 section.

5 (v) A mortgage originator.

6 (vi) An agent of a person listed in subparagraphs
7 (i) through (v).

8 (3) A person who [either originates,] offers or
9 negotiates [or services less than three mortgage loans in a
10 calendar year in this Commonwealth, unless the person is
11 otherwise deemed to be engaged in the mortgage loan business
12 by the department] terms of a mortgage loan with or on behalf
13 of or makes a mortgage loan to a member of the person's
14 immediate family.

15 (4) Any agency or instrumentality of the Federal
16 Government or a corporation otherwise created by an act of
17 the United States Congress, including the Federal National
18 Mortgage Association, the Government National Mortgage
19 Association, the Veterans' Administration, the Federal Home
20 Loan Mortgage Corporation and the Federal Housing
21 Administration. To qualify for the exception under this
22 paragraph, the agency or instrumentality must:

23 (i) in the same manner as a mortgage lender, obtain
24 and maintain bond coverage for mortgage originators
25 consistent with section 6131(c)(5) (relating to
26 application for license) and file an annual report
27 consistent with section 6135(a)(3) (relating to licensee
28 requirements); or

29 (ii) annually, in a form acceptable to the
30 department, demonstrate to the department that all of the

1 mortgage originators employed by the agency or
2 instrumentality have obtained and maintained the bond
3 coverage required by section 6131(f)(4).

4 (5) Any agency or instrumentality of a state or local
5 government, the District of Columbia or any territory of the
6 United States, including the Pennsylvania Housing Finance
7 Agency and other government housing finance agencies. To
8 qualify for the exception under this paragraph, the agency or
9 instrumentality must:

10 (i) in the same manner as a mortgage lender, obtain
11 and maintain bond coverage for mortgage originators
12 consistent with section 6131(c)(5) and file an annual
13 report consistent with section 6135(a)(3); or

14 (ii) annually, in a form acceptable to the
15 department, demonstrate to the department that all of the
16 mortgage originators employed by the agency or
17 instrumentality have obtained and maintained the bond
18 coverage required by section 6131(f)(4).

19 (6) Consumer discount companies, except that a consumer
20 discount company that acts as a mortgage broker, mortgage
21 lender or mortgage loan correspondent other than under the
22 provisions of the act of April 8, 1937 (P.L.262, No.66),
23 known as the Consumer Discount Company Act, shall be subject
24 to the provisions of Subchapter C (relating to mortgage loan
25 business restrictions and requirements) and sections 6131(c)
26 (2) [and], (3) [(relating to application for license)] AND ←
27 (5), 6135 (relating to licensee requirements) ~~and (5), 6138~~ ←
28 (relating to authority of department) and 6140(b) (relating
29 to penalties). Employees of licensees under the Consumer
30 Discount Company Act that act as mortgage originators shall

1 be subject to the licensing requirements of this chapter.
2 Consumer discount companies that employ mortgage originators
3 shall be subject to the same requirements as mortgage lenders
4 in regard to the employment and supervision of mortgage
5 originators.

6 (7) [Except for consumer discount companies, affiliates]
7 Affiliates of banking institutions and subsidiaries and
8 affiliates of federally chartered or State-chartered credit
9 unions[, except that such]. The exception under this
10 paragraph does not apply to consumer discount companies.
11 Notwithstanding the exception under this paragraph,
12 subsidiaries and affiliates of federally chartered or State-
13 chartered credit unions and affiliates of banking
14 institutions shall:

15 (i) be subject to the provisions of Subchapter C and
16 sections 6135(a)(2), (3) and (4), (b) and (c), 6138 and
17 6140(b);

18 (ii) deliver as required to the department annually
19 copies of financial reports made to all supervisory
20 agencies; [and]

21 (iii) be registered with the department; and

22 (iv) with the exception of subsidiaries of federally
23 chartered or State-chartered credit unions, in the same
24 manner as a mortgage lender, obtain and maintain bond
25 coverage for mortgage originators consistent with section
26 6131(c)(5).

27 (8) Employees of a mortgage broker, mortgage lender or
28 mortgage loan correspondent, [to the extent that the
29 employees] or a person excepted from licensure under this
30 section who:

1 (i) engage solely in loan processor or underwriter
2 activities, and do not represent to the public, through
3 advertising or other means of communicating or providing
4 information, including the use of business cards,
5 stationery, brochures, signs, rate lists or other
6 promotional items, that they can or will perform any of
7 the activities of a mortgage originator; or

8 (ii) are not otherwise required to be licensed as
9 mortgage originators.

10 (9) [Employees of excepted persons enumerated under this
11 section, unless otherwise provided under this subsection.]
12 Registered mortgage loan originators when acting on behalf of
13 their employers.

14 [(10) A person that makes a mortgage loan to the
15 person's employee as an employment benefit if the person does
16 not hold itself out to the public as a mortgage lender.] ~~To~~
17 ~~qualify for the exception under this paragraph, the person~~
18 ~~must:~~

19 ~~(i) in the same manner as a mortgage lender, obtain~~
20 ~~and maintain bond coverage for mortgage originators~~
21 ~~consistent with section 6131(c)(5) and file an annual~~
22 ~~report consistent with section 6135(a)(3); or~~

23 ~~(ii) annually, in a form acceptable to the~~
24 ~~department, demonstrate to the department that all of the~~
25 ~~mortgage originators employed by the person have obtained~~
26 ~~and maintained the bond coverage required by section~~
27 ~~6131(f)(4).~~

28 (11) Nonprofit corporations not otherwise engaged in or
29 holding themselves out to the public as being engaged in the
30 mortgage loan business making mortgage loans to promote home

1 ownership or improvements for the disadvantaged. To qualify
2 for the exception under this paragraph, the nonprofit
3 corporation must:

4 (i) in the same manner as a mortgage lender, obtain
5 and maintain bond coverage for mortgage originators
6 consistent with section 6131(c)(5) and file an annual
7 report consistent with section 6135(a)(3); or

8 (ii) annually, in a form acceptable to the
9 department, demonstrate to the department that all of the
10 mortgage originators employed by the nonprofit
11 corporation have obtained and maintained the bond
12 coverage required by section 6131(f)(4).

13 (12) A nonprofit corporation not otherwise engaged in or
14 holding itself out to the public as being engaged in the
15 mortgage loan business which meets all of the following
16 subparagraphs:

17 (i) Does not make more than 12 mortgage loans in a
18 calendar year with its own funds, not including funds
19 borrowed through warehouse lines of credit or other
20 sources for the purpose of making mortgage loans.

21 (ii) Makes mortgage loans which are retained in the
22 corporation's own portfolios and not regularly sold to
23 others and are made to promote and advance the cultural
24 traditions and lifestyles of bona fide religious
25 organizations.

26 (iii) Does either of the following:

27 (A) In the same manner as a mortgage lender,
28 obtains and maintains bond coverage for mortgage
29 originators consistent with section 6131(c)(5) and
30 files an annual report consistent with section

1 6135(a)(3).

2 (B) Annually, in a form acceptable to the
3 department, demonstrates to the department that all
4 of the mortgage originators employed by the nonprofit
5 corporation have obtained and maintained the bond
6 coverage required by section 6131(f)(4).

7 Section 4. Section 6121 of Title 7 is amended by adding a
8 paragraph to read:

9 § 6121. General requirements.

10 A licensee shall do all of the following:

11 * * *

12 (14) In the case of a mortgage originator, clearly
13 display the mortgage originator's unique identifier on all
14 mortgage loan application forms and personal solicitations or
15 advertisements, including business cards.

16 Section 5. Section 6122(a)(1) of Title 7 is amended and the
17 subsection is amended by adding paragraphs to read:

18 § 6122. Powers conferred on certain licensees engaged in the
19 mortgage loan business.

20 (a) Mortgage lenders.--If they are in compliance with the
21 provisions of this chapter, mortgage lenders shall have the
22 power and authority:

23 (1) To make first and secondary mortgage loans and,
24 subject to the limitations of this chapter, to charge and
25 collect [application] interest, origination fees and
26 delinquency charges for the loans.

27 * * *

28 (6) To collect reasonable attorney fees of an attorney
29 at law upon the execution of the mortgage loan if the fees:
30 (i) represent actual fees charged the licensee in

1 connection with the mortgage loan; and
2 (ii) are evidenced by a statement for services
3 rendered addressed to the licensee; and
4 (iii) are included in the principal of the mortgage
5 loan.

6 (7) To collect reasonable attorney fees of an attorney
7 at law in the collection of a delinquent mortgage loan and to
8 collect court costs incurred in the collection of the
9 mortgage loan.

10 * * *

11 Section 6. Section 6125(b)(2)(ii) of Title 7 is amended to
12 read:

13 § 6125. Mortgage lending authority.

14 * * *

15 (b) Secondary mortgage loans.--Mortgage lenders engaged in
16 the secondary mortgage loan business may:

17 * * *

18 (2) * * *

19 (ii) charge and collect an [application] origination
20 fee not exceeding 3% of the original principal amount of
21 the secondary mortgage loan. The fee shall be fully
22 earned at the time the secondary mortgage loan is made
23 and may be added to the principal amount of the secondary
24 mortgage loan. No [application] origination fee may be
25 collected on subsequent advances made pursuant to an
26 open-end loan if the full fee of 3% of the credit limit
27 was collected at the time the open-end loan was made;

28 [or] and

29 * * *

30 Section 7. Section 6131(a) introductory paragraph, (c)(3),

1 (d), (e) (2), (f), (g), (h) and (i) (1) of Title 7 are amended,
2 subsections (c) and (e) are amended by adding paragraphs and the
3 section is amended by adding a subsection to read:

4 § 6131. Application for license.

5 (a) Contents.--An application for a license under this
6 chapter shall be on a form prescribed and provided by the
7 department. Consistent with sections 202 E and 405 F(1) of the
8 act of May 15, 1933 (P.L.565, No.111), known as the Department
9 of Banking Code, all applicants and licensees shall use the
10 Nationwide Mortgage Licensing System and Registry to obtain and
11 maintain licenses under this chapter.

12 * * *

13 (c) Mortgage lender license.--The department shall issue a
14 mortgage lender license applied for under this chapter if the
15 applicant has:

16 * * *

17 (3) Established a minimum [tangible] net worth of
18 \$250,000 at the time of application and will, at all times
19 thereafter, maintain the minimum [tangible] net worth.

20 * * *

21 (5) Obtained and will maintain a surety bond in an
22 amount that will provide coverage for the mortgage
23 originators employed by the applicant or licensee, in a form
24 acceptable to the department, prior to the issuance of the
25 license, from a surety company authorized to do business in
26 this Commonwealth. The following shall apply:

27 (i) The amount of the bond shall be:

28 (A) \$100,000 for an applicant or licensee whose
29 mortgage originators will originate or originated
30 less than \$30,000,000 in mortgage loans secured by

1 Pennsylvania real property in a calendar year;

2 (B) \$200,000 for an applicant or licensee whose
3 mortgage originators will originate or originated
4 \$30,000,000 to \$99,999,999.99 in mortgage loans
5 secured by Pennsylvania real property in a calendar
6 year;

7 (C) \$300,000 for an applicant or licensee whose
8 mortgage originators will originate or originated
9 \$100,000,000 to \$249,999,999.99 in mortgage loans
10 secured by Pennsylvania real property in a calendar
11 year; and

12 (D) \$500,000 for an applicant or licensee whose
13 mortgage originators will originate or originated
14 \$250,000,000 or more in mortgage loans secured by
15 Pennsylvania real property in a calendar year.

16 (ii) For an initial license applicant, the amount of
17 the bond shall be determined by the applicant's
18 anticipated amount of mortgage loans secured by
19 Pennsylvania residential real estate originated by its
20 mortgage originators in the first calendar year of
21 licensing. For a licensee, the amount of the bond shall
22 be determined annually by the department based upon the
23 amount of mortgage loans secured by Pennsylvania
24 residential real estate originated by the licensee's
25 mortgage originators as indicated on the licensee's
26 annual report.

27 (iii) The bond shall run to the Commonwealth and
28 shall be for the use of the Commonwealth and for the use
29 of any consumer who is injured by the acts or omissions
30 of the licensee's mortgage originators that are related

1 to the mortgage loan business regulated by this chapter.
2 No bond shall comply with the requirements of this
3 section unless it contains a provision that it shall not
4 be canceled for any cause unless notice of intention to
5 cancel is given to the department at least 30 days before
6 the day upon which cancellation shall take effect.
7 Cancellation of the bond shall not invalidate the bond
8 regarding the period of time it was in effect.

9 (d) Mortgage loan correspondent license.--The department
10 shall issue a loan correspondent's license applied for under
11 this chapter if the applicant:

12 (1) Obtains and will maintain a bond in the amount of
13 \$100,000, in a form acceptable to the department, prior to
14 the issuance of the license, from a surety company authorized
15 to do business in this Commonwealth. The bond shall run to
16 the Commonwealth and shall be for the use of the Commonwealth
17 and any person or persons who obtain a judgment against the
18 mortgage loan correspondent for failure to carry out the
19 terms of any provision for which advance fees are paid. No
20 bond shall comply with the requirements of this section
21 unless it contains a provision that it shall not be canceled
22 for any cause unless notice of intention to cancel is given
23 to the department at least 30 days before the day upon which
24 cancellation shall take effect. A mortgage loan correspondent
25 who can demonstrate to the satisfaction of the department
26 that the correspondent does not and will not accept advance
27 fees shall be exempt from the bond requirement of this
28 paragraph.

29 (2) Establishes a minimum [tangible] net worth of
30 \$100,000 at the time of application and will, at all times

1 thereafter, maintain the minimum [tangible] net worth.

2 (3) Obtains and will maintain a surety bond in an amount
3 that will provide coverage for the mortgage originators
4 employed by the applicant or licensee, in a form acceptable
5 to the department, prior to the issuance of the license, from
6 a surety company authorized to do business in this
7 Commonwealth. The following shall apply:

8 (i) The amount of the bond shall be \$100,000 for an
9 applicant or licensee whose mortgage originators will
10 originate or originated less than \$30,000,000 in mortgage
11 loans secured by Pennsylvania residential real estate in
12 a calendar year, \$200,000 for an applicant or licensee
13 whose mortgage originators will originate or originated
14 \$30,000,000 to \$99,999,999.99 in mortgage loans secured
15 by Pennsylvania residential real estate in a calendar
16 year, \$300,000 for an applicant or licensee whose
17 mortgage originators will originate or originated
18 \$100,000,000 to \$249,999,999.99 in mortgage loans secured
19 by Pennsylvania residential real estate in a calendar
20 year and \$500,000 for an applicant or licensee whose
21 mortgage originators will originate or originated
22 \$250,000,000 or more in mortgage loans secured by
23 Pennsylvania residential real estate in a calendar year.

24 (ii) For an initial license applicant, the amount of
25 the bond shall be determined by the applicant's
26 anticipated amount of mortgage loans secured by
27 Pennsylvania residential real estate originated by its
28 mortgage originators in the first calendar year of
29 licensing. For a licensee, the amount of the bond shall
30 be determined annually by the department based upon the

1 amount of mortgage loans secured by Pennsylvania
2 residential real estate originated by the licensee's
3 mortgage originators as indicated on the licensee's
4 annual report.

5 (iii) The bond shall run to the Commonwealth and
6 shall be for the use of the Commonwealth and for the use
7 of any consumer who is injured by the acts or omissions
8 of the licensee's mortgage originators that are related
9 to the mortgage loan business regulated by this chapter.
10 No bond shall comply with the requirements of this
11 section unless it contains a provision that it shall not
12 be canceled for any cause unless notice of intention to
13 cancel is given to the department at least 30 days before
14 the day upon which cancellation shall take effect.
15 Cancellation of the bond shall not invalidate the bond
16 regarding the period of time it was in effect.

17 (e) Mortgage broker license.--

18 * * *

19 (2) Mortgage brokers who can demonstrate to the
20 satisfaction of the department that they do not and will not
21 accept advance fees shall be exempt from the bond requirement
22 of [this subsection] paragraph (1).

23 (3) A mortgage broker shall obtain and maintain a surety
24 bond in an amount that will provide coverage for the mortgage
25 originators employed by the applicant or licensee, in a form
26 acceptable to the department, prior to the issuance of the
27 license, from a surety company authorized to do business in
28 this Commonwealth. The following shall apply:

29 (i) The amount of the bond shall be \$50,000 for an
30 applicant or licensee whose mortgage originators will

1 originate or originated less than \$15,000,000 in mortgage
2 loans secured by Pennsylvania residential real estate in
3 a calendar year, \$75,000 for an applicant or licensee
4 whose mortgage originators will originate or originated
5 \$15,000,000 to \$29,999,999.99 in mortgage loans secured
6 by Pennsylvania residential real estate in a calendar
7 year, \$100,000 for an applicant or licensee whose
8 mortgage originators will originate or originated
9 \$30,000,000 to \$49,999,999.99 in mortgage loans secured
10 by Pennsylvania residential real estate in a calendar
11 year, and \$150,000 for an applicant or licensee whose
12 mortgage originators will originate or originated
13 \$50,000,000 or more in mortgage loans secured by
14 Pennsylvania residential real estate in a calendar year.

15 (ii) For an initial license applicant, the amount of
16 the bond shall be determined by the applicant's
17 anticipated amount of mortgage loans secured by
18 Pennsylvania residential real estate originated by its
19 mortgage originators in the first calendar year of
20 licensing. For a licensee, the amount of the bond shall
21 be determined annually by the department based upon the
22 amount of mortgage loans secured by Pennsylvania
23 residential real estate originated by the licensee's
24 mortgage originators as indicated on the licensee's
25 annual report.

26 (iii) The bond shall run to the Commonwealth and
27 shall be for the use of the Commonwealth and for the use
28 of any consumer who is injured by the acts or omissions
29 of the licensee's mortgage originators that are related
30 to the mortgage loan business regulated by this chapter.

1 No bond shall comply with the requirements of this
2 section unless it contains a provision that it shall not
3 be canceled for any cause unless notice of intention to
4 cancel is given to the department at least 30 days before
5 the day upon which cancellation shall take effect.
6 Cancellation of the bond shall not invalidate the bond
7 regarding the period of time it was in effect.

8 (f) Mortgage originator license.--[A mortgage originator
9 shall be an employee of a single mortgage broker, mortgage
10 lender or mortgage loan correspondent licensed under this
11 chapter, which licensee shall directly supervise, control and
12 maintain responsibility for the acts and omissions of the
13 mortgage originator. A mortgage originator shall be assigned to
14 and work out of a licensed location of the employer licensee.] A
15 mortgage originator shall do all of the following:

16 (1) Be an employee of a single licensed mortgage broker,
17 mortgage lender or mortgage loan correspondent, a person
18 excepted from this chapter or a person excepted from
19 licensure under section 6112 (relating to exceptions to
20 license requirements). The licensee or person shall directly
21 supervise, control and maintain responsibility for the acts
22 and omissions of the mortgage originator.

23 (2) Be assigned to and work out of a licensed location
24 of the employer licensee or a location of an employer person
25 excepted from this chapter or excepted from licensure under
26 section 6112.

27 (3) Maintain a valid unique identifier issued by the
28 Nationwide Mortgage Licensing System and Registry.

29 (4) If a person excepted from this chapter or excepted
30 from licensure under section 6112 does not elect to maintain

1 bond coverage for its mortgage originators in the same manner
2 as a mortgage lender, a mortgage originator employed by a
3 person excepted from this chapter or excepted from licensure
4 under section 6112 shall obtain and maintain a surety bond in
5 an amount that will provide coverage for the mortgage
6 originator, in a form acceptable to the department, prior to
7 the issuance of the license, from a surety company authorized
8 to do business in this Commonwealth. The following shall
9 apply:

10 (i) The amount of the bond shall be \$25,000 for an
11 applicant or licensee who will originate or originated
12 less than \$7,500,000 in mortgage loans secured by
13 Pennsylvania residential real estate in a calendar year,
14 \$50,000 for an applicant or licensee who will originate
15 or originated \$7,500,000 to \$14,999,999.99 in mortgage
16 loans secured by Pennsylvania residential real estate in
17 a calendar year, \$75,000 for an applicant or licensee who
18 will originate or originated \$15,000,000 to
19 \$29,999,999.99 in mortgage loans secured by Pennsylvania
20 residential real estate in a calendar year, \$100,000 for
21 an applicant or licensee who will originate or originated
22 \$30,000,000 to \$49,999,999.99 in mortgage loans secured
23 by Pennsylvania residential real estate in a calendar
24 year and \$150,000 for an applicant or licensee who will
25 originate or originated \$50,000,000 or more in mortgage
26 loans secured by Pennsylvania residential real estate in
27 a calendar year.

28 (ii) For an initial license applicant, the amount of
29 the bond shall be determined by the applicant's
30 anticipated amount of mortgage loans secured by

1 Pennsylvania residential real estate originated in the
2 first calendar year of licensing. For a licensee, the
3 amount of the bond shall be determined annually by the
4 department based upon the amount of mortgage loans
5 secured by Pennsylvania residential real estate
6 originated by the mortgage originator as indicated on the
7 mortgage originator's annual report.

8 (iii) The bond shall run to the Commonwealth and
9 shall be for the use of the Commonwealth and for the use
10 of any consumer who is injured by the acts or omissions
11 of the mortgage originator that are related to the
12 mortgage loan business regulated by this chapter. No bond
13 shall comply with the requirements of this section unless
14 it contains a provision that it shall not be canceled for
15 any cause unless notice of intention to cancel is given
16 to the department at least 30 days before the day upon
17 which cancellation shall take effect. Cancellation of the
18 bond shall not invalidate the bond regarding the period
19 of time it was in effect.

20 [(g) Education.--

21 (1) In order to obtain a license under this chapter, an
22 applicant shall submit to the department with its application
23 evidence that the applicant, in the case of a mortgage
24 originator applicant, or a director, partner or ultimate
25 equitable owner of at least 10% of a licensee, in the case of
26 any other license applicant, has successfully completed a
27 minimum of 12 hours of instruction and a testing program
28 regarding the first and secondary mortgage loan businesses
29 and the provisions of this chapter, the act of January 30,
30 1974 (P.L.13, No.6), referred to as the Loan Interest and

1 Protection Law (Usury Law) and relevant Federal law including
2 the Real Estate Settlement Procedures Act of 1974 (88 Stat.
3 1724, 12 U.S.C. § 2601 et seq.), Truth in Lending provisions
4 of Title I of the Consumer Credit Protection Act (Public Law
5 90-321, 15 U.S.C. § 1601 et seq.) and the Equal Credit
6 Opportunity Act (Public Law 93-495, 15 U.S.C. § 1691 et
7 seq.).

8 (2) In order to maintain a license:

9 (i) A mortgage broker, mortgage lender or mortgage
10 loan correspondent shall demonstrate to the satisfaction
11 of the department that at least one individual from each
12 licensed office that is not a mortgage originator, and
13 all mortgage originators employed by the licensee, have
14 attended a minimum of six hours of continuing education
15 each year.

16 (ii) A mortgage originator licensee shall
17 demonstrate to the satisfaction of the department that
18 the licensee has attended a minimum of six hours of
19 continuing education each year.

20 (3) The department shall delineate the requirements for
21 prequalification education and testing and continuing
22 education by regulation. The department may review and
23 approve education programs and providers to satisfy the
24 education requirements. Providers of prequalification
25 education and testing and continuing education programs may
26 include the licensee or a subsidiary or affiliate of the
27 licensee. The department may charge providers of education
28 programs a fee, to be determined by the department, for
29 department review of education programs and providers.]

30 (g) Nationwide Mortgage Licensing System and Registry

1 information challenge process.--A mortgage originator applicant
2 or licensee may challenge the accuracy of information entered by
3 the department to the Nationwide Mortgage Licensing System and
4 Registry regarding the mortgage originator applicant or licensee
5 by filing a written complaint with the department. The
6 department shall review the complaint and alleged inaccurate
7 information on the Nationwide Mortgage Licensing System and
8 Registry and notify the applicant or licensee of corrective
9 action taken by the department regarding the alleged inaccurate
10 information within 30 days of receipt of the complaint.

11 (h) License renewals.--Licenses shall be issued for terms of
12 12 months and may be renewed by the department each year on a
13 schedule set by the department upon application by the licensee
14 and the payment of any and all applicable renewal fees. The
15 licensee shall demonstrate to the department that it is
16 conducting the mortgage loan business in accordance with the
17 requirements of this chapter and that the licensee or directors,
18 officers, partners, employees, agents and ultimate equitable
19 owners of 10% or more of the licensee continue to meet all of
20 the initial requirements for licensure required by this chapter
21 unless otherwise determined by the department.

22 (i) Out-of-State applicants.--

23 (1) If an applicant is not a resident of this
24 Commonwealth, as a condition to receiving a license under
25 this chapter, the applicant shall be authorized to do
26 business in this Commonwealth in accordance with the laws of
27 this Commonwealth regulating corporations and other entities
28 conducting business in this Commonwealth and shall maintain
29 at least one office [in this Commonwealth] which is the
30 office that shall be licensed as the principal place of

1 business for the purposes of this chapter. [Wholesale table
2 funders shall be exempt from the requirement to maintain at
3 least one office in this Commonwealth.]

4 * * *

5 (j) Disclosure of mortgage originator information.--

6 Notwithstanding section 302 of the act of May 15, 1933 (P.L.565,
7 No.111), known as the Department of Banking Code, the department
8 shall make available to the public, including by access to the
9 Nationwide Mortgage Licensing System and Registry, the
10 employment history of a mortgage originator.

11 Section 8. Title 7 is amended by adding a section to read:

12 § 6131.1. Prelicensing and continuing education.

13 (a) General requirements.--

14 (1) Applicants shall complete prelicensing education
15 required under subsection (b) and pass a written test
16 regarding the education under subsection (c) in order to
17 obtain a license under this chapter.

18 (2) Licensees shall complete continuing education
19 required under subsection (d) in order to renew a license
20 under this chapter.

21 (b) Prelicensing education.--

22 (1) A mortgage originator applicant and at least one
23 partner or ultimate equitable owner of 10% or more of an
24 applicant other than a mortgage originator applicant, shall
25 complete at least 20 hours of education programs approved in
26 accordance with paragraph (2), which shall include all of the
27 following:

28 (i) Three hours of Federal law and regulations.

29 (ii) Three hours of ethics, which shall include
30 instruction on fraud, consumer protection and fair

1 lending issues.

2 (iii) Two hours of training related to lending
3 standards for the nontraditional mortgage loan
4 marketplace.

5 (iv) Three hours of Pennsylvania law and
6 regulations, including this chapter, the act of December
7 3, 1959 (P.L.1688, No.621), known as the Housing Finance
8 Agency Law and the act of January 30, 1974 (P.L.13,
9 No.6), referred to as the Loan Interest and Protection
10 Law.

11 (2) Prelicensing education programs shall be reviewed
12 and approved by the Nationwide Mortgage Licensing System and
13 Registry or as otherwise determined by the department based
14 upon reasonable standards. Review and approval of a
15 prelicensing education program shall include review and
16 approval of the program provider.

17 (3) A prelicensing education program approved by the
18 Nationwide Mortgage Licensing System and Registry or as
19 otherwise determined by the department may be provided by the
20 employer of the applicant or an entity which is affiliated
21 with the applicant by an agency contract, or any subsidiary
22 or affiliate of such employer or entity.

23 (4) Prelicensing education programs may be offered
24 either in a classroom, online or by any other means approved
25 by the Nationwide Mortgage Licensing System and Registry or
26 as otherwise determined by the department.

27 (5) Except for prelicensing education programs under
28 paragraph (1)(iv), prelicensing education programs approved
29 by the Nationwide Mortgage Licensing System and Registry or
30 as otherwise determined by the department and completed for

1 another state license application shall be accepted as credit
2 toward completion of the prelicensing education requirements
3 of this chapter if the education programs have been
4 successfully completed within the 12 months immediately
5 preceding the date of the submission of the applicant's
6 license application.

7 (6) An applicant that was previously licensed under this
8 chapter that is applying to become licensed again under this
9 chapter must demonstrate that the applicant has completed all
10 of the continuing education requirements for the year in
11 which the applicant was last licensed under this chapter.

12 (c) Prelicensing written test.--

13 (1) A mortgage originator applicant and at least one
14 partner or ultimate equitable owner of 10% or more of an
15 applicant other than a mortgage originator applicant, shall
16 pass, in accordance with the standards established under this
17 subsection, a qualified written test developed by the
18 Nationwide Mortgage Licensing System and Registry and
19 administered by a test provider approved by the Nationwide
20 Mortgage Licensing System and Registry based upon reasonable
21 standards. The portion of the test regarding Pennsylvania-
22 specific law shall be administered by a test provider
23 approved by the department or as otherwise determined by the
24 department under subsection (e).

25 (2) A written test shall not be treated as a qualified
26 written test for purposes of paragraph (1) unless the test
27 adequately measures the applicant's knowledge and
28 comprehension in appropriate subject areas, including:

29 (i) Ethics.

30 (ii) Federal law and regulation pertaining to

1 mortgage origination.

2 (iii) Pennsylvania law and regulation pertaining to
3 mortgage origination.

4 (iv) Federal and Pennsylvania law and regulation
5 related to fraud, consumer protection, the nontraditional
6 mortgage marketplace and fair lending issues.

7 (3) A test provider approved by the Nationwide Mortgage
8 Licensing System and Registry or as otherwise determined by
9 the department may provide a test at the location of the
10 employer of the applicant or an entity which is affiliated
11 with the applicant by an agency contract, or any subsidiary
12 or affiliate of the employer or entity.

13 (4) (i) An applicant shall not be considered to have
14 passed a qualified written test unless the individual
15 achieves a test score of not less than 75% correct
16 answers to questions.

17 (ii) An applicant may retake a test three
18 consecutive times with each consecutive taking occurring
19 at least 30 days after the preceding test.

20 (iii) After failing three consecutive tests, an
21 applicant shall wait at least six months before taking
22 the test again.

23 (iv) A formerly licensed mortgage originator
24 applicant who has been unlicensed for five continuous
25 years or longer shall retake a test. Any time during
26 which the individual is a registered mortgage loan
27 originator shall not be counted toward the five-year
28 continuous period.

29 (d) Continuing education.--

30 (1) A licensee who is a mortgage originator ~~or~~ AND one



1 individual from each licensed office of a mortgage broker,
2 mortgage lender or mortgage loan correspondent that is not a
3 mortgage originator, unless all of the nonclerical staff of a
4 particular licensed office are licensed as mortgage
5 originators, shall complete at least eight hours of education
6 programs in accordance with paragraph (2), which shall
7 include all of the following:

8 (i) Three hours of Federal law and regulations.

9 (ii) Two hours of ethics, which shall include
10 instruction on fraud, consumer protection and fair
11 lending issues.

12 (iii) Two hours of training related to lending
13 standards for the nontraditional mortgage loan
14 marketplace.

15 (iv) One hour of Pennsylvania law, including this
16 chapter, the act of December 3, 1959 (P.L.1688, No.621),
17 known as the Housing Finance Agency Law and the act of
18 January 30, 1974 (P.L.13, No.6), referred to as the Loan
19 Interest and Protection Law.

20 (2) Continuing education programs shall be reviewed and
21 approved by the Nationwide Mortgage Licensing System and
22 Registry or as otherwise determined by the department based
23 upon reasonable standards. Review and approval of a
24 continuing education program shall include review and
25 approval of the program provider.

26 (3) A continuing education program approved by the
27 Nationwide Mortgage Licensing System and Registry or as
28 otherwise determined by the department may be provided by the
29 employer of the licensee or an entity which is affiliated
30 with the licensee by an agency contract, or any subsidiary or

1 affiliate of the employer or entity.

2 (4) Continuing education programs may be offered either
3 in a classroom, online or by any other means approved by the
4 Nationwide Mortgage Licensing System and Registry or as
5 otherwise determined by the department.

6 (5) A licensee may only receive credit for a continuing
7 education program in the year in which the program is taken
8 and may not take the same continuing education program in the
9 same or successive years to meet the requirements of this
10 subsection.

11 (6) A licensed mortgage originator who is an instructor
12 of an approved continuing education program may receive
13 credit for the licensed mortgage loan originator's own
14 continuing education requirement at the rate of two hours
15 credit for every one hour taught.

16 (7) Except for the continuing education program under
17 paragraph (1) (iv), continuing education programs approved by
18 the Nationwide Mortgage Licensing System and Registry or as
19 otherwise determined by the department and completed for
20 another state shall be accepted as credit toward completion
21 of the continuing education requirements of this chapter.

22 (e) Pennsylvania-specific education and testing programs.--

23 (1) Pennsylvania-specific education and testing programs
24 shall be approved by the department, unless otherwise
25 determined by the department. The department may charge
26 education and testing providers a fee, to be determined by
27 the department, for department review of Pennsylvania-
28 specific education and testing programs.

29 (2) An education provider may apply for education and
30 testing program approval on a form prescribed and provided by

1 the department. The application shall be submitted to the
2 department at least 60 days prior to the first date that the
3 education is proposed to be offered. The application shall
4 include:

5 (i) An outline of the proposed education and testing
6 program, and the method of instruction and testing,
7 whether in a classroom, online or by any other means.

8 (ii) A resume detailing each proposed instructor's
9 qualifications. The following individuals shall not be
10 qualified to be instructors, unless the department
11 determines otherwise:

12 (A) An individual who has had his license
13 denied, not renewed, suspended or revoked by the
14 department or any other state.

15 (B) An individual who has been the director,
16 officer, partner, employee, agent or ultimate
17 equitable owner of 10% or more of a licensee that has
18 had its license denied, not renewed, suspended or
19 revoked by the department or another state.

20 (C) An individual who has been subject to a
21 department order or agreement prohibiting the
22 individual from engaging in the mortgage loan
23 business in this Commonwealth or acting in any other
24 capacity related to activities regulated by the
25 department or similar order or agreement issued by
26 another state.

27 (D) An individual who has pleaded guilty, been
28 convicted of or pleaded nolo contendere to a crime of
29 moral turpitude or felony.

30 (iii) Other information that the department may

1 require.

2 (3) The department shall be notified in writing at least
3 10 days prior to any change in instructors. A new instructor
4 shall be subject to the criteria under paragraph (2)(ii).

5 (4) Education programs offered solely to satisfy the
6 requirements of subsection (d) shall not be required to
7 include a written testing component.

8 (5) The department shall have 45 days from receipt of a
9 completed application to approve or deny the proposed
10 education and testing program. An application shall be deemed
11 completed when the requirements of this subsection have been
12 fulfilled. If the department fails to approve or deny an
13 application submitted by a prospective education provider
14 within 45 days of its receipt, the education program shall be
15 deemed approved by the department. The department may deny an
16 application submitted by an education provider if the
17 education and testing program or education provider fails to
18 satisfy any of the conditions or requirements contained under
19 this chapter.

20 (6) Approval of an education program by the department
21 shall be valid for one licensing year and shall not
22 constitute permanent approval of the education program.

23 (7) Education providers shall provide free access to the
24 department to monitor education programs. In order to ensure
25 the department's access to education programs, education
26 providers shall provide the department with notification of
27 the date, time and location of each education program that is
28 offered by the education provider.

29 (8) Education providers shall retain original records of
30 attendance for each education and testing program conducted

1 by the education provider for four years and shall provide
2 the department free access to the records upon request.

3 (9) The department may revoke its approval of an
4 education provider's education and testing programs if the
5 education provider fails to comply with any requirement of
6 this chapter.

7 Section 9. Section 6132(a)(1) and (2) and (b)(1) and (2) of
8 Title 7 are amended and the section is amended by adding a
9 subsection to read:

10 § 6132. License fees.

11 (a) Initial application fees.--[An] Except as set forth in
12 subsection (d)(1), an applicant shall pay to the department at
13 the time an application is filed an initial nonrefundable
14 application fee as set forth under this subsection.

15 (1) For mortgage lenders and mortgage loan
16 correspondents, \$1,500 for the principal place of business
17 [in this Commonwealth] and an additional fee of \$1,500 for
18 each branch office.

19 (2) For mortgage brokers, \$1,000 for the principal place
20 of business [in this Commonwealth] and an additional fee of
21 \$250 for each branch office.

22 * * *

23 (b) Renewal fees.--Prior to each annual renewal of a
24 license, except as set forth in subsection (d)(2), a licensee
25 shall pay to the department a nonrefundable license renewal fee
26 as set forth under this subsection.

27 (1) For mortgage lenders and mortgage loan
28 correspondents, \$750 for the principal place of business [in
29 this Commonwealth] and an additional fee of \$750 for each
30 branch office.

1 (2) For mortgage brokers, \$500 for the principal place
2 of business [in this Commonwealth] and an additional fee of
3 \$250 for each branch office.

4 * * *

5 (d) Exception to mortgage originator license fees.--

6 (1) An applicant shall not be required to pay the fee
7 for a mortgage originator license as provided in subsection
8 (a) if the applicant is also individually a mortgage lender
9 applicant, mortgage loan correspondent applicant or mortgage
10 broker applicant.

11 (2) A licensee shall not be required to pay the fee for
12 a mortgage originator license as provided in subsection (b)
13 if the licensee is also individually a mortgage lender
14 licensee, mortgage loan correspondent licensee or mortgage
15 broker licensee.

16 Section 10. Section 6133(c)(1) and (2), (d)(1) and (e)(1),
17 (4) and (5) of Title 7 are amended and the section is amended by
18 adding a subsection to read:

19 § 6133. Issuance of license.

20 * * *

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

23 (1) The name and address of the licensee and the address
24 or addresses covered by the license[, the address so
25 specified to be that of the licensee's principal place of
26 business within this Commonwealth or for a licensee acting
27 only in the capacity of a wholesale table funder, either in
28 or outside of this Commonwealth].

29 (2) The licensee's reference number or unique
30 identifier.

1 * * *

2 (d) Denial of license due to conviction.--

3 (1) The department may deny a license if it finds that
4 the applicant or a director, officer, partner, employee,
5 agent or ultimate equitable owner of 10% or more of the
6 applicant has been convicted of a crime of moral turpitude or
7 felony in any jurisdiction or of a crime which, if committed
8 in this Commonwealth, would constitute a crime of moral
9 turpitude or felony. The department shall deny a mortgage
10 originator license if the applicant has been convicted of any
11 felony during the seven-year period preceding the date of the
12 license application or at any time preceding the date of
13 application, if the felony involved an act of fraud,
14 dishonesty, breach of trust or money laundering, unless the
15 applicant has been pardoned for the conviction. For the
16 purposes of this subsection, a person shall be deemed to have
17 been convicted of a crime if the person:

18 (i) pleads guilty or nolo contendere to a criminal
19 charge before a domestic, foreign or military court or
20 Federal magistrate; or

21 (ii) is found guilty by the decision or judgment of
22 a domestic, foreign or military court or Federal
23 magistrate or by the verdict of a jury, irrespective of
24 the pronouncement of sentence or the suspension thereof,
25 unless the plea of guilty or nolo contendere or the
26 decision, judgment or verdict is set aside, vacated,
27 reversed or otherwise abrogated by lawful judicial
28 process.

29 * * *

30 (e) Denial of license for other reason.--The department may

1 deny a license or otherwise restrict a license if it finds that
2 the applicant or a director, officer, partner, employee, agent
3 or ultimate equitable owner of 10% or more of the applicant:

4 (1) has had a license application or license issued by
5 the department or another state licensing agency or by a
6 Federal regulatory agency denied, not renewed, suspended or
7 revoked;

8 * * *

9 (4) [does not possess the financial responsibility,
10 character, reputation, integrity and general fitness to
11 command the confidence of the public and to warrant the
12 belief that the mortgage loan business will be operated
13 lawfully, honestly, fairly and within the legislative intent
14 of this chapter and in accordance with the general laws of
15 this Commonwealth] has an outstanding debt to the
16 Commonwealth or a Commonwealth agency; or

17 (5) [has an outstanding debt to the Commonwealth or any
18 Commonwealth agency.] does not possess the financial
19 responsibility, character, reputation, integrity and general
20 fitness to command the confidence of the public and to
21 warrant the belief that the mortgage loan business will be
22 operated lawfully, honestly, fairly and within the
23 legislative intent of this chapter and in accordance with the
24 general laws of this Commonwealth. For the purposes of this
25 paragraph, an applicant is not financially responsible if the
26 applicant has shown a disregard in the management of his or
27 her own financial condition. The factors that the department
28 may consider in making a determination regarding an
29 applicant's financial responsibility shall include:

30 (i) Current outstanding judgments, other than

1 judgments solely as a result of medical expenses.

2 (ii) Current outstanding tax liens or other
3 government liens and filings.

4 (iii) Foreclosures within the past three years.

5 (iv) A pattern of seriously delinquent accounts
6 within the past three years.

7 (e.1) Mandatory denial of mortgage originator license.--The
8 department shall deny a mortgage originator license if it finds
9 that any of the following paragraphs apply:

10 (1) The applicant has had a license issued by the
11 department or another state licensing agency or a Federal
12 regulatory agency revoked. If the revocation is formally
13 vacated, this paragraph does not apply.

14 (2) The applicant does not possess the financial
15 responsibility, character, reputation, integrity and general
16 fitness to command the confidence of the public and to
17 warrant the belief that the mortgage loan business will be
18 operated lawfully, honestly, fairly and within the
19 legislative intent of this chapter and in accordance with the
20 general laws of this Commonwealth. For the purposes of this
21 paragraph, an applicant is not financially responsible if the
22 applicant has shown a disregard in the management of his or
23 her own financial condition. The factors that the department
24 may consider in making a determination regarding an
25 applicant's financial responsibility include:

26 (i) Current outstanding judgments, other than
27 judgments solely as a result of medical expenses.

28 (ii) Current outstanding tax liens or other
29 government liens and filings.

30 (iii) Foreclosures within the past three years.

1 (iv) A pattern of seriously delinquent accounts
2 within the past three years.

3 * * *

4 Section 11. Sections 6135(a)(2), (3), (4) and (5) and (b),
5 6138(d), 6139(a)(13) and (b) introductory paragraph of Title 7
6 are amended to read:

7 § 6135. Licensee requirements.

8 (a) Requirements of licensee.--

9 * * *

10 (2) Each licensee shall maintain at its principal place
11 of business [within this Commonwealth, or at such place
12 within or outside this Commonwealth], or at another place if
13 agreed to by the department, the original or a copy of any
14 books, accounts, records and documents, or electronic or
15 similar access thereto, of the business conducted under the
16 license as prescribed by the department to enable the
17 department to determine whether the business of the licensee
18 is being conducted in accordance with the provisions of this
19 chapter and the regulations, statements of policy or orders
20 issued under this chapter. All instruments, documents,
21 accounts, books and records relating to the mortgage loan
22 business shall be kept separate and apart from the records of
23 any other business conducted by the licensee. Records of
24 first and secondary mortgage loans shall be easily
25 distinguishable and easily separated. All records shall be
26 preserved and kept available for investigation or examination
27 by the department for a period determined by the department.
28 The department shall have free access to and authorization to
29 examine records maintained [within or outside this
30 Commonwealth] by the licensee. The costs of the examination,

1 including travel costs, shall be borne by the licensee. The
2 department may deny or revoke the authority to maintain
3 records [within or outside this Commonwealth] at another
4 place for good cause in the interest of protection for
5 Commonwealth consumers, including for the licensee's failure
6 to provide books, accounts, records or documents to the
7 department upon request.

8 (3) A mortgage broker, mortgage lender or mortgage loan
9 correspondent, or a mortgage originator that is required to
10 obtain and maintain its own bond coverage under section
11 6131(f)(4) (relating to application for license), on a date
12 determined by the department, shall file [annually]
13 periodically as determined by the department, a report with
14 the department setting forth such information as the
15 department shall require concerning the first or secondary
16 mortgage loan business conducted by the licensee during the
17 preceding calendar year. The report shall be on a form
18 provided by the department and shall be filed with the
19 Nationwide Mortgage Licensing System and Registry. Licensees
20 who fail to file the required report at the date required by
21 the department may be subject to a penalty of \$100 for each
22 day after the due date until the report is filed.

23 (4) Each licensee shall be subject to examination by the
24 department at its discretion, at which time the department
25 shall have free access, during regular business hours, to the
26 licensee's place or places of business [in this Commonwealth]
27 and to all instruments, documents, accounts, books and
28 records which pertain to a licensee's first or secondary
29 mortgage loan business[, whether maintained in or outside
30 this Commonwealth]. The department may examine a licensee at

1 any time if the department deems the examination to be
2 necessary or desirable. The cost of any such examination
3 shall be borne by the licensee.

4 (5) Each licensee shall include in all advertisements
5 language indicating that the licensee is licensed by the
6 department. In the case of a mortgage originator, all
7 advertising shall include the name of the mortgage
8 originator's employer and the mortgage originator's unique
9 identifier.

10 (b) Accounting records.--The licensee's accounting records
11 must be constructed and maintained in compliance with generally
12 accepted accounting principles or as provided by department
13 regulation. [All instruments, documents, accounts, books and
14 records relating to the mortgage loan business shall be kept
15 separate and apart from the records of any other business
16 conducted by the licensee. Records of first and secondary
17 mortgage loans shall be easily distinguishable and easily
18 separated. All records shall be preserved and kept available for
19 investigation or examination by the department for a period
20 determined by the department.]

21 * * *

22 § 6138. Authority of department.

23 * * *

24 (d) Final orders.--A decision of the Secretary of Banking
25 shall be a final order of the department and shall be
26 enforceable in a court of competent jurisdiction. The department
27 may publish final adjudications issued under this section,
28 subject to redaction or modification to preserve
29 confidentiality. The department shall regularly report
30 violations of this chapter, enforcement actions and other

1 relevant information to the Nationwide Mortgage Licensing System
2 and Registry.

3 * * *

4 § 6139. Suspension, revocation or refusal.

5 (a) Departmental action.--The department may suspend, revoke
6 or refuse to renew a license issued under this chapter if any
7 fact or condition exists or is discovered which, if it had
8 existed or had been discovered at the time of filing of the
9 application for the license, would have warranted the department
10 in refusing to issue the license or if a licensee or director,
11 officer, partner, employee or owner of a licensee has:

12 * * *

13 (13) Failed to complete the [qualifying or continuing
14 education as required by section 6131(g)] requirements of
15 section 6131.1 (relating to prelicensing and continuing
16 education).

17 * * *

18 (b) Reinstatement.--The department may reinstate a license
19 which was previously suspended, revoked or denied renewal if all
20 of the following exist:

21 * * *

22 Section 12. Title 7 is amended by adding a section to read:

23 § 6154. Procedure for determination of noncompliance with
24 Federal law.

25 (a) Applicability.--This section applies if, because of a
26 determination under paragraph (4) of the definition of "mortgage
27 originator" in section 6102 (relating to definitions), an
28 employee:

29 (1) is required to be licensed as a mortgage originator
30 under state laws implementing the S.A.F.E. Mortgage Licensing

1 Act of 2008 (110 Stat. 289, 12 U.S.C. § 5101 et seq.); and
2 (2) is thus required to be licensed as a mortgage
3 originator.

4 (b) Continuation.--An employee specified in subsection (a)
5 may continue to act in the employee's current capacity if the
6 employee files an application for a mortgage originator license
7 with the department within 60 days of the date of the
8 determination.

9 Section 13. The following shall apply:

10 (1) Individuals not licensed as mortgage originators
11 under 7 Pa.C.S. Ch. 61 who are required to be licensed as
12 mortgage originators by virtue of this act may continue to
13 engage in the mortgage loan business in their current
14 capacity if they file an application for a mortgage
15 originator license with the department within 60 days of the
16 effective date of this section.

17 (2) Licenses issued under 7 Pa.C.S. Ch. 61 prior to the
18 effective date of this section that were conditioned upon
19 completion of the education and testing requirements of 7
20 Pa.C.S. Ch. 61 existing prior to the effective date of this
21 section shall be conditioned upon the completion of the
22 education and testing requirements of this act by December
23 31, 2009.

24 Section 14. This act shall take effect immediately.