

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 936 Session of  
2009

INTRODUCED BY BROWNE, D. WHITE, O'PAKE, FERLO, BAKER, BOSCOLA,  
M. WHITE, STACK, TARTAGLIONE, WARD, WASHINGTON AND COSTA,  
JUNE 5, 2009

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, JUNE 24,  
2009

## AN ACT

1 Amending Title 7 (Banks and Banking) of the Pennsylvania  
2 Consolidated Statutes, in mortgage loan industry licensing  
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

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

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

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

§ 6102. Definitions.

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

\* \* \*

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

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

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

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

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

(ii) counseling consumers about mortgage loan rates  
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

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

\* \* \*

"Mortgage originator."

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

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

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

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

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

1 served 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

thereto.

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

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

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

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

\* \* \*

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

§ 6111. License requirements.

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

(b) Licensed activity exceptions.--

(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), 6135  
27 (relating to licensee requirements)] and (5), 6138 (relating  
28 to authority of department) and 6140(b) (relating to  
29 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 person's  
15 employee as an employment benefit if the person does not hold  
16 itself out to the public as a mortgage lender. To qualify for  
17 the exception under this paragraph, the person must:

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

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

27           (11) Nonprofit corporations not otherwise engaged in or  
28 holding themselves out to the public as being engaged in the  
29 mortgage loan business making mortgage loans to promote home  
30 ownership or improvements for the disadvantaged. To qualify

1 for the exception under this paragraph, the nonprofit  
2 corporation must:

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

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

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

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

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

25 (iii) Does either of the following:

26 (A) In the same manner as a mortgage lender,  
27 obtains and maintains bond coverage for mortgage  
28 originators consistent with section 6131(c)(5) and  
29 files an annual report consistent with section  
30 6135(a)(3).

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

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

8       § 6121. General requirements.

9       A licensee shall do all of the following:

10           \* \* \*

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

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

17       § 6122. Powers conferred on certain licensees engaged in the  
18           mortgage loan business.

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

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

26           \* \* \*

27           (6) To collect reasonable attorney fees of an attorney  
28           at law upon the execution of the mortgage loan if the fees:

29           (i) represent actual fees charged the licensee in  
30           connection with the mortgage loan; and

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

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

9           \* \* \*

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

12          § 6125. Mortgage lending authority.

13          \* \* \*

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

16               \* \* \*

17               (2)   \* \* \*

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

28               \* \* \*

29          Section 7. Section 6131(a) introductory paragraph, (c)(3),  
30          (d), (e)(2), (f), (g), (h) and (i)(1) of Title 7 are amended,



subsections (c) and (e) are amended by adding paragraphs and the section is amended by adding a subsection to read:

§ 6131. Application for license.

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

\* \* \*

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

\* \* \*

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

\* \* \*

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

~~(i) The amount of the bond shall be \$100,000 for an applicant or licensee whose mortgage originators will originate or originated less than \$30,000,000 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, \$300,000 for an applicant or licensee~~



~~whose mortgage originators will originate or originated  
\$30,000,000 to \$99,999,999.99 in mortgage loans secured  
by Pennsylvania residential real estate in a calendar  
year, \$500,000 for an applicant or licensee whose  
mortgage originators will originate or originated  
\$100,000,000 to \$249,999,999.99 in mortgage loans secured  
by Pennsylvania residential real estate in a calendar  
year and \$1,000,000 for an applicant or licensee whose  
mortgage originators will originate or originated  
\$250,000,000 or more in mortgage loans secured by  
Pennsylvania residential real estate in a calendar year.~~

(I) THE AMOUNT OF THE BOND SHALL BE:

(A) \$100,000 FOR AN APPLICANT OR LICENSEE WHOSE  
MORTGAGE ORIGINATORS WILL ORIGINATE OR ORIGINATED  
LESS THAN \$30,000,000 IN MORTGAGE LOANS SECURED BY  
PENNSYLVANIA REAL PROPERTY IN A CALENDAR YEAR;

(B) \$200,000 FOR AN APPLICANT OR LICENSEE WHOSE  
MORTGAGE ORIGINATORS WILL ORIGINATE OR ORIGINATED  
\$30,000,000 TO \$99,999,999.99 IN MORTGAGE LOANS  
SECURED BY PENNSYLVANIA REAL PROPERTY IN A CALENDAR  
YEAR;

(C) \$300,000 FOR AN APPLICANT OR LICENSEE WHOSE  
MORTGAGE ORIGINATORS WILL ORIGINATE OR ORIGINATED  
\$100,000,000 TO \$249,999,999.99 IN MORTGAGE LOANS  
SECURED BY PENNSYLVANIA REAL PROPERTY IN A CALENDAR  
YEAR; AND

(D) \$500,000 FOR AN APPLICANT OR LICENSEE WHOSE  
MORTGAGE ORIGINATORS WILL ORIGINATE OR ORIGINATED  
\$250,000,000 OR MORE IN MORTGAGE LOANS SECURED BY  
PENNSYLVANIA REAL PROPERTY IN A CALENDAR YEAR.

1           (ii) For an initial license applicant, the amount of  
2 the bond shall be determined by the applicant's  
3 anticipated amount of mortgage loans secured by  
4 Pennsylvania residential real estate originated by its  
5 mortgage originators in the first calendar year of  
6 licensing. For a licensee, the amount of the bond shall  
7 be determined annually by the department based upon the  
8 amount of mortgage loans secured by Pennsylvania  
9 residential real estate originated by the licensee's  
10 mortgage originators as indicated on the licensee's  
11 annual report.

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

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

27           (1) Obtains and will maintain a bond in the amount of  
28 \$100,000, in a form acceptable to the department, prior to  
29 the issuance of the license, from a surety company authorized  
30 to do business in this Commonwealth. The bond shall run to

1 the Commonwealth and shall be for the use of the Commonwealth  
2 and any person or persons who obtain a judgment against the  
3 mortgage loan correspondent for failure to carry out the  
4 terms of any provision for which advance fees are paid. No  
5 bond shall comply with the requirements of this section  
6 unless it contains a provision that it shall not be canceled  
7 for any cause unless notice of intention to cancel is given  
8 to the department at least 30 days before the day upon which  
9 cancellation shall take effect. A mortgage loan correspondent  
10 who can demonstrate to the satisfaction of the department  
11 that the correspondent does not and will not accept advance  
12 fees shall be exempt from the bond requirement of this  
13 paragraph.

14 (2) Establishes a minimum [tangible] net worth of  
15 \$100,000 at the time of application and will, at all times  
16 thereafter, maintain the minimum [tangible] net worth.

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

23 (i) The amount of the bond shall be \$100,000 for an  
24 applicant or licensee whose mortgage originators will  
25 originate or originated less than \$30,000,000 in mortgage  
26 loans secured by Pennsylvania residential real estate in  
27 a calendar year, ~~\$300,000~~ \$200,000 for an applicant or  
28 licensee whose mortgage originators will originate or  
29 originated \$30,000,000 to \$99,999,999.99 in mortgage  
30 loans secured by Pennsylvania residential real estate in



1 a calendar year, ~~\$500,000~~ \$300,000 for an applicant or ←  
2 licensee whose mortgage originators will originate or  
3 originated \$100,000,000 to \$249,999,999.99 in mortgage  
4 loans secured by Pennsylvania residential real estate in  
5 a calendar year and ~~\$1,000,000~~ \$500,000 for an applicant ←  
6 or licensee whose mortgage originators will originate or  
7 originated \$250,000,000 or more in mortgage loans secured  
8 by Pennsylvania residential real estate in a calendar  
9 year.

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

21 (iii) The bond shall run to the Commonwealth and  
22 shall be for the use of the Commonwealth and for the use  
23 of any consumer who is injured by the acts or omissions  
24 of the licensee's mortgage originators that are related  
25 to the mortgage loan business regulated by this chapter.  
26 No bond shall comply with the requirements of this  
27 section unless it contains a provision that it shall not  
28 be canceled for any cause unless notice of intention to  
29 cancel is given to the department at least 30 days before  
30 the day upon which cancellation shall take effect.

Cancellation of the bond shall not invalidate the bond  
regarding the period of time it was in effect.

(e) Mortgage broker license.--

\* \* \*

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

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

(i) The amount of the bond shall be \$50,000 for an applicant or licensee whose mortgage originators will originate or originated less than \$15,000,000 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, ~~\$100,000~~ \$75,000 for an applicant or licensee whose mortgage originators will originate or originated \$15,000,000 to \$29,999,999.99 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, ~~\$200,000~~ \$100,000 for an applicant or licensee whose mortgage originators will originate or originated \$30,000,000 to \$49,999,999.99 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, and ~~\$300,000~~ \$150,000 for an applicant or licensee whose mortgage originators will originate or originated \$50,000,000 or more in mortgage loans secured by Pennsylvania residential real estate in a calendar

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←

←

1       year.

2       (ii) For an initial license applicant, the amount of  
3 the bond shall be determined by the applicant's  
4 anticipated amount of mortgage loans secured by  
5 Pennsylvania residential real estate originated by its  
6 mortgage originators in the first calendar year of  
7 licensing. For a licensee, the amount of the bond shall  
8 be determined annually by the department based upon the  
9 amount of mortgage loans secured by Pennsylvania  
10 residential real estate originated by the licensee's  
11 mortgage originators as indicated on the licensee's  
12 annual report.

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

25       (f) Mortgage originator license.--[A mortgage originator  
26 shall be an employee of a single mortgage broker, mortgage  
27 lender or mortgage loan correspondent licensed under this  
28 chapter, which licensee shall directly supervise, control and  
29 maintain responsibility for the acts and omissions of the  
30 mortgage originator. A mortgage originator shall be assigned to

1 and work out of a licensed location of the employer licensee.] A  
2 mortgage originator shall do all of the following:

3 (1) Be an employee of a single licensed mortgage broker,  
4 mortgage lender or mortgage loan correspondent, a person  
5 excepted from this chapter or a person excepted from  
6 licensure under section 6112 (relating to exceptions to  
7 license requirements). The licensee or person shall directly  
8 supervise, control and maintain responsibility for the acts  
9 and omissions of the mortgage originator.

10 (2) Be assigned to and work out of a licensed location  
11 of the employer licensee or a location of an employer person  
12 excepted from this chapter or excepted from licensure under  
13 section 6112.

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

16 (4) If a person excepted from this chapter or excepted  
17 from licensure under section 6112 does not elect to maintain  
18 bond coverage for its mortgage originators in the same manner  
19 as a mortgage lender, a mortgage originator employed by a  
20 person excepted from this chapter or excepted from licensure  
21 under section 6112 shall obtain and maintain a surety bond in  
22 an amount that will provide coverage for the mortgage  
23 originator, in a form acceptable to the department, prior to  
24 the issuance of the license, from a surety company authorized  
25 to do business in this Commonwealth. The following shall  
26 apply:

27 (i) The amount of the bond shall be \$25,000 for an  
28 applicant or licensee who will originate or originated  
29 less than \$7,500,000 in mortgage loans secured by  
30 Pennsylvania residential real estate in a calendar year,



\$50,000 for an applicant or licensee who will originate or originated \$7,500,000 to \$14,999,999.99 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, ~~\$100,000~~ \$75,000 for an applicant or licensee who will originate or originated \$15,000,000 to \$29,999,999.99 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, ~~\$200,000~~ \$100,000 for an applicant or licensee who will originate or originated \$30,000,000 to \$49,999,999.99 in mortgage loans secured by Pennsylvania residential real estate in a calendar year and ~~\$300,000~~ \$150,000 for an applicant or licensee who will originate or originated \$50,000,000 or more in mortgage loans secured by Pennsylvania residential real estate in a calendar year.

(ii) For an initial license applicant, the amount of the bond shall be determined by the applicant's anticipated amount of mortgage loans secured by Pennsylvania residential real estate originated in the first calendar year of licensing. For a licensee, the amount of the bond shall be determined annually by the department based upon the amount of mortgage loans secured by Pennsylvania residential real estate originated by the mortgage originator as indicated on the mortgage originator's annual report.

(iii) The bond shall run to the Commonwealth and shall be for the use of the Commonwealth and for the use of any consumer who is injured by the acts or omissions of the mortgage originator that are related to the mortgage loan business regulated by this chapter. No bond shall comply with the requirements of this section unless

it contains a provision that it shall not be canceled for any cause unless notice of intention to cancel is given to the department at least 30 days before the day upon which cancellation shall take effect. Cancellation of the bond shall not invalidate the bond regarding the period of time it was in effect.

[(g) Education.--

(1) In order to obtain a license under this chapter, an applicant shall submit to the department with its application evidence that the applicant, in the case of a mortgage originator applicant, or a director, partner or ultimate equitable owner of at least 10% of a licensee, in the case of any other license applicant, has successfully completed a minimum of 12 hours of instruction and a testing program regarding the first and secondary mortgage loan businesses and the provisions of this chapter, the act of January 30, 1974 (P.L.13, No.6), referred to as the Loan Interest and Protection Law (Usury Law) and relevant Federal law including the Real Estate Settlement Procedures Act of 1974 (88 Stat. 1724, 12 U.S.C. § 2601 et seq.), Truth in Lending provisions of Title I of the Consumer Credit Protection Act (Public Law 90-321, 15 U.S.C. § 1601 et seq.) and the Equal Credit Opportunity Act (Public Law 93-495, 15 U.S.C. § 1691 et seq.).

(2) In order to maintain a license:

(i) A mortgage broker, mortgage lender or mortgage loan correspondent shall demonstrate to the satisfaction of the department that at least one individual from each licensed office that is not a mortgage originator, and all mortgage originators employed by the licensee, have

1 attended a minimum of six hours of continuing education  
2 each year.

3 (ii) A mortgage originator licensee shall  
4 demonstrate to the satisfaction of the department that  
5 the licensee has attended a minimum of six hours of  
6 continuing education each year.

7 (3) The department shall delineate the requirements for  
8 prequalification education and testing and continuing  
9 education by regulation. The department may review and  
10 approve education programs and providers to satisfy the  
11 education requirements. Providers of prequalification  
12 education and testing and continuing education programs may  
13 include the licensee or a subsidiary or affiliate of the  
14 licensee. The department may charge providers of education  
15 programs a fee, to be determined by the department, for  
16 department review of education programs and providers.]

17 (g) Nationwide Mortgage Licensing System and Registry  
18 information challenge process.--A mortgage originator applicant  
19 or licensee may challenge the accuracy of information entered by  
20 the department to the Nationwide Mortgage Licensing System and  
21 Registry regarding the mortgage originator applicant or licensee  
22 by filing a written complaint with the department. The  
23 department shall review the complaint and alleged inaccurate  
24 information on the Nationwide Mortgage Licensing System and  
25 Registry and notify the applicant or licensee of corrective  
26 action taken by the department regarding the alleged inaccurate  
27 information within 30 days of receipt of the complaint.

28 (h) License renewals.--Licenses shall be issued for terms of  
29 12 months and may be renewed by the department each year on a  
30 schedule set by the department upon application by the licensee

1 and the payment of any and all applicable renewal fees. The  
2 licensee shall demonstrate to the department that it is  
3 conducting the mortgage loan business in accordance with the  
4 requirements of this chapter and that the licensee or directors,  
5 officers, partners, employees, agents and ultimate equitable  
6 owners of 10% or more of the licensee continue to meet all of  
7 the initial requirements for licensure required by this chapter  
8 unless otherwise determined by the department.

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

10 (1) If an applicant is not a resident of this  
11 Commonwealth, as a condition to receiving a license under  
12 this chapter, the applicant shall be authorized to do  
13 business in this Commonwealth in accordance with the laws of  
14 this Commonwealth regulating corporations and other entities  
15 conducting business in this Commonwealth and shall maintain  
16 at least one office [in this Commonwealth] which is the  
17 office that shall be licensed as the principal place of  
18 business for the purposes of this chapter. [Wholesale table  
19 funders shall be exempt from the requirement to maintain at  
20 least one office in this Commonwealth.]

21 \* \* \*

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

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

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

29 § 6131.1. Prelicensing and continuing education.

30 (a) General requirements.--

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

5       (2) Licensees shall complete continuing education  
6 required under subsection (d) in order to renew a license  
7 under this chapter.

8       (b) Prelicensing education.--

9       ~~(1) An applicant who is a mortgage originator, or a~~ ←  
10 ~~director, A MORTGAGE ORIGINATOR APPLICANT AND AT LEAST ONE~~ ←  
11 ~~partner or ultimate equitable owner of 10% or more of an~~  
12 ~~applicant other than a mortgage originator APPLICANT, shall~~ ←  
13 ~~complete at least 20 hours of education programs approved in~~  
14 ~~accordance with paragraph (2), which shall include all of the~~  
15 ~~following:~~

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

17               (ii) Three hours of ethics, which shall include  
18 instruction on fraud, consumer protection and fair  
19 lending issues.

20               (iii) Two hours of training related to lending  
21 standards for the nontraditional mortgage loan  
22 marketplace.

23               (iv) Three hours of Pennsylvania law and  
24 regulations, including this chapter, the act of December  
25 3, 1959 (P.L.1688, No.621), known as the Housing Finance  
26 Agency Law and the act of January 30, 1974 (P.L.13,  
27 No.6), referred to as the Loan Interest and Protection  
28 Law.

29       (2) Prelicensing education programs shall be reviewed  
30 and approved by the Nationwide Mortgage Licensing System and

1 Registry or as otherwise determined by the department based  
2 upon reasonable standards. Review and approval of a  
3 prelicensing education program shall include review and  
4 approval of the program provider.

5 (3) A prelicensing education program approved by the  
6 Nationwide Mortgage Licensing System and Registry or as  
7 otherwise determined by the department may be provided by the  
8 employer of the applicant or an entity which is affiliated  
9 with the applicant by an agency contract, or any subsidiary  
10 or affiliate of such employer or entity.

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

15 (5) Except for prelicensing education programs under  
16 paragraph (1)(iv), prelicensing education programs approved  
17 by the Nationwide Mortgage Licensing System and Registry or  
18 as otherwise determined by the department and completed for  
19 another state license application shall be accepted as credit  
20 toward completion of the prelicensing education requirements  
21 of this chapter if the education programs have been  
22 successfully completed within the 12 months immediately  
23 preceding the date of the submission of the applicant's  
24 license application.

25 (6) An applicant that was previously licensed under this  
26 chapter that is applying to become licensed again under this  
27 chapter must demonstrate that the applicant has completed all  
28 of the continuing education requirements for the year in  
29 which the applicant was last licensed under this chapter.

30 (c) Prelicensing written test.--

1       ~~(1) An applicant who is a mortgage originator, or a~~ ←  
2       ~~director,~~ A MORTGAGE ORIGINATOR APPLICANT AND AT LEAST ONE ←  
3       ~~partner or ultimate equitable owner of 10% or more of an~~  
4       ~~applicant other than a mortgage originator APPLICANT, shall~~ ←  
5       ~~pass, in accordance with the standards established under this~~  
6       ~~subsection, a qualified written test developed by the~~  
7       ~~Nationwide Mortgage Licensing System and Registry and~~  
8       ~~administered by a test provider approved by the Nationwide~~  
9       ~~Mortgage Licensing System and Registry based upon reasonable~~  
10       ~~standards. The portion of the test regarding Pennsylvania-~~  
11       ~~specific law shall be administered by a test provider~~  
12       ~~approved by the department or as otherwise determined by the~~  
13       ~~department under subsection (e).~~

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

18               (i) Ethics.

19               (ii) Federal law and regulation pertaining to  
20       mortgage origination.

21               (iii) Pennsylvania law and regulation pertaining to  
22       mortgage origination.

23               (iv) Federal and Pennsylvania law and regulation  
24       related to fraud, consumer protection, the nontraditional  
25       mortgage marketplace and fair lending issues.

26       (3) A test provider approved by the Nationwide Mortgage  
27       Licensing System and Registry or as otherwise determined by  
28       the department may provide a test at the location of the  
29       employer of the applicant or an entity which is affiliated  
30       with the applicant by an agency contract, or any subsidiary

1 or affiliate of the employer or entity.

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

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

9 (iii) After failing three consecutive tests, an  
10 applicant shall wait at least six months before taking  
11 the test again.

12 (iv) A formerly licensed mortgage originator  
13 applicant who has been unlicensed for five continuous  
14 years or longer shall retake a test. Any time during  
15 which the individual is a registered mortgage loan  
16 originator shall not be counted toward the five-year  
17 continuous period.

18 (d) Continuing education.--

19 (1) A licensee who is a mortgage originator or one  
20 individual from each licensed office of a mortgage broker,  
21 mortgage lender or mortgage loan correspondent that is not a  
22 mortgage originator, unless all of the nonclerical staff of a  
23 particular licensed office are licensed as mortgage  
24 originators, shall complete at least eight hours of education  
25 programs in accordance with paragraph (2), which shall  
26 include all of the following:

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

28 (ii) Two hours of ethics, which shall include  
29 instruction on fraud, consumer protection and fair  
30 lending issues.



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

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

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

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

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

25          (5) A licensee may only receive credit for a continuing  
26          education program in the year in which the program is taken  
27          and may not take the same continuing education program in the  
28          same or successive years to meet the requirements of this  
29          subsection.

30          (6) A licensed mortgage originator who is an instructor

1 of an approved continuing education program may receive  
2 credit for the licensed mortgage loan originator's own  
3 continuing education requirement at the rate of two hours  
4 credit for every one hour taught.

5 (7) Except for the continuing education program under  
6 paragraph (1)(iv), continuing education programs approved by  
7 the Nationwide Mortgage Licensing System and Registry or as  
8 otherwise determined by the department and completed for  
9 another state shall be accepted as credit toward completion  
10 of the continuing education requirements of this chapter.

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

12 (1) Pennsylvania-specific education and testing programs  
13 shall be approved by the department, unless otherwise  
14 determined by the department. The department may charge  
15 education and testing providers a fee, to be determined by  
16 the department, for department review of Pennsylvania-  
17 specific education and testing programs.

18 (2) An education provider may apply for education and  
19 testing program approval on a form prescribed and provided by  
20 the department. The application shall be submitted to the  
21 department at least 60 days prior to the first date that the  
22 education is proposed to be offered. The application shall  
23 include:

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

27 (ii) A resume detailing each proposed instructor's  
28 qualifications. The following individuals shall not be  
29 qualified to be instructors, unless the department  
30 determines otherwise:

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

4           (B) An individual who has been the director,  
5           officer, partner, employee, agent or ultimate  
6           equitable owner of 10% or more of a licensee that has  
7           had its license denied, not renewed, suspended or  
8           revoked by the department or another state.

9           (C) An individual who has been subject to a  
10          department order or agreement prohibiting the  
11          individual from engaging in the mortgage loan  
12          business in this Commonwealth or acting in any other  
13          capacity related to activities regulated by the  
14          department or similar order or agreement issued by  
15          another state.

16          (D) An individual who has pleaded guilty, been  
17          convicted of or pleaded nolo contendere to a crime of  
18          moral turpitude or felony.

19          (iii) Other information that the department may  
20          require.

21          (3) The department shall be notified in writing at least  
22          10 days prior to any change in instructors. A new instructor  
23          shall be subject to the criteria under paragraph (2)(ii).

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

27          (5) The department shall have 45 days from receipt of a  
28          completed application to approve or deny the proposed  
29          education and testing program. An application shall be deemed  
30          completed when the requirements of this subsection have been

1 fulfilled. If the department fails to approve or deny an  
2 application submitted by a prospective education provider  
3 within 45 days of its receipt, the education program shall be  
4 deemed approved by the department. The department may deny an  
5 application submitted by an education provider if the  
6 education and testing program or education provider fails to  
7 satisfy any of the conditions or requirements contained under  
8 this chapter.

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

12 (7) Education providers shall provide free access to the  
13 department to monitor education programs. In order to ensure  
14 the department's access to education programs, education  
15 providers shall provide the department with notification of  
16 the date, time and location of each education program that is  
17 offered by the education provider.

18 (8) Education providers shall retain original records of  
19 attendance for each education and testing program conducted  
20 by the education provider for four years and shall provide  
21 the department free access to the records upon request.

22 (9) The department may revoke its approval of an  
23 education provider's education and testing programs if the  
24 education provider fails to comply with any requirement of  
25 this chapter.

26 Section 9. Section 6132(a)(1) and (2) and (b)(1) and (2) of  
27 Title 7 are amended AND THE SECTION IS AMENDED BY ADDING A  
28 SUBSECTION to read:

29 § 6132. License fees.

30 (a) Initial application fees.--[An] EXCEPT AS SET FORTH IN



1 SUBSECTION (D)(1), AN applicant shall pay to the department at  
2 the time an application is filed an initial nonrefundable  
3 application fee as set forth under this subsection.

4 (1) For mortgage lenders and mortgage loan  
5 correspondents, \$1,500 for the principal place of business  
6 [in this Commonwealth] and an additional fee of \$1,500 for  
7 each branch office.

8 (2) For mortgage brokers, \$1,000 for the principal place  
9 of business [in this Commonwealth] and an additional fee of  
10 \$250 for each branch office.

11 \* \* \*

12 (b) Renewal fees.--Prior to each annual renewal of a  
13 license, EXCEPT AS SET FORTH IN SUBSECTION (D)(2), a licensee  
14 shall pay to the department a nonrefundable license renewal fee  
15 as set forth under this subsection.

16 (1) For mortgage lenders and mortgage loan  
17 correspondents, \$750 for the principal place of business [in  
18 this Commonwealth] and an additional fee of \$750 for each  
19 branch office.

20 (2) For mortgage brokers, \$500 for the principal place  
21 of business [in this Commonwealth] and an additional fee of  
22 \$250 for each branch office.

23 \* \* \*

24 (D) EXCEPTION TO MORTGAGE ORIGINATOR LICENSE FEES.--

25 (1) AN APPLICANT SHALL NOT BE REQUIRED TO PAY THE FEE  
26 FOR A MORTGAGE ORIGINATOR LICENSE AS PROVIDED IN SUBSECTION  
27 (A) IF THE APPLICANT IS ALSO INDIVIDUALLY A MORTGAGE LENDER  
28 APPLICANT, MORTGAGE LOAN CORRESPONDENT APPLICANT OR MORTGAGE  
29 BROKER APPLICANT.

30 (2) A LICENSEE SHALL NOT BE REQUIRED TO PAY THE FEE FOR

1 A MORTGAGE ORIGINATOR LICENSE AS PROVIDED IN SUBSECTION (B)  
2 IF THE LICENSEE IS ALSO INDIVIDUALLY A MORTGAGE LENDER  
3 LICENSEE, MORTGAGE LOAN CORRESPONDENT LICENSEE OR MORTGAGE  
4 BROKER LICENSEE.

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

8 § 6133. Issuance of license.

9 \* \* \*

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

12 (1) The name and address of the licensee and the address  
13 or addresses covered by the license[, the address so  
14 specified to be that of the licensee's principal place of  
15 business within this Commonwealth or for a licensee acting  
16 only in the capacity of a wholesale table funder, either in  
17 or outside of this Commonwealth].

18 (2) The licensee's reference number or unique  
19 identifier.

20 \* \* \*

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

22 (1) The department may deny a license if it finds that  
23 the applicant or a director, officer, partner, employee,  
24 agent or ultimate equitable owner of 10% or more of the  
25 applicant has been convicted of a crime of moral turpitude or  
26 felony in any jurisdiction or of a crime which, if committed  
27 in this Commonwealth, would constitute a crime of moral  
28 turpitude or felony. The department shall deny a mortgage  
29 originator license if the applicant has been convicted of any  
30 felony during the seven-year period preceding the date of the

1 license application or at any time preceding the date of  
2 application, if the felony involved an act of fraud,  
3 dishonesty, breach of trust or money laundering, unless the  
4 applicant has been pardoned for the conviction. For the  
5 purposes of this subsection, a person shall be deemed to have  
6 been convicted of a crime if the person:

7 (i) pleads guilty or nolo contendere to a criminal  
8 charge before a domestic, foreign or military court or  
9 Federal magistrate; or

10 (ii) is found guilty by the decision or judgment of  
11 a domestic, foreign or military court or Federal  
12 magistrate or by the verdict of a jury, irrespective of  
13 the pronouncement of sentence or the suspension thereof,  
14 unless the plea of guilty or nolo contendere or the  
15 decision, judgment or verdict is set aside, vacated,  
16 reversed or otherwise abrogated by lawful judicial  
17 process.

18 \* \* \*

19 (e) Denial of license for other reason.--The department may  
20 deny a license or otherwise restrict a license if it finds that  
21 the applicant or a director, officer, partner, employee, agent  
22 or ultimate equitable owner of 10% or more of the applicant:

23 (1) has had a license application or license issued by  
24 the department or another state licensing agency or by a  
25 Federal regulatory agency denied, not renewed, suspended or  
26 revoked;

27 \* \* \*

28 (4) [does not possess the financial responsibility,  
29 character, reputation, integrity and general fitness to  
30 command the confidence of the public and to warrant the

1 belief that the mortgage loan business will be operated  
2 lawfully, honestly, fairly and within the legislative intent  
3 of this chapter and in accordance with the general laws of  
4 this Commonwealth] has an outstanding debt to the  
5 Commonwealth or a Commonwealth agency; or

6 (5) [has an outstanding debt to the Commonwealth or any  
7 Commonwealth agency.] does not possess the financial  
8 responsibility, character, reputation, integrity and general  
9 fitness to command the confidence of the public and to  
10 warrant the belief that the mortgage loan business will be  
11 operated lawfully, honestly, fairly and within the  
12 legislative intent of this chapter and in accordance with the  
13 general laws of this Commonwealth. For the purposes of this  
14 paragraph, an applicant is not financially responsible if the  
15 applicant has shown a disregard in the management of his or  
16 her own financial condition. The factors that the department  
17 may consider in making a determination regarding an  
18 applicant's financial responsibility shall include:

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

21 (ii) Current outstanding tax liens or other  
22 government liens and filings.

23 (iii) Foreclosures within the past three years.

24 (iv) A pattern of seriously delinquent accounts  
25 within the past three years.

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

29 (1) The applicant has had a license issued by the  
30 department or another state licensing agency or a Federal



1 regulatory agency revoked. If the revocation is formally  
2 vacated, this paragraph does not apply.

3 (2) The applicant does not possess the financial  
4 responsibility, character, reputation, integrity and general  
5 fitness to command the confidence of the public and to  
6 warrant the belief that the mortgage loan business will be  
7 operated lawfully, honestly, fairly and within the  
8 legislative intent of this chapter and in accordance with the  
9 general laws of this Commonwealth. For the purposes of this  
10 paragraph, an applicant is not financially responsible if the  
11 applicant has shown a disregard in the management of his or  
12 her own financial condition. The factors that the department  
13 may consider in making a determination regarding an  
14 applicant's financial responsibility include:

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

17 (ii) Current outstanding tax liens or other  
18 government liens and filings.

19 (iii) Foreclosures within the past three years.

20 (iv) A pattern of seriously delinquent accounts  
21 within the past three years.

22 \* \* \*

23 Section 11. Sections 6135(a)(2), (3), (4) and (5) and (b),  
24 6138(d), 6139(a)(13) and (b) introductory paragraph of Title 7  
25 are amended to read:

26 § 6135. Licensee requirements.

27 (a) Requirements of licensee.--

28 \* \* \*

29 (2) Each licensee shall maintain at its principal place  
30 of business [within this Commonwealth, or at such place

1 within or outside this Commonwealth], or at another place if  
2 agreed to by the department, the original or a copy of any  
3 books, accounts, records and documents, or electronic or  
4 similar access thereto, of the business conducted under the  
5 license as prescribed by the department to enable the  
6 department to determine whether the business of the licensee  
7 is being conducted in accordance with the provisions of this  
8 chapter and the regulations, statements of policy or orders  
9 issued under this chapter. All instruments, documents,  
10 accounts, books and records relating to the mortgage loan  
11 business shall be kept separate and apart from the records of  
12 any other business conducted by the licensee. Records of  
13 first and secondary mortgage loans shall be easily  
14 distinguishable and easily separated. All records shall be  
15 preserved and kept available for investigation or examination  
16 by the department for a period determined by the department.  
17 The department shall have free access to and authorization to  
18 examine records maintained [within or outside this  
19 Commonwealth] by the licensee. The costs of the examination,  
20 including travel costs, shall be borne by the licensee. The  
21 department may deny or revoke the authority to maintain  
22 records [within or outside this Commonwealth] at another  
23 place for good cause in the interest of protection for  
24 Commonwealth consumers, including for the licensee's failure  
25 to provide books, accounts, records or documents to the  
26 department upon request.

27 (3) A mortgage broker, mortgage lender or mortgage loan  
28 correspondent, or a mortgage originator that is required to  
29 obtain and maintain its own bond coverage under section  
30 6131(f)(4) (relating to application for license), on a date

determined by the department, shall file [annually]  
periodically as determined by the department, a report with  
the department setting forth such information as the  
department shall require concerning the first or secondary  
mortgage loan business conducted by the licensee during the  
preceding calendar year. The report shall be on a form  
provided by the department and shall be filed with the  
Nationwide Mortgage Licensing System and Registry. Licensees  
who fail to file the required report at the date required by  
the department may be subject to a penalty of \$100 for each  
day after the due date until the report is filed.

(4) Each licensee shall be subject to examination by the  
department at its discretion, at which time the department  
shall have free access, during regular business hours, to the  
licensee's place or places of business [in this Commonwealth]  
and to all instruments, documents, accounts, books and  
records which pertain to a licensee's first or secondary  
mortgage loan business[, whether maintained in or outside  
this Commonwealth]. The department may examine a licensee at  
any time if the department deems the examination to be  
necessary or desirable. The cost of any such examination  
shall be borne by the licensee.

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

(b) Accounting records.--The licensee's accounting records  
must be constructed and maintained in compliance with generally

1 accepted accounting principles or as provided by department  
2 regulation. [All instruments, documents, accounts, books and  
3 records relating to the mortgage loan business shall be kept  
4 separate and apart from the records of any other business  
5 conducted by the licensee. Records of first and secondary  
6 mortgage loans shall be easily distinguishable and easily  
7 separated. All records shall be preserved and kept available for  
8 investigation or examination by the department for a period  
9 determined by the department.]

10 \* \* \*

11 § 6138. Authority of department.

12 \* \* \*

13 (d) Final orders.--A decision of the Secretary of Banking  
14 shall be a final order of the department and shall be  
15 enforceable in a court of competent jurisdiction. The department  
16 may publish final adjudications issued under this section,  
17 subject to redaction or modification to preserve  
18 confidentiality. The department shall regularly report  
19 violations of this chapter, enforcement actions and other  
20 relevant information to the Nationwide Mortgage Licensing System  
21 and Registry.

22 \* \* \*

23 § 6139. Suspension, revocation or refusal.

24 (a) Departmental action.--The department may suspend, revoke  
25 or refuse to renew a license issued under this chapter if any  
26 fact or condition exists or is discovered which, if it had  
27 existed or had been discovered at the time of filing of the  
28 application for the license, would have warranted the department  
29 in refusing to issue the license or if a licensee or director,  
30 officer, partner, employee or owner of a licensee has:

1           \* \* \*

2           (13) Failed to complete the [qualifying or continuing  
3 education as required by section 6131(g)] requirements of  
4 section 6131.1 (relating to prelicensing and continuing  
5 education).

6           \* \* \*

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

10          \* \* \*

11          Section 12. Title 7 is amended by adding a section to read:  
12 § 6154. Procedure for determination of noncompliance with  
13 Federal law.

14          (a) Applicability.--This section applies if, because of a  
15 determination under paragraph (4) of the definition of "mortgage  
16 originator" in section 6102 (relating to definitions), an  
17 employee:

18           (1) is required to be licensed as a mortgage originator  
19 under state laws implementing the S.A.F.E. Mortgage Licensing  
20 Act of 2008 (110 Stat. 289, 12 U.S.C. § 5101 et seq.); and

21           (2) is thus required to be licensed as a mortgage  
22 originator.

23          (b) Continuation.--An employee specified in subsection (a)  
24 may continue to act in the employee's current capacity if the  
25 employee files an application for a mortgage originator license  
26 with the department within 60 days of the date of the  
27 determination.

28          Section 13. The following shall apply:

29           (1) Individuals not licensed as mortgage originators  
30 under 7 Pa.C.S. Ch. 61 who are required to be licensed as

1 mortgage originators by virtue of this act may continue to  
2 engage in the mortgage loan business in their current  
3 capacity if they file an application for a mortgage  
4 originator license with the department within 60 days of the  
5 effective date of this section.

6 (2) Licenses issued under 7 Pa.C.S. Ch. 61 prior to the  
7 effective date of this section that were conditioned upon  
8 completion of the education and testing requirements of 7  
9 Pa.C.S. Ch. 61 existing prior to the effective date of this  
10 section shall be conditioned upon the completion of the  
11 education and testing requirements of this act by December  
12 31, 2009.

13 Section 14. This act shall take effect immediately.