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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 780 Session of  
2017

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INTRODUCED BY MACKENZIE, THOMAS, ELLIS, MILLARD, SOLOMON AND  
A. HARRIS, MARCH 10, 2017

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REFERRED TO COMMITTEE ON COMMERCE, MARCH 10, 2017

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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 definitions,  
4 for license requirements, for exceptions to license  
5 requirements, for general requirements, for powers conferred  
6 on certain licensees engaged in the mortgage loan business,  
7 for mortgage loan business prohibitions, for application for  
8 license, for license fees and for licensee requirements.

9 The General Assembly of the Commonwealth of Pennsylvania  
10 hereby enacts as follows:

11 Section 1. The definitions of "administrative or clerical  
12 tasks," "billing cycle," "clerical or support duties," "mortgage  
13 loan business," "mortgage loan correspondent," "qualifying  
14 individual" and "service mortgage loan" in section 6102 of Title  
15 7 of the Pennsylvania Consolidated Statutes are amended and the  
16 section is amended by adding definitions to read:

17 § 6102. Definitions.

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

21 "Administrative or clerical tasks." The receipt, collection

1 and distribution of information common for the processing,  
2 servicing or underwriting of a mortgage loan and communication  
3 with a consumer to obtain information necessary for the  
4 processing, servicing or underwriting of a mortgage loan.

5 \* \* \*

6 "Billing cycle." In respect to open-end mortgage loans, the  
7 time interval between periodic billing dates as established by  
8 the mortgage note and subsequent modification to the obligation.  
9 A billing cycle shall be considered to be a monthly cycle if the  
10 closing date of the cycle is the same date each month or does  
11 not vary by more than four days from that date.

12 \* \* \*

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

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

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

21 (i) offering or negotiating mortgage loan rates or  
22 terms; [or]

23 (ii) counseling consumers about mortgage loan rates  
24 or terms[.]; or

25 (iii) offering or negotiating mortgage servicing  
26 terms.

27 \* \* \*

28 "Delinquent." The date when an amount sufficient to cover a  
29 periodic payment of principal, interest and, if applicable,  
30 escrow becomes due and unpaid, and lasts until the time no

1 periodic payment is due and unpaid, notwithstanding if the  
2 borrower is afforded a period after the due date to pay before  
3 the servicer assesses a late fee.

4 \* \* \*

5 "Loss mitigation option." An alternative to foreclosure  
6 offered by the owner, holder or assignee of a delinquent  
7 mortgage loan that is made available through the servicer to the  
8 borrower.

9 \* \* \*

10 "Mortgage loan business." [The business of advertising,  
11 causing to be advertised, soliciting, negotiating or arranging  
12 in the ordinary course of business or offering to make or making  
13 mortgage loans.] The business of:

14 (1) advertising, causing to be advertised, soliciting,  
15 negotiating or arranging in the ordinary course of business  
16 or offering to make or making mortgage loans; or

17 (2) servicing mortgage loans.

18 "Mortgage loan correspondent." A person who engages in the  
19 mortgage loan business by directly or indirectly originating and  
20 closing mortgage loans in his or her own name utilizing funds  
21 provided by a wholesale table funder or other funding sources  
22 under the circumstances described under section [6123(6)]  
23 6123(a)(6) (relating to mortgage loan business prohibitions) and  
24 simultaneously assigning the mortgage loans to the wholesale  
25 table funder.

26 \* \* \*

27 "Mortgage servicer." A person who engages in the mortgage  
28 loan business by directly or indirectly servicing a mortgage  
29 loan.

30 \* \* \*

1 "Qualifying individual." An individual identified by a  
2 mortgage broker, mortgage lender, mortgage servicer or mortgage  
3 loan correspondent in the Nationwide Mortgage Licensing System  
4 and Registry who:

5 (1) Is a mortgage originator or meets the licensing  
6 requirements of a mortgage originator.

7 (2) Is a management-level officer assigned to the  
8 principal place of business of a mortgage broker, mortgage  
9 lender, mortgage servicer or mortgage loan correspondent.

10 \* \* \*

11 "Service mortgage loan." A collecting or remitting payment  
12 [for another,] or the right to collect or remit payments [for  
13 another,] of principal, interest, tax, insurance or other  
14 payment under a mortgage loan.

15 "Single point of contact." An individual or team of  
16 personnel, each of whom has the ability and authority to discuss  
17 mortgage loan mitigation options with a borrower on behalf of a  
18 mortgage servicer. The mortgage servicer shall ensure that each  
19 member of the team is knowledgeable about the borrower's  
20 situation and current status.

21 \* \* \*

22 Section 2. Section 6111(a) and (b) of Title 7 are amended to  
23 read:

24 § 6111. License requirements.

25 (a) General rule.--Except as provided under subsections (b)  
26 and (c) and section 6112 (relating to exceptions to license  
27 requirements), on and after the effective date of this section,  
28 no person shall engage in the mortgage loan business in this  
29 Commonwealth without being licensed as a mortgage broker,  
30 mortgage lender, mortgage servicer, mortgage loan correspondent

1 or mortgage originator as provided under this chapter. A  
2 mortgage originator may not engage in the mortgage loan business  
3 unless the mortgage originator is sponsored in the Nationwide  
4 Mortgage Licensing System and Registry by a licensed mortgage  
5 broker, mortgage lender, mortgage servicer or mortgage loan  
6 correspondent, person excepted from this chapter or person  
7 excepted from licensure under section 6112 and is under the  
8 direct supervision and control of the sponsoring licensee or  
9 excepted person.

10 (b) Licensed activity exceptions.--

11 (1) A mortgage lender may [act as a mortgage broker or  
12 mortgage loan correspondent without a separate mortgage  
13 broker or mortgage loan correspondent license.]:

14 (i) Act as a mortgage broker or mortgage loan  
15 correspondent without a separate mortgage broker or  
16 mortgage loan correspondent license.

17 (ii) Act as a mortgage servicer without a separate  
18 mortgage servicer license for mortgage loans the mortgage  
19 lender has originated, negotiated and owns.

20 (2) A mortgage loan correspondent may act as a mortgage  
21 broker without a separate mortgage broker license.

22 (3) A person licensed as a mortgage broker may only  
23 perform the services of a mortgage broker.

24 (4) A person only licensed as a mortgage servicer may  
25 only perform the services of a mortgage servicer.

26 \* \* \*

27 Section 3. Section 6112(2), (3), (6), (7) and (8) of Title 7  
28 are amended and the section is amended by adding a paragraph to  
29 read:

30 § 6112. Exceptions to license requirements.

1 The following persons shall not be required to be licensed  
2 under this chapter in order to conduct the mortgage loan  
3 business:

4 \* \* \*

5 (2) An attorney at law not otherwise engaged in or  
6 holding himself or herself out to the public as being engaged  
7 in the mortgage loan business who acts as a mortgage broker  
8 or a mortgage originator in negotiating or placing a mortgage  
9 loan in the normal course of legal practice. The exception  
10 under this paragraph shall not apply if the attorney is  
11 compensated by any of the following:

12 (i) A mortgage broker.

13 (ii) A mortgage lender.

14 (iii) A mortgage loan correspondent.

15 (iv) A person excepted from licensure under this  
16 section.

17 (v) A mortgage originator.

18 (v.1) A mortgage servicer.

19 (vi) An agent of a person listed in subparagraphs  
20 (i), (ii), (iii), (iv) [and (v)], (v) and (v.1).

21 (3) A person who originates, services or negotiates less  
22 than four mortgage loans in a calendar year, unless  
23 determined to be engaged in the mortgage loan business by the  
24 department.

25 \* \* \*

26 (6) Consumer discount companies, except that a consumer  
27 discount company that acts as a mortgage broker, mortgage  
28 lender, mortgage servicer or mortgage loan correspondent,  
29 shall be subject to the provisions of Subchapter C (relating  
30 to mortgage loan business restrictions and requirements) and

1 sections 6131(c) (2), (3) and (5), 6135, 6138 (relating to  
2 authority of department) and 6140(b) (relating to penalties).  
3 Employees or individuals under the direct supervision and  
4 control of licensees under the act of April 8, 1937 (P.L.262,  
5 No.66), known as the Consumer Discount Company Act, that act  
6 as mortgage originators shall be subject to the licensing  
7 requirements of this chapter. Consumer discount companies  
8 that employ or directly supervise and control mortgage  
9 originators shall be subject to the same requirements as  
10 mortgage lenders in regard to the employment and supervision  
11 of mortgage originators.

12 (7) Affiliates of banking institutions and subsidiaries  
13 and affiliates of federally chartered or State-chartered  
14 credit unions. The exception under this paragraph does not  
15 apply to consumer discount companies. Notwithstanding the  
16 exception under this paragraph, subsidiaries and affiliates  
17 of federally chartered or State-chartered credit unions and  
18 affiliates of banking institutions shall:

19 (i) be subject to the provisions of [Subchapter C  
20 and] sections 6121(1), (2), (3), (4), (5), (6), (7), (8),  
21 (9), (10), (11), (12), (13) and (14) (relating to general  
22 requirements), 6122(a) and (b) (relating to powers  
23 conferred on certain licensees engaged in the mortgage  
24 loan business), 6123(a) (relating to mortgage loan  
25 business prohibitions), 6124 (relating to prohibited  
26 clauses in mortgage loan documents), 6125 (relating to  
27 mortgage lending authority), 6126 (relating to  
28 requirements as to open-end loans), 6135(a) (2), (3) and  
29 (4), (b) and (c), 6138 and 6140(b);

30 (ii) deliver as required to the department annually

1 copies of financial reports made to all supervisory  
2 agencies;

3 (iii) be registered with the department;

4 (iv) 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

7 (v) ensure employees required to be licensed as  
8 mortgage originators have completed the requirements  
9 under section 6131.1 (relating to prelicensing and  
10 continuing education) and have obtained the required  
11 mortgage originator license.

12 (8) Employees or individuals under the direct  
13 supervision and control of a mortgage broker, mortgage  
14 lender, mortgage servicer or mortgage loan correspondent, or  
15 a person excepted from licensure under this section, who are  
16 not otherwise required to be licensed as mortgage  
17 originators.

18 \* \* \*

19 (17) An individual or entity licensed under the act of  
20 September 2, 1965 (P.L.490, No.249), referred to as the Money  
21 Transmission Business Licensing Law, if the individual or  
22 entity only engages in the mortgage loan business to the  
23 extent funds are transmitted from a mortgagor to make  
24 mortgage payments on behalf of the mortgagor in order to  
25 exceed regularly scheduled minimum payment obligations under  
26 the terms of the indebtedness.

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

29 § 6121. General requirements.

30 A licensee shall do all of the following:

1 \* \* \*

2 (15) For a mortgage servicer, all of the following:

3 (i) Safeguard and account for money handled for the  
4 borrower.

5 (ii) Follow reasonable and lawful instructions from  
6 the borrower.

7 (iii) Act with reasonable skill, care and diligence.

8 (iv) File with the department upon request a report  
9 in a form and format specified by the department.

10 (v) At the time the mortgage servicer accepts  
11 assignment of servicing rights for a mortgage loan,  
12 disclose to the borrower:

13 (A) Notice required under Federal law or  
14 regulation.

15 (B) A schedule of the ranges and categories of  
16 the mortgage servicer's costs and fees for servicing-  
17 related activities.

18 (vi) Promptly notify the borrower in the event  
19 mortgage servicing rights are transferred.

20 (vii) In the event of a delinquency or other act of  
21 default on the part of the borrower, act in good faith to  
22 inform the borrower of the facts concerning the mortgage  
23 loan, the nature and extent of the delinquency or default  
24 and loss mitigation options, if available or appropriate,  
25 to the borrower.

26 (viii) If a mortgage loan is paid in full and, in  
27 the case of an open-end mortgage, a mortgage lender is no  
28 longer obligated to make future advances to the consumer,  
29 the mortgage servicer shall act in good faith to do all  
30 of the following:

1           (A) Request the mortgage holder release the lien  
2           on the dwelling or residential real estate and cancel  
3           the same of record and, at the time the mortgage loan  
4           agreement or promissory note evidencing the mortgage  
5           loan is returned, deliver to the consumer good and  
6           sufficient assignment, releases or other certificate,  
7           instrument or document as may be necessary to  
8           evidence the release.

9           (B) Request the mortgage holder cancel any  
10          insurance provided in connection with the mortgage  
11          loan and refund to the borrower, in accordance with  
12          regulations promulgated by the Insurance Department,  
13          any unearned portion of the premium for the  
14          insurance.

15          (C) If a mortgage holder has delegated the  
16          responsibility to record satisfaction of security  
17          instruments to a mortgage servicer, the mortgage  
18          servicer shall be treated as a mortgage holder for  
19          purposes of satisfying the conditions of clause (A)  
20          or (B).

21          Section 5. Section 6122(a) of Title 7 is amended by adding a  
22 paragraph and the section is amended by adding a subsection to  
23 read:

24 § 6122. Powers conferred on certain licensees engaged in the  
25 mortgage loan business.

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

29           \* \* \*

30          (8) To service first and secondary mortgage loans that

1 are originated, negotiated and owned by the mortgage lender.

2 \* \* \*

3 (c) Mortgage servicers.--If a mortgage servicer is in  
4 compliance with this chapter, the mortgage servicer shall have  
5 the power and authority to collect and remit for a lender,  
6 mortgagee, note owner, note holder, trustee or primary  
7 beneficiary of a residential mortgage loan payment of principal,  
8 interest or an amount to be placed into escrow for any  
9 combination of the payment of insurance, hazard insurance or  
10 taxes.

11 Section 6. Sections 6123 introductory paragraph and 6131(a)  
12 (1) of Title 7 are amended and the sections are amended by  
13 adding subsections to read:

14 § 6123. Mortgage loan business prohibitions.

15 (a) Mortgage loan business prohibitions.--A licensee  
16 engaging in the mortgage loan business shall not:

17 \* \* \*

18 (b) Mortgage loan servicer prohibitions.--A licensee  
19 engaging in the mortgage servicer business shall not:

20 (1) Fail to comply with applicable Federal and State  
21 laws, rules and regulations related to mortgage servicing.

22 (2) Fail to provide written notice to a borrower upon  
23 taking action to place hazard insurance, or flood insurance  
24 on the mortgaged property or to place the insurance when the  
25 mortgage servicer knows or has reason to know that there is  
26 insurance in effect.

27 (3) Place hazard insurance or flood insurance on a  
28 mortgaged property for an amount that exceeds either the  
29 value of the insurable improvements or the last-known  
30 coverage amount of insurance, whichever amount is of lesser

1 value.

2 (4) Fail to provide to the borrower a refund of unearned  
3 premium paid by a borrower or charged to the borrower for  
4 hazard or flood insurance placed by a mortgage lender or  
5 mortgage servicer if the borrower provides reasonable proof  
6 that the borrower has obtained coverage so that the forced  
7 placement is no longer necessary and the property is insured.  
8 If the borrower provides reasonable proof within 12 months of  
9 the placement that no lapse in coverage occurred so that the  
10 forced placement was not necessary, the mortgage servicer  
11 shall refund the entire premium.

12 (5) Fail to make payments from an escrow account held  
13 for the borrower for insurance, taxes and other charges with  
14 respect to the property in a timely manner to ensure that  
15 late penalties are not assessed or other negative  
16 consequences will not result regardless of whether the  
17 mortgage loan is delinquent unless there are not sufficient  
18 funds in the account to cover the payments and the mortgage  
19 servicer has a reasonable basis to believe that recovery of  
20 the funds will not be possible.

21 (6) Fail to establish or attempt to establish a single  
22 point of contact with whom a borrower can communicate about  
23 foreclosure matters or loss mitigation options later than the  
24 36th day of a borrower's delinquency, unless contact is  
25 inconsistent with applicable bankruptcy law or court order.

26 (7) Fail to apply payments to the oldest outstanding  
27 periodic payment.

28 (8) Fail to maintain policies and procedures to achieve  
29 the objective of facilitating the communication of  
30 information during a transfer of mortgage servicing rights

1 from one person to another person, except as provided in  
2 paragraph (9), including:

3 (i) Implementing a posttransfer process for  
4 validating data to ensure the data is transferred  
5 correctly and is functional, including developing  
6 procedures for identifying and addressing data errors for  
7 inbound mortgage loans.

8 (ii) Organizing and coding incoming information,  
9 including ensuring that the transferee servicer uses  
10 transferred information before seeking information from  
11 borrowers.

12 (iii) Conducting periodic calls with transferor  
13 servicers to identify mortgage loan level issues and to  
14 research and resolve those issues within 10 days,  
15 excluding legal holidays, Saturdays and Sundays, of  
16 issues being identified.

17 (9) Transfers meeting the criteria enumerated in 12 CFR  
18 1024.33(b)(2) (relating to mortgage servicing transfers)  
19 shall not be subject to the provisions of paragraph (8).

20 § 6131. Application for license.

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

28 (1) In the case of a mortgage broker, mortgage lender,  
29 mortgage servicer or mortgage loan correspondent, the  
30 application shall include the following:

- 1 (i) The name of the applicant.
- 2 (ii) The address of the principal place of business  
3 and any branches of the applicant.
- 4 (iii) The full name, official title and business  
5 address of each director and principal officer of the  
6 mortgage loan business.
- 7 (iv) Any other information that may be required by  
8 the department.

9 \* \* \*

10 (k) Mortgage servicer license.--The department shall issue a  
11 mortgage servicer license under this chapter if the applicant  
12 has:

13 (1) Been approved by or meets the current eligibility  
14 criteria for approval as a residential mortgage loan servicer  
15 of at least one Federal Government-sponsored entity,  
16 government corporation or Federal agency.

17 (2) Established a minimum net worth of \$250,000 at the  
18 time of application and maintains the minimum net worth.

19 (3) Been approved for and maintains as a licensee  
20 fidelity bond coverage in accordance with the guidelines  
21 established by the Federal National Mortgage Association or  
22 the Federal Home Loan Mortgage Corporation.

23 (4) Obtained and maintains a surety bond in an amount  
24 that will provide coverage for the mortgage servicer in a  
25 form acceptable to the department prior to the issuance of  
26 the license, from a surety company authorized to do business  
27 in this Commonwealth. The following shall apply:

28 (i) The amount of the bond shall be \$500,000.

29 (ii) The bond shall run to the Commonwealth and  
30 shall be for the use of the Commonwealth and for the use

1 of consumer who is injured by the acts or omissions of  
2 the licensee's mortgage originators that are related to  
3 the mortgage loan business regulated under this chapter.  
4 A bond shall not comply with the requirements of this  
5 section unless the bond contains a provision that the  
6 bond shall not be canceled for any cause unless notice of  
7 intention to cancel is given to the department at least  
8 30 days, excluding legal holidays, Saturdays and Sundays,  
9 before the day upon which cancellation shall take effect.  
10 Cancellation of the bond shall not invalidate the bond  
11 regarding the period of time the bond was in effect.

12 (5) Designated an individual as the qualifying  
13 individual for the principal place of business.

14 Section 7. Sections 6132(a), (b) and (d) and 6135(a)(3) of  
15 Title 7 are amended to read:

16 § 6132. License fees.

17 (a) Initial application fees.--Except as set forth in  
18 subsection (d)(1), an applicant shall pay to the department at  
19 the time an application is filed an initial nonrefundable  
20 application fee as set forth under this subsection.

21 (1) For mortgage lenders and mortgage loan  
22 correspondents, \$1,500 for the principal place of business  
23 and an additional fee of \$1,500 for each branch office.

24 (2) For mortgage brokers, \$1,000 for the principal place  
25 of business and an additional fee of \$250 for each branch  
26 office.

27 (3) For mortgage originators, \$200.

28 (4) For mortgage servicers, \$2,500 for the principal  
29 place of business and an additional fee of \$1,250 for each  
30 branch location.

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

5 (1) For mortgage lenders and mortgage loan  
6 correspondents, \$750 for the principal place of business and  
7 an additional fee of \$750 for each branch office.

8 (2) For mortgage brokers, \$500 for the principal place  
9 of business and an additional fee of \$250 for each branch  
10 office.

11 (3) For mortgage originators, \$100.

12 (4) For mortgage servicers, \$1,000 for the principal  
13 place of business and an additional fee of \$500 for each  
14 branch location.

15 \* \* \*

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

17 (1) An applicant shall not be required to pay the fee  
18 for a mortgage originator license as provided in subsection  
19 (a) if the applicant is also individually a mortgage lender  
20 applicant, mortgage loan correspondent applicant, mortgage  
21 servicer applicant or mortgage broker applicant.

22 (2) A licensee shall not be required to pay the fee for  
23 a mortgage originator license as provided in subsection (b)  
24 if the licensee is also individually a mortgage lender  
25 licensee, mortgage loan correspondent licensee or mortgage  
26 broker licensee.

27 § 6135. Licensee requirements.

28 (a) Requirements of licensee.--

29 \* \* \*

30 (3) A mortgage broker, mortgage lender [or], mortgage

1 servicer, mortgage loan correspondent, or a mortgage  
2 originator that is required to obtain and maintain its own  
3 bond coverage under section 6131(f)(4) (relating to  
4 application for license), shall file periodically, as  
5 determined by the department, a report with the department or  
6 the Nationwide Mortgage Licensing System and Registry, as  
7 determined by the department, setting forth such information  
8 as the department shall require concerning the first or  
9 secondary mortgage loan business conducted by the licensee.  
10 Licensees who fail to file the required report at the date  
11 required by the department may be subject to a penalty of  
12 \$100 for each day after the due date until the report is  
13 filed.

14 \* \* \*

15 Section 8. This act shall take effect in 90 days.