
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1654 Session of
2009

INTRODUCED BY DALEY AND HESS, JUNE 10, 2009

REFERRED TO COMMITTEE ON COMMERCE, JUNE 10, 2009

AN ACT

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

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

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

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

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

1 chartered credit union.

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

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

9 § 6102. Definitions.

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

13 * * *

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

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

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

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

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

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

30 * * *

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

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

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

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

7 (3) The Office of Thrift Supervision.

8 (4) The National Credit Union Administration.

9 (5) The Federal Deposit Insurance Corporation.

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

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

25 * * *

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

28 * * *

29 "Loan processor or underwriter." An individual who performs
30 clerical or support duties as an employee at the direction of

1 and subject to the supervision and instruction of a person
2 licensed or exempt from licensing under this chapter.

3 * * *

4 "Mortgage originator."

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

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

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

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

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

1 otherwise act as a mortgage originator.

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

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

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

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

22 * * *

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

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

29 (1) Meets the definition of mortgage originator and is
30 an employee of:

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

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

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

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

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

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

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

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

25 * * *

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

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

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

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

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

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

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

21 (6) Goodwill.

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

25 (8) Organization costs of the applicant.

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

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

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

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

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

11 * * *

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

15 § 6111. License requirements.

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

28 (b) Licensed activity exceptions.--

29 (1) A mortgage lender may act as a mortgage broker or
30 mortgage loan correspondent without a separate mortgage

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

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

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

15 * * *

16 § 6112. Exceptions to license requirements.

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

20 * * *

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

29 (i) A mortgage broker.

30 (ii) A mortgage lender.

1 (iii) A mortgage loan correspondent.

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

4 (v) A mortgage originator.

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

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

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

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

28 (ii) annually, in a form acceptable to the
29 department, demonstrate to the department that all of the
30 mortgage originators employed by the agency or

1 instrumentality have obtained and maintained the bond
2 coverage required by section 6131(f)(4).

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

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

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

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

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

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

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

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

20 (iii) be registered with the department; and

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

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

30 (i) engage solely in loan processor or underwriter

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

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

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

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

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

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

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

1 corporation must:

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

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

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

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

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

24 (iii) Does either of the following:

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

30 (B) Annually, in a form acceptable to the

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

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

7 § 6121. General requirements.

8 A licensee shall do all of the following:

9 * * *

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

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

16 § 6122. Powers conferred on certain licensees engaged in the
17 mortgage loan business.

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

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

25 * * *

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

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

30 (ii) are evidenced by a statement for services

1 rendered addressed to the licensee; and
2 (iii) are included in the principal of the mortgage
3 loan.

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

8 * * *

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

11 § 6125. Mortgage lending authority.

12 * * *

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

15 * * *

16 (2) * * *

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

26 [or] and

27 * * *

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

1 section is amended by adding a subsection to read:

2 § 6131. Application for license.

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

10 * * *

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

14 * * *

15 (3) Established a minimum [tangible] net worth of
16 \$250,000 at the time of application and will, at all times
17 thereafter, maintain the minimum [tangible] net worth.

18 * * *

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

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

1 \$30,000,000 to \$99,999,999.99 in mortgage loans secured
2 by Pennsylvania residential real estate in a calendar
3 year, \$500,000 for an applicant or licensee whose
4 mortgage originators will originate or originated
5 \$100,000,000 to \$249,999,999.99 in mortgage loans secured
6 by Pennsylvania residential real estate in a calendar
7 year and \$1,000,000 for an applicant or licensee whose
8 mortgage originators will originate or originated
9 \$250,000,000 or more in mortgage loans secured by
10 Pennsylvania residential real estate in a calendar year.

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

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

1 the day upon which cancellation shall take effect.

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

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

7 (1) Obtains and will maintain a bond in the amount of
8 \$100,000, in a form acceptable to the department, prior to
9 the issuance of the license, from a surety company authorized
10 to do business in this Commonwealth. The bond shall run to
11 the Commonwealth and shall be for the use of the Commonwealth
12 and any person or persons who obtain a judgment against the
13 mortgage loan correspondent for failure to carry out the
14 terms of any provision for which advance fees are paid. No
15 bond shall comply with the requirements of this section
16 unless it contains a provision that it shall not be canceled
17 for any cause unless notice of intention to cancel is given
18 to the department at least 30 days before the day upon which
19 cancellation shall take effect. A mortgage loan correspondent
20 who can demonstrate to the satisfaction of the department
21 that the correspondent does not and will not accept advance
22 fees shall be exempt from the bond requirement of this
23 paragraph.

24 (2) Establishes a minimum [tangible] net worth of
25 \$100,000 at the time of application and will, at all times
26 thereafter, maintain the minimum [tangible] net worth.

27 (3) Obtains and will maintain a surety bond in an amount
28 that will provide coverage for the mortgage originators
29 employed by the applicant or licensee, in a form acceptable
30 to the department, prior to the issuance of the license, from

1 a surety company authorized to do business in this
2 Commonwealth. The following shall apply:

3 (i) The amount of the bond shall be \$100,000 for an
4 applicant or licensee whose mortgage originators will
5 originate or originated less than \$30,000,000 in mortgage
6 loans secured by Pennsylvania residential real estate in
7 a calendar year, \$300,000 for an applicant or licensee
8 whose mortgage originators will originate or originated
9 \$30,000,000 to \$99,999,999.99 in mortgage loans secured
10 by Pennsylvania residential real estate in a calendar
11 year, \$500,000 for an applicant or licensee whose
12 mortgage originators will originate or originated
13 \$100,000,000 to \$249,999,999.99 in mortgage loans secured
14 by Pennsylvania residential real estate in a calendar
15 year and \$1,000,000 for an applicant or licensee whose
16 mortgage originators will originate or originated
17 \$250,000,000 or more in mortgage loans secured by
18 Pennsylvania residential real estate in a calendar year.

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

30 (iii) The bond shall run to the Commonwealth and

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

12 (e) Mortgage broker license.--

13 * * *

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

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

24 (i) The amount of the bond shall be \$50,000 for an
25 applicant or licensee whose mortgage originators will
26 originate or originated less than \$15,000,000 in mortgage
27 loans secured by Pennsylvania residential real estate in
28 a calendar year, \$100,000 for an applicant or licensee
29 whose mortgage originators will originate or originated
30 \$15,000,000 to \$29,999,999.99 in mortgage loans secured

1 by Pennsylvania residential real estate in a calendar
2 year, \$200,000 for an applicant or licensee whose
3 mortgage originators will originate or originated
4 \$30,000,000 to \$49,999,999.99 in mortgage loans secured
5 by Pennsylvania residential real estate in a calendar
6 year, and \$300,000 for an applicant or licensee whose
7 mortgage originators will originate or originated
8 \$50,000,000 or more in mortgage loans secured by
9 Pennsylvania residential real estate in a calendar 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.

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

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

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

18 (2) Be assigned to and work out of a licensed location
19 of the employer licensee or a location of an employer person
20 excepted from this chapter or excepted from licensure under
21 section 6112.

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

24 (4) If a person excepted from this chapter or excepted
25 from licensure under section 6112 does not elect to maintain
26 bond coverage for its mortgage originators in the same manner
27 as a mortgage lender, a mortgage originator employed by a
28 person excepted from this chapter or excepted from licensure
29 under section 6112 shall obtain and maintain a surety bond in
30 an amount that will provide coverage for the mortgage

1 originator, in a form acceptable to the department, prior to
2 the issuance of the license, from a surety company authorized
3 to do business in this Commonwealth. The following shall
4 apply:

5 (i) The amount of the bond shall be \$25,000 for an
6 applicant or licensee who will originate or originated
7 less than \$7,500,000 in mortgage loans secured by
8 Pennsylvania residential real estate in a calendar year,
9 \$50,000 for an applicant or licensee who will originate
10 or originated \$7,500,000 to \$14,999,999.99 in mortgage
11 loans secured by Pennsylvania residential real estate in
12 a calendar year, \$100,000 for an applicant or licensee
13 who will originate or originated \$15,000,000 to
14 \$29,999,999.99 in mortgage loans secured by Pennsylvania
15 residential real estate in a calendar year, \$200,000 for
16 an applicant or licensee who will originate or originated
17 \$30,000,000 to \$49,999,999.99 in mortgage loans secured
18 by Pennsylvania residential real estate in a calendar
19 year and \$300,000 for an applicant or licensee who will
20 originate or originated \$50,000,000 or more in mortgage
21 loans secured by Pennsylvania residential real estate in
22 a calendar year.

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

1 originated by the mortgage originator as indicated on the
2 mortgage originator's annual report.

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

15 [(g) Education.--

16 (1) In order to obtain a license under this chapter, an
17 applicant shall submit to the department with its application
18 evidence that the applicant, in the case of a mortgage
19 originator applicant, or a director, partner or ultimate
20 equitable owner of at least 10% of a licensee, in the case of
21 any other license applicant, has successfully completed a
22 minimum of 12 hours of instruction and a testing program
23 regarding the first and secondary mortgage loan businesses
24 and the provisions of this chapter, the act of January 30,
25 1974 (P.L.13, No.6), referred to as the Loan Interest and
26 Protection Law (Usury Law) and relevant Federal law including
27 the Real Estate Settlement Procedures Act of 1974 (88 Stat.
28 1724, 12 U.S.C. § 2601 et seq.), Truth in Lending provisions
29 of Title I of the Consumer Credit Protection Act (Public Law
30 90-321, 15 U.S.C. § 1601 et seq.) and the Equal Credit

1 Opportunity Act (Public Law 93-495, 15 U.S.C. § 1691 et
2 seq.).

3 (2) In order to maintain a license:

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

11 (ii) A mortgage originator licensee shall
12 demonstrate to the satisfaction of the department that
13 the licensee has attended a minimum of six hours of
14 continuing education each year.

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

25 (g) Nationwide Mortgage Licensing System and Registry
26 information challenge process.--A mortgage originator applicant
27 or licensee may challenge the accuracy of information entered by
28 the department to the Nationwide Mortgage Licensing System and
29 Registry regarding the mortgage originator applicant or licensee
30 by filing a written complaint with the department. The

1 department shall review the complaint and alleged inaccurate
2 information on the Nationwide Mortgage Licensing System and
3 Registry and notify the applicant or licensee of corrective
4 action taken by the department regarding the alleged inaccurate
5 information within 30 days of receipt of the complaint.

6 (h) License renewals.--Licenses shall be issued for terms of
7 12 months and may be renewed by the department each year on a
8 schedule set by the department upon application by the licensee
9 and the payment of any and all applicable renewal fees. The
10 licensee shall demonstrate to the department that it is
11 conducting the mortgage loan business in accordance with the
12 requirements of this chapter and that the licensee or directors,
13 officers, partners, employees, agents and ultimate equitable
14 owners of 10% or more of the licensee continue to meet all of
15 the initial requirements for licensure required by this chapter
16 unless otherwise determined by the department.

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

18 (1) If an applicant is not a resident of this
19 Commonwealth, as a condition to receiving a license under
20 this chapter, the applicant shall be authorized to do
21 business in this Commonwealth in accordance with the laws of
22 this Commonwealth regulating corporations and other entities
23 conducting business in this Commonwealth and shall maintain
24 at least one office [in this Commonwealth] which is the
25 office that shall be licensed as the principal place of
26 business for the purposes of this chapter. [Wholesale table
27 funders shall be exempt from the requirement to maintain at
28 least one office in this Commonwealth.]

29 * * *

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

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

6 Section 8. Title 7 is amended by adding a section to read:
7 § 6131.1. Prelicensing and continuing education.

8 (a) General requirements.--

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

13 (2) Licensees shall complete continuing education
14 required under subsection (d) in order to renew a license
15 under this chapter.

16 (b) Prelicensing education.--

17 (1) An applicant who is a mortgage originator, or a
18 director, partner or ultimate equitable owner of 10% or more
19 of an applicant other than a mortgage originator, shall
20 complete at least 20 hours of education programs approved in
21 accordance with paragraph (2), which shall include all of the
22 following:

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

24 (ii) Three hours of ethics, which shall include
25 instruction on fraud, consumer protection and fair
26 lending issues.

27 (iii) Two hours of training related to lending
28 standards for the nontraditional mortgage loan
29 marketplace.

30 (iv) Three hours of Pennsylvania law and

1 regulations, including this chapter, the act of December
2 3, 1959 (P.L.1688, No.621), known as the Housing Finance
3 Agency Law and the act of January 30, 1974 (P.L.13,
4 No.6), referred to as the Loan Interest and Protection
5 Law.

6 (2) Prelicensing education programs shall be reviewed
7 and approved by the Nationwide Mortgage Licensing System and
8 Registry or as otherwise determined by the department based
9 upon reasonable standards. Review and approval of a
10 prelicensing education program shall include review and
11 approval of the program provider.

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

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

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

1 license application.

2 (6) An applicant that was previously licensed under this
3 chapter that is applying to become licensed again under this
4 chapter must demonstrate that the applicant has completed all
5 of the continuing education requirements for the year in
6 which the applicant was last licensed under this chapter.

7 (c) Prelicensing written test.--

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

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

24 (i) Ethics.

25 (ii) Federal law and regulation pertaining to
26 mortgage origination.

27 (iii) Pennsylvania law and regulation pertaining to
28 mortgage origination.

29 (iv) Federal and Pennsylvania law and regulation
30 related to fraud, consumer protection, the nontraditional

1 mortgage marketplace and fair lending issues.

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

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

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

15 (iii) After failing three consecutive tests, an
16 applicant shall wait at least six months before taking
17 the test again.

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

24 (d) Continuing education.--

25 (1) A licensee who is a mortgage originator or one
26 individual from each licensed office of a mortgage broker,
27 mortgage lender or mortgage loan correspondent that is not a
28 mortgage originator, unless all of the nonclerical staff of a
29 particular licensed office are licensed as mortgage
30 originators, shall complete at least eight hours of education

1 programs in accordance with paragraph (2), which shall
2 include all of the following:

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

4 (ii) Two hours of ethics, which shall include
5 instruction on fraud, consumer protection and fair
6 lending issues.

7 (iii) Two hours of training related to lending
8 standards for the nontraditional mortgage loan
9 marketplace.

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

15 (2) Continuing education programs shall be reviewed and
16 approved by the Nationwide Mortgage Licensing System and
17 Registry or as otherwise determined by the department based
18 upon reasonable standards. Review and approval of a
19 continuing education program shall include review and
20 approval of the program provider.

21 (3) A continuing education program approved by the
22 Nationwide Mortgage Licensing System and Registry or as
23 otherwise determined by the department may be provided by the
24 employer of the licensee or an entity which is affiliated
25 with the licensee by an agency contract, or any subsidiary or
26 affiliate of the employer or entity.

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

1 (5) A licensee may only receive credit for a continuing
2 education program in the year in which the program is taken
3 and may not take the same continuing education program in the
4 same or successive years to meet the requirements of this
5 subsection.

6 (6) A licensed mortgage originator who is an instructor
7 of an approved continuing education program may receive
8 credit for the licensed mortgage loan originator's own
9 continuing education requirement at the rate of two hours
10 credit for every one hour taught.

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

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

18 (1) Pennsylvania-specific education and testing programs
19 shall be approved by the department, unless otherwise
20 determined by the department. The department may charge
21 education and testing providers a fee, to be determined by
22 the department, for department review of Pennsylvania-
23 specific education and testing programs.

24 (2) An education provider may apply for education and
25 testing program approval on a form prescribed and provided by
26 the department. The application shall be submitted to the
27 department at least 60 days prior to the first date that the
28 education is proposed to be offered. The application shall
29 include:

30 (i) An outline of the proposed education and testing

1 program, and the method of instruction and testing,
2 whether in a classroom, online or by any other means.

3 (ii) A resume detailing each proposed instructor's
4 qualifications. The following individuals shall not be
5 qualified to be instructors, unless the department
6 determines otherwise:

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

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

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

22 (D) An individual who has pleaded guilty, been
23 convicted of or pleaded nolo contendere to a crime of
24 moral turpitude or felony.

25 (iii) Other information that the department may
26 require.

27 (3) The department shall be notified in writing at least
28 10 days prior to any change in instructors. A new instructor
29 shall be subject to the criteria under paragraph (2)(ii).

30 (4) Education programs offered solely to satisfy the

1 requirements of subsection (d) shall not be required to
2 include a written testing component.

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

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

18 (7) Education providers shall provide free access to the
19 department to monitor education programs. In order to ensure
20 the department's access to education programs, education
21 providers shall provide the department with notification of
22 the date, time and location of each education program that is
23 offered by the education provider.

24 (8) Education providers shall retain original records of
25 attendance for each education and testing program conducted
26 by the education provider for four years and shall provide
27 the department free access to the records upon request.

28 (9) The department may revoke its approval of an
29 education provider's education and testing programs if the
30 education provider fails to comply with any requirement of

1 this chapter.

2 Section 9. Section 6132(a) (1) and (2) and (b) (1) and (2) of
3 Title 7 are amended to read:

4 § 6132. License fees.

5 (a) Initial application fees.--An applicant shall pay to the
6 department at the time an application is filed an initial
7 nonrefundable application fee as set forth under this
8 subsection.

9 (1) For mortgage lenders and mortgage loan
10 correspondents, \$1,500 for the principal place of business
11 [in this Commonwealth] and an additional fee of \$1,500 for
12 each branch office.

13 (2) For mortgage brokers, \$1,000 for the principal place
14 of business [in this Commonwealth] and an additional fee of
15 \$250 for each branch office.

16 * * *

17 (b) Renewal fees.--Prior to each annual renewal of a
18 license, a licensee shall pay to the department a nonrefundable
19 license renewal fee as set forth under this subsection.

20 (1) For mortgage lenders and mortgage loan
21 correspondents, \$750 for the principal place of business [in
22 this Commonwealth] and an additional fee of \$750 for each
23 branch office.

24 (2) For mortgage brokers, \$500 for the principal place
25 of business [in this Commonwealth] and an additional fee of
26 \$250 for each branch office.

27 * * *

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

1 § 6133. Issuance of license.

2 * * *

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

5 (1) The name and address of the licensee and the address
6 or addresses covered by the license[, the address so
7 specified to be that of the licensee's principal place of
8 business within this Commonwealth or for a licensee acting
9 only in the capacity of a wholesale table funder, either in
10 or outside of this Commonwealth].

11 (2) The licensee's reference number or unique
12 identifier.

13 * * *

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

15 (1) The department may deny a license if it finds that
16 the applicant or a director, officer, partner, employee,
17 agent or ultimate equitable owner of 10% or more of the
18 applicant has been convicted of a crime of moral turpitude or
19 felony in any jurisdiction or of a crime which, if committed
20 in this Commonwealth, would constitute a crime of moral
21 turpitude or felony. The department shall deny a mortgage
22 originator license if the applicant has been convicted of any
23 felony during the seven-year period preceding the date of the
24 license application or at any time preceding the date of
25 application, if the felony involved an act of fraud,
26 dishonesty, breach of trust or money laundering, unless the
27 applicant has been pardoned for the conviction. For the
28 purposes of this subsection, a person shall be deemed to have
29 been convicted of a crime if the person:

30 (i) pleads guilty or nolo contendere to a criminal

1 charge before a domestic, foreign or military court or
2 Federal magistrate; or

3 (ii) is found guilty by the decision or judgment of
4 a domestic, foreign or military court or Federal
5 magistrate or by the verdict of a jury, irrespective of
6 the pronouncement of sentence or the suspension thereof,
7 unless the plea of guilty or nolo contendere or the
8 decision, judgment or verdict is set aside, vacated,
9 reversed or otherwise abrogated by lawful judicial
10 process.

11 * * *

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

16 (1) has had a license application or license issued by
17 the department or another state licensing agency or by a
18 Federal regulatory agency denied, not renewed, suspended or
19 revoked;

20 * * *

21 (4) [does not possess the financial responsibility,
22 character, reputation, integrity and general fitness to
23 command the confidence of the public and to warrant the
24 belief that the mortgage loan business will be operated
25 lawfully, honestly, fairly and within the legislative intent
26 of this chapter and in accordance with the general laws of
27 this Commonwealth] has an outstanding debt to the
28 Commonwealth or a Commonwealth agency; or

29 (5) [has an outstanding debt to the Commonwealth or any
30 Commonwealth agency.] does not possess the financial

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

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

14 (ii) Current outstanding tax liens or other
15 government liens and filings.

16 (iii) Foreclosures within the past three years.

17 (iv) A pattern of seriously delinquent accounts
18 within the past three years.

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

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

26 (2) The applicant does not possess the financial
27 responsibility, character, reputation, integrity and general
28 fitness to command the confidence of the public and to
29 warrant the belief that the mortgage loan business will be
30 operated lawfully, honestly, fairly and within the

1 legislative intent of this chapter and in accordance with the
2 general laws of this Commonwealth. For the purposes of this
3 paragraph, an applicant is not financially responsible if the
4 applicant has shown a disregard in the management of his or
5 her own financial condition. The factors that the department
6 may consider in making a determination regarding an
7 applicant's financial responsibility include:

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

10 (ii) Current outstanding tax liens or other
11 government liens and filings.

12 (iii) Foreclosures within the past three years.

13 (iv) A pattern of seriously delinquent accounts
14 within the past three years.

15 * * *

16 Section 11. Sections 6135(a)(2), (3), (4) and (5) and (b),
17 6138(d), 6139(a)(13) and (b) introductory paragraph of Title 7
18 are amended to read:

19 § 6135. Licensee requirements.

20 (a) Requirements of licensee.--

21 * * *

22 (2) Each licensee shall maintain at its principal place
23 of business [within this Commonwealth, or at such place
24 within or outside this Commonwealth], or at another place if
25 agreed to by the department, the original or a copy of any
26 books, accounts, records and documents, or electronic or
27 similar access thereto, of the business conducted under the
28 license as prescribed by the department to enable the
29 department to determine whether the business of the licensee
30 is being conducted in accordance with the provisions of this

1 chapter and the regulations, statements of policy or orders
2 issued under this chapter. All instruments, documents,
3 accounts, books and records relating to the mortgage loan
4 business shall be kept separate and apart from the records of
5 any other business conducted by the licensee. Records of
6 first and secondary mortgage loans shall be easily
7 distinguishable and easily separated. All records shall be
8 preserved and kept available for investigation or examination
9 by the department for a period determined by the department.

10 The department shall have free access to and authorization to
11 examine records maintained [within or outside this
12 Commonwealth] by the licensee. The costs of the examination,
13 including travel costs, shall be borne by the licensee. The
14 department may deny or revoke the authority to maintain
15 records [within or outside this Commonwealth] at another
16 place for good cause in the interest of protection for
17 Commonwealth consumers, including for the licensee's failure
18 to provide books, accounts, records or documents to the
19 department upon request.

20 (3) A mortgage broker, mortgage lender or mortgage loan
21 correspondent, or a mortgage originator that is required to
22 obtain and maintain its own bond coverage under section
23 6131(f)(4) (relating to application for license), on a date
24 determined by the department, shall file [annually]
25 periodically as determined by the department, a report with
26 the department setting forth such information as the
27 department shall require concerning the first or secondary
28 mortgage loan business conducted by the licensee during the
29 preceding calendar year. The report shall be on a form
30 provided by the department and shall be filed with the

1 Nationwide Mortgage Licensing System and Registry. Licensees
2 who fail to file the required report at the date required by
3 the department may be subject to a penalty of \$100 for each
4 day after the due date until the report is filed.

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

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

22 (b) Accounting records.--The licensee's accounting records
23 must be constructed and maintained in compliance with generally
24 accepted accounting principles or as provided by department
25 regulation. [All instruments, documents, accounts, books and
26 records relating to the mortgage loan business shall be kept
27 separate and apart from the records of any other business
28 conducted by the licensee. Records of first and secondary
29 mortgage loans shall be easily distinguishable and easily
30 separated. All records shall be preserved and kept available for

1 investigation or examination by the department for a period
2 determined by the department.]

3 * * *

4 § 6138. Authority of department.

5 * * *

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

15 * * *

16 § 6139. Suspension, revocation or refusal.

17 (a) Departmental action.--The department may suspend, revoke
18 or refuse to renew a license issued under this chapter if any
19 fact or condition exists or is discovered which, if it had
20 existed or had been discovered at the time of filing of the
21 application for the license, would have warranted the department
22 in refusing to issue the license or if a licensee or director,
23 officer, partner, employee or owner of a licensee has:

24 * * *

25 (13) Failed to complete the [qualifying or continuing
26 education as required by section 6131(g)] requirements of
27 section 6131.1 (relating to prelicensing and continuing
28 education).

29 * * *

30 (b) Reinstatement.--The department may reinstate a license

1 which was previously suspended, revoked or denied renewal if all
2 of the following exist:

3 * * *

4 Section 12. Title 7 is amended by adding a section to read:
5 § 6154. Procedure for determination of noncompliance with
6 Federal law.

7 (a) Applicability.--This section applies if, because of a
8 determination under paragraph (4) of the definition of "mortgage
9 originator" in section 6102 (relating to definitions), an
10 employee:

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

14 (2) is thus required to be licensed as a mortgage
15 originator.

16 (b) Continuation.--An employee specified in subsection (a)
17 may continue to act in the employee's current capacity if the
18 employee files an application for a mortgage originator license
19 with the department within 60 days of the date of the
20 determination.

21 Section 13. The following shall apply:

22 (1) Individuals not licensed as mortgage originators
23 under 7 Pa.C.S. Ch. 61 who are required to be licensed as
24 mortgage originators by virtue of this act may continue to
25 engage in the mortgage loan business in their current
26 capacity if they file an application for a mortgage
27 originator license with the department within 60 days of the
28 effective date of this section.

29 (2) Licenses issued under 7 Pa.C.S. Ch. 61 prior to the
30 effective date of this section that were conditioned upon

1 completion of the education and testing requirements of 7
2 Pa.C.S. Ch. 61 existing prior to the effective date of this
3 section shall be conditioned upon the completion of the
4 education and testing requirements of this act by December
5 31, 2009.

6 Section 14. This act shall take effect immediately.