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THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 936 Session of 2009

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

AS AMENDED ON THIRD CONSIDERATION, JUNE 30, 2009

AN ACT

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

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

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

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

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

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

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

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

§ 6102. Definitions.

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

* * *

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

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

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

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

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

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

* * *

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

"Federal banking agency." Any of the following:

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

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

(3) The Office of Thrift Supervision.

(4) The National Credit Union Administration.

(5) The Federal Deposit Insurance Corporation.

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

"First mortgage loan." A loan which is:

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

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

* * *

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

* * *

"Loan processor or underwriter." An individual who performs

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

* * *

"Mortgage originator."

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

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

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

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

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

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

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

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

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

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

* * *

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

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

(1) Meets the definition of mortgage originator and is

an employee of:

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

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

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

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

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

"Secondary mortgage loan." A loan which is:

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

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

* * *

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

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

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

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

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

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

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

(6) Goodwill.

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

(8) Organization costs of the applicant.

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

thereto.

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

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

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

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

* * *

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

§ 6111. License requirements.

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

(b) Licensed activity exceptions.--

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

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

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

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

* * *

§ 6112. Exceptions to license requirements.

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

* * *

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

<u>(i) A mortgage broker.</u>

(ii) A mortgage lender.

(iii) A mortgage loan correspondent.

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

(v) A mortgage originator.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) be registered with the department; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) Does either of the following:

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

6135(a)(3).

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

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

§ 6121. General requirements.

A licensee shall do all of the following:

* * *

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

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

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

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

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

* * *

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

(i) represent actual fees charged the licensee in

connection with the mortgage loan; and

(ii) are evidenced by a statement for services rendered addressed to the licensee; and

(iii) are included in the principal of the mortgage loan.

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

* * *

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

§ 6125. Mortgage lending authority.

* * *

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

* * *

(2) * * *

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

* * *

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

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

§ 6131. Application for license.

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

* * *

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

* * *

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

* * *

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

(i) The amount of the bond shall be:

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

Pennsylvania real property in a calendar year;

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

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

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

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

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

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

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

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

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

thereafter, maintain the minimum [tangible] net worth.

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

(i) The amount of the bond shall be $100,000 for an applicant or licensee whose mortgage originators will originate or originated less than $30,000,000 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, $200,000 for an applicant or licensee whose mortgage originators will originate or originated $30,000,000 to $99,999,999.99 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, $300,000 for an applicant or licensee whose mortgage originators will originate or originated $100,000,000 to $249,999,999.99 in mortgage loans secured by Pennsylvania residential real estate in a calendar year and $500,000 for an applicant or licensee whose mortgage originators will originate or originated $250,000,000 or more in mortgage loans secured by Pennsylvania residential real estate in a calendar year.

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

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

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

(e) Mortgage broker license.--

* * *

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

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

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

originate or originated less than $15,000,000 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, $75,000 for an applicant or licensee whose mortgage originators will originate or originated $15,000,000 to $29,999,999.99 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, $100,000 for an applicant or licensee whose mortgage originators will originate or originated $30,000,000 to $49,999,999.99 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, and $150,000 for an applicant or licensee whose mortgage originators will originate or originated $50,000,000 or more in mortgage loans secured by Pennsylvania residential real estate in a calendar year.

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

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

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

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

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

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

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

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

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

(i) The amount of the bond shall be $25,000 for an applicant or licensee who will originate or originated less than $7,500,000 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, $50,000 for an applicant or licensee who will originate or originated $7,500,000 to $14,999,999.99 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, $75,000 for an applicant or licensee who will originate or originated $15,000,000 to $29,999,999.99 in mortgage loans secured by Pennsylvania residential real estate in a calendar year, $100,000 for an applicant or licensee who will originate or originated $30,000,000 to $49,999,999.99 in mortgage loans secured by Pennsylvania residential real estate in a calendar year and $150,000 for an applicant or licensee who will originate or originated $50,000,000 or more in mortgage loans secured by Pennsylvania residential real estate in a calendar year.

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

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

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

[(g) Education.--

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

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

(2) In order to maintain a license:

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

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

(3) The department shall delineate the requirements for prequalification education and testing and continuing education by regulation. The department may review and approve education programs and providers to satisfy the education requirements. Providers of prequalification education and testing and continuing education programs may include the licensee or a subsidiary or affiliate of the licensee. The department may charge providers of education programs a fee, to be determined by the department, for department review of education programs and providers.]

(g) Nationwide Mortgage Licensing System and Registry

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

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

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

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

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

* * *

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

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

§ 6131.1. Prelicensing and continuing education.

(a) General requirements.--

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

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

(b) Prelicensing education.--

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

(i) Three hours of Federal law and regulations.

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

lending issues.

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

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

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

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

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

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

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

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

(c) Prelicensing written test.--

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

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

(i) Ethics.

(ii) Federal law and regulation pertaining to

mortgage origination.

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

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

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

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

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

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

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

(d) Continuing education.--

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

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

(i) Three hours of Federal law and regulations.

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

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

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

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

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

affiliate of the employer or entity.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(iii) Other information that the department may

require.

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

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

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

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

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

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

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

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

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

§ 6132. License fees.

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

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

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

* * *

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

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

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

* * *

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

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

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

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

§ 6133. Issuance of license.

* * *

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

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

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

* * *

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

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

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

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

* * *

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

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

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

* * *

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

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

(i) Current outstanding judgments, other than

judgments solely as a result of medical expenses.

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

(iii) Foreclosures within the past three years.

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

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

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

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

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

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

(iii) Foreclosures within the past three years.

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

* * *

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

§ 6135. Licensee requirements.

(a) Requirements of licensee.--

* * *

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

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

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

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

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

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

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

* * *

§ 6138. Authority of department.

* * *

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

relevant information to the Nationwide Mortgage Licensing System and Registry.

* * *

§ 6139. Suspension, revocation or refusal.

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

* * *

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

* * *

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

* * *

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

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

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

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

Act of 2008 (110 Stat. 289, 12 U.S.C. § 5101 et seq.); and

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

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

Section 13. The following shall apply:

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

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

Section 14. This act shall take effect immediately.