

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 936 Session of
2009

INTRODUCED BY BROWNE, D. WHITE, O'PAKE, FERLO, BAKER, BOSCOLA,
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JUNE 5, 2009

AS REPORTED FROM COMMITTEE ON COMMERCE, HOUSE OF
REPRESENTATIVES, AS AMENDED, JULY 8, 2009

AN ACT

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

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

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

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

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

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

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

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

11 § 6102. Definitions.

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

15 * * *

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

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

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

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

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

30 (ii) counseling consumers about mortgage loan rates

1 or terms.

2 * * *

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

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

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

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

9 (3) The Office of Thrift Supervision.

10 (4) The National Credit Union Administration.

11 (5) The Federal Deposit Insurance Corporation.

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

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

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

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

27 * * *

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

30 * * *

1 "Loan processor or underwriter." An individual who performs
2 clerical or support duties as an employee at the direction of
3 and subject to the supervision and instruction of a person
4 licensed or exempt from licensing under this chapter.

5 * * *

6 "Mortgage originator."

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

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

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

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

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

1 renegotiates terms for existing mortgage loans held or
2 serviced by that licensee or person and who does not
3 otherwise act as a mortgage originator.

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

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

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

22 "Nontraditional mortgage loan." A mortgage loan other than a
23 30-year fixed rate mortgage loan.

24 * * *

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

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

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

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

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

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

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

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

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

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

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

27 * * *

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

1 under a mortgage loan.

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

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

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

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

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

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

23 (6) Goodwill.

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

27 (8) Organization costs of the applicant.

28 (9) The value of any servicing contracts held by the
29 applicant not determined in accordance with the American
30 Institute of Certified Public Accountants Statement of

1 Position 76-2, dated August 25, 1976, or subsequent revisions
2 thereto.

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

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

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

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

13 * * *

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

17 § 6111. License requirements.

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

30 (b) Licensed activity exceptions.--

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

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

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

17 * * *

18 § 6112. Exceptions to license requirements.

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

22 * * *

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

1 (i) A mortgage broker.

2 (ii) A mortgage lender.

3 (iii) A mortgage loan correspondent.

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

6 (v) A mortgage originator.

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

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

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

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

30 (ii) annually, in a form acceptable to the

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

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

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

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

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

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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

1 section who:

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

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

11 (9) [Employees of excepted persons enumerated under this
12 section, unless otherwise provided under this subsection.]

13 Registered mortgage loan originators when acting on behalf of
14 their employers.

15 [(10) A person that makes a mortgage loan to the
16 person's employee as an employment benefit if the person does
17 not hold itself out to the public as a mortgage lender.]

18 (11) Nonprofit corporations not otherwise engaged in or
19 holding themselves out to the public as being engaged in the
20 mortgage loan business making mortgage loans to promote home
21 ownership or improvements for the disadvantaged. To qualify
22 for the exception under this paragraph, the nonprofit
23 corporation must:

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

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

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

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

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

16 (iii) Does either of the following:

17 (A) In the same manner as a mortgage lender,
18 obtains and maintains bond coverage for mortgage
19 originators consistent with section 6131(c)(5) and
20 files an annual report consistent with section
21 6135(a)(3).

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

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

29 § 6121. General requirements.

30 A licensee shall do all of the following:

1 * * *

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

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

8 § 6122. Powers conferred on certain licensees engaged in the
9 mortgage loan business.

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

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

17 * * *

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

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

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

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

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

30 * * *

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

3 § 6125. Mortgage lending authority.

4 * * *

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

7 * * *

8 (2) * * *

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

19 * * *

20 Section 7. Section 6131(a) introductory paragraph, (c)(3),
21 (d), (e)(2), (f), (g), (h) and (i)(1) of Title 7 are amended,
22 subsections (c) and (e) are amended by adding paragraphs and the
23 section is amended by adding a subsection to read:

24 § 6131. Application for license.

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

1 maintain licenses under this chapter.

2 * * *

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

6 * * *

7 (3) Established a minimum [tangible] net worth of
8 \$250,000 at the time of application and will, at all times
9 thereafter, maintain the minimum [tangible] net worth.

10 * * *

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

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

18 (A) \$100,000 for an applicant or licensee whose
19 mortgage originators will originate or originated
20 less than \$30,000,000 in mortgage loans secured by
21 Pennsylvania real property in a calendar year;

22 (B) \$200,000 for an applicant or licensee whose
23 mortgage originators will originate or originated
24 \$30,000,000 to \$99,999,999.99 in mortgage loans
25 secured by Pennsylvania real property in a calendar
26 year;

27 (C) \$300,000 for an applicant or licensee whose
28 mortgage originators will originate or originated
29 \$100,000,000 to \$249,999,999.99 in mortgage loans
30 secured by Pennsylvania real property in a calendar

1 year; and

2 (D) \$500,000 for an applicant or licensee whose
3 mortgage originators will originate or originated
4 \$250,000,000 or more in mortgage loans secured by
5 Pennsylvania real property in a calendar year.

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

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

29 (d) Mortgage loan correspondent license.--The department
30 shall issue a loan correspondent's license applied for under

1 this chapter if the applicant:

2 (1) Obtains and will maintain a bond in the amount of
3 \$100,000, in a form acceptable to the department, prior to
4 the issuance of the license, from a surety company authorized
5 to do business in this Commonwealth. The bond shall run to
6 the Commonwealth and shall be for the use of the Commonwealth
7 and any person or persons who obtain a judgment against the
8 mortgage loan correspondent for failure to carry out the
9 terms of any provision for which advance fees are paid. No
10 bond shall comply with the requirements of this section
11 unless it contains a provision that it shall not be canceled
12 for any cause unless notice of intention to cancel is given
13 to the department at least 30 days before the day upon which
14 cancellation shall take effect. A mortgage loan correspondent
15 who can demonstrate to the satisfaction of the department
16 that the correspondent does not and will not accept advance
17 fees shall be exempt from the bond requirement of this
18 paragraph.

19 (2) Establishes a minimum [tangible] net worth of
20 \$100,000 at the time of application and will, at all times
21 thereafter, maintain the minimum [tangible] net worth.

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

28 (i) The amount of the bond shall be \$100,000 for an
29 applicant or licensee whose mortgage originators will
30 originate or originated less than \$30,000,000 in mortgage

1 loans secured by Pennsylvania residential real estate in
2 a calendar year, \$200,000 for an applicant or licensee
3 whose mortgage originators will originate or originated
4 \$30,000,000 to \$99,999,999.99 in mortgage loans secured
5 by Pennsylvania residential real estate in a calendar
6 year, \$300,000 for an applicant or licensee whose
7 mortgage originators will originate or originated
8 \$100,000,000 to \$249,999,999.99 in mortgage loans secured
9 by Pennsylvania residential real estate in a calendar
10 year and \$500,000 for an applicant or licensee whose
11 mortgage originators will originate or originated
12 \$250,000,000 or more in mortgage loans secured by
13 Pennsylvania residential real estate in a calendar year.

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

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

1 year, and \$150,000 for an applicant or licensee whose
2 mortgage originators will originate or originated
3 \$50,000,000 or more in mortgage loans secured by
4 Pennsylvania residential real estate in a calendar year.

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

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

28 (f) Mortgage originator license.--[A mortgage originator
29 shall be an employee of a single mortgage broker, mortgage
30 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

1 applicant or licensee who will originate or originated
2 less than \$7,500,000 in mortgage loans secured by
3 Pennsylvania residential real estate in a calendar year,
4 \$50,000 for an applicant or licensee who will originate
5 or originated \$7,500,000 to \$14,999,999.99 in mortgage
6 loans secured by Pennsylvania residential real estate in
7 a calendar year, \$75,000 for an applicant or licensee who
8 will originate or originated \$15,000,000 to
9 \$29,999,999.99 in mortgage loans secured by Pennsylvania
10 residential real estate in a calendar year, \$100,000 for
11 an applicant or licensee who will originate or originated
12 \$30,000,000 to \$49,999,999.99 in mortgage loans secured
13 by Pennsylvania residential real estate in a calendar
14 year and \$150,000 for an applicant or licensee who will
15 originate or originated \$50,000,000 or more in mortgage
16 loans secured by Pennsylvania residential real estate in
17 a calendar year.

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

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

1 of the department that at least one individual from each
2 licensed office that is not a mortgage originator, and
3 all mortgage originators employed by the licensee, have
4 attended a minimum of six hours of continuing education
5 each year.

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

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

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

1 (h) License renewals.--Licenses shall be issued for terms of
2 12 months and may be renewed by the department each year on a
3 schedule set by the department upon application by the licensee
4 and the payment of any and all applicable renewal fees. The
5 licensee shall demonstrate to the department that it is
6 conducting the mortgage loan business in accordance with the
7 requirements of this chapter and that the licensee or directors,
8 officers, partners, employees, agents and ultimate equitable
9 owners of 10% or more of the licensee continue to meet all of
10 the initial requirements for licensure required by this chapter
11 unless otherwise determined by the department.

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

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

24 * * *

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

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

2 § 6131.1. Prelicensing and continuing education.

3 (a) General requirements.--

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

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

11 (b) Prelicensing education.--

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

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

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

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

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

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

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

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

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

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

1 which the applicant was last licensed under this chapter.

2 (c) Prelicensing written test.--

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

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

19 (i) Ethics.

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

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

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

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

1 with the applicant by an agency contract, or any subsidiary
2 or affiliate of the employer or entity.

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

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

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

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

19 (d) Continuing education.--

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

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

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

1 lending issues.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 determines otherwise:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 § 6132. License fees.

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

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

9 (2) For mortgage brokers, \$1,000 for the principal place
10 of business [in this Commonwealth] and an additional fee of
11 \$250 for each branch office.

12 * * *

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

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

21 (2) For mortgage brokers, \$500 for the principal place
22 of business [in this Commonwealth] and an additional fee of
23 \$250 for each branch office.

24 * * *

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

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

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

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

9 § 6133. Issuance of license.

10 * * *

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

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

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

21 * * *

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

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

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

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

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

19 * * *

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

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

28 * * *

29 (4) [does not possess the financial responsibility,
30 character, reputation, integrity and general fitness to

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

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

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

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

24 (iii) Foreclosures within the past three years.

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

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

30 (1) The applicant has had a license issued by the

1 department or another state licensing agency or a Federal
2 regulatory agency revoked. If the revocation is formally
3 vacated, this paragraph does not apply.

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

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

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

20 (iii) Foreclosures within the past three years.

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

23 * * *

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

27 § 6135. Licensee requirements.

28 (a) Requirements of licensee.--

29 * * *

30 (2) Each licensee shall maintain at its principal place

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

28 (3) A mortgage broker, mortgage lender or mortgage loan
29 correspondent, or a mortgage originator that is required to
30 obtain and maintain its own bond coverage under section

1 6131(f)(4) (relating to application for license), on a date
2 determined by the department, shall file [annually]
3 periodically as determined by the department, a report with
4 the department setting forth such information as the
5 department shall require concerning the first or secondary
6 mortgage loan business conducted by the licensee during the
7 preceding calendar year. The report shall be on a form
8 provided by the department and shall be filed with the
9 Nationwide Mortgage Licensing System and Registry. Licensees
10 who fail to file the required report at the date required by
11 the department may be subject to a penalty of \$100 for each
12 day after the due date until the report is filed.

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

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

30 (b) Accounting records.--The licensee's accounting records

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

11 * * *

12 § 6138. Authority of department.

13 * * *

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

23 * * *

24 § 6139. Suspension, revocation or refusal.

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

1 under 7 Pa.C.S. Ch. 61 who are required to be licensed as
2 mortgage originators by virtue of this act may continue to
3 engage in the mortgage loan business in their current
4 capacity if they file an application for a mortgage
5 originator license with the department within 60 days of the
6 effective date of this section.

7 (2) Licenses issued under 7 Pa.C.S. Ch. 61 prior to the
8 effective date of this section that were conditioned upon
9 completion of the education and testing requirements of 7
10 Pa.C.S. Ch. 61 existing prior to the effective date of this
11 section shall be conditioned upon the completion of the
12 education and testing requirements of this act by December
13 31, 2009.

14 Section 14. This act shall take effect immediately.