
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1124 Session of
2013

INTRODUCED BY SCAVELLO, HEFFLEY, MILLARD, MAHER, CARROLL AND
COHEN, APRIL 8, 2013

REFERRED TO COMMITTEE ON COMMERCE, APRIL 8, 2013

AN ACT

1 Amending Title 7 (Banks and Banking) of the Pennsylvania
2 Consolidated Statutes, further providing for definitions, for
3 license requirements, for exceptions to license requirements,
4 for general requirements, for mortgage loan business
5 prohibitions, for requirements as to open-end loans, for
6 application for license, for prelicensing and continuing
7 education, for licensee requirements, for licensee
8 limitations, for surrender of license, for authority of
9 department, for suspension, revocation or refusal, for
10 penalties, for applicability and for procedure for
11 determination on noncompliance with Federal law.

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

14 Section 1. Sections 6102, 6111(a), 6112 and 6121(2), (8) and
15 (13) of Title 7 of the Pennsylvania Consolidated Statutes are
16 amended to read:

17 § 6102. Definitions.

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

21 "Administrative or clerical tasks." The receipt, collection
22 and distribution of information common for the processing or

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

4 "Advance fee." Any funds requested by or to be paid to a
5 person in advance of or during the processing of a mortgage loan
6 application, excluding those fees paid by a consumer directly to
7 a credit agency reporting bureau, title company or real estate
8 appraiser.

9 "Applicant." A person who applies for a license under this
10 chapter.

11 "Application." A request, in any form, for an offer, or a
12 response to a solicitation of an offer, of mortgage loan terms,
13 and the information about the borrower or prospective borrower
14 that is customary or necessary in a decision on whether to make
15 such an offer.

16 "Banking institution." Any of the following:

17 (1) A State-chartered bank, bank and trust company,
18 savings bank or private bank.

19 (2) A national bank.

20 (3) A federally chartered or State-chartered savings
21 association.

22 (4) A subsidiary of any of the entities listed under
23 this definition.

24 "Billing cycle." In respect to open-end mortgage loans, the
25 time interval between periodic billing dates. A billing cycle
26 shall be considered to be a monthly cycle if the closing date of
27 the cycle is the same date each month or does not vary by more
28 than four days from that date.

29 "Bona fide nonprofit organization." A person that:

30 (1) Has the status of a tax-exempt organization under

1 section 501(c) (3) of the Internal Revenue Code of 1986
2 (Public Law 99-514, 26 U.S.C. § 501(c) (3)).

3 (2) Promotes affordable housing or provides
4 homeownership education, or similar services.

5 (3) Conducts its activities in a manner that serves
6 public or charitable purposes.

7 (4) Receives funding and revenue and charges fees in a
8 manner that does not incentivize it or its employees to act
9 other than in the best interests of its clients.

10 (5) Compensates its employees in a manner that does not
11 incentivize employees to act other than in the best interests
12 of its clients.

13 (6) Provides or identifies for the borrower mortgage
14 loans with terms favorable to the borrower and comparable to
15 mortgage loans and housing assistance provided under
16 government housing assistance programs.

17 (7) Meets other standards as determined by the
18 department.

19 "Branch." An office or other place of business, other than
20 the principal place of business, where a person engages in the
21 mortgage loan business subject to this chapter. The term does
22 not include a location where the licensee-sponsored mortgage
23 originator contacts consumers or processes mortgage loans,
24 provided that the location is not:

25 (1) owned or controlled by a licensee. For purposes of
26 this definition, a location is not considered to be owned or
27 controlled by a licensee if the location is under the control
28 of a subsidiary or affiliate of the licensee, is primarily
29 used by the subsidiary or affiliate and is only used by the
30 licensee on an incidental basis for the convenience of a

1 consumer;

2 (2) advertised or represented to consumers as an
3 operating location of the mortgage originator or the mortgage
4 originator's sponsor; or

5 (3) a place where records regarding the licensee's
6 mortgage loan business are stored.

7 "Branch manager." The supervisor of a branch.

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

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

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

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

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

20 "Commercial context." Acting for the purpose of obtaining
21 anything of value for an individual, or for an entity or
22 individual for which the individual acts, rather than
23 exclusively for public, charitable or family purposes.

24 "Commission." The Banking and Securities Commission of the
25 Commonwealth, as established under Subarticle C of Article XI-A
26 of the act of May 15, 1933 (P.L.565, No.111), known as the
27 Department of Banking and Securities Code.

28 "Consumer discount company." A licensee under the act of
29 April 8, 1937 (P.L.262, No.66), known as the Consumer Discount
30 Company Act.

1 "Department." The Department of Banking and Securities of
2 the Commonwealth.

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 "Employee."

6 (1) An individual:

7 (i) Whose manner and means of performance of work
8 are subject to the right of control of, or are controlled
9 by, a person.

10 (ii) Whose compensation for Federal income tax
11 purposes is reported, or required to be reported, on a W-
12 2 form issued by the controlling person.

13 (2) The term includes such binding definition as may be
14 issued by the Federal banking agencies in connection with
15 their implementation of their responsibilities under the
16 S.A.F.E. Mortgage Licensing Act of 2008 (110 Stat. 289, 12
17 U.S.C. § 5101 et seq).

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

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

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

22 [(3) The Office of Thrift Supervision.

23 (4)] (3) The National Credit Union Administration.

24 [(5)] (4) The Federal Deposit Insurance Corporation.

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

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

30 (1) made primarily for personal, family or household

1 use; and

2 (2) secured by any first lien mortgage, deed of trust or
3 equivalent consensual security interest on a dwelling or on
4 residential real estate.

5 "First mortgage loan business." The mortgage loan business
6 as applied to first mortgage loans.

7 "Habitually and repeatedly." Engaging in any activity at
8 least four times in a calendar year.

9 "Holder." As defined in section 3 of the act of June 28,
10 1947 (P.L.1110, No.476), known as the Motor Vehicle Sales
11 Finance Act.

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

14 "Installment sales contract." As defined in section 3(10) of
15 the act of June 28, 1947 (P.L.1110, No.476), known as the Motor
16 Vehicle Sales Finance Act.

17 "Installment seller." As defined in section 3 of the act of
18 June 28, 1947 (P.L.1110, No.476), known as the Motor Vehicle
19 Sales Finance Act.

20 "Lease-purchase agreement."

21 (1) A deferred purchase of a dwelling or residential
22 real estate whereby:

23 (i) An individual makes installment payments to the
24 seller of the dwelling or residential real estate.

25 (ii) The seller retains title to the dwelling or
26 residential real estate until some or all of the
27 installment payments are completed.

28 (2) The term does not include an agreement whereby:

29 (i) An individual is not obligated to purchase the
30 dwelling or residential real estate.

1 (ii) The final payment approximates the fair value
2 of the dwelling or residential real estate or the
3 anticipated fair value of the dwelling or residential
4 real estate and is not a nominal amount.

5 "Licensee." A person who is licensed under this chapter.

6 "Loan processor or underwriter." An individual who performs
7 clerical or support duties [as an employee at the direction of
8 and subject to the supervision and instruction of a person
9 licensed or exempt from licensing under this chapter].

10 "Lock-in agreement." An agreement between a mortgage lender
11 and a consumer whereby the mortgage lender guarantees, until a
12 specified date, the availability of a specified rate of interest
13 or specified formula by which the rate of interest and a
14 specific number of discount points will be determined, if the
15 mortgage loan is approved and closed by the specified date. If a
16 specified date is not determinable, the mortgage lender may
17 fulfill the requirement of this definition by setting forth with
18 specificity the method by which the duration of the lock-in
19 period will be determined.

20 "Manufactured home." Both of the following:

21 (1) A manufactured home as defined in section 603(6) of
22 the National Manufactured Housing Construction and Safety
23 Standards Act of 1974 (Public Law 93-383, 42 U.S.C. §
24 5402(6)).

25 (2) A mobile home as defined in 75 Pa.C.S. § 102
26 (relating to definitions).

27 "Mortgage broker." A person who engages in the mortgage loan
28 business by directly or indirectly negotiating or placing
29 mortgage loans for others in the primary market for
30 consideration.

1 "Mortgage lender." A person who engages in the mortgage loan
2 business by directly or indirectly originating and closing
3 mortgage loans with its own funds in the primary market for
4 consideration.

5 "Mortgage loan." A first or secondary mortgage loan, or
6 both, a lease-purchase agreement or a mortgage loan
7 modification, as the context may require.

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

12 "Mortgage loan correspondent." A person who engages in the
13 mortgage loan business by directly or indirectly originating and
14 closing mortgage loans in his or her own name utilizing funds
15 provided by a wholesale table funder or other funding sources
16 under the circumstances described under section 6123(6)
17 (relating to mortgage loan business prohibitions) and
18 simultaneously assigning the mortgage loans to the wholesale
19 table funder.

20 "Mortgage loan modification." An agreement that revises the
21 terms of an existing mortgage loan, including an agreement to
22 reduce mortgage loan payment amounts, balance or interest rate
23 or to waive any accrued or prospective mortgage loan charges.
24 The term does not include any agreement to refinance a mortgage
25 loan into a new mortgage loan.

26 "Mortgage originator."

27 [(1) An individual who takes a mortgage loan application
28 or offers or negotiates terms of a mortgage loan for
29 compensation or gain.

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

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

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

9 (3) Except as set forth in paragraph (4), the term does
10 not include an employee of a licensee or person exempt or
11 excepted from licensure under this chapter who solely
12 renegotiates terms for existing mortgage loans held or
13 serviced by that licensee or person and who does not
14 otherwise act as a mortgage originator.

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

25 (1) An individual who, in a commercial context and
26 habitually and repeatedly does any of the following:

27 (i) Takes a mortgage loan application.

28 (ii) Offers or negotiates terms of a mortgage loan
29 for compensation or gain.

30 (iii) Represents to the public, through advertising

1 or other means of communicating or providing information,
2 including the use of business cards, stationary,
3 brochures, signs, rate lists or other promotional items,
4 that the individual can or will perform the activities
5 described in subparagraphs (i) and (ii).

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

7 (i) An individual who is involved only in extensions
8 of credit relating to timeshare plans, as that term is
9 defined in 11 U.S.C. § 101(53D) (relating to
10 definitions).

11 (ii) An individual who performs only clerical or
12 support duties and meets any of the following
13 requirements:

14 (A) Who does so at the direction of and subject
15 to the supervision and instruction of an individual
16 who:

17 (I) Is licensed and registered in accordance
18 with this chapter.

19 (II) Is not required to be licensed in
20 accordance with section 6112(9) (relating to
21 exceptions to license requirements).

22 (B) Who performs such duties solely with respect
23 to transactions for which the individual who acts as
24 a mortgage originator is not required to be licensed,
25 in accordance with subparagraph (i), (v), or (vi).

26 (iii) An individual who performs only purely
27 administrative or clerical tasks on behalf of a mortgage
28 originator.

29 (iv) An individual who is a registered mortgage loan
30 originator.

1 (v) An individual employed by an agency or
2 instrumentality of the Federal Government or a
3 corporation otherwise created by an act of the Congress
4 of the United States or an agency or instrumentality of a
5 state or local government, the District of Columbia or
6 any territory of the United States, including the
7 Pennsylvania Housing Finance Agency and other government
8 housing finance agencies, who acts as a mortgage
9 originator within the scope of employment.

10 (vi) An individual who is employed by a bona fide
11 nonprofit organization who acts as a mortgage originator
12 within the scope of employment.

13 (vii) An individual employed by a licensee or person
14 exempt or excepted from licensure under this chapter who
15 solely engages in mortgage loan modifications for
16 existing mortgage loans held or serviced by that licensee
17 or person and who does not otherwise act as a mortgage
18 originator.

19 (viii) A loan processor or underwriter employed by a
20 licensee or person exempt or excepted from licensure
21 under this chapter, provided that the loan processor or
22 underwriter:

23 (A) Is under the direct supervision and control
24 of a licensed mortgage originator or registered
25 mortgage loan originator.

26 (B) Acts as a loan processor or underwriter
27 solely for the individual's employer.

28 (C) Does not represent to the public, through
29 advertising or other means of communicating or
30 providing information, including the use of business

1 cards, stationery, brochures, signs, rate lists or
2 other promotional items, that the person can or will
3 perform any of the activities of a mortgage
4 originator.

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

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

14 "Nonoriginating person." A person, other than an individual,
15 that does not engage in the mortgage loan business but is
16 required to have loan processors or underwriters employed or
17 supervised and controlled by the person licensed as mortgage
18 originators.

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

21 "Offer or negotiate terms of a mortgage loan for compensation
22 or gain."

23 (1) (i) Presenting for consideration by a borrower or
24 prospective borrower particular mortgage loan terms;

25 (ii) communicating directly or indirectly with a
26 borrower or prospective borrower for the purpose of
27 reaching a mutual understanding about prospective
28 mortgage loan terms; or

29 (iii) recommending, referring or steering a borrower
30 or prospective borrower to a particular lender or set of

1 mortgage loan terms, in accordance with a duty to or
2 incentive from any person other than the borrower or
3 prospective borrower.

4 (2) Receiving or expecting to receive payment of money
5 or anything of value in connection with the activities
6 described in paragraph (1) or as a result of any mortgage
7 loan terms entered into as a result of those activities.

8 "Open-end loan." A mortgage loan made by a mortgage lender
9 under this chapter pursuant to an agreement between the mortgage
10 lender and the consumer whereby all of the following apply:

11 (1) The mortgage lender may permit the consumer to
12 obtain advances of money from the licensee from time to time
13 or the mortgage lender may advance money on behalf of the
14 consumer from time to time as directed by the consumer.

15 (2) The amount of each advance, interest and permitted
16 charges and costs are debited to the consumer's account and
17 payments and other credits are credited to the same account.

18 (3) Interest is computed on the unpaid principal balance
19 or balances of the account outstanding from time to time.

20 (4) The consumer has the privilege of paying the account
21 in full at any time or, if the account is not in default, in
22 monthly installments of fixed or determinable amounts as
23 provided in the open-end loan agreement.

24 "Person." An individual, association, joint venture or
25 joint-stock company, partnership, limited partnership, limited
26 partnership association, limited liability company, business
27 corporation, nonprofit corporation or any other group of
28 individuals, however organized.

29 "Primary market." The market wherein mortgage loans are
30 originated between a lender and a consumer.

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

4 "Purchase-money mortgage loan." A mortgage loan that is a
5 residential mortgage transaction as defined in 12 CFR 226.2(a)
6 (24) (relating to definitions and rules of construction).

7 "Qualifying individual." An individual identified by a
8 mortgage broker, mortgage lender or mortgage loan correspondent
9 in the Nationwide Mortgage Licensing System and Registry who:

10 (1) Is a mortgage originator or meets the licensing
11 requirements of a mortgage originator.

12 (2) Is a management-level officer assigned to the
13 principal place of business of a mortgage broker, mortgage
14 lender or mortgage loan correspondent.

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

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

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

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

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

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

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

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

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

4 (2) secured by any secondary lien mortgage, deed of
5 trust or equivalent consensual security interest on a
6 dwelling or on residential real estate.

7 "Secondary mortgage loan business." The mortgage loan
8 business as applied to secondary mortgage loans.

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

13 "Take a mortgage loan application." Receiving a mortgage
14 loan application for the purpose of facilitating a decision
15 whether to extend an offer of mortgage loan terms to a borrower
16 or prospective borrower or to accept the terms offered by a
17 borrower or prospective borrower in response to a solicitation,
18 whether the application is received directly or indirectly from
19 the borrower or prospective borrower.

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

22 "Wholesale table funder." A licensed mortgage lender or
23 person exempt under section 6112(1) or (7) (relating to
24 exceptions to license requirements) who, in the regular course
25 of business, provides the funding for the closing of mortgage
26 loans through mortgage loan correspondents and who by assignment
27 obtains title to the mortgage loans.

28 § 6111. License requirements.

29 (a) General rule.--Except as provided under subsections (b)
30 and (c) and section 6112 (relating to exceptions to license

1 requirements), on and after the effective date of this section,
2 no person shall engage in the mortgage loan business in this
3 Commonwealth without being licensed as a mortgage broker,
4 mortgage lender, mortgage loan correspondent or mortgage
5 originator as provided under this chapter. A mortgage originator
6 may not engage in the mortgage loan business unless the mortgage
7 originator is [employed and supervised] sponsored in the
8 Nationwide Mortgage Licensing System and Registry by a licensed
9 mortgage broker, mortgage lender or mortgage loan correspondent,
10 person excepted from this chapter or person excepted from
11 licensure under section 6112 and is under the direct supervision
12 and control of the sponsoring licensee or excepted person.

13 * * *

14 § 6112. Exceptions to license requirements.

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

18 (1) A banking institution or a federally chartered or
19 State-chartered credit union, if the primary regulator of the
20 banking institution or federally chartered or State-chartered
21 credit union supervises the banking institution or federally
22 chartered or State-chartered credit union. A banking
23 institution or a federally chartered or State-chartered
24 credit union may register with the department for the purpose
25 of having individuals under its direct supervision and
26 control licensed as mortgage originators, provided that the
27 registered entity meet any of the following requirements:

28 (i) In the same manner as a mortgage lender, obtains
29 and maintains bond coverage for mortgage originators
30 consistent with section 6131(c)(5) (relating to

1 application for license) and files a periodic report
2 consistent with section 6135(a)(3) (relating to licensee
3 requirements).

4 (ii) Annually, in a form acceptable to the
5 department, demonstrates to the department that all of
6 the mortgage originators employed by or under the direct
7 supervision and control of the entity have obtained and
8 maintained the bond coverage required under section
9 6131(f)(4).

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

17 (i) A mortgage broker.

18 (ii) A mortgage lender.

19 (iii) A mortgage loan correspondent.

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

22 (v) A mortgage originator.

23 (vi) An agent of a person listed in subparagraphs
24 (i), (ii), (iii), (iv) and (v).

25 (3) A person who [offers or negotiates terms of a
26 mortgage loan with or on behalf of or makes a mortgage loan
27 to a member of the person's immediate family.] engages in the
28 mortgage loan business less than four times in a calendar
29 year, unless otherwise determined to be engaged in the
30 mortgage loan business by the department.

1 (4) Any agency or instrumentality of the Federal
2 Government or a corporation otherwise created by an act of
3 the United States Congress, including the Federal National
4 Mortgage Association, the Government National Mortgage
5 Association, the Veterans' Administration, the Federal Home
6 Loan Mortgage Corporation and the Federal Housing
7 Administration, and employees thereof acting within the scope
8 of their employment. [To qualify for the exception under this
9 paragraph, the agency or instrumentality must ensure
10 employees required to be licensed as mortgage originators
11 have completed the requirements under section 6131.1
12 (relating to prelicensing and continuing education), have
13 obtained the required mortgage originator license and:

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

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

25 (5) Any agency or instrumentality of a state or local
26 government, the District of Columbia or any territory of the
27 United States, including the Pennsylvania Housing Finance
28 Agency and other government housing finance agencies, and
29 employees thereof acting within the scope of their
30 employment. [To qualify for the exception under this

1 paragraph, the agency or instrumentality must ensure
2 employees required to be licensed as mortgage originators
3 have completed the requirements under section 6131.1, have
4 obtained the required mortgage originator license and:

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

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

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

1 (7) Affiliates of banking institutions and subsidiaries
2 and affiliates of federally chartered or State-chartered
3 credit unions. The exception under this paragraph does not
4 apply to consumer discount companies. Notwithstanding the
5 exception under this paragraph, subsidiaries and affiliates
6 of federally chartered or State-chartered credit unions and
7 affiliates of banking institutions shall:

8 (i) be subject to the provisions of Subchapter C and
9 sections 6135(a)(2), (3) and (4), (b) and (c), 6138 and
10 6140(b);

11 (ii) deliver as required to the department annually
12 copies of financial reports made to all supervisory
13 agencies;

14 (iii) be registered with the department;

15 (iv) in the same manner as a mortgage lender, obtain
16 and maintain bond coverage for mortgage originators
17 consistent with section 6131(c)(5); and

18 (v) ensure employees required to be licensed as
19 mortgage originators have completed the requirements
20 under section 6131.1 (relating to prelicensing and
21 continuing education) and have obtained the required
22 mortgage originator license.

23 (8) Employees or individuals under the direct
24 supervision and control of a mortgage broker, mortgage lender
25 or mortgage loan correspondent, or a person excepted from
26 licensure under this section, who[:

27 (i) engage solely in loan processor or underwriter
28 activities, and do not represent to the public, through
29 advertising or other means of communicating or providing
30 information, including the use of business cards,

1 stationery, brochures, signs, rate lists or other
2 promotional items, that they can or will perform any of
3 the activities of a mortgage originator; or

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

6 (9) Registered mortgage loan originators when acting on
7 behalf of their employers.

8 (11) [Nonprofit corporations not otherwise engaged in or
9 holding themselves out to the public as being engaged in the
10 mortgage loan business making mortgage loans to promote home
11 ownership or improvements for the disadvantaged. To qualify
12 for the exception under this paragraph, the nonprofit
13 corporation must ensure employees required to be licensed as
14 mortgage originators have completed the requirements under
15 section 6131.1, have obtained the required mortgage
16 originator license and:

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

21 (ii) annually, in a form acceptable to the
22 department, demonstrate to the department that all of the
23 mortgage originators employed by the nonprofit
24 corporation have obtained and maintained the bond
25 coverage required by section 6131(f)(4).] A bona fide
26 nonprofit organization and employees of the organization
27 acting within the scope of their employment, unless
28 otherwise deemed to be engaged in the mortgage loan
29 business by the department, provided:

30 (i) The organization shall be subject to the

1 provisions of Subchapter C and sections 6135(a) (2), (3)
2 and (4) and (c), 6138 and 6140(b).

3 (ii) The organization shall be registered with the
4 department.

5 (iii) As required under 24 CFR § 3400.103(e) (7) (iii)
6 (relating to individuals required to be licensed by
7 states), the department must periodically examine the
8 books and activities of an organization it determines is
9 a bona fide nonprofit organization and revoke its status
10 as a bona fide nonprofit organization if it does not
11 continue to meet the criteria under 24 CFR §
12 3400.103(e) (7) (ii).

13 (iv) For residential mortgage loans to have terms
14 that are favorable to the borrower, the department must
15 determine that the terms are consistent with loan
16 origination in a public or charitable context, rather
17 than a commercial context.

18 (v) The department shall make the list of bona fide
19 nonprofit organizations available on its Internet
20 website.

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

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

29 (ii) Makes mortgage loans which are retained in the
30 corporation's own portfolios and not regularly sold to

1 others and are made to promote and advance the cultural
2 traditions and lifestyles of bona fide religious
3 organizations.

4 (iii) Does either of the following:

5 (A) In the same manner as a mortgage lender,
6 obtains and maintains bond coverage for mortgage
7 originators consistent with section 6131(c)(5) and
8 files an annual report consistent with section
9 6135(a)(3).

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

15 (iv) Ensures employees required to be licensed as
16 mortgage originators have completed the requirements
17 under section 6131.1 and have obtained the required
18 mortgage originator license.]

19 (13) An installment seller of, or holder of installment
20 sales contracts secured by, manufactured homes who is
21 licensed under the act of June 28, 1947 (P.L.1110, No.476),
22 known as the Motor Vehicle Sales Finance Act, provided the
23 installment seller or holder only engages in the mortgage
24 loan business regarding installment sales contracts secured
25 by manufactured homes that are purchase-money mortgage loans.
26 To qualify for the exception under this paragraph, the
27 installment seller or holder must:

28 (i) Obtain a license as a mortgage originator, if
29 licensed as an individual under the Motor Vehicle Sales
30 Finance Act.

1 (ii) Be registered with the department.

2 (iii) Do either of the following:

3 (A) In the same manner as a mortgage lender or
4 mortgage broker, as applicable depending upon whether
5 the installment seller or holder makes or brokers
6 installment sales contracts secured by manufactured
7 homes that are purchase-money mortgage loans, obtain
8 and maintain bond coverage for mortgage originators
9 consistent with section 6131(c)(5) or (e)(3) and file
10 [an annual] a periodic report consistent with section
11 6135(a)(3); or

12 (B) Annually demonstrate to the department that
13 the mortgage originators employed by, or under the
14 direct supervision and control of, the installment
15 seller or holder have obtained and maintained the
16 bond coverage required by section 6131(f)(4) in a
17 form acceptable to the department.

18 (iv) Ensure employees or individuals under the
19 direct supervision and control of the installment seller
20 or holder required to be licensed as mortgage originators
21 have completed the requirements under section 6131.1 and
22 have obtained the required mortgage originator license.

23 (14) A nonoriginating person, unless otherwise deemed to
24 be engaged in the mortgage loan business by the department,
25 except that the nonoriginating person shall:

26 (i) Be subject to the provisions of Subchapter C and
27 sections 6135(a)(2), (3) and (4) and (c), 6138 and
28 6140(b).

29 (ii) Be registered with the department.

30 (iii) In the same manner as a mortgage broker,

1 obtain and maintain bond coverage for mortgage
2 originators consistent with section 6131(c)(5).

3 (iv) Ensure employees or individuals under the
4 direct supervision and control of the person required to
5 be licensed as mortgage originators have completed the
6 requirements under section 6131.1 and have obtained the
7 required mortgage originator license.

8 (15) Notwithstanding section 6151 (relating to
9 applicability), a mortgage originator licensed by one or more
10 other states and physically located in this Commonwealth that
11 does not engage in any transactions involving Pennsylvania
12 consumers, dwellings or residential real estate.

13 (16) A person who engages in mortgage loan modifications
14 for existing mortgage loans held or serviced by that person
15 or that person's employer and who does not otherwise engage
16 in the mortgage loan business.

17 § 6121. General requirements.

18 A licensee shall do all of the following:

19 * * *

20 (2) Comply with all applicable State law, including the
21 provisions of the act of December 3, 1959 (P.L.1688, No.621),
22 known as the Housing Finance Agency Law, that are applicable
23 to the licensee and the act of December 9, 2002 (P.L.1530,
24 No.197), known as the Mortgage Satisfaction Act.

25 * * *

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

30 (i) Cancel any insurance provided by the licensee in

1 connection with the mortgage loan and refund to the
2 consumer, in accordance with regulations promulgated by
3 the Insurance Department, any unearned portion of the
4 premium for the insurance.

5 (ii) Stamp or write on the face of the mortgage loan
6 agreement or promissory note evidencing the mortgage loan
7 "Paid in Full" or "Canceled," the date paid and, within
8 60 days, return the mortgage loan agreement or promissory
9 note to the consumer.

10 (iii) Release any lien on [real property] the
11 dwelling or residential real estate and cancel the same
12 of record and, at the time the mortgage loan agreement or
13 promissory note evidencing the mortgage loan is returned,
14 deliver to the consumer good and sufficient assignments,
15 releases or any other certificate, instrument or document
16 as may be necessary to evidence the release.

17 * * *

18 (13) In the case of a mortgage broker, mortgage lender or
19 mortgage loan correspondent, do all of the following:

20 (i) Maintain supervision and control of and
21 responsibility for the acts and omissions of all mortgage
22 originators [employed] sponsored by the licensee.

23 (ii) Maintain a list of all current and former
24 mortgage originators [employed] sponsored by the licensee
25 and the dates of the [employment] sponsorship.

26 (iii) In the event that a licensee believes that a
27 mortgage originator [employed] sponsored by the licensee
28 has engaged in any activity that is illegal or in
29 violation of this chapter or any regulation or statement
30 of policy promulgated under this chapter, the licensee

1 shall provide the department with written notification of
2 the belief and the licensee's proposed corrective
3 measures within 30 days. A licensee shall not be liable
4 to a mortgage originator in connection with the
5 notification.

6 * * *

7 Section 2. Section 6123(8) of Title 7 is amended and the
8 section is amended by adding a paragraph to read:

9 § 6123. Mortgage loan business prohibitions.

10 A licensee engaging in the mortgage loan business shall not:

11 * * *

12 (8) In the case of a mortgage originator, accept any
13 fees from consumers in the mortgage originator's own name. A
14 mortgage originator may accept fees payable to the mortgage
15 originator's [employer] sponsoring licensee and fees payable
16 to third-party entities on behalf of the mortgage
17 originator's [employer] sponsoring licensee. A mortgage
18 originator may not accept advance fees payable to the
19 mortgage originator's [employer] sponsoring licensee unless
20 the licensee is authorized to collect advance fees under this
21 chapter.

22 (9) In the case of a mortgage originator, engage in the
23 mortgage loan business other than on behalf of the single
24 mortgage broker, mortgage lender or mortgage loan
25 correspondent or a person excepted from this chapter or a
26 person excepted from licensure under section 6112 (relating
27 to exceptions to license requirements) that sponsors the
28 mortgage originator.

29 Section 3. Sections 6126(7), 6131, 6131.1(b), (c) and (d),
30 6135(a) and (b), 6136(a), 6137, 6138(b), (d), (e) and (f),

1 6139(a), 6140(b) and 6151 of the title are amended to read:

2 § 6126. Requirements as to open-end loans.

3 The following shall apply:

4 * * *

5 (7) Notwithstanding any other provisions in this chapter
6 to the contrary, a mortgage lender may retain any security
7 interest in a dwelling or real or personal property until the
8 open-end loan is terminated, provided that, if there is no
9 outstanding balance in the account and there is no commitment
10 by the licensee to make advances, the mortgage lender shall,
11 within ten days following written demand by the consumer,
12 deliver to the consumer a release of the mortgage, indenture,
13 deed of trust or any other similar instrument or document on
14 any [real property] dwelling or residential real estate taken
15 as security for the open-end loan. The mortgage lender shall
16 include on all billing statements provided in connection with
17 an open-end loan a statement that the licensee retains a
18 security interest in the consumer's [real property] dwelling
19 or residential real estate whenever the security interest has
20 not been released.

21 * * *

22 § 6131. Application for license.

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

30 (1) In the case of a mortgage broker, mortgage lender or

1 mortgage loan correspondent, the application shall include
2 the following:

3 (i) The name of the applicant.

4 (ii) The address of the principal place of business
5 and any branches of the applicant [and the address or
6 addresses where the applicant's mortgage loan business is
7 to be conducted].

8 (iii) The full name, official title and business
9 address of each director and principal officer of the
10 mortgage loan business.

11 (iv) Any other information that may be required by
12 the department.

13 (2) In the case of a mortgage originator, the
14 application shall include the following:

15 (i) The name of the applicant.

16 (ii) The name of the [employer licensee] sponsoring
17 licensee or excepted person of the applicant and location
18 of the [employer licensee] excepted person or licensed
19 location of the licensee to which the applicant is
20 assigned.

21 (iii) Any other information that may be required by
22 the department.

23 (3) An applicant shall demonstrate to the department
24 that policies and procedures have been developed to receive
25 and process consumer inquiries and grievances promptly and
26 fairly.

27 (a.1) Licensing of principal place of business and
28 branches.--All applicants and licensees must establish and
29 maintain a separate license for the principal place of business
30 and each branch.

1 (b) Duty to update.--All applicants and licensees shall be
2 required to provide the department with written notice of the
3 change in any information contained in an application for a
4 license or for any renewal of a license within ten days of an
5 applicant or licensee becoming aware of the change.

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

9 [(1) Been approved by or meets the current criteria for
10 approval of at least one of the following:

11 (i) Federal National Mortgage Association.

12 (ii) Federal Home Loan Mortgage Corporation.

13 (iii) Federal Housing Administration.]

14 (2) Been approved for and will continue to maintain as a
15 licensee a line of credit, repurchase agreement or equivalent
16 mortgage-funding capability of not less than \$1,000,000.

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

20 (4) Been approved for and will continue to maintain as a
21 licensee fidelity bond coverage in accordance with the
22 guidelines established by the Federal National Mortgage
23 Association or the Federal Home Loan Mortgage Corporation.

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

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

2 (A) \$100,000 for an applicant or licensee whose
3 mortgage originators will originate or originated
4 less than \$30,000,000 in mortgage loans secured by
5 Pennsylvania [real property] dwellings or residential
6 real estate in a calendar year;

7 (B) \$200,000 for an applicant or licensee whose
8 mortgage originators will originate or originated
9 \$30,000,000 to \$99,999,999.99 in mortgage loans
10 secured by Pennsylvania [real property] dwellings or
11 residential real estate in a calendar year;

12 (C) \$300,000 for an applicant or licensee whose
13 mortgage originators will originate or originated
14 \$100,000,000 to \$249,999,999.99 in mortgage loans
15 secured by Pennsylvania [real property] dwellings or
16 residential real estate in a calendar year; and

17 (D) \$500,000 for an applicant or licensee whose
18 mortgage originators will originate or originated
19 \$250,000,000 or more in mortgage loans secured by
20 Pennsylvania [real property] dwellings or residential
21 real estate in a calendar year.

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

1 originated by the licensee's mortgage originators as
2 indicated on the licensee's [annual] periodic report.

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

15 (6) Designated an individual as the qualifying
16 individual for the principal place of business and separate
17 individuals as branch managers for each branch, as
18 applicable.

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

22 (1) Obtains and will maintain a bond in the amount of
23 \$100,000, in a form acceptable to the department, prior to
24 the issuance of the license, from a surety company authorized
25 to do business in this Commonwealth. The bond shall run to
26 the Commonwealth and shall be for the use of the Commonwealth
27 and any person or persons who obtain a judgment against the
28 mortgage loan correspondent for failure to carry out the
29 terms of any provision for which advance fees are paid. No
30 bond shall comply with the requirements of this section

1 unless it contains a provision that it shall not be canceled
2 for any cause unless notice of intention to cancel is given
3 to the department at least 30 days before the day upon which
4 cancellation shall take effect. A mortgage loan correspondent
5 who can demonstrate to the satisfaction of the department
6 that the correspondent does not and will not accept advance
7 fees shall be exempt from the bond requirement of this
8 paragraph.

9 (2) Establishes a minimum net worth of \$100,000 at the
10 time of application and will, at all times thereafter,
11 maintain the minimum net worth.

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

18 (i) The amount of the bond shall be \$100,000 for an
19 applicant or licensee whose mortgage originators will
20 originate or originated less than \$30,000,000 in mortgage
21 loans secured by Pennsylvania dwellings or residential
22 real estate in a calendar year; \$200,000 for an applicant
23 or licensee whose mortgage originators will originate or
24 originated \$30,000,000 to \$99,999,999.99 in mortgage
25 loans secured by Pennsylvania dwellings or residential
26 real estate in a calendar year; \$300,000 for an applicant
27 or licensee whose mortgage originators will originate or
28 originated \$100,000,000 to \$249,999,999.99 in mortgage
29 loans secured by Pennsylvania dwellings or residential
30 real estate in a calendar year; and \$500,000 for an

1 applicant or licensee whose mortgage originators will
2 originate or originated \$250,000,000 or more in mortgage
3 loans secured by Pennsylvania dwellings or residential
4 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 dwellings or residential real estate
9 originated by its mortgage originators in the first
10 calendar year of licensing. For a licensee, the amount of
11 the bond shall be determined annually by the department
12 based upon the amount of mortgage loans secured by
13 Pennsylvania dwellings or residential real estate
14 originated by the licensee's mortgage originators as
15 indicated on the licensee's [annual] periodic 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 (4) Designates an individual as the qualifying
29 individual for the principal place of business and separate
30 individuals as branch managers for each branch, as

1 applicable.

2 (e) Mortgage broker license.--

3 (1) The department shall issue a mortgage broker license
4 applied for under this chapter if the applicant obtains and
5 will maintain a bond in the amount of \$100,000, in a form
6 acceptable to the department, prior to the issuance of the
7 license, from a surety company authorized to do business in
8 this Commonwealth. The bond shall be a penal bond conditioned
9 on compliance with this chapter and subject to forfeiture by
10 the department and shall run to the Commonwealth for its use.
11 The bond shall also be for the use of any person against the
12 mortgage broker for failure to carry out the terms of any
13 provision for which advance fees are paid. If the person is
14 aggrieved, the person may, with the written consent of the
15 department, recover advance fees and costs from the bond by
16 filing a claim with the surety company or maintaining an
17 action on the bond. In the alternative, an aggrieved person
18 may recover advance fees and costs by filing a formal
19 complaint against the mortgage broker with the department
20 which shall adjudicate the matter. The adjudication shall be
21 binding upon the surety company and enforceable by the
22 department in Commonwealth Court and by an aggrieved person
23 in any court. Any aggrieved person seeking to recover advance
24 fees and costs from a bond that has already been forfeited by
25 the department or which the department is in the process of
26 forfeiting may recover payment on the bond if, after filing a
27 petition with the department, the department consents to the
28 aggrieved person's requested payment or portion thereof. The
29 department may pay the aggrieved person from the bond
30 proceeds it recovers. Nothing in this section shall be

1 construed as limiting the ability of any court or magisterial
2 district judge to award to any aggrieved person other
3 damages, court costs and attorney fees as permitted by law,
4 but those claims that are not advance fees or related costs
5 may not be recovered from the bond. The department, in its
6 discretion, may consent to or order pro rata or other
7 recovery on the bond for any aggrieved person if claims
8 against the bond may or do exceed its full monetary amount.
9 No bond shall comply with the requirements of this section
10 unless it contains a provision that it shall not be canceled
11 for any cause unless notice of intention to cancel is given
12 to the department at least 30 days before the day upon which
13 cancellation shall take effect. Cancellation of the bond
14 shall not invalidate the bond regarding the period of time it
15 was in effect.

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

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

27 (i) The amount of the bond shall be \$50,000 for an
28 applicant or licensee whose mortgage originators will
29 originate or originated less than \$15,000,000 in mortgage
30 loans secured by Pennsylvania dwellings or residential

1 real estate in a calendar year; \$75,000 for an applicant
2 or licensee whose mortgage originators will originate or
3 originated \$15,000,000 to \$29,999,999.99 in mortgage
4 loans secured by Pennsylvania dwellings or residential
5 real estate in a calendar year; \$100,000 for an applicant
6 or licensee whose mortgage originators will originate or
7 originated \$30,000,000 to \$49,999,999.99 in mortgage
8 loans secured by Pennsylvania dwellings or residential
9 real estate in a calendar year; and \$150,000 for an
10 applicant or licensee whose mortgage originators will
11 originate or originated \$50,000,000 or more in mortgage
12 loans secured by Pennsylvania dwellings or residential
13 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 dwellings or residential real estate
18 originated by its mortgage originators in the first
19 calendar year of licensing. For a licensee, the amount of
20 the bond shall be determined annually by the department
21 based upon the amount of mortgage loans secured by
22 Pennsylvania dwellings or residential real estate
23 originated by the licensee's mortgage originators as
24 indicated on the licensee's [annual] periodic 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

1 section unless it contains a provision that it shall not
2 be canceled for any cause unless notice of intention to
3 cancel is given to the department at least 30 days before
4 the day upon which cancellation shall take effect.

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

7 (4) A mortgage broker shall designate an individual as
8 the qualifying individual for the principal place of business
9 and separate individuals as branch managers for each branch,
10 as applicable.

11 (f) Mortgage originator license.--A mortgage originator
12 shall do all of the following:

13 (1) Be an employee of [a single], or under the direct
14 supervision and control of, a licensed mortgage broker,
15 mortgage lender or mortgage loan correspondent, a person
16 excepted from this chapter or a person excepted from
17 licensure under section 6112 (relating to exceptions to
18 license requirements). The licensee or person shall sponsor
19 the mortgage originator in the Nationwide Mortgage Licensing
20 System and Registry and directly supervise, control and
21 maintain responsibility for the acts and omissions of the
22 mortgage originator.

23 (2) Be assigned to and work out of a licensed location
24 of the [employer] sponsoring licensee or a location of [an
25 employer] a sponsoring person excepted from this chapter or
26 excepted from licensure under section 6112[.], which, in the
27 case of a sponsoring licensee, may be either the mortgage
28 originator's residence or a location of the licensee that is
29 within 100 miles of the mortgage originator's residence.

30 (3) Maintain a valid unique identifier issued by the

1 Nationwide Mortgage Licensing System and Registry.

2 (4) If a person excepted from this chapter or excepted
3 from licensure under section 6112 does not elect to maintain
4 bond coverage for its mortgage originators in the same manner
5 as a mortgage lender, a mortgage originator employed by or
6 under the direct supervision and control of a person excepted
7 from this chapter or excepted from licensure under section
8 6112 shall obtain and maintain a surety bond in an amount
9 that will provide coverage for the mortgage originator, in a
10 form acceptable to the department, prior to the issuance of
11 the license, from a surety company authorized to do business
12 in this Commonwealth. The following shall apply:

13 (i) The amount of the bond shall be \$25,000 for an
14 applicant or licensee who will originate or originated
15 less than \$7,500,000 in mortgage loans secured by
16 Pennsylvania dwellings or residential real estate in a
17 calendar year; \$50,000 for an applicant or licensee who
18 will originate or originated \$7,500,000 to \$14,999,999.99
19 in mortgage loans secured by Pennsylvania dwellings or
20 residential real estate in a calendar year; \$75,000 for
21 an applicant or licensee who will originate or originated
22 \$15,000,000 to \$29,999,999.99 in mortgage loans secured
23 by Pennsylvania dwellings or residential real estate in a
24 calendar year; \$100,000 for an applicant or licensee who
25 will originate or originated \$30,000,000 to
26 \$49,999,999.99 in mortgage loans secured by Pennsylvania
27 dwellings or residential real estate in a calendar year;
28 and \$150,000 for an applicant or licensee who will
29 originate or originated \$50,000,000 or more in mortgage
30 loans secured by Pennsylvania dwellings or residential

1 real estate in a calendar year.

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

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

25 (5) Only engage in the mortgage loan business on behalf
26 of the single mortgage broker, mortgage lender or mortgage
27 loan correspondent or a person excepted from this chapter or
28 a person excepted from licensure under section 6112 that
29 sponsors the mortgage originator.

30 (g) Nationwide Mortgage Licensing System and Registry

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

11 (h) License renewals.--Licenses shall be issued for terms
12 [of 12] not to exceed 14 months and may be renewed by the
13 department each year on a schedule set by the department upon
14 application by the licensee and the payment of any and all
15 applicable renewal fees. The licensee shall demonstrate to the
16 department that it is conducting the mortgage loan business in
17 accordance with the requirements of this chapter and that the
18 licensee or directors, officers, partners, employees, mortgage
19 originators, agents and ultimate equitable owners of 10% or more
20 of the licensee continue to meet all of the initial requirements
21 for licensure required by this chapter unless otherwise
22 determined by the department.

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

24 (1) If an applicant is not a resident of this
25 Commonwealth, as a condition to receiving a license under
26 this chapter, the applicant shall be authorized to do
27 business in this Commonwealth in accordance with the laws of
28 this Commonwealth regulating corporations and other entities
29 conducting business in this Commonwealth and shall maintain
30 at least one office which is the office that shall be

1 licensed as the principal place of business for the purposes
2 of this chapter.

3 (2) Out-of-State applicants shall file with the license
4 application an irrevocable consent, duly acknowledged, that
5 suits and actions may be commenced against that person in the
6 courts of this Commonwealth by the service of process of any
7 pleading upon the department in the usual manner provided for
8 service of process and pleadings by the laws and court rules
9 of this Commonwealth. The consent shall provide that this
10 service shall be as valid and binding as if service had been
11 made personally upon the person in this Commonwealth. In all
12 cases where process or pleadings are served upon the
13 department under the provisions of this section, the process
14 or pleadings shall be served in triplicate; one copy shall be
15 filed in the department's offices and the others shall be
16 forwarded by the department, by certified or registered mail,
17 return receipt requested, to the last known principal place
18 of business of the person.

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

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

25 § 6131.1. Prelicensing and continuing education.

26 * * *

27 (b) Prelicensing education.--

28 (1) A mortgage originator applicant, and at least one
29 [partner or ultimate equitable owner of 10% or more of an
30 applicant other than a mortgage originator] qualifying

1 individual of a mortgage broker, mortgage lender or mortgage
2 loan correspondent applicant, shall complete at least 20
3 hours of education programs approved in accordance with
4 paragraph (2), which shall include all of the following:

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

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

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

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

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

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

30 (4) Prelicensing education programs may be offered

1 either in a classroom, online or by any other means approved
2 by the Nationwide Mortgage Licensing System and Registry or
3 as otherwise determined by the department.

4 (5) Except for prelicensing education programs under
5 paragraph (1)(iv), prelicensing education programs approved
6 by the Nationwide Mortgage Licensing System and Registry or
7 as otherwise determined by the department and completed for
8 another State license application shall be accepted as credit
9 toward completion of the prelicensing education requirements
10 of this chapter [if the education programs have been
11 successfully completed within the 12 months immediately
12 preceding the date of the submission of the applicant's
13 license application].

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

19 (c) Prelicensing written test.--

20 (1) A mortgage originator applicant, and at least one
21 [partner or ultimate equitable owner of 10% or more of an
22 applicant other than a mortgage originator] qualifying
23 individual of a mortgage broker, mortgage lender or mortgage
24 loan correspondent applicant, shall pass, in accordance with
25 the standards established under this subsection, a qualified
26 written test developed by the Nationwide Mortgage Licensing
27 System and Registry and administered by a test provider
28 approved by the Nationwide Mortgage Licensing System and
29 Registry based upon reasonable standards. The [portion of
30 the] department may also require applicants to pass a test

1 regarding Pennsylvania-specific law, which shall be
2 administered by a test provider approved by the department or
3 as otherwise determined by the department under subsection
4 (e).

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

9 (i) Ethics.

10 (ii) Federal law and regulation pertaining to
11 mortgage origination.

12 (iii) Pennsylvania law and regulation pertaining to
13 mortgage origination, unless otherwise determined by the
14 department.

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

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

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

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

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

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

10 (d) Continuing education.--

11 (1) A licensee who is a mortgage originator and [one
12 individual from each licensed office] all branch managers and
13 qualifying individuals of a mortgage broker, mortgage lender
14 or mortgage loan correspondent [that is not a mortgage
15 originator, unless all of the nonclerical staff of a
16 particular licensed office are licensed as mortgage
17 originators,] shall annually complete at least eight hours of
18 education programs in accordance with paragraph (2), which
19 shall include all of the following:

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

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

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

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

1 Interest and Protection Law.

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

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

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

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

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

28 (7) Except for the continuing education program under
29 paragraph (1)(iv), continuing education programs approved by
30 the Nationwide Mortgage Licensing System and Registry or as

1 otherwise determined by the department and completed for
2 another state shall be accepted as credit toward completion
3 of the continuing education requirements of this chapter.

4 (8) An individual who is a mortgage originator, branch
5 manager or qualifying individual of a mortgage broker,
6 mortgage lender or mortgage loan correspondent is not
7 required to complete the requirements of this subsection in
8 any licensing year in which the individual has completed the
9 requirements of subsection (b).

10 * * *

11 § 6135. Licensee requirements.

12 (a) Requirements of licensee.--

13 [(1) A licensee who is a mortgage broker, mortgage
14 lender or mortgage loan correspondent shall conspicuously
15 display, at each licensed place of business, its license and
16 copies of the licenses of all mortgage originators assigned
17 to that location. A licensee who is a mortgage originator
18 shall keep the license in the immediate possession of the
19 licensee whenever the licensee is engaged in the mortgage
20 loan business.]

21 (2) Each licensee shall maintain at its principal place
22 of business, or at another place if agreed to by the
23 department, the original or a copy of any books, accounts,
24 records and documents, or electronic or similar access
25 thereto, of the business conducted under the license as
26 prescribed by the department to enable the department to
27 determine whether the business of the licensee is being
28 conducted in accordance with the provisions of this chapter
29 and the regulations, statements of policy or orders issued
30 under this chapter. All instruments, documents, accounts,

1 books and records relating to the mortgage loan business
2 shall be kept separate and apart from the records of any
3 other business conducted by the licensee. Records of first
4 and secondary mortgage loans shall be easily distinguishable
5 and easily separated. All records shall be preserved and kept
6 available for investigation or examination by the department
7 for a period of four years, unless otherwise determined by
8 the department. The department shall have free access to and
9 authorization to examine records maintained by the licensee.
10 The costs of the examination, including travel costs, shall
11 be borne by the licensee. The department may deny or revoke
12 the authority to maintain records at another place for good
13 cause in the interest of protection for Commonwealth
14 consumers, including for the licensee's failure to provide
15 books, accounts, records or documents to the department upon
16 request.

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

1 the department may be subject to a penalty of \$100 for each
2 day after the due date until the report is filed.

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

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

19 (b) Accounting records.--[The] For licensees with minimum
20 net worth requirements pursuant to this chapter, the licensee's
21 accounting records must be constructed and maintained in
22 compliance with generally accepted accounting principles or as
23 provided by department regulation.

24 * * *

25 § 6136. Licensee limitations.

26 (a) Name and changes to name.--A licensee cannot transact
27 any business under this chapter under any other name or names
28 except those names designated in its license. A mortgage
29 originator may not use any other name other than the mortgage
30 originator's personal legal name. A licensee that changes its

1 name or place or places of business shall notify the department
2 or the Nationwide Mortgage Licensing System and Registry, as
3 determined by the department, within ten days of the change[,
4 and the department shall issue a certificate to the licensee, if
5 appropriate, which shall specify the licensee's new name or
6 address].

7 * * *

8 § 6137. Surrender of license.

9 Upon satisfying the department that all creditors of a
10 licensee have been paid or that other arrangements satisfactory
11 to the creditors and the department have been made, a licensee
12 may voluntarily surrender its license to the department by
13 [delivering its license to the department with] providing the
14 department or the Nationwide Mortgage Licensing System and
15 Registry, as determined by the department, written notice that
16 the license is being voluntarily surrendered, but an action by a
17 licensee shall not affect the licensee's civil or criminal
18 liability for acts committed.

19 § 6138. Authority of department.

20 * * *

21 (b) Hearings.--A person aggrieved by a decision of the
22 department may appeal the decision of the department to the
23 [Secretary of Banking] commission. The appeal shall be conducted
24 under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
25 procedure of Commonwealth agencies).

26 * * *

27 (d) Final orders.--A decision of the [Secretary of Banking]
28 commission, or an unappealed order of the department, shall be a
29 final order of the department and shall be enforceable in a
30 court of competent jurisdiction. The department may publish

1 final adjudications issued under this section, subject to
2 redaction or modification to preserve confidentiality. The
3 department shall regularly report violations of this chapter,
4 enforcement actions and other relevant information to the
5 Nationwide Mortgage Licensing System and Registry.

6 (e) Appeals.--A person aggrieved by a decision of the
7 [Secretary of Banking] commission may appeal the decision under
8 2 Pa.C.S. Ch. 7 Subch. A. (relating to judicial review of
9 Commonwealth agency action).

10 (f) Orders affecting mortgage originators.--An order issued
11 against a licensee is applicable to the mortgage originators
12 [employed] sponsored by the licensee.

13 § 6139. Suspension, revocation or refusal.

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

22 (1) Made a material misstatement in an application or
23 any report or submission required by this chapter or any
24 department regulation, statement of policy or order.

25 (2) Failed to comply with or violated any provision of
26 this chapter or any regulation or order promulgated or issued
27 by the department under this chapter.

28 (3) Engaged in dishonest, fraudulent or illegal
29 practices or conduct in a business or unfair or unethical
30 practices or conduct in connection with the mortgage loan

1 business.

2 (4) Been convicted of or pleaded guilty or nolo
3 contendere to a crime of moral turpitude or felony.

4 (5) Permanently or temporarily been enjoined by a court
5 of competent jurisdiction from engaging in or continuing
6 conduct or a practice involving an aspect of the mortgage
7 loan business.

8 (6) Become the subject of an order of the department
9 denying, suspending or revoking a license applied for or
10 issued under this chapter.

11 (7) Become the subject of a United States Postal Service
12 fraud order.

13 (8) Failed to comply with the requirements of this
14 chapter to make and keep records prescribed by regulation,
15 statement of policy or order of the department, to produce
16 records required by the department or to file financial
17 reports or other information that the department by
18 regulation, statement of policy or order may require.

19 (9) Become the subject of an order of the department
20 denying, suspending or revoking a license under the
21 provisions of any other law administered by the department.

22 (10) Demonstrated negligence or incompetence in
23 performing an act for which the licensee is required to hold
24 a license under this chapter.

25 (11) Accepted an advance fee without having obtained the
26 bond required by section 6131(d)(1) or (e)(1) (relating to
27 application for license).

28 (12) Become insolvent, meaning that the liabilities of
29 the applicant or licensee exceed the assets of the applicant
30 or licensee or that the applicant or licensee cannot meet the

1 obligations of the applicant or licensee as they mature or is
2 in such financial condition that the applicant or licensee
3 cannot continue in business with safety to the customers of
4 the applicant or licensee.

5 (13) Failed to complete the requirements of section
6 6131.1 (relating to prelicensing and continuing education).

7 (14) In the case of a mortgage broker, mortgage lender
8 or mortgage loan correspondent, conducted the mortgage loan
9 business through an unlicensed mortgage originator.

10 (15) Failed to comply with the terms of any agreement
11 under which the department authorizes a licensee to maintain
12 records at a place other than the licensee's principal place
13 of business.

14 * * *

15 § 6140. Penalties.

16 * * *

17 (b) Violation by licensee.--A person licensed under this
18 chapter or director, officer, owner, partner, employee, mortgage
19 originator or agent of a licensee who violates a provision of
20 this chapter or who commits any action which would subject the
21 licensee to suspension, revocation or nonrenewal under section
22 6139 may be fined by the department up to \$10,000 for each
23 offense.

24 § 6151. Applicability.

25 The provisions of this chapter shall apply to:

26 (1) Any mortgage loan which is:

27 (i) negotiated, offered or otherwise transacted
28 within this Commonwealth, in whole or in part, whether by
29 the ultimate lender or any other person;

30 (ii) made or executed within this Commonwealth; or

1 (iii) notwithstanding the place of execution,
2 secured by [real property] a dwelling or residential real
3 estate located in this Commonwealth.

4 (2) Any person who engages in the mortgage loan business
5 in this Commonwealth.

6 Section 4. Section 6145 of Title 7 is repealed:

7 [§ 6154. Procedure for determination of noncompliance with
8 Federal law.

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

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

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

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

23 Section 5. This act shall take effect in 60 days.