

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1124 Session of
2013

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

SENATOR WHITE, BANKING AND INSURANCE, IN SENATE, AS AMENDED,
JUNE 4, 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

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

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

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

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

17 "Banking institution." Any of the following:

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

20 (2) A national bank.

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

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

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

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

1 (1) Has the status of a tax-exempt organization under
2 section 501(c)(3) of the Internal Revenue Code of 1986
3 (Public Law 99-514, 26 U.S.C. § 501(c)(3)).

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

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

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

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

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

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

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

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

1 licensee on an incidental basis for the convenience of a
2 consumer;

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

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

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

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

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

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

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

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

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

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

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

1 Company Act.

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

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

6 "Employee."

7 (1) An individual:

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

11 (ii) Whose compensation for Federal income tax
12 purposes is reported, or required to be reported, on a W-
13 2 form issued by the controlling person.

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

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

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

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

23 [(3) The Office of Thrift Supervision.

24 (4)] (3) The National Credit Union Administration.

25 [(5)] (4) The Federal Deposit Insurance Corporation.

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

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

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

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

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

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

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

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

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

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

21 "Lease-purchase agreement."

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

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

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

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

30 (i) An individual is not obligated to purchase the

1 dwelling or residential real estate.

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

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

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

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

21 "Manufactured home." Both of the following:

22 (1) A manufactured home as defined in section 603(6) of
23 the National Manufactured Housing Construction and Safety
24 Standards Act of 1974 (Public Law 93-383, 42 U.S.C. §
25 5402(6)).

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

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

1 consideration.

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

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

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

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

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

27 "Mortgage originator."

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

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

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

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

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

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

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

28 (i) Takes a mortgage loan application.

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

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

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

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

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

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

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

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

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

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

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

1 originator.

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

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

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

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

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

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

29 (C) Does not represent to the public, through
30 advertising or other means of communicating or

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

6 (IX) AN INDIVIDUAL WHO IS ALL OF THE FOLLOWING: <--

7 (A) AN EMPLOYEE OF A BROKER-DEALER REGISTERED
8 UNDER SECTION 301 OF THE ACT OF DECEMBER 5, 1972
9 (P.L.1280, NO.284), KNOWN AS THE PENNSYLVANIA
10 SECURITIES ACT OF 1972.

11 (B) REGISTERED AS A SECURITIES AGENT UNDER
12 SECTION 301 OF THE PENNSYLVANIA SECURITIES ACT OF
13 1972.

14 (C) ENGAGED IN RECOMMENDING, REFERRING OR
15 STEERING A BORROWER OR PROSPECTIVE BORROWER IN THE
16 MANNER PROVIDED UNDER PARAGRAPH (1) (III) OF THE
17 DEFINITION OF "OFFER OR NEGOTIATE TERMS OF A MORTGAGE
18 LOAN FOR COMPENSATION OR GAIN" TO A LENDER THAT IS A
19 BANKING INSTITUTION, IN A MANNER INCIDENTAL TO, AND
20 IN THE NORMAL COURSE OF HIS OR HER SECURITIES
21 BROKERAGE ACTIVITIES.

22 (D) NOT OTHERWISE ACTING AS A MORTGAGE
23 ORIGINATOR.

24 (X) AN INDIVIDUAL WHO IS ALL OF THE FOLLOWING:

25 (A) AN EMPLOYEE OF A TITLE INSURANCE COMPANY
26 INCORPORATED OR AUTHORIZED TO DO BUSINESS IN THIS
27 COMMONWEALTH UNDER THE ACT OF MAY 17, 1921 (P.L.682,
28 NO.284), KNOWN AS THE INSURANCE COMPANY LAW OF 1921,
29 OR AN INSURANCE AGENCY LICENSED UNDER THE ACT OF MAY
30 17, 1921 (P.L.789, NO.285), KNOWN AS THE INSURANCE

1 DEPARTMENT ACT OF 1921.

2 (B) REGISTERED AS AN INSURANCE AGENT OR BROKER
3 UNDER THE INSURANCE DEPARTMENT ACT OF 1921.

4 (C) ENGAGED IN RECOMMENDING, REFERRING OR
5 STEERING A BORROWER OR PROSPECTIVE BORROWER IN THE
6 MANNER PROVIDED UNDER PARAGRAPH (1) (III) OF THE
7 DEFINITION OF "OFFER OR NEGOTIATE TERMS OF A MORTGAGE
8 LOAN FOR COMPENSATION OR GAIN" TO A LENDER THAT IS A
9 BANKING INSTITUTION, IN A MANNER INCIDENTAL TO, AND
10 IN THE NORMAL COURSE OF HIS OR HER INSURANCE
11 ACTIVITIES.

12 (D) NOT OTHERWISE ACTING AS A MORTGAGE
13 ORIGINATOR.

14 (XI) ANY OTHER INDIVIDUAL AS DETERMINED BY A
15 REGULATION OR STATEMENT OF POLICY ADOPTED BY THE
16 DEPARTMENT FOR WHICH LICENSURE AS AN MORTGAGE ORIGINATOR
17 IS NOT REQUIRED BY VIRTUE OF THE EXTENT TO WHICH THE
18 INDIVIDUAL AND THE INDIVIDUAL'S EMPLOYER ARE OTHERWISE
19 REGULATED UNDER FEDERAL OR STATE LAW, PROVIDED THAT THE
20 INDIVIDUAL IS ALL OF THE FOLLOWING:

21 (A) ENGAGED IN RECOMMENDING, REFERRING OR
22 STEERING A BORROWER OR PROSPECTIVE BORROWER IN THE
23 MANNER PROVIDED UNDER PARAGRAPH (1) (III) OF THE
24 DEFINITION OF "OFFER OR NEGOTIATE TERMS OF A MORTGAGE
25 LOAN FOR COMPENSATION OR GAIN" TO A LENDER THAT IS A
26 BANKING INSTITUTION, IN A MANNER INCIDENTAL TO, AND
27 IN THE NORMAL COURSE OF HIS OR HER DUTIES TO HIS OR
28 HER EMPLOYER.

29 (B) NOT OTHERWISE ACTING AS A MORTGAGE
30 ORIGINATOR.

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

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

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

15 "Nontraditional mortgage loan." A mortgage loan other than a
16 30-year fixed rate mortgage loan.

17 "Offer or negotiate terms of a mortgage loan for compensation
18 or gain."

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

21 (ii) communicating directly or indirectly with a
22 borrower or prospective borrower for the purpose of
23 reaching a mutual understanding about prospective
24 mortgage loan terms; or

25 (iii) recommending, referring or steering a borrower
26 or prospective borrower to a particular lender or set of
27 mortgage loan terms, in accordance with a duty to or
28 incentive from any person other than the borrower or
29 prospective borrower.

30 (2) Receiving or expecting to receive payment of money

1 or anything of value in connection with the activities
2 described in paragraph (1) or as a result of any mortgage
3 loan terms entered into as a result of those activities.

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

7 (1) The mortgage lender may permit the consumer to
8 obtain advances of money from the licensee from time to time
9 or the mortgage lender may advance money on behalf of the
10 consumer from time to time as directed by the consumer.

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

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

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

20 "Person." An individual, association, joint venture or
21 joint-stock company, partnership, limited partnership, limited
22 partnership association, limited liability company, business
23 corporation, nonprofit corporation or any other group of
24 individuals, however organized.

25 "Primary market." The market wherein mortgage loans are
26 originated between a lender and a consumer.

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

30 "Purchase-money mortgage loan." A mortgage loan that is a

1 residential mortgage transaction as defined in 12 CFR 226.2(a)
2 (24) (relating to definitions and rules of construction).

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

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

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

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

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

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

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

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

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

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

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

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

30 (2) secured by any secondary lien mortgage, deed of

1 trust or equivalent consensual security interest on a
2 dwelling or on residential real estate.

3 "Secondary mortgage loan business." The mortgage loan
4 business as applied to secondary mortgage loans.

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

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

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

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

24 § 6111. License requirements.

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

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

9 * * *

10 § 6112. Exceptions to license requirements.

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

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

24 (i) In the same manner as a mortgage lender, obtains
25 and maintains bond coverage for mortgage originators
26 consistent with section 6131(c)(5) (relating to
27 application for license) and files a periodic report
28 consistent with section 6135(a)(3) (relating to licensee
29 requirements).

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

1 department, demonstrates to the department that all of
2 the mortgage originators employed by or under the direct
3 supervision and control of the entity have obtained and
4 maintained the bond coverage required under section
5 6131(f)(4).

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

13 (i) A mortgage broker.

14 (ii) A mortgage lender.

15 (iii) A mortgage loan correspondent.

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

18 (v) A mortgage originator.

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

21 (3) A person who [offers or negotiates terms of a
22 mortgage loan with or on behalf of or makes a mortgage loan
23 to a member of the person's immediate family.] originates or
24 negotiates less than four mortgage loans in a calendar year,
25 unless determined to be engaged in the mortgage loan business
26 by the department.

27 (4) Any agency or instrumentality of the Federal
28 Government or a corporation otherwise created by an act of
29 the United States Congress, including the Federal National
30 Mortgage Association, the Government National Mortgage

1 Association, the Veterans' Administration, the Federal Home
2 Loan Mortgage Corporation and the Federal Housing
3 Administration, and employees thereof acting within the scope
4 of their employment. [To qualify for the exception under this
5 paragraph, the agency or instrumentality must ensure
6 employees required to be licensed as mortgage originators
7 have completed the requirements under section 6131.1
8 (relating to prelicensing and continuing education), have
9 obtained the required mortgage originator license and:

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

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

21 (5) Any agency or instrumentality of a state or local
22 government, the District of Columbia or any territory of the
23 United States, including the Pennsylvania Housing Finance
24 Agency and other government housing finance agencies, and
25 employees thereof acting within the scope of their
26 employment. [To qualify for the exception under this
27 paragraph, the agency or instrumentality must ensure
28 employees required to be licensed as mortgage originators
29 have completed the requirements under section 6131.1, have
30 obtained the required mortgage originator license and:

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

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

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

27 (7) Affiliates of banking institutions and subsidiaries
28 and affiliates of federally chartered or State-chartered
29 credit unions. The exception under this paragraph does not
30 apply to consumer discount companies. Notwithstanding the

1 exception under this paragraph, subsidiaries and affiliates
2 of federally chartered or State-chartered credit unions and
3 affiliates of banking institutions shall:

4 (i) be subject to the provisions of Subchapter C and
5 sections 6135(a)(2), (3) and (4), (b) and (c), 6138 and
6 6140(b);

7 (ii) deliver as required to the department annually
8 copies of financial reports made to all supervisory
9 agencies;

10 (iii) be registered with the department;

11 (iv) 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

14 (v) ensure employees required to be licensed as
15 mortgage originators have completed the requirements
16 under section 6131.1 (relating to prelicensing and
17 continuing education) and have obtained the required
18 mortgage originator license.

19 (8) Employees or individuals under the direct
20 supervision and control of a mortgage broker, mortgage lender
21 or mortgage loan correspondent, or a person excepted from
22 licensure under this section, who[:

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

30 (ii)] are not otherwise required to be licensed as

1 mortgage originators.

2 (9) Registered mortgage loan originators when acting on
3 behalf of their employers.

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

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

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

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

29 (ii) The organization shall be registered with the
30 department.

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

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

14 (v) The department shall make the list of bona fide
15 nonprofit organizations available on its Internet
16 website.

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

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

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

30 (iii) Does either of the following:

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

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

11 (iv) Ensures employees required to be licensed as
12 mortgage originators have completed the requirements
13 under section 6131.1 and have obtained the required
14 mortgage originator license.]

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

24 (i) Obtain a license as a mortgage originator, if
25 licensed as an individual under the Motor Vehicle Sales
26 Finance Act.

27 (ii) Be registered with the department.

28 (iii) Do either of the following:

29 (A) In the same manner as a mortgage lender or
30 mortgage broker, as applicable depending upon whether

1 the installment seller or holder makes or brokers
2 installment sales contracts secured by manufactured
3 homes that are purchase-money mortgage loans, obtain
4 and maintain bond coverage for mortgage originators
5 consistent with section 6131(c)(5) or (e)(3) and file
6 [an annual] a periodic report consistent with section
7 6135(a)(3); or

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

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

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

22 (i) Be subject to the provisions of Subchapter C and
23 sections 6135(a)(2), (3) and (4) and (c), 6138 and
24 6140(b).

25 (ii) Be registered with the department.

26 (iii) In the same manner as a mortgage broker,
27 obtain and maintain bond coverage for mortgage
28 originators consistent with section 6131(c)(5).

29 (iv) Ensure employees or individuals under the
30 direct supervision and control of the person required to

1 be licensed as mortgage originators have completed the
2 requirements under section 6131.1 and have obtained the
3 required mortgage originator license.

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

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

13 § 6121. General requirements.

14 A licensee shall do all of the following:

15 * * *

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

21 * * *

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

26 (i) Cancel any insurance provided by the licensee in
27 connection with the mortgage loan and refund to the
28 consumer, in accordance with regulations promulgated by
29 the Insurance Department, any unearned portion of the
30 premium for the insurance.

1 (ii) Stamp or write on the face of the mortgage loan
2 agreement or promissory note evidencing the mortgage loan
3 "Paid in Full" or "Canceled," the date paid and, within
4 60 days, return the mortgage loan agreement or promissory
5 note to the consumer.

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

13 * * *

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

16 (i) Maintain supervision and control of and
17 responsibility for the acts and omissions of all mortgage
18 originators [employed] sponsored by the licensee.

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

22 (iii) In the event that a licensee believes that a
23 mortgage originator [employed] sponsored by the licensee
24 has engaged in any activity that is illegal or in
25 violation of this chapter or any regulation or statement
26 of policy promulgated under this chapter, the licensee
27 shall provide the department with written notification of
28 the belief and the licensee's proposed corrective
29 measures within 30 days. A licensee shall not be liable
30 to a mortgage originator in connection with the

1 notification.

2 * * *

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

5 § 6123. Mortgage loan business prohibitions.

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

7 * * *

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

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

25 Section 3. Sections 6126(7), 6131, 6131.1(b), (c) and (d),
26 6135(a) and (b), 6136(a), 6137, 6138(b), (d), (e) and (f),
27 6139(a), 6140(b) and 6151 of ~~the title~~ TITLE 7 are amended to
28 read:

<--

29 § 6126. Requirements as to open-end loans.

30 The following shall apply:

1 * * *

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

18 * * *

19 § 6131. Application for license.

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

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

30 (i) The name of the applicant.

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

5 (iii) The full name, official title and business
6 address of each director and principal officer of the
7 mortgage loan business.

8 (iv) Any other information that may be required by
9 the department.

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

12 (i) The name of the applicant.

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

18 (iii) Any other information that may be required by
19 the department.

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

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

28 (b) Duty to update.--All applicants and licensees shall be
29 required to provide the department with written notice of the
30 change in any information contained in an application for a

1 license or for any renewal of a license within ten days of an
2 applicant or licensee becoming aware of the change.

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

8 (i) Federal National Mortgage Association.

9 (ii) Federal Home Loan Mortgage Corporation.

10 (iii) Federal Housing Administration.]

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

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

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

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

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

29 (A) \$100,000 for an applicant or licensee whose
30 mortgage originators will originate or originated

1 less than \$30,000,000 in mortgage loans secured by
2 Pennsylvania [real property] dwellings or residential
3 real estate in a calendar year;

4 (B) \$200,000 for an applicant or licensee whose
5 mortgage originators will originate or originated
6 \$30,000,000 to \$99,999,999.99 in mortgage loans
7 secured by Pennsylvania [real property] dwellings or
8 residential real estate in a calendar year;

9 (C) \$300,000 for an applicant or licensee whose
10 mortgage originators will originate or originated
11 \$100,000,000 to \$249,999,999.99 in mortgage loans
12 secured by Pennsylvania [real property] dwellings or
13 residential real estate in a calendar year; and

14 (D) \$500,000 for an applicant or licensee whose
15 mortgage originators will originate or originated
16 \$250,000,000 or more in mortgage loans secured by
17 Pennsylvania [real property] dwellings or residential
18 real estate in a calendar year.

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

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

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

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

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

19 (1) Obtains and will maintain a bond in the amount of
20 \$100,000, in a form acceptable to the department, prior to
21 the issuance of the license, from a surety company authorized
22 to do business in this Commonwealth. The bond shall run to
23 the Commonwealth and shall be for the use of the Commonwealth
24 and any person or persons who obtain a judgment against the
25 mortgage loan correspondent for failure to carry out the
26 terms of any provision for which advance fees are paid. No
27 bond shall comply with the requirements of this section
28 unless it contains a provision that it shall not be canceled
29 for any cause unless notice of intention to cancel is given
30 to the department at least 30 days before the day upon which

1 cancellation shall take effect. A mortgage loan correspondent
2 who can demonstrate to the satisfaction of the department
3 that the correspondent does not and will not accept advance
4 fees shall be exempt from the bond requirement of this
5 paragraph.

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

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

15 (i) The amount of the bond shall be \$100,000 for an
16 applicant or licensee whose mortgage originators will
17 originate or originated less than \$30,000,000 in mortgage
18 loans secured by Pennsylvania dwellings or residential
19 real estate in a calendar year; \$200,000 for an applicant
20 or licensee whose mortgage originators will originate or
21 originated \$30,000,000 to \$99,999,999.99 in mortgage
22 loans secured by Pennsylvania dwellings or residential
23 real estate in a calendar year; \$300,000 for an applicant
24 or licensee whose mortgage originators will originate or
25 originated \$100,000,000 to \$249,999,999.99 in mortgage
26 loans secured by Pennsylvania dwellings or residential
27 real estate in a calendar year; and \$500,000 for an
28 applicant or licensee whose mortgage originators will
29 originate or originated \$250,000,000 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 by its mortgage originators in the first
7 calendar year of licensing. For a licensee, the amount of
8 the bond shall be determined annually by the department
9 based upon the amount of mortgage loans secured by
10 Pennsylvania dwellings or residential real estate
11 originated by the licensee's mortgage originators as
12 indicated on the licensee's [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 licensee's mortgage originators that are related
17 to the mortgage loan business regulated by this chapter.
18 No bond shall comply with the requirements of this
19 section unless it contains a provision that it shall not
20 be canceled for any cause unless notice of intention to
21 cancel is given to the department at least 30 days before
22 the day upon which cancellation shall take effect.
23 Cancellation of the bond shall not invalidate the bond
24 regarding the period of time it was in effect.

25 (4) Designates an individual as the qualifying
26 individual for the principal place of business and separate
27 individuals as branch managers for each branch, as
28 applicable.

29 (e) Mortgage broker license.--

30 (1) The department shall issue a mortgage broker license

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

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

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

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

24 (i) The amount of the bond shall be \$50,000 for an
25 applicant or licensee whose mortgage originators will
26 originate or originated less than \$15,000,000 in mortgage
27 loans secured by Pennsylvania dwellings or residential
28 real estate in a calendar year; \$75,000 for an applicant
29 or licensee whose mortgage originators will originate or
30 originated \$15,000,000 to \$29,999,999.99 in mortgage

1 loans secured by Pennsylvania dwellings or residential
2 real estate in a calendar year; \$100,000 for an applicant
3 or licensee whose mortgage originators will originate or
4 originated \$30,000,000 to \$49,999,999.99 in mortgage
5 loans secured by Pennsylvania dwellings or residential
6 real estate in a calendar year; and \$150,000 for an
7 applicant or licensee whose mortgage originators will
8 originate or originated \$50,000,000 or more in mortgage
9 loans secured by Pennsylvania dwellings or residential
10 real estate in a calendar year.

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

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

1 the day upon which cancellation shall take effect.

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

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

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

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

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

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

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

1 bond coverage for its mortgage originators in the same manner
2 as a mortgage lender, a mortgage originator employed by or
3 under the direct supervision and control of a person excepted
4 from this chapter or excepted from licensure under section
5 6112 shall obtain and maintain a surety bond in an amount
6 that will provide coverage for the mortgage originator, in a
7 form acceptable to the department, prior to the issuance of
8 the license, from a surety company authorized to do business
9 in this Commonwealth. The following shall apply:

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

29 (ii) For an initial license applicant, the amount of
30 the bond shall be determined by the applicant's

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

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

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

27 (g) Nationwide Mortgage Licensing System and Registry
28 information challenge process.--A mortgage originator applicant
29 or licensee may challenge the accuracy of information entered by
30 the department to the Nationwide Mortgage Licensing System and

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

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

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

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

30 (2) Out-of-State applicants shall file with the license

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

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

22 § 6131.1. Prelicensing and continuing education.

23 * * *

24 (b) Prelicensing education.--

25 (1) A mortgage originator applicant, and at least one
26 [partner or ultimate equitable owner of 10% or more of an
27 applicant other than a mortgage originator] qualifying
28 individual of a mortgage broker, mortgage lender or mortgage
29 loan correspondent applicant, shall complete at least 20
30 hours of education programs approved in accordance with

1 paragraph (2), which shall include all of the following:

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

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

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

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

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

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

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

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

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

16 (c) Prelicensing written test.--

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

1 (e).

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

6 (i) Ethics.

7 (ii) Federal law and regulation pertaining to
8 mortgage origination.

9 (iii) Pennsylvania law and regulation pertaining to
10 mortgage origination, unless otherwise determined by the
11 department.

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

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

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

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

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

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

7 (d) Continuing education.--

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

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

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

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

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

29 (2) Continuing education programs shall be reviewed and
30 approved by the Nationwide Mortgage Licensing System and

1 Registry or as otherwise determined by the department based
2 upon reasonable standards. Review and approval of a
3 continuing education program shall include review and
4 approval of the program provider.

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

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

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

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

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

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

7 * * *

8 § 6135. Licensee requirements.

9 (a) Requirements of licensee.--

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

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

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

14 (3) A mortgage broker, mortgage lender or mortgage loan
15 correspondent, or a mortgage originator that is required to
16 obtain and maintain its own bond coverage under section
17 6131(f)(4) (relating to application for license), [on a date
18 determined by the department,] shall file periodically, as
19 determined by the department, a report with the department or
20 the Nationwide Mortgage Licensing System and Registry, as
21 determined by the department, setting forth such information
22 as the department shall require concerning the first or
23 secondary mortgage loan business conducted by the licensee
24 [during the preceding calendar year. The report shall be on a
25 form provided by the department and shall be filed with the
26 Nationwide Mortgage Licensing System and Registry]. Licensees
27 who fail to file the required report at the date required by
28 the department may be subject to a penalty of \$100 for each
29 day after the due date until the report is filed.

30 (4) Each licensee shall be subject to examination by the

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

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

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

21 * * *

22 § 6136. Licensee limitations.

23 (a) Name and changes to name.--A licensee cannot transact
24 any business under this chapter under any other name or names
25 except those names designated in its license. A mortgage
26 originator may not use any other name other than the mortgage
27 originator's personal legal name. A licensee that changes its
28 name or place or places of business shall notify the department
29 or the Nationwide Mortgage Licensing System and Registry, as
30 determined by the department, within ten days of the change[,

1 and the department shall issue a certificate to the licensee, if
2 appropriate, which shall specify the licensee's new name or
3 address].

4 * * *

5 § 6137. Surrender of license.

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

16 § 6138. Authority of department.

17 * * *

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

23 * * *

24 (d) Final orders.--A decision of the [Secretary of Banking]
25 commission, or an unappealed order of the department, shall be a
26 final order of the department and shall be enforceable in a
27 court of competent jurisdiction. The department may publish
28 final adjudications issued under this section, subject to
29 redaction or modification to preserve confidentiality. The
30 department shall regularly report violations of this chapter,

1 enforcement actions and other relevant information to the
2 Nationwide Mortgage Licensing System and Registry.

3 (e) Appeals.--A person aggrieved by a decision of the
4 [Secretary of Banking] commission may appeal the decision under
5 2 Pa.C.S. Ch. 7 Subch. A. (relating to judicial review of
6 Commonwealth agency action).

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

10 § 6139. Suspension, revocation or refusal.

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

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

22 (2) Failed to comply with or violated any provision of
23 this chapter or any regulation or order promulgated or issued
24 by the department under this chapter.

25 (3) Engaged in dishonest, fraudulent or illegal
26 practices or conduct in a business or unfair or unethical
27 practices or conduct in connection with the mortgage loan
28 business.

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

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

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

8 (7) Become the subject of a United States Postal Service
9 fraud order.

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

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

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

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

25 (12) Become insolvent, meaning that the liabilities of
26 the applicant or licensee exceed the assets of the applicant
27 or licensee or that the applicant or licensee cannot meet the
28 obligations of the applicant or licensee as they mature or is
29 in such financial condition that the applicant or licensee
30 cannot continue in business with safety to the customers of

1 the applicant or licensee.

2 (13) Failed to complete the requirements of section
3 6131.1 (relating to prelicensing and continuing education).

4 (14) In the case of a mortgage broker, mortgage lender
5 or mortgage loan correspondent, conducted the mortgage loan
6 business through an unlicensed mortgage originator.

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

11 * * *

12 § 6140. Penalties.

13 * * *

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

21 § 6151. Applicability.

22 The provisions of this chapter shall apply to:

23 (1) Any mortgage loan which is:

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

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

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

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

3 Section 4. Section 6154 of Title 7 is repealed:

4 [§ 6154. Procedure for determination of noncompliance with
5 Federal law.

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

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

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

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

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