

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 CORMAN, APPROPRIATIONS, IN SENATE, RE-REPORTED AS
AMENDED, JUNE 17, 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 (C) ENGAGED IN RECOMMENDING, REFERRING OR
 2 STEERING A BORROWER OR PROSPECTIVE BORROWER IN THE
 3 MANNER PROVIDED UNDER PARAGRAPH (1) (III) OF THE
 4 DEFINITION OF "OFFER OR NEGOTIATE TERMS OF A MORTGAGE
 5 LOAN FOR COMPENSATION OR GAIN" TO A BANKING
 6 INSTITUTION, LICENSED MORTGAGE LENDER, LICENSED
 7 MORTGAGE LOAN CORRESPONDENT, LICENSED MORTGAGE BROKER
 8 OR PERSON EXEMPT FROM LICENSING IN A MANNER
 9 INCIDENTAL TO AND IN THE NORMAL COURSE OF HIS OR HER
 10 SECURITIES BROKERAGE ACTIVITIES.

11 (D) NOT OTHERWISE ACTING AS A MORTGAGE
 12 ORIGINATOR AS DEFINED IN PARAGRAPH (1) (I), (II) OR
 13 (III).

14 (E) NOT IN RECEIPT OF ANY COMPENSATION OR GAIN
 15 FOR SUCH ACTIVITIES FROM THE PERSON MAKING OR
 16 BROKERING THE LOAN, OR A BORROWER OR PROSPECTIVE
 17 BORROWER.

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

19 (A) AN EMPLOYEE OF AN INSURANCE AGENCY LICENSED
 20 UNDER THE ACT OF MAY 17, 1921 (P.L.789, NO.285),
 21 KNOWN AS THE INSURANCE DEPARTMENT ACT OF 1921.

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

24 (C) ENGAGED IN RECOMMENDING, REFERRING OR
 25 STEERING A BORROWER OR PROSPECTIVE BORROWER IN THE
 26 MANNER PROVIDED UNDER PARAGRAPH (1) (III) OF THE
 27 DEFINITION OF "OFFER OR NEGOTIATE TERMS OF A MORTGAGE
 28 LOAN FOR COMPENSATION OR GAIN" TO A BANKING
 29 INSTITUTION, LICENSED MORTGAGE LENDER LICENSED
 30 MORTGAGE LOAN CORRESPONDENT, LICENSED MORTGAGE BROKER

1 OR PERSON EXEMPT FROM LICENSING IN A MANNER
2 INCIDENTAL TO AND IN THE NORMAL COURSE OF HIS OR HER
3 INSURANCE ACTIVITIES.

4 (D) NOT OTHERWISE ACTING AS A MORTGAGE
5 ORIGINATOR AS DEFINED IN PARAGRAPH (1) (I), (II) OR
6 (III).

7 (E) NOT IN RECEIPT OF ANY COMPENSATION OR GAIN
8 FOR SUCH ACTIVITIES FROM THE PERSON MAKING OR
9 BROKERING THE LOAN, OR A BORROWER OR PROSPECTIVE
10 BORROWER.

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

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

20 "Nonoriginating person." A person, other than an individual,
21 that does not engage in the mortgage loan business but is
22 required to have loan processors or underwriters employed or
23 supervised and controlled by the person licensed as mortgage
24 originators.

25 "Nontraditional mortgage loan." A mortgage loan other than a
26 30-year fixed rate mortgage loan.

27 "Offer or negotiate terms of a mortgage loan for compensation
28 or gain."

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

1 (ii) communicating directly or indirectly with a
2 borrower or prospective borrower for the purpose of
3 reaching a mutual understanding about prospective
4 mortgage loan terms; or

5 (iii) recommending, referring or steering a borrower
6 or prospective borrower to a particular lender or set of
7 mortgage loan terms, in accordance with a duty to or
8 incentive from any person other than the borrower or
9 prospective borrower.

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

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

17 (1) The mortgage lender may permit the consumer to
18 obtain advances of money from the licensee from time to time
19 or the mortgage lender may advance money on behalf of the
20 consumer from time to time as directed by the consumer.

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

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

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

30 "Person." An individual, association, joint venture or

1 joint-stock company, partnership, limited partnership, limited
2 partnership association, limited liability company, business
3 corporation, nonprofit corporation or any other group of
4 individuals, however organized.

5 "Primary market." The market wherein mortgage loans are
6 originated between a lender and a consumer.

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

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

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

16 (1) Is a mortgage originator or meets the licensing
17 requirements of a mortgage originator.

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

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

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

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

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

30 (iii) an institution regulated by the Farm Credit

1 Administration.

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

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

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

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

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

13 "Secondary mortgage loan business." The mortgage loan
14 business as applied to secondary mortgage loans.

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

19 "Take a mortgage loan application." Receiving a mortgage
20 loan application for the purpose of facilitating a decision
21 whether to extend an offer of mortgage loan terms to a borrower
22 or prospective borrower or to accept the terms offered by a
23 borrower or prospective borrower in response to a solicitation,
24 whether the application is received directly or indirectly from
25 the borrower or prospective borrower.

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

28 "Wholesale table funder." A licensed mortgage lender or
29 person exempt under section 6112(1) or (7) (relating to
30 exceptions to license requirements) who, in the regular course

1 of business, provides the funding for the closing of mortgage
2 loans through mortgage loan correspondents and who by assignment
3 obtains title to the mortgage loans.

4 § 6111. License requirements.

5 (a) General rule.--Except as provided under subsections (b)
6 and (c) and section 6112 (relating to exceptions to license
7 requirements), on and after the effective date of this section,
8 no person shall engage in the mortgage loan business in this
9 Commonwealth without being licensed as a mortgage broker,
10 mortgage lender, mortgage loan correspondent or mortgage
11 originator as provided under this chapter. A mortgage originator
12 may not engage in the mortgage loan business unless the mortgage
13 originator is [employed and supervised] sponsored in the
14 Nationwide Mortgage Licensing System and Registry by a licensed
15 mortgage broker, mortgage lender or mortgage loan correspondent,
16 person excepted from this chapter or person excepted from
17 licensure under section 6112 and is under the direct supervision
18 and control of the sponsoring licensee or excepted person.

19 * * *

20 § 6112. Exceptions to license requirements.

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

24 (1) A banking institution or a federally chartered or
25 State-chartered credit union, if the primary regulator of the
26 banking institution or federally chartered or State-chartered
27 credit union supervises the banking institution or federally
28 chartered or State-chartered credit union. A banking
29 institution or a federally chartered or State-chartered
30 credit union may register with the department for the purpose

1 of having individuals under its direct supervision and
2 control licensed as mortgage originators, provided that the
3 registered entity meet any of the following requirements:

4 (i) In the same manner as a mortgage lender, obtains
5 and maintains bond coverage for mortgage originators
6 consistent with section 6131(c)(5) (relating to
7 application for license) and files a periodic report
8 consistent with section 6135(a)(3) (relating to licensee
9 requirements).

10 (ii) Annually, in a form acceptable to the
11 department, demonstrates to the department that all of
12 the mortgage originators employed by or under the direct
13 supervision and control of the entity have obtained and
14 maintained the bond coverage required under section
15 6131(f)(4).

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

23 (i) A mortgage broker.

24 (ii) A mortgage lender.

25 (iii) A mortgage loan correspondent.

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

28 (v) A mortgage originator.

29 (vi) An agent of a person listed in subparagraphs

30 (i), (ii), (iii), (iv) and (v).

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

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

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

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

1 (5) Any agency or instrumentality of a state or local
2 government, the District of Columbia or any territory of the
3 United States, including the Pennsylvania Housing Finance
4 Agency and other government housing finance agencies, and
5 employees thereof acting within the scope of their
6 employment. [To qualify for the exception under this
7 paragraph, the agency or instrumentality must ensure
8 employees required to be licensed as mortgage originators
9 have completed the requirements under section 6131.1, have
10 obtained the required mortgage originator license and:

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

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

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

1 mortgage originators shall be subject to the licensing
2 requirements of this chapter. Consumer discount companies
3 that employ or directly supervise and control mortgage
4 originators shall be subject to the same requirements as
5 mortgage lenders in regard to the employment and supervision
6 of mortgage originators.

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

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

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

20 (iii) be registered with the department;

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

24 (v) ensure employees required to be licensed as
25 mortgage originators have completed the requirements
26 under section 6131.1 (relating to prelicensing and
27 continuing education) and have obtained the required
28 mortgage originator license.

29 (8) Employees or individuals under the direct
30 supervision and control of a mortgage broker, mortgage lender

1 or mortgage loan correspondent, or a person excepted from
2 licensure under this section, who[:

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

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

12 (9) Registered mortgage loan originators when acting on
13 behalf of their employers.

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

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

27 (ii) annually, in a form acceptable to the
28 department, demonstrate to the department that all of the
29 mortgage originators employed by the nonprofit
30 corporation have obtained and maintained the bond

1 coverage required by section 6131(f)(4).] A bona fide
2 nonprofit organization and employees of the organization
3 acting within the scope of their employment, unless
4 otherwise deemed to be engaged in the mortgage loan
5 business by the department, provided:

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

9 (ii) The organization shall be registered with the
10 department.

11 (iii) As required under 24 CFR § 3400.103(e)(7)(iii)
12 (relating to individuals required to be licensed by
13 states), the department must periodically examine the
14 books and activities of an organization it determines is
15 a bona fide nonprofit organization and revoke its status
16 as a bona fide nonprofit organization if it does not
17 continue to meet the criteria under 24 CFR §
18 3400.103(e)(7)(ii).

19 (iv) For residential mortgage loans to have terms
20 that are favorable to the borrower, the department must
21 determine that the terms are consistent with loan
22 origination in a public or charitable context, rather
23 than a commercial context.

24 (v) The department shall make the list of bona fide
25 nonprofit organizations available on its Internet
26 website.

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

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

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

10 (iii) Does either of the following:

11 (A) In the same manner as a mortgage lender,
12 obtains and maintains bond coverage for mortgage
13 originators consistent with section 6131(c)(5) and
14 files an annual report consistent with section
15 6135(a)(3).

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

21 (iv) Ensures employees required to be licensed as
22 mortgage originators have completed the requirements
23 under section 6131.1 and have obtained the required
24 mortgage originator license.]

25 (13) An installment seller of, or holder of installment
26 sales contracts secured by, manufactured homes who is
27 licensed under the act of June 28, 1947 (P.L.1110, No.476),
28 known as the Motor Vehicle Sales Finance Act, provided the
29 installment seller or holder only engages in the mortgage
30 loan business regarding installment sales contracts secured

1 by manufactured homes that are purchase-money mortgage loans.
2 To qualify for the exception under this paragraph, the
3 installment seller or holder must:

4 (i) Obtain a license as a mortgage originator, if
5 licensed as an individual under the Motor Vehicle Sales
6 Finance Act.

7 (ii) Be registered with the department.

8 (iii) Do either of the following:

9 (A) In the same manner as a mortgage lender or
10 mortgage broker, as applicable depending upon whether
11 the installment seller or holder makes or brokers
12 installment sales contracts secured by manufactured
13 homes that are purchase-money mortgage loans, obtain
14 and maintain bond coverage for mortgage originators
15 consistent with section 6131(c) (5) or (e) (3) and file
16 [an annual] a periodic report consistent with section
17 6135(a) (3); or

18 (B) Annually demonstrate to the department that
19 the mortgage originators employed by, or under the
20 direct supervision and control of, the installment
21 seller or holder have obtained and maintained the
22 bond coverage required by section 6131(f) (4) in a
23 form acceptable to the department.

24 (iv) Ensure employees or individuals under the
25 direct supervision and control of the installment seller
26 or holder required to be licensed as mortgage originators
27 have completed the requirements under section 6131.1 and
28 have obtained the required mortgage originator license.

29 (14) A nonoriginating person, unless otherwise deemed to
30 be engaged in the mortgage loan business by the department,

1 except that the nonoriginating person shall:

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

5 (ii) Be registered with the department.

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

9 (iv) Ensure employees or individuals under the
10 direct supervision and control of the person required to
11 be licensed as mortgage originators have completed the
12 requirements under section 6131.1 and have obtained the
13 required mortgage originator license.

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

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

23 § 6121. General requirements.

24 A licensee shall do all of the following:

25 * * *

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

1 * * *

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

6 (i) Cancel any insurance provided by the licensee in
7 connection with the mortgage loan and refund to the
8 consumer, in accordance with regulations promulgated by
9 the Insurance Department, any unearned portion of the
10 premium for the insurance.

11 (ii) Stamp or write on the face of the mortgage loan
12 agreement or promissory note evidencing the mortgage loan
13 "Paid in Full" or "Canceled," the date paid and, within
14 60 days, return the mortgage loan agreement or promissory
15 note to the consumer.

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

23 * * *

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

26 (i) Maintain supervision and control of and
27 responsibility for the acts and omissions of all mortgage
28 originators [employed] sponsored by the licensee.

29 (ii) Maintain a list of all current and former
30 mortgage originators [employed] sponsored by the licensee

1 and the dates of the [employment] sponsorship.

2 (iii) In the event that a licensee believes that a
3 mortgage originator [employed] sponsored by the licensee
4 has engaged in any activity that is illegal or in
5 violation of this chapter or any regulation or statement
6 of policy promulgated under this chapter, the licensee
7 shall provide the department with written notification of
8 the belief and the licensee's proposed corrective
9 measures within 30 days. A licensee shall not be liable
10 to a mortgage originator in connection with the
11 notification.

12 * * *

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

15 § 6123. Mortgage loan business prohibitions.

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

17 * * *

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

28 (9) In the case of a mortgage originator, engage in the
29 mortgage loan business other than on behalf of the single
30 mortgage broker, mortgage lender or mortgage loan

1 correspondent or a person excepted from this chapter or a
2 person excepted from licensure under section 6112 (relating
3 to exceptions to license requirements) that sponsors the
4 mortgage originator.

5 Section 3. Sections 6126(7), 6131, 6131.1(b), (c) and (d),
6 6135(a) and (b), 6136(a), 6137, 6138(b), (d), (e) and (f),
7 6139(a), 6140(b) and 6151 of ~~the title~~ TITLE 7 are amended to <--
8 read:

9 § 6126. Requirements as to open-end loans.

10 The following shall apply:

11 * * *

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

28 * * *

29 § 6131. Application for license.

30 (a) Contents.--An application for a license under this

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

7 (1) In the case of a mortgage broker, mortgage lender or
8 mortgage loan correspondent, the application shall include
9 the following:

10 (i) The name of the applicant.

11 (ii) The address of the principal place of business
12 and any branches of the applicant [and the address or
13 addresses where the applicant's mortgage loan business is
14 to be conducted].

15 (iii) The full name, official title and business
16 address of each director and principal officer of the
17 mortgage loan business.

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

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

22 (i) The name of the applicant.

23 (ii) The name of the [employer licensee] sponsoring
24 licensee or excepted person of the applicant and location
25 of the [employer licensee] excepted person or licensed
26 location of the licensee to which the applicant is
27 assigned.

28 (iii) Any other information that may be required by
29 the department.

30 (3) An applicant shall demonstrate to the department

1 that policies and procedures have been developed to receive
2 and process consumer inquiries and grievances promptly and
3 fairly.

4 (a.1) Licensing of principal place of business and
5 branches.--All applicants and licensees must establish and
6 maintain a separate license for the principal place of business
7 and each branch.

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

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

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

18 (i) Federal National Mortgage Association.

19 (ii) Federal Home Loan Mortgage Corporation.

20 (iii) Federal Housing Administration.]

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

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

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

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

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

9 (A) \$100,000 for an applicant or licensee whose
10 mortgage originators will originate or originated
11 less than \$30,000,000 in mortgage loans secured by
12 Pennsylvania [real property] dwellings or residential
13 real estate in a calendar year;

14 (B) \$200,000 for an applicant or licensee whose
15 mortgage originators will originate or originated
16 \$30,000,000 to \$99,999,999.99 in mortgage loans
17 secured by Pennsylvania [real property] dwellings or
18 residential real estate in a calendar year;

19 (C) \$300,000 for an applicant or licensee whose
20 mortgage originators will originate or originated
21 \$100,000,000 to \$249,999,999.99 in mortgage loans
22 secured by Pennsylvania [real property] dwellings or
23 residential real estate in a calendar year; and

24 (D) \$500,000 for an applicant or licensee whose
25 mortgage originators will originate or originated
26 \$250,000,000 or more in mortgage loans secured by
27 Pennsylvania [real property] 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 by its mortgage originators in the first
4 calendar year of licensing. For a licensee, the amount of
5 the bond shall be determined annually by the department
6 based upon the amount of mortgage loans secured by
7 Pennsylvania dwellings or residential real estate
8 originated by the licensee's mortgage originators as
9 indicated on the licensee's [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 licensee's mortgage originators that are related
14 to the mortgage loan business regulated by this chapter.
15 No bond shall comply with the requirements of this
16 section unless it contains a provision that it shall not
17 be canceled for any cause unless notice of intention to
18 cancel is given to the department at least 30 days before
19 the day upon which cancellation shall take effect.
20 Cancellation of the bond shall not invalidate the bond
21 regarding the period of time it was in effect.

22 (6) Designated an individual as the qualifying
23 individual for the principal place of business and separate
24 individuals as branch managers for each branch, as
25 applicable.

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

29 (1) Obtains and will maintain a bond in the amount of
30 \$100,000, in a form acceptable to the department, prior to

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

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

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

25 (i) The amount of the bond shall be \$100,000 for an
26 applicant or licensee whose mortgage originators will
27 originate or originated less than \$30,000,000 in mortgage
28 loans secured by Pennsylvania dwellings or residential
29 real estate in a calendar year; \$200,000 for an applicant
30 or licensee whose mortgage originators will originate or

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

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

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

1 cancel is given to the department at least 30 days before
2 the day upon which cancellation shall take effect.
3 Cancellation of the bond shall not invalidate the bond
4 regarding the period of time it was in effect.

5 (4) Designates an individual as the qualifying
6 individual for the principal place of business and separate
7 individuals as branch managers for each branch, as
8 applicable.

9 (e) Mortgage broker license.--

10 (1) The department shall issue a mortgage broker license
11 applied for under this chapter if the applicant obtains and
12 will maintain a bond in the amount of \$100,000, in a form
13 acceptable to the department, prior to the issuance of the
14 license, from a surety company authorized to do business in
15 this Commonwealth. The bond shall be a penal bond conditioned
16 on compliance with this chapter and subject to forfeiture by
17 the department and shall run to the Commonwealth for its use.
18 The bond shall also be for the use of any person against the
19 mortgage broker for failure to carry out the terms of any
20 provision for which advance fees are paid. If the person is
21 aggrieved, the person may, with the written consent of the
22 department, recover advance fees and costs from the bond by
23 filing a claim with the surety company or maintaining an
24 action on the bond. In the alternative, an aggrieved person
25 may recover advance fees and costs by filing a formal
26 complaint against the mortgage broker with the department
27 which shall adjudicate the matter. The adjudication shall be
28 binding upon the surety company and enforceable by the
29 department in Commonwealth Court and by an aggrieved person
30 in any court. Any aggrieved person seeking to recover advance

1 fees and costs from a bond that has already been forfeited by
2 the department or which the department is in the process of
3 forfeiting may recover payment on the bond if, after filing a
4 petition with the department, the department consents to the
5 aggrieved person's requested payment or portion thereof. The
6 department may pay the aggrieved person from the bond
7 proceeds it recovers. Nothing in this section shall be
8 construed as limiting the ability of any court or magisterial
9 district judge to award to any aggrieved person other
10 damages, court costs and attorney fees as permitted by law,
11 but those claims that are not advance fees or related costs
12 may not be recovered from the bond. The department, in its
13 discretion, may consent to or order pro rata or other
14 recovery on the bond for any aggrieved person if claims
15 against the bond may or do exceed its full monetary amount.
16 No bond shall comply with the requirements of this section
17 unless it contains a provision that it shall not be canceled
18 for any cause unless notice of intention to cancel is given
19 to the department at least 30 days before the day upon which
20 cancellation shall take effect. Cancellation of the bond
21 shall not invalidate the bond regarding the period of time it
22 was in effect.

23 (2) Mortgage brokers who can demonstrate to the
24 satisfaction of the department that they do not and will not
25 accept advance fees shall be exempt from the bond requirement
26 of paragraph (1).

27 (3) A mortgage broker shall obtain and maintain a surety
28 bond in an amount that will provide coverage for the mortgage
29 originators [employed] sponsored by the applicant or
30 licensee, in a form acceptable to the department, prior to

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

4 (i) The amount of the bond shall be \$50,000 for an
5 applicant or licensee whose mortgage originators will
6 originate or originated less than \$15,000,000 in mortgage
7 loans secured by Pennsylvania dwellings or residential
8 real estate in a calendar year; \$75,000 for an applicant
9 or licensee whose mortgage originators will originate or
10 originated \$15,000,000 to \$29,999,999.99 in mortgage
11 loans secured by Pennsylvania dwellings or residential
12 real estate in a calendar year; \$100,000 for an applicant
13 or licensee whose mortgage originators will originate or
14 originated \$30,000,000 to \$49,999,999.99 in mortgage
15 loans secured by Pennsylvania dwellings or residential
16 real estate in a calendar year; and \$150,000 for an
17 applicant or licensee whose mortgage originators will
18 originate or originated \$50,000,000 or more in mortgage
19 loans secured by Pennsylvania dwellings or residential
20 real estate in a calendar year.

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

1 indicated on the licensee's [annual] periodic report.

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

14 (4) A mortgage broker shall designate an individual as
15 the qualifying individual for the principal place of business
16 and separate individuals as branch managers for each branch,
17 as applicable.

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

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

30 (2) Be assigned to and work out of a licensed location

1 of the [employer] sponsoring licensee or a location of [an
2 employer] a sponsoring person excepted from this chapter or
3 excepted from licensure under section 6112[.], which, in the
4 case of a sponsoring licensee, may be either the mortgage
5 originator's residence or a location of the licensee that is
6 within 100 miles of the mortgage originator's residence.

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

9 (4) If a person excepted from this chapter or excepted
10 from licensure under section 6112 does not elect to maintain
11 bond coverage for its mortgage originators in the same manner
12 as a mortgage lender, a mortgage originator employed by or
13 under the direct supervision and control of a person excepted
14 from this chapter or excepted from licensure under section
15 6112 shall obtain and maintain a surety bond in an amount
16 that will provide coverage for the mortgage originator, in a
17 form acceptable to the department, prior to the issuance of
18 the license, from a surety company authorized to do business
19 in this Commonwealth. The following shall apply:

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

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

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

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

1 of time it was in effect.

2 (5) Only engage in the mortgage loan business on behalf
3 of the single mortgage broker, mortgage lender or mortgage
4 loan correspondent or a person excepted from this chapter or
5 a person excepted from licensure under section 6112 that
6 sponsors the mortgage originator.

7 (g) Nationwide Mortgage Licensing System and Registry
8 information challenge process.--A mortgage originator applicant
9 or licensee may challenge the accuracy of information entered by
10 the department to the Nationwide Mortgage Licensing System and
11 Registry regarding the mortgage originator applicant or licensee
12 by filing a written complaint with the department. The
13 department shall review the complaint and alleged inaccurate
14 information on the Nationwide Mortgage Licensing System and
15 Registry and notify the applicant or licensee of corrective
16 action taken by the department regarding the alleged inaccurate
17 information within 30 days of receipt of the complaint.

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

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

1 (1) If an applicant is not a resident of this
2 Commonwealth, as a condition to receiving a license under
3 this chapter, the applicant shall be authorized to do
4 business in this Commonwealth in accordance with the laws of
5 this Commonwealth regulating corporations and other entities
6 conducting business in this Commonwealth and shall maintain
7 at least one office which is the office that shall be
8 licensed as the principal place of business for the purposes
9 of this chapter.

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

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

1 the employment history of a mortgage originator.

2 § 6131.1. Prelicensing and continuing education.

3 * * *

4 (b) Prelicensing education.--

5 (1) A mortgage originator applicant, and at least one
6 [partner or ultimate equitable owner of 10% or more of an
7 applicant other than a mortgage originator] qualifying
8 individual of a mortgage broker, mortgage lender or mortgage
9 loan correspondent applicant, shall complete at least 20
10 hours of education programs approved in accordance with
11 paragraph (2), which shall include all of the following:

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

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

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

19 (iv) Three hours of Pennsylvania law and
20 regulations, including this chapter, the act of December
21 3, 1959 (P.L.1688, No.621), known as the Housing Finance
22 Agency Law, and the act of January 30, 1974 (P.L.13,
23 No.6), referred to as the Loan Interest and Protection
24 Law.

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

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

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

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

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

26 (c) Prelicensing written test.--

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

1 loan correspondent applicant, shall pass, in accordance with
2 the standards established under this subsection, a qualified
3 written test developed by the Nationwide Mortgage Licensing
4 System and Registry and administered by a test provider
5 approved by the Nationwide Mortgage Licensing System and
6 Registry based upon reasonable standards. The [portion of
7 the] department may also require applicants to pass a test
8 regarding Pennsylvania-specific law, which shall be
9 administered by a test provider approved by the department or
10 as otherwise determined by the department under subsection
11 (e).

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

16 (i) Ethics.

17 (ii) Federal law and regulation pertaining to
18 mortgage origination.

19 (iii) Pennsylvania law and regulation pertaining to
20 mortgage origination, unless otherwise determined by the
21 department.

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

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

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

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

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

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

17 (d) Continuing education.--

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

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

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

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

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

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

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

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

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

30 (6) A licensed mortgage originator who is an instructor

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

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

11 (8) An individual who is a mortgage originator, branch
12 manager or qualifying individual of a mortgage broker,
13 mortgage lender or mortgage loan correspondent is not
14 required to complete the requirements of this subsection in
15 any licensing year in which the individual has completed the
16 requirements of subsection (b).

17 * * *

18 § 6135. Licensee requirements.

19 (a) Requirements of licensee.--

20 [(1) A licensee who is a mortgage broker, mortgage
21 lender or mortgage loan correspondent shall conspicuously
22 display, at each licensed place of business, its license and
23 copies of the licenses of all mortgage originators assigned
24 to that location. A licensee who is a mortgage originator
25 shall keep the license in the immediate possession of the
26 licensee whenever the licensee is engaged in the mortgage
27 loan business.]

28 (2) Each licensee shall maintain at its principal place
29 of business, or at another place if agreed to by the
30 department, the original or a copy of any books, accounts,

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

24 (3) A mortgage broker, mortgage lender or mortgage loan
25 correspondent, or a mortgage originator that is required to
26 obtain and maintain its own bond coverage under section
27 6131(f)(4) (relating to application for license), [on a date
28 determined by the department,] shall file periodically, as
29 determined by the department, a report with the department or
30 the Nationwide Mortgage Licensing System and Registry, as

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

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

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

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

1 * * *

2 § 6136. Licensee limitations.

3 (a) Name and changes to name.--A licensee cannot transact
4 any business under this chapter under any other name or names
5 except those names designated in its license. A mortgage
6 originator may not use any other name other than the mortgage
7 originator's personal legal name. A licensee that changes its
8 name or place or places of business shall notify the department
9 or the Nationwide Mortgage Licensing System and Registry, as
10 determined by the department, within ten days of the change[,
11 and the department shall issue a certificate to the licensee, if
12 appropriate, which shall specify the licensee's new name or
13 address].

14 * * *

15 § 6137. Surrender of license.

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

26 § 6138. Authority of department.

27 * * *

28 (b) Hearings.--A person aggrieved by a decision of the
29 department may appeal the decision of the department to the
30 [Secretary of Banking] commission. The appeal shall be conducted

1 under 2 Pa.C.S. Ch. 5 Subch. A (relating to practice and
2 procedure of Commonwealth agencies).

3 * * *

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

13 (e) Appeals.--A person aggrieved by a decision of the
14 [Secretary of Banking] commission may appeal the decision under
15 2 Pa.C.S. Ch. 7 Subch. A. (relating to judicial review of
16 Commonwealth agency action).

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

20 § 6139. Suspension, revocation or refusal.

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

29 (1) Made a material misstatement in an application or
30 any report or submission required by this chapter or any

1 department regulation, statement of policy or order.

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

5 (3) Engaged in dishonest, fraudulent or illegal
6 practices or conduct in a business or unfair or unethical
7 practices or conduct in connection with the mortgage loan
8 business.

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

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

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

18 (7) Become the subject of a United States Postal Service
19 fraud order.

20 (8) Failed to comply with the requirements of this
21 chapter to make and keep records prescribed by regulation,
22 statement of policy or order of the department, to produce
23 records required by the department or to file financial
24 reports or other information that the department by
25 regulation, statement of policy or order may require.

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

29 (10) Demonstrated negligence or incompetence in
30 performing an act for which the licensee is required to hold

1 a license under this chapter.

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

5 (12) Become insolvent, meaning that the liabilities of
6 the applicant or licensee exceed the assets of the applicant
7 or licensee or that the applicant or licensee cannot meet the
8 obligations of the applicant or licensee as they mature or is
9 in such financial condition that the applicant or licensee
10 cannot continue in business with safety to the customers of
11 the applicant or licensee.

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

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

17 (15) Failed to comply with the terms of any agreement
18 under which the department authorizes a licensee to maintain
19 records at a place other than the licensee's principal place
20 of business.

21 * * *

22 § 6140. Penalties.

23 * * *

24 (b) Violation by licensee.--A person licensed under this
25 chapter or director, officer, owner, partner, employee, mortgage
26 originator or agent of a licensee who violates a provision of
27 this chapter or who commits any action which would subject the
28 licensee to suspension, revocation or nonrenewal under section
29 6139 may be fined by the department up to \$10,000 for each
30 offense.

1 § 6151. Applicability.

2 The provisions of this chapter shall apply to:

3 (1) Any mortgage loan which is:

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

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

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

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

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

14 [§ 6154. Procedure for determination of noncompliance with
15 Federal law.

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

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

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

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

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