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By: **Delegates Wood, D. Davis, Moe, Jameson, Miller, and Minnick**

Introduced and read first time: February 11, 2005

Assigned to: Economic Matters

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A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions - Consumer Credit - Mortgage Originators**

3 FOR the purpose of prohibiting an individual from acting as a mortgage originator on  
4 or after a certain date unless the individual is a licensee or is exempt from  
5 licensing under this Act; providing that a license issued under this Act  
6 authorizes a licensee to act as a mortgage originator only when acting within the  
7 scope of employment with a mortgage lender; prohibiting a licensee from  
8 maintaining more than one license or being employed by more than one  
9 mortgage lender; requiring the Commissioner of Financial Regulation in the  
10 Department of Labor, Licensing, and Regulation to include certain items on each  
11 license; prohibiting an individual from acting as a mortgage originator under a  
12 name or for an employer that is different from the name and employer that  
13 appear on the license unless certain conditions are met; authorizing the  
14 issuance of a license to an individual employed by a mortgage lender, the  
15 principal office of which is located outside the State, if certain conditions are  
16 met; establishing certain qualifications for obtaining a license; authorizing the  
17 Commissioner to deny an application for a license under certain circumstances;  
18 establishing procedures for applying for a license; requiring the Commissioner  
19 to conduct an investigation to determine if an applicant meets certain  
20 requirements under this Act; requiring the Commissioner to issue a license to an  
21 applicant who meets certain requirements; establishing procedures for the  
22 approval, provisional approval, provisional denial, and denial of an application;  
23 providing for the expiration of a license; establishing procedures for renewal of a  
24 license; prohibiting the Commissioner from refunding any part of a license fee  
25 under certain circumstances; authorizing the Commissioner to determine that  
26 licenses issued under this Act shall expire on a staggered basis; establishing a  
27 Mortgage Lender-Originator Fund; providing that the Fund shall consist of  
28 certain items; requiring the Commissioner to pay certain fines and penalties  
29 into the General Fund of the State; establishing the purpose of the Fund;  
30 requiring the annual State budget to include certain items; authorizing the  
31 making of certain expenditures from the Fund under certain circumstances;  
32 requiring certain amounts in the Fund to be carried forward under certain  
33 circumstances; providing that the State Treasurer is the custodian of the Fund;  
34 providing that the Fund is a special, nonlapsing fund that is not subject to  
35 certain provisions of law; requiring the Governor to appropriate certain funds in

1 a certain manner; requiring the Commissioner to adopt certain regulations  
2 relating to continuing education requirements; authorizing certain aggrieved  
3 persons to file a written complaint with the Commissioner; requiring the  
4 Commissioner to investigate the complaint; authorizing the Commissioner to  
5 make any other investigation of a person under certain circumstances; requiring  
6 a licensee to pay to the Commissioner a certain fee; establishing the  
7 Commissioner's examination and enforcement powers; establishing certain  
8 notice and hearing requirements; establishing certain penalties for a violation of  
9 this Act; providing that the employment of a mortgage originator licensed under  
10 this Act by a mortgage lender does not relieve the mortgage lender of certain  
11 responsibilities; authorizing the Commissioner to adopt regulations to carry out  
12 this Act; defining certain terms; and generally relating to mortgage originators.

13 BY adding to

14 Article - Financial Institutions

15 Section 11-517(f); and 11-601 through 11-618, inclusive, to be under the new  
16 subtitle "Subtitle 6. Mortgage Originators"

17 Annotated Code of Maryland

18 (2003 Replacement Volume and 2004 Supplement)

19 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
20 MARYLAND, That the Laws of Maryland read as follows:

21 **Article - Financial Institutions**

22 11-517.

23 (F) THE EMPLOYMENT OF A MORTGAGE ORIGINATOR LICENSED UNDER  
24 SUBTITLE 6 OF THIS TITLE BY A MORTGAGE LENDER DOES NOT RELIEVE THE  
25 MORTGAGE LENDER OF A RESPONSIBILITY UNDER THIS SUBTITLE, A RULE OR  
26 REGULATION ADOPTED UNDER THIS SUBTITLE, OR A LAW GOVERNING MORTGAGE  
27 LENDING IN THE STATE.

28 SUBTITLE 6. MORTGAGE ORIGINATORS.

29 11-601.

30 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
31 INDICATED.

32 (B) "BORROWER" HAS THE MEANING STATED IN § 11-501 OF THIS TITLE.

33 (C) "FUND" MEANS THE MORTGAGE LENDER-ORIGINATOR FUND  
34 ESTABLISHED UNDER § 11-610 OF THIS SUBTITLE.

35 (D) "LICENSE" MEANS A LICENSE ISSUED BY THE COMMISSIONER UNDER  
36 THIS SUBTITLE.

1 (E) "LICENSEE" MEANS AN INDIVIDUAL WHO IS LICENSED BY THE  
2 COMMISSIONER UNDER THIS SUBTITLE.

3 (F) "LOAN APPLICATION" HAS THE MEANING STATED IN § 11-501 OF THIS  
4 TITLE.

5 (G) "MORTGAGE LENDER" MEANS A PERSON THAT IS LICENSED AS A  
6 MORTGAGE LENDER UNDER SUBTITLE 5 OF THIS TITLE.

7 (H) "MORTGAGE LENDING BUSINESS" HAS THE MEANING STATED IN § 11-501  
8 OF THIS TITLE.

9 (I) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11-501 OF THIS TITLE.

10 (J) (1) "MORTGAGE ORIGINATOR" MEANS AN INDIVIDUAL WHO:

11 (I) IS AN EMPLOYEE OF A MORTGAGE LENDER THAT:

12 1. IS A MORTGAGE BROKER AS DEFINED IN § 11-501(I) OF  
13 THIS TITLE; OR

14 2. HAS OR WILL HAVE A NET BRANCH OFFICE AT OR OUT OF  
15 WHICH THE INDIVIDUAL WORKS OR WILL WORK; AND

16 (II) DIRECTLY CONTACTS PROSPECTIVE BORROWERS FOR THE  
17 PURPOSE OF NEGOTIATING WITH OR ADVISING THE PROSPECTIVE BORROWERS  
18 REGARDING MORTGAGE LOAN TERMS AND AVAILABILITY;

19 (III) RECEIVES FROM THE MORTGAGE LENDER COMPENSATION  
20 THAT IS CALCULATED:

21 1. AS A PERCENTAGE OF THE PRINCIPAL AMOUNT OF  
22 MORTGAGE LOANS ORIGINATED BY THE INDIVIDUAL; OR

23 2. AS A PERCENTAGE OF THE INTEREST, FEES, AND  
24 CHARGES RECEIVED BY THE MORTGAGE LENDER THAT RESULT FROM MORTGAGE  
25 LOAN TRANSACTIONS ORIGINATED BY THE INDIVIDUAL; AND

26 (IV) IS AUTHORIZED TO ACCEPT A LOAN APPLICATION ON BEHALF  
27 OF THE MORTGAGE LENDER.

28 (2) "MORTGAGE ORIGINATOR" DOES NOT INCLUDE AN INDIVIDUAL WHO:

29 (I) OWNS A 25 PERCENT OR MORE INTEREST IN THE MORTGAGE  
30 LENDER;

31 (II) IS LICENSED UNDER SUBTITLE 5 OF THIS TITLE; OR

32 (III) 1. IS AN EMPLOYEE, OR UNDER EXCLUSIVE CONTRACT WITH  
33 AN AFFILIATE, OF A FEDERAL SAVINGS BANK OR FEDERAL SAVINGS ASSOCIATION  
34 THAT MAINTAINS A BRANCH OFFICE IN THE STATE THAT ACCEPTS DEPOSITS; AND



1 (II) THE NAME OF THE LICENSEE'S EMPLOYER.

2 (2) UNLESS THE LICENSEE NOTIFIES THE COMMISSIONER IN ADVANCE  
3 OF A CHANGE IN THE LICENSEE'S NAME OR THE LICENSEE'S EMPLOYER AND PAYS  
4 TO THE COMMISSIONER A LICENSE AMENDMENT FEE OF \$75 FOR EACH NOTICE  
5 PROVIDED UNDER THIS PARAGRAPH, AN INDIVIDUAL MAY NOT ACT AS A MORTGAGE  
6 ORIGINATOR UNDER A NAME OR FOR AN EMPLOYER THAT IS DIFFERENT FROM THE  
7 NAME AND EMPLOYER THAT APPEAR ON THE LICENSE.

8 (D) A LICENSE MAY BE ISSUED UNDER THIS SUBTITLE TO AN INDIVIDUAL  
9 EMPLOYED BY A MORTGAGE LENDER THE PRINCIPAL OFFICE OF WHICH IS LOCATED  
10 OUTSIDE THE STATE IF THE MORTGAGE LENDER MAINTAINS:

11 (1) A RESIDENT AGENT WITHIN THE STATE; AND

12 (2) AN OFFICE WITHIN THE STATE STAFFED BY AT LEAST ONE  
13 EMPLOYEE AUTHORIZED TO ORIGINATE MORTGAGE LOANS.

14 11-604.

15 BEGINNING ON JANUARY 1, 2007, AN INDIVIDUAL MAY NOT ACT AS A MORTGAGE  
16 ORIGINATOR UNLESS THE INDIVIDUAL IS:

17 (1) A LICENSEE; OR

18 (2) EXEMPT FROM LICENSING UNDER THIS SUBTITLE OR SUBTITLE 5 OF  
19 THIS TITLE.

20 11-605.

21 (A) TO QUALIFY FOR A LICENSE, AN APPLICANT SHALL SATISFY THE  
22 COMMISSIONER THAT:

23 (1) THE APPLICANT:

24 (I) HAS AT LEAST 3 YEARS OF EXPERIENCE IN THE MORTGAGE  
25 LENDING BUSINESS AND HAS COMPLETED THE REQUIRED COURSES FOR  
26 CONTINUING EDUCATION ESTABLISHED BY THE COMMISSIONER UNDER § 11-612 OF  
27 THIS SUBTITLE; OR

28 (II) HAS COMPLETED 40 HOURS OF CLASSROOM EDUCATION  
29 CONDUCTED IN THE STATE AND ACHIEVED A PASSING GRADE ON A WRITTEN  
30 EXAMINATION DEVELOPED AND ADMINISTERED BY THE PERSON CONDUCTING THE  
31 CLASSROOM EDUCATION COURSE APPROVED BY THE COMMISSIONER FOR NEW  
32 APPLICANTS; AND

33 (2) THE APPLICANT IS OF GOOD MORAL CHARACTER AND HAS GENERAL  
34 FITNESS TO WARRANT THE BELIEF THAT THE APPLICANT WILL ACT AS A MORTGAGE  
35 ORIGINATOR IN A LAWFUL, HONEST, FAIR, AND EFFICIENT MANNER.

1 (B) THE COMMISSIONER MAY DENY AN APPLICATION FOR A LICENSE FILED  
2 BY AN INDIVIDUAL WHO HAS COMMITTED AN ACT THAT WOULD SERVE AS A  
3 SUFFICIENT GROUND FOR SUSPENSION OR REVOCATION OF A LICENSE UNDER THIS  
4 SUBTITLE OR A MORTGAGE LENDER LICENSE UNDER SUBTITLE 5 OF THIS TITLE.

5 (C) THE COMMISSIONER MAY NOT DENY AN APPLICATION BASED SOLELY ON  
6 THE APPLICANT'S FINANCIAL CONDITION, CREDIT HISTORY, OR NET WORTH, OR THE  
7 INVOLVEMENT OF THE APPLICANT IN A BANKRUPTCY PROCEEDING UNDER TITLE 11  
8 OF THE UNITED STATES CODE.

9 11-606.

10 (A) (1) TO APPLY FOR A LICENSE, AN APPLICANT SHALL COMPLETE, SIGN,  
11 AND SUBMIT TO THE COMMISSIONER AN APPLICATION MADE UNDER OATH ON THE  
12 FORM THAT THE COMMISSIONER REQUIRES.

13 (2) THE APPLICANT SHALL COMPLY WITH ALL CONDITIONS AND  
14 PROVISIONS OF THE APPLICATION FOR A LICENSE.

15 (3) THE APPLICATION SHALL INCLUDE:

16 (I) THE APPLICANT'S NAME, SOCIAL SECURITY NUMBER, BUSINESS  
17 ADDRESS AND TELEPHONE NUMBER, RESIDENCE ADDRESS, RESIDENCE TELEPHONE  
18 NUMBER, AND ELECTRONIC MAIL ADDRESS;

19 (II) THE BUSINESS NAME, BUSINESS ADDRESS, AND TELEPHONE  
20 NUMBER OF THE APPLICANT'S EMPLOYER OR PROSPECTIVE EMPLOYER;

21 (III) THE APPLICANT'S RESUME OR WORK EXPERIENCE, INCLUDING  
22 THE NAMES AND ADDRESSES OF PREVIOUS EMPLOYERS AND A DESCRIPTION OF  
23 EACH JOB OR POSITION HELD BY THE APPLICANT WITH PREVIOUS EMPLOYERS;

24 (IV) A WRITTEN STATEMENT DISCLOSING THE APPLICANT'S  
25 PRESENT OR PROSPECTIVE EMPLOYER THAT THE APPLICANT HAS BEEN APPROVED  
26 FOR EMPLOYMENT AS A MORTGAGE ORIGINATOR;

27 (V) A WRITTEN STATEMENT DISCLOSING WHETHER THE  
28 APPLICANT HAS BEEN CONVICTED OF, PLEADED GUILTY TO, OR PLEADED NOLO  
29 CONTENDERE TO A FELONY OR MISDEMEANOR, EXCEPT MINOR TRAFFIC OFFENSES,  
30 WITHIN THE PRECEDING 10 YEARS, A DESCRIPTION OF THE NATURE AND  
31 DISPOSITION OF ANY DISCLOSED CRIMINAL PROCEEDING, AND THE NAME OF THE  
32 COURT WHERE THE PROCEEDING TOOK PLACE; AND

33 (VI) A WRITTEN STATEMENT DISCLOSING WHETHER THE  
34 COMMISSIONER, OR ANY OTHER REGULATORY AUTHORITY IN THE STATE OR ANY  
35 OTHER JURISDICTION THAT GOVERNS THE MORTGAGE LENDING OR MORTGAGE  
36 LOAN ORINATION BUSINESS, WITH RESPECT TO THE APPLICANT OR AN ENTITY IN  
37 WHICH THE APPLICANT HAS OR HAD ANY OWNERSHIP INTEREST, HAS:

38 1. DENIED AN APPLICATION FOR A LICENSE;



1 (E) WHETHER OR NOT AN APPLICATION HAS BEEN PROVISIONALLY  
2 APPROVED, THE COMMISSIONER MAY DENY AN APPLICATION:

3 (1) IF THE APPLICANT FAILS TO QUALIFY FOR A LICENSE UNDER THIS  
4 SUBTITLE; OR

5 (2) FOR ANY REASON THAT A LICENSE MAY BE REVOKED OR  
6 SUSPENDED UNDER THIS SUBTITLE OR A MORTGAGE LENDER LICENSE MAY BE  
7 SUSPENDED OR REVOKED UNDER § 11-517 OF THIS TITLE.

8 (F) THE COMMISSIONER SHALL APPROVE OR DENY AN APPLICATION WITHIN  
9 60 DAYS AFTER THE COMMISSIONER RECEIVES A COMPLETED APPLICATION.

10 11-608.

11 (A) IF THE COMMISSIONER DENIES AN APPLICATION, THE COMMISSIONER:

12 (1) WITHIN 10 DAYS, SHALL NOTIFY THE APPLICANT, IN WRITING, OF  
13 THE DENIAL;

14 (2) SHALL REFUND THE LICENSE FEE; AND

15 (3) SHALL KEEP THE INVESTIGATION FEE.

16 (B) WITHIN 30 DAYS AFTER THE COMMISSIONER DENIES AN APPLICATION,  
17 THE COMMISSIONER SHALL:

18 (1) ISSUE A WRITTEN DECISION CONTAINING THE SPECIFIC FACTUAL  
19 FINDINGS AND CONCLUSIONS OF LAW ON WHICH THE DENIAL WAS BASED;

20 (2) SEND A COPY OF THE WRITTEN DECISION BY CERTIFIED MAIL TO  
21 THE APPLICANT; AND

22 (3) ADVISE THE APPLICANT BY CERTIFIED MAIL OF THE APPLICANT'S  
23 RIGHT TO A HEARING TO BE HELD IN ACCORDANCE WITH THE ADMINISTRATIVE  
24 PROCEDURE ACT.

25 (C) AN APPLICANT WHO SEEKS A HEARING ON AN APPLICATION DENIAL  
26 SHALL FILE WITH THE COMMISSIONER'S OFFICE A WRITTEN REQUEST FOR A  
27 HEARING WITHIN 45 DAYS AFTER RECEIPT OF THE COMMISSIONER'S WRITTEN  
28 DECISION AND NOTICE OF THE APPLICANT'S RIGHT TO A HEARING.

29 11-609.

30 (A) A LICENSE ISSUED ON OR AFTER OCTOBER 1, 2006, EXPIRES ON DECEMBER  
31 31 IN EACH ODD-NUMBERED YEAR AFTER DECEMBER 31, 2006, UNLESS THE LICENSE  
32 IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION.

33 (B) ON OR BEFORE DECEMBER 1 OF THE YEAR OF EXPIRATION, A LICENSE  
34 MAY BE RENEWED FOR AN ADDITIONAL 2-YEAR TERM IF THE LICENSEE:

1 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

2 (2) PAYS TO THE COMMISSIONER A RENEWAL FEE OF \$300; AND

3 (3) SUBMITS TO THE COMMISSIONER:

4 (I) A RENEWAL APPLICATION ON THE FORM THAT THE  
5 COMMISSIONER REQUIRES; AND

6 (II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY  
7 CONTINUING EDUCATION REQUIREMENTS SET BY REGULATIONS ADOPTED BY THE  
8 COMMISSIONER.

9 (C) IF A LICENSE IS SURRENDERED VOLUNTARILY OR IS SUSPENDED OR  
10 REVOKED, THE COMMISSIONER MAY NOT REFUND ANY PART OF THE LICENSE FEE  
11 REGARDLESS OF THE TIME REMAINING IN THE LICENSE TERM.

12 (D) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, THE  
13 COMMISSIONER MAY DETERMINE THAT A LICENSE ISSUED UNDER THIS SUBTITLE  
14 SHALL EXPIRE ON A STAGGERED BASIS.

15 11-610.

16 (A) THERE IS A MORTGAGE LENDER-ORIGINATOR FUND THAT CONSISTS OF:

17 (1) REVENUE RECEIVED FOR THE LICENSING OF INDIVIDUALS UNDER  
18 THIS SUBTITLE;

19 (2) REVENUE RECEIVED FOR THE LICENSING OF INDIVIDUALS UNDER  
20 SUBTITLE 5 OF THIS TITLE;

21 (3) INCOME FROM THE INVESTMENTS THAT THE STATE TREASURER  
22 MAKES FOR THE FUND; AND

23 (4) ANY OTHER FEE, EXAMINATION ASSESSMENT, OR REVENUE  
24 RECEIVED BY THE COMMISSIONER UNDER SUBTITLE 5 OF THIS TITLE AND THIS  
25 SUBTITLE.

26 (B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE  
27 COMMISSIONER SHALL PAY ALL FINES AND PENALTIES COLLECTED BY THE  
28 COMMISSIONER UNDER SUBTITLE 5 OF THIS TITLE AND THIS SUBTITLE INTO THE  
29 GENERAL FUND OF THE STATE.

30 (C) THE PURPOSE OF THE FUND IS TO PAY THE COSTS AND EXPENSES  
31 INCURRED BY THE COMMISSIONER THAT ARE RELATED TO THE REGULATION OF  
32 MORTGAGE LENDING AND MORTGAGE ORIGINATION, INCLUDING:

33 (1) EXPENDITURES AUTHORIZED UNDER SUBTITLE 5 OF THIS TITLE OR  
34 THIS SUBTITLE; AND

35 (2) ANY OTHER EXPENSE AUTHORIZED IN THE STATE BUDGET.

1 (D) (1) THE ANNUAL STATE BUDGET SHALL INCLUDE THE COSTS AND  
2 EXPENSES OF THE COMMISSIONER RELATING TO THE REGULATION OF MORTGAGE  
3 LENDING AND MORTGAGE ORIGINATION.

4 (2) ANY EXPENDITURES FROM THE FUND TO COVER COSTS AND  
5 EXPENSES OF THE COMMISSIONER MAY BE MADE ONLY:

6 (I) WITH AN APPROPRIATION FROM THE FUND APPROVED BY THE  
7 GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET; OR

8 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §  
9 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

10 (3) IF, IN ANY FISCAL YEAR, THE AMOUNT OF THE REVENUE COLLECTED  
11 BY THE COMMISSIONER AND DEPOSITED INTO THE FUND EXCEEDS THE ACTUAL  
12 APPROPRIATION FOR THE COMMISSIONER TO REGULATE MORTGAGE LENDING AND  
13 MORTGAGE ORIGINATION UNDER THIS SUBTITLE, THE EXCESS AMOUNT SHALL BE  
14 CARRIED FORWARD WITHIN THE FUND.

15 (E) (1) THE STATE TREASURER IS THE CUSTODIAN OF THE FUND.

16 (2) THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM  
17 THE COMMISSIONER INTO THE FUND.

18 (F) (1) (I) THE FUND IS A SPECIAL, NONLAPSING FUND THAT IS NOT  
19 SUBJECT TO § 7-302 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

20 (II) THE FUND MAY NOT BE DEEMED A PART OF THE GENERAL  
21 FUND OF THE STATE.

22 (2) UNLESS OTHERWISE PROVIDED BY LAW, NO PART OF THE FUND MAY  
23 REVERT OR BE CREDITED TO:

24 (I) THE GENERAL FUND OF THE STATE; OR

25 (II) A SPECIAL FUND OF THE STATE.

26 11-611.

27 (A) BEGINNING IN FISCAL YEAR 2006, THE GOVERNOR SHALL APPROPRIATE IN  
28 THE ANNUAL STATE BUDGET FUNDS TO THE DIVISION OF FINANCIAL REGULATION  
29 FOR THE PURPOSE OF CREATING NECESSARY POSITIONS TO IMPLEMENT THE  
30 PROVISIONS OF THIS SUBTITLE.

31 (B) AN AMOUNT EQUAL TO THE GOVERNOR'S APPROPRIATION UNDER  
32 SUBSECTION (A) OF THIS SECTION SHALL BE REPAID BY THE FUND TO THE GENERAL  
33 FUND OF THE STATE ON OR BEFORE JUNE 30, 2008.

34 11-612.

35 (A) THE COMMISSIONER SHALL ADOPT REGULATIONS THAT:

1 (1) SET CONTINUING EDUCATION REQUIREMENTS AS A CONDITION TO  
2 THE RENEWAL OF A LICENSE UNDER THIS SUBTITLE; AND

3 (2) PRESCRIBE RULES FOR THE CLASSROOM EDUCATION REQUIREMENT  
4 PROVIDED FOR IN § 11-605(A) OF THIS SUBTITLE.

5 (B) ANY CONTINUING EDUCATION REQUIREMENT ESTABLISHED BY THE  
6 COMMISSIONER UNDER THIS SECTION SHALL APPLY TO THE FIRST RENEWAL OF A  
7 LICENSE.

8 11-613.

9 (A) (1) ANY PERSON AGGRIEVED BY THE CONDUCT OF A LICENSEE UNDER  
10 THIS SUBTITLE IN CONNECTION WITH A MORTGAGE LOAN MAY FILE A WRITTEN  
11 COMPLAINT WITH THE COMMISSIONER WHO SHALL INVESTIGATE THE COMPLAINT.

12 (2) THE COMMISSIONER MAY MAKE ANY OTHER INVESTIGATION OF A  
13 LICENSEE IF THE COMMISSIONER HAS REASONABLE CAUSE TO BELIEVE THAT THE  
14 LICENSEE HAS VIOLATED ANY PROVISION OF THIS SUBTITLE, OF ANY REGULATION  
15 ADOPTED UNDER THIS SUBTITLE, OR OF ANY OTHER LAW REGULATING MORTGAGE  
16 LENDING OR MORTGAGE ORIGINATION IN THE STATE.

17 (B) A LICENSEE SHALL PAY TO THE COMMISSIONER A FEE OF NOT MORE  
18 THAN \$250 PER DAY FOR EACH OF THE COMMISSIONER'S EMPLOYEES ENGAGED IN  
19 ANY INVESTIGATION CONDUCTED UNDER THIS SECTION THAT RESULTS IN THE  
20 DISCOVERY OF A VIOLATION OF THIS SUBTITLE BY THE LICENSEE.

21 (C) IN CONNECTION WITH AN INVESTIGATION MADE UNDER THIS SECTION,  
22 THE COMMISSIONER MAY:

23 (1) EXAMINE THE BOOKS AND RECORDS OF A LICENSEE OR OF ANY  
24 OTHER PERSON THAT THE COMMISSIONER BELIEVES HAS VIOLATED A PROVISION  
25 OF THIS SUBTITLE, ANY RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE, OR  
26 ANY OTHER LAW REGULATING MORTGAGE LENDING OR MORTGAGE ORIGINATION IN  
27 THE STATE;

28 (2) SUBPOENA DOCUMENTS OR OTHER EVIDENCE; AND

29 (3) SUMMON AND EXAMINE UNDER OATH ANY PERSON WHOSE  
30 TESTIMONY THE COMMISSIONER REQUIRES.

31 (D) (1) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR SUMMONS OF  
32 THE COMMISSIONER UNDER THIS SUBTITLE OR TO TESTIFY CONCERNING ANY  
33 MATTER ABOUT WHICH THE PERSON MAY BE INTERROGATED UNDER THIS  
34 SUBTITLE, THE COMMISSIONER MAY FILE A PETITION FOR ENFORCEMENT WITH THE  
35 CIRCUIT COURT FOR A COUNTY.

36 (2) ON PETITION BY THE COMMISSIONER, THE COURT MAY ORDER THE  
37 PERSON TO ATTEND AND TESTIFY OR PRODUCE EVIDENCE.

1 11-614.

2 (A) IF THE COMMISSIONER FINDS THAT THE CONDUCT OF ANY OTHER  
3 BUSINESS CONCEALS A VIOLATION OR EVASION OF THIS SUBTITLE OR ANY RULE OR  
4 REGULATION ADOPTED UNDER THIS SUBTITLE, OR ANY LAW REGULATING  
5 MORTGAGE LENDING OR MORTGAGE ORIGINATION IN THE STATE, THE  
6 COMMISSIONER MAY ISSUE A WRITTEN ORDER TO A LICENSEE TO STOP DOING  
7 BUSINESS:

8 (1) AT ANY PLACE IN WHICH THE OTHER BUSINESS IS CONDUCTED OR  
9 SOLICITED; OR

10 (2) IN ASSOCIATION OR CONJUNCTION WITH THE OTHER BUSINESS.

11 (B) A LICENSEE WHO VIOLATES AN ORDER OF THE COMMISSIONER ISSUED  
12 UNDER THIS SECTION SHALL BE SUBJECT TO THE PENALTIES PROVIDED BY § 11-615  
13 OF THIS SUBTITLE.

14 (C) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT FOR A  
15 COUNTY SEEKING ENFORCEMENT OF AN ORDER UNDER THIS SECTION.

16 11-615.

17 (A) SUBJECT TO THE HEARING PROVISIONS OF § 11-616 OF THIS SUBTITLE,  
18 THE COMMISSIONER MAY SUSPEND OR REVOKE THE LICENSE OF ANY LICENSEE IF  
19 THE LICENSEE:

20 (1) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION FOR A  
21 LICENSE;

22 (2) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF ANY  
23 STATE OF A FELONY OR A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE  
24 FITNESS AND QUALIFICATION OF THE INDIVIDUAL TO ACT AS A MORTGAGE  
25 ORIGINATOR;

26 (3) IN CONNECTION WITH ANY MORTGAGE LOAN OR LOAN APPLICATION  
27 TRANSACTION:

28 (I) COMMITS ANY FRAUD;

29 (II) ENGAGES IN ANY ILLEGAL OR DISHONEST ACTIVITIES; OR

30 (III) MISREPRESENTS OR FAILS TO DISCLOSE ANY MATERIAL FACTS  
31 TO A PERSON ENTITLED TO THAT INFORMATION;

32 (4) VIOLATES ANY PROVISION OF THIS SUBTITLE, ANY REGULATION  
33 ADOPTED UNDER THIS SUBTITLE, OR ANY OTHER LAW REGULATING MORTGAGE  
34 LENDING OR MORTGAGE ORIGINATION IN THE STATE; OR

1 (5) OTHERWISE DEMONSTRATES UNWORTHINESS, BAD FAITH,  
2 DISHONESTY, OR ANY OTHER QUALITY THAT INDICATES THAT THE BUSINESS OF THE  
3 LICENSEE HAS NOT BEEN OR WILL NOT BE CONDUCTED HONESTLY.

4 (B) IN DETERMINING WHETHER A LICENSE SHALL BE SUSPENDED OR  
5 REVOKED FOR A REASON DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION, THE  
6 COMMISSIONER SHALL CONSIDER:

7 (1) THE NATURE OF THE CRIME;

8 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED  
9 BY THE LICENSE;

10 (3) WITH RESPECT TO A FELONY, THE RELEVANCE OF THE CONVICTION  
11 TO THE FITNESS AND QUALIFICATION OF THE LICENSEE TO ENGAGE IN THE  
12 MORTGAGE LENDING OR MORTGAGE ORIGINATION BUSINESS;

13 (4) THE LENGTH OF TIME SINCE THE CONVICTION; AND

14 (5) THE BEHAVIOR AND ACTIVITIES OF THE LICENSEE SINCE THE  
15 CONVICTION.

16 (C) (1) THE COMMISSIONER MAY ENFORCE THE PROVISIONS OF THIS  
17 SUBTITLE, REGULATIONS ADOPTED UNDER THIS SUBTITLE, AND THE APPLICABLE  
18 PROVISIONS OF TITLE 12 OF THE COMMERCIAL LAW ARTICLE BY:

19 (I) ISSUING AN ORDER:

20 1. TO CEASE AND DESIST FROM THE VIOLATION AND ANY  
21 FURTHER SIMILAR VIOLATIONS; AND

22 2. REQUIRING THE VIOLATOR TO TAKE AFFIRMATIVE  
23 ACTION TO CORRECT THE VIOLATION, INCLUDING THE RESTITUTION OF MONEY OR  
24 PROPERTY TO ANY PERSON AGGRIEVED BY THE VIOLATION; AND

25 (II) IMPOSING A CIVIL PENALTY NOT EXCEEDING \$1,000 FOR EACH  
26 VIOLATION.

27 (2) IF A VIOLATOR FAILS TO COMPLY WITH AN ORDER ISSUED UNDER  
28 PARAGRAPH (1)(I) OF THIS SUBSECTION, THE COMMISSIONER MAY IMPOSE A CIVIL  
29 PENALTY NOT EXCEEDING \$1,000 FOR EACH VIOLATION FROM WHICH THE VIOLATOR  
30 FAILED TO CEASE AND DESIST OR FOR WHICH THE VIOLATOR FAILED TO TAKE  
31 AFFIRMATIVE ACTION TO CORRECT.

32 (D) THE COMMISSIONER MAY FILE A PETITION IN THE CIRCUIT COURT FOR A  
33 COUNTY SEEKING ENFORCEMENT OF AN ORDER ISSUED UNDER THIS SECTION.

34 (E) IN DETERMINING THE AMOUNT OF A CIVIL PENALTY IMPOSED UNDER  
35 SUBSECTION (C) OF THIS SECTION, THE COMMISSIONER SHALL CONSIDER:

36 (1) THE SERIOUSNESS OF THE VIOLATION;

- 1 (2) THE GOOD FAITH OF THE VIOLATOR;
- 2 (3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;
- 3 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC AND  
4 MORTGAGE INDUSTRY;
- 5 (5) THE ASSETS OF THE VIOLATOR; AND
- 6 (6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE  
7 CIVIL PENALTY.

8 11-616.

9 (A) BEFORE THE COMMISSIONER TAKES ANY ACTION UNDER § 11-614 OR §  
10 11-615 OF THIS SUBTITLE, THE COMMISSIONER SHALL GIVE THE LICENSEE AN  
11 OPPORTUNITY FOR A HEARING.

12 (B) NOTICE OF THE HEARING SHALL BE GIVEN AND THE HEARING SHALL BE  
13 HELD IN ACCORDANCE WITH THE ADMINISTRATIVE PROCEDURE ACT.

14 (C) THE HEARING NOTICE TO THE LICENSEE SHALL BE SENT BY CERTIFIED  
15 MAIL, RETURN RECEIPT REQUESTED, TO THE PRINCIPAL PLACE OF BUSINESS OF THE  
16 LICENSEE AT LEAST 30 DAYS BEFORE THE HEARING.

17 11-617.

18 ANY PERSON WHO WILLFULLY VIOLATES THE PROVISIONS OF THIS SUBTITLE  
19 IS GUILTY OF A FELONY AND, ON CONVICTION, IS SUBJECT TO A FINE NOT  
20 EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 5 YEARS OR BOTH.

21 11-618.

22 THE EMPLOYMENT OF A MORTGAGE ORIGINATOR LICENSED UNDER THIS  
23 SUBTITLE BY A MORTGAGE LENDER DOES NOT RELIEVE THE MORTGAGE LENDER OF  
24 A RESPONSIBILITY UNDER THIS SUBTITLE, A RULE OR REGULATION ADOPTED  
25 UNDER THIS SUBTITLE, OR A LAW GOVERNING MORTGAGE LENDING IN THE STATE.

26 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
27 October 1, 2005.