

---

By: **Delegates Wood, D. Davis, Moe, Jameson, Miller, and Minniek Minnick, Haddaway, Krebs, Parrott, Taylor, Trueschler, and Walkup**

Introduced and read first time: February 11, 2005

Assigned to: Economic Matters

---

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 24, 2005

---

CHAPTER \_\_\_\_\_

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 an~~  
 25 investigation fee under certain circumstances; authorizing the Commissioner to  
 26 determine that licenses issued under this Act shall expire on a staggered basis;  
 27 establishing a Mortgage Lender-Originator Fund; providing that the Fund shall

1 consist of certain items; requiring the Commissioner to pay certain fines and  
2 penalties into the General Fund of the State; establishing the purpose of the  
3 Fund; requiring the annual State budget to include certain items; authorizing  
4 the making of certain expenditures from the Fund under certain circumstances;  
5 requiring certain amounts in the Fund to be carried forward under certain  
6 circumstances; providing that the State Treasurer is the custodian of the Fund;  
7 providing that the Fund is a special, nonlapsing fund that is not subject to  
8 certain provisions of law; requiring the Governor to appropriate certain funds in  
9 a certain manner; requiring the Commissioner to adopt certain regulations  
10 relating to continuing education requirements; authorizing certain aggrieved  
11 persons to file a written complaint with the Commissioner; requiring the  
12 Commissioner to investigate the complaint; authorizing the Commissioner to  
13 make any other investigation of a person under certain circumstances; requiring  
14 a licensee to pay to the Commissioner a certain fee; establishing the  
15 Commissioner's examination and enforcement powers; establishing certain  
16 notice and hearing requirements; establishing certain penalties for a violation of  
17 this Act; providing that the employment of a mortgage originator licensed under  
18 this Act by a mortgage lender does not relieve the mortgage lender of certain  
19 responsibilities; authorizing the Commissioner to adopt regulations to carry out  
20 this Act; defining certain terms; and generally relating to mortgage originators.

21 BY adding to

22 Article - Financial Institutions

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

25 Annotated Code of Maryland

26 (2003 Replacement Volume and 2004 Supplement)

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

29 **Article - Financial Institutions**

30 11-517.

31 (F) THE EMPLOYMENT OF A MORTGAGE ORIGINATOR LICENSED UNDER  
32 SUBTITLE 6 OF THIS TITLE BY A MORTGAGE LENDER DOES NOT RELIEVE THE  
33 MORTGAGE LENDER OF A RESPONSIBILITY UNDER THIS SUBTITLE, A RULE OR  
34 REGULATION ADOPTED UNDER THIS SUBTITLE, OR A LAW GOVERNING MORTGAGE  
35 LENDING IN THE STATE.

36 **SUBTITLE 6. MORTGAGE ORIGINATORS.**

37 11-601.

38 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
39 INDICATED.

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

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

4 (D) "INDEPENDENT CONTRACTOR" MEANS A PERSON WHOSE COMPENSATION  
5 IS PAID WITHOUT A DEDUCTION FOR FEDERAL OR STATE INCOME TAX.

6 (E) "LICENSE" MEANS A LICENSE ISSUED BY THE COMMISSIONER UNDER  
7 THIS SUBTITLE.

8 ~~(E)~~ (F) "LICENSEE" MEANS AN INDIVIDUAL WHO IS LICENSED BY THE  
9 COMMISSIONER UNDER THIS SUBTITLE.

10 ~~(F)~~ (G) "LOAN APPLICATION" HAS THE MEANING STATED IN § 11-501 OF THIS  
11 TITLE.

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

14 ~~(H)~~ (I) "MORTGAGE LENDING BUSINESS" HAS THE MEANING STATED IN §  
15 11-501 OF THIS TITLE.

16 ~~(I)~~ (J) "MORTGAGE LOAN" HAS THE MEANING STATED IN § 11-501 OF THIS  
17 TITLE.

18 ~~(J)~~ (K) (1) "MORTGAGE ORIGINATOR" MEANS AN INDIVIDUAL WHO:

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

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

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

24 (II) DIRECTLY CONTACTS PROSPECTIVE BORROWERS FOR THE  
25 PURPOSE OF NEGOTIATING WITH OR ADVISING THE PROSPECTIVE BORROWERS  
26 REGARDING MORTGAGE LOAN TERMS AND AVAILABILITY;

27 (III) RECEIVES FROM THE MORTGAGE LENDER COMPENSATION  
28 THAT IS CALCULATED:

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

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

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

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

4 (I) OWNS A 25 PERCENT OR MORE INTEREST IN THE MORTGAGE  
5 LENDER; OR

6 (II) IS LICENSED UNDER SUBTITLE 5 OF THIS TITLE; ~~OR,~~

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

10 ~~2. HAS DUTIES THAT DO NOT INCLUDE HANDLING  
11 BORROWER FUNDS OR PERFORMING TASKS RELATED TO UNDERWRITING OR  
12 ASSESSING CREDITWORTHINESS.~~

13 ~~(K)~~ (L) (1) "NET BRANCH OFFICE" MEANS A BRANCH OFFICE OF A  
14 MORTGAGE LENDER THAT IS SEPARATELY LICENSED UNDER SUBTITLE 5 OF THIS  
15 TITLE IF:

16 (I) AS A CONDITION OF ESTABLISHING THE NET BRANCH, THE  
17 MORTGAGE LENDER REQUIRES THE MORTGAGE ORIGINATOR WHO WORKS IN OR OUT  
18 OF THE BRANCH OFFICE, OR A PERSON CONTROLLED BY THE MORTGAGE  
19 ORIGINATOR, TO PAY AN APPLICATION, LICENSING, FRANCHISE, START-UP, OR  
20 OTHER FEE TO THE MORTGAGE LENDER OR DIRECTLY TO THE COMMISSIONER;

21 (II) THE OVERHEAD EXPENSES OF THE NET BRANCH ARE PAID IN  
22 WHOLE OR IN PART BY:

23 1. A MORTGAGE ORIGINATOR WHO WORKS IN OR OUT OF  
24 THE BRANCH OFFICE; OR

25 2. A PERSON CONTROLLED BY A MORTGAGE ORIGINATOR  
26 WHO WORKS IN OR OUT OF THE BRANCH OFFICE; OR

27 (III) THE MORTGAGE LENDER IS NOT:

28 1. AN OBLIGOR ON A LEASE OF THE PREMISES OF THE  
29 BRANCH LOCATION; OR

30 2. AN OWNER OF THE PREMISES OF THE BRANCH LOCATION.

31 (2) "NET BRANCH OFFICE" DOES NOT INCLUDE THE MORTGAGE  
32 LENDER'S PRINCIPAL OFFICE.

33 11-602.

34 (A) (1) THE LICENSING PROVISIONS OF THIS SUBTITLE DO NOT APPLY TO  
35 INDEPENDENT CONTRACTORS.

1           (2)    INDEPENDENT CONTRACTORS ARE SUBJECT TO THE LICENSING  
2 PROVISIONS OF SUBTITLE 5 OF THIS TITLE UNLESS EXEMPT FROM LICENSING  
3 UNDER § 11-502 OF THIS TITLE.

4    (B)    THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS  
5 SUBTITLE.

6 11-603.

7    (A)    A LICENSE ISSUED UNDER THIS SUBTITLE AUTHORIZES THE LICENSEE TO  
8 ACT AS A MORTGAGE ORIGINATOR ONLY WHEN ACTING WITHIN THE SCOPE OF  
9 EMPLOYMENT WITH A MORTGAGE LENDER.

10   (B)    A LICENSEE MAY NOT:

11           (1)    MAINTAIN MORE THAN ONE LICENSE UNDER THIS SUBTITLE; OR

12           (2)    BE EMPLOYED BY MORE THAN ONE MORTGAGE LENDER.

13   (C)    (1)    THE COMMISSIONER SHALL INCLUDE ON EACH LICENSE:

14                   (I)    THE NAME OF THE LICENSEE; AND

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

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

22   (D)    A LICENSE MAY BE ISSUED UNDER THIS SUBTITLE TO AN INDIVIDUAL  
23 WHO IS EMPLOYED BY A MORTGAGE LENDER ~~THE~~ THAT HAS ITS PRINCIPAL OFFICE  
24 ~~OF WHICH IS~~ LOCATED OUTSIDE THE STATE IF THE MORTGAGE LENDER MAINTAINS:

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

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

28 11-604.

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

31           (1)    A LICENSEE; OR

32           (2)    EXEMPT FROM LICENSING UNDER THIS SUBTITLE OR SUBTITLE 5 OF  
33 THIS TITLE.

1 11-605.

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

4 (1) THE APPLICANT:

5 (I) HAS AT LEAST 3 YEARS OF EXPERIENCE IN THE MORTGAGE  
6 LENDING BUSINESS AND HAS COMPLETED ~~THE~~ ANY REQUIRED COURSES FOR  
7 CONTINUING EDUCATION ESTABLISHED BY THE COMMISSIONER ~~UNDER § 11-612 OF~~  
8 ~~THIS SUBTITLE~~; OR

9 (II) HAS COMPLETED 40 HOURS OF CLASSROOM EDUCATION  
10 ~~CONDUCTED IN THE STATE~~ AND ACHIEVED A PASSING GRADE ON A WRITTEN  
11 EXAMINATION DEVELOPED AND ADMINISTERED BY THE PERSON CONDUCTING THE  
12 CLASSROOM EDUCATION COURSE APPROVED BY THE COMMISSIONER FOR NEW  
13 APPLICANTS; AND

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

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

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

25 11-606.

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

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

31 (3) THE APPLICATION SHALL INCLUDE:

32 (I) THE APPLICANT'S NAME, SOCIAL SECURITY NUMBER, BUSINESS  
33 ADDRESS AND TELEPHONE NUMBER, RESIDENCE ADDRESS, RESIDENCE TELEPHONE  
34 NUMBER, AND ELECTRONIC MAIL ADDRESS;

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

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

4 (IV) A WRITTEN STATEMENT ~~DISCLOSING BY~~ THE APPLICANT'S  
5 PRESENT OR PROSPECTIVE EMPLOYER THAT THE APPLICANT HAS BEEN APPROVED  
6 FOR EMPLOYMENT AS A MORTGAGE ORIGINATOR;

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

13 (VI) A WRITTEN STATEMENT DISCLOSING WHETHER THE  
14 COMMISSIONER, OR ANY OTHER REGULATORY AUTHORITY IN THE STATE OR ANY  
15 OTHER JURISDICTION THAT GOVERNS THE MORTGAGE LENDING OR MORTGAGE  
16 LOAN ORIGINATION BUSINESS, WITH RESPECT TO THE APPLICANT OR AN ENTITY IN  
17 WHICH THE APPLICANT HAS OR HAD ANY OWNERSHIP INTEREST, HAS:

- 18 1. DENIED AN APPLICATION FOR A LICENSE;
- 19 2. REVOKED OR SUSPENDED A LICENSE; OR
- 20 3. IMPOSED ANY OTHER FORMAL ORDER OR ~~REGULATOR~~  
21 REGULATORY SANCTION.

22 (B) WITH EACH APPLICATION, THE APPLICANT SHALL PAY TO THE  
23 COMMISSIONER:

- 24 (1) A NONREFUNDABLE ~~APPLICATION~~ INVESTIGATION FEE OF \$100; AND
- 25 (2) A LICENSE FEE OF \$300.

26 (C) (1) IN CONNECTION WITH AN APPLICATION FOR A LICENSE UNDER THIS  
27 SECTION, AND AT ANY OTHER TIME THAT THE COMMISSIONER REQUESTS, AN  
28 APPLICANT OR LICENSEE SHALL PROVIDE FINGERPRINTS FOR USE BY THE FEDERAL  
29 BUREAU OF INVESTIGATION AND THE CRIMINAL JUSTICE INFORMATION SYSTEM  
30 CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC SAFETY AND  
31 CORRECTIONAL SERVICES TO CONDUCT CRIMINAL HISTORY RECORDS CHECKS.

32 (2) AN APPLICANT OR LICENSEE REQUIRED TO PROVIDE FINGERPRINTS  
33 UNDER THIS SUBSECTION SHALL PAY ANY PROCESSING OR OTHER FEES REQUIRED  
34 BY THE FEDERAL BUREAU OF INVESTIGATION OR THE CRIMINAL JUSTICE  
35 INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC  
36 SAFETY AND CORRECTIONAL SERVICES.

1 11-607.

2 (A) WHEN AN APPLICANT FOR A LICENSE FILES THE APPLICATION AND PAYS  
3 THE FEES REQUIRED BY § 11-606 OF THIS SUBTITLE, THE COMMISSIONER SHALL  
4 CONDUCT AN INVESTIGATION TO DETERMINE IF THE APPLICANT MEETS THE  
5 REQUIREMENTS OF § 11-605 OF THIS SUBTITLE.

6 (B) THE COMMISSIONER SHALL ISSUE A LICENSE TO AN APPLICANT WHO  
7 MEETS THE REQUIREMENTS OF § 11-605 OF THIS SUBTITLE.

8 (C) IF THE COMMISSIONER HAS NOT NOTIFIED THE APPLICANT IN WRITING  
9 THAT THE APPLICANT'S APPLICATION IS INCOMPLETE OR HAS BEEN DENIED ~~OR~~  
10 ~~PROVISIONALLY DENIED~~ WITHIN 30 DAYS AFTER THE COMMISSIONER RECEIVES THE  
11 COMPLETED APPLICATION, THE APPLICATION SHALL BE CONSIDERED  
12 PROVISIONALLY APPROVED.

13 (D) IF THE COMMISSIONER NOTIFIES AN APPLICANT THAT THE APPLICATION  
14 IS INCOMPLETE:

15 (1) THE COMMISSIONER'S NOTICE SHALL ITEMIZE THE STEPS WHICH  
16 THE APPLICANT MUST TAKE TO COMPLETE THE APPLICATION; AND

17 (2) THE APPLICATION SHALL NOT BE CONSIDERED PROVISIONALLY  
18 APPROVED UNTIL 30 DAYS AFTER THE APPLICANT SUPPLIES OR COMPLETES ALL  
19 ITEMS AND STEPS IDENTIFIED IN THE COMMISSIONER'S NOTICE.

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

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

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

27 (F) THE COMMISSIONER SHALL APPROVE OR DENY AN APPLICATION WITHIN  
28 60 DAYS AFTER THE COMMISSIONER RECEIVES A COMPLETED APPLICATION.

29 11-608.

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

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

33 (2) SHALL REFUND THE LICENSE FEE; AND

34 (3) SHALL KEEP THE INVESTIGATION FEE.



1 (B) WITHIN 30 DAYS AFTER THE COMMISSIONER DENIES AN APPLICATION,  
2 THE COMMISSIONER SHALL:

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

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

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

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

14 11-609.

15 (A) A LICENSE ISSUED ON OR AFTER OCTOBER 1, 2006, EXPIRES ON DECEMBER  
16 31 IN EACH ODD-NUMBERED YEAR AFTER DECEMBER 31, 2006, UNLESS THE LICENSE  
17 IS RENEWED FOR A 2-YEAR TERM AS PROVIDED IN THIS SECTION.

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

20 (1) OTHERWISE IS ENTITLED TO BE LICENSED;

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

22 (3) SUBMITS TO THE COMMISSIONER:

23 (I) A RENEWAL APPLICATION ON THE FORM THAT THE  
24 COMMISSIONER REQUIRES; AND

25 (II) SATISFACTORY EVIDENCE OF COMPLIANCE WITH ANY  
26 CONTINUING EDUCATION REQUIREMENTS SET BY REGULATIONS ADOPTED BY THE  
27 COMMISSIONER.

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

31 (D) NOTWITHSTANDING SUBSECTIONS (A) AND (B) OF THIS SECTION, THE  
32 COMMISSIONER MAY DETERMINE THAT ~~A LICENSE~~ LICENSES ISSUED UNDER THIS  
33 SUBTITLE SHALL EXPIRE ON A STAGGERED BASIS.

34 11-610.

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

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

3 (2) REVENUE RECEIVED FOR THE LICENSING OF ~~INDIVIDUALS~~ PERSONS  
4 UNDER SUBTITLE 5 OF THIS TITLE;

5 (3) INCOME FROM THE INVESTMENTS THAT THE STATE TREASURER  
6 MAKES FOR THE FUND; AND

7 (4) ANY OTHER FEE, EXAMINATION ASSESSMENT, OR REVENUE  
8 RECEIVED BY THE COMMISSIONER UNDER SUBTITLE 5 OF THIS TITLE AND THIS  
9 SUBTITLE.

10 (B) NOTWITHSTANDING SUBSECTION (A) OF THIS SECTION, THE  
11 COMMISSIONER SHALL PAY ALL FINES AND PENALTIES COLLECTED BY THE  
12 COMMISSIONER UNDER SUBTITLE 5 OF THIS TITLE AND THIS SUBTITLE INTO THE  
13 GENERAL FUND OF THE STATE.

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

17 (1) EXPENDITURES AUTHORIZED UNDER SUBTITLE 5 OF THIS TITLE OR  
18 THIS SUBTITLE; AND

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

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

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

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

27 (II) BY THE BUDGET AMENDMENT PROCEDURE PROVIDED FOR IN §  
28 7-209 OF THE STATE FINANCE AND PROCUREMENT ARTICLE.

29 (3) IF, IN ANY FISCAL YEAR, THE AMOUNT OF THE REVENUE COLLECTED  
30 BY THE COMMISSIONER AND DEPOSITED INTO THE FUND EXCEEDS THE ACTUAL  
31 APPROPRIATION FOR THE COMMISSIONER TO REGULATE MORTGAGE LENDING  
32 UNDER SUBTITLE 5 OF THIS TITLE AND MORTGAGE ORIGINATION UNDER THIS  
33 SUBTITLE, THE EXCESS AMOUNT SHALL BE CARRIED FORWARD WITHIN THE FUND.

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

35 (2) THE STATE TREASURER SHALL DEPOSIT PAYMENTS RECEIVED FROM  
36 THE COMMISSIONER INTO THE FUND.

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

3 (II) THE FUND MAY NOT BE DEEMED A PART OF THE GENERAL  
4 FUND OF THE STATE.

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

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

8 (II) A ANY OTHER SPECIAL FUND OF THE STATE.

9 11-611.

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

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

17 11-612.

18 (A) THE COMMISSIONER SHALL ADOPT REGULATIONS THAT:

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

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

23 (B) ANY CONTINUING EDUCATION REQUIREMENT ESTABLISHED BY THE  
24 COMMISSIONER UNDER THIS SECTION SHALL APPLY TO THE FIRST RENEWAL OF A  
25 LICENSE.

26 11-613.

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

30 (2) THE COMMISSIONER MAY MAKE ANY OTHER INVESTIGATION OF A  
31 LICENSEE IF THE COMMISSIONER HAS REASONABLE CAUSE TO BELIEVE THAT THE  
32 LICENSEE HAS VIOLATED ANY PROVISION OF THIS SUBTITLE, OF ANY REGULATION  
33 ADOPTED UNDER THIS SUBTITLE, OR OF ANY OTHER LAW REGULATING MORTGAGE  
34 LENDING OR MORTGAGE ORIGINATION IN THE STATE.

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

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

7 (1) EXAMINE THE BOOKS AND RECORDS OF A LICENSEE OR OF ANY  
8 OTHER PERSON THAT THE COMMISSIONER BELIEVES HAS VIOLATED A PROVISION  
9 OF THIS SUBTITLE, ANY RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE, OR  
10 ANY OTHER LAW REGULATING MORTGAGE LENDING OR MORTGAGE ORIGINATION IN  
11 THE STATE;

12 (2) SUBPOENA DOCUMENTS OR OTHER EVIDENCE; AND

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

15 (D) (1) IF A PERSON FAILS TO COMPLY WITH A SUBPOENA OR SUMMONS OF  
16 THE COMMISSIONER UNDER THIS SUBTITLE OR TO TESTIFY CONCERNING ANY  
17 MATTER ABOUT WHICH THE PERSON MAY BE INTERROGATED UNDER THIS  
18 SUBTITLE, THE COMMISSIONER MAY FILE A PETITION FOR ENFORCEMENT WITH THE  
19 CIRCUIT COURT FOR A COUNTY.

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

22 11-614.

23 (A) IF THE COMMISSIONER FINDS THAT THE CONDUCT OF ANY OTHER  
24 BUSINESS CONCEALS A VIOLATION OR EVASION OF THIS SUBTITLE OR ANY RULE OR  
25 REGULATION ADOPTED UNDER THIS SUBTITLE, OR ANY LAW REGULATING  
26 MORTGAGE LENDING OR MORTGAGE ORIGINATION IN THE STATE, THE  
27 COMMISSIONER MAY ISSUE A WRITTEN ORDER TO A LICENSEE TO STOP DOING  
28 BUSINESS:

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

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

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

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

1 11-615.

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

5 (1) MAKES ANY MATERIAL MISSTATEMENT IN AN APPLICATION FOR A  
6 LICENSE;

7 (2) IS CONVICTED UNDER THE LAWS OF THE UNITED STATES OR OF ANY  
8 STATE OF A FELONY OR A MISDEMEANOR THAT IS DIRECTLY RELATED TO THE  
9 FITNESS AND QUALIFICATION OF THE INDIVIDUAL TO ACT AS A MORTGAGE  
10 ORIGINATOR;

11 (3) IN CONNECTION WITH ANY MORTGAGE LOAN OR LOAN APPLICATION  
12 TRANSACTION:

13 (I) COMMITS ANY FRAUD;

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

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

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

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

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

26 (1) THE NATURE OF THE CRIME;

27 (2) THE RELATIONSHIP OF THE CRIME TO THE ACTIVITIES AUTHORIZED  
28 BY THE LICENSE;

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

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

33 (5) THE BEHAVIOR AND ACTIVITIES OF THE LICENSEE SINCE THE  
34 CONVICTION.

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

4 (I) ISSUING AN ORDER:

5 1. TO CEASE AND DESIST FROM THE VIOLATION AND ANY  
6 FURTHER SIMILAR VIOLATIONS; AND

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

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

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

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

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

21 (1) THE SERIOUSNESS OF THE VIOLATION;

22 (2) THE GOOD FAITH OF THE VIOLATOR;

23 (3) THE VIOLATOR'S HISTORY OF PREVIOUS VIOLATIONS;

24 (4) THE DELETERIOUS EFFECT OF THE VIOLATION ON THE PUBLIC AND  
25 MORTGAGE INDUSTRY;

26 (5) THE ASSETS OF THE VIOLATOR; AND

27 (6) ANY OTHER FACTORS RELEVANT TO THE DETERMINATION OF THE  
28 CIVIL PENALTY.

29 11-616.

30 (A) BEFORE THE COMMISSIONER TAKES ANY ACTION UNDER § 11-614 OR §  
31 11-615 OF THIS SUBTITLE, THE COMMISSIONER SHALL GIVE THE LICENSEE AN  
32 OPPORTUNITY FOR A HEARING.

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

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

4 11-617.

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

8 11-618.

9 THE EMPLOYMENT OF A MORTGAGE ORIGINATOR LICENSED UNDER THIS  
10 SUBTITLE BY A MORTGAGE LENDER DOES NOT RELIEVE THE MORTGAGE LENDER OF  
11 A RESPONSIBILITY UNDER THIS SUBTITLE OR UNDER SUBTITLE 5 OF THIS TITLE, A  
12 RULE OR REGULATION ADOPTED UNDER THIS SUBTITLE OR UNDER SUBTITLE 5 OF  
13 THIS TITLE, OR A LAW GOVERNING MORTGAGE LENDING IN THE STATE.

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