
By: **Senator Astle**

Introduced and read first time: February 4, 2005

Assigned to: Finance

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 (V) 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 2. HAS DUTIES THAT DO NOT INCLUDE HANDLING
2 BORROWER FUNDS OR PERFORMING TASKS RELATED TO UNDERWRITING OR
3 ASSESSING CREDITWORTHINESS.

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

6 (I) AS A CONDITION OF ESTABLISHING THE NET BRANCH, THE
7 MORTGAGE LENDER REQUIRES THE MORTGAGE ORIGINATOR WHO WORKS IN OR OUT
8 OF THE BRANCH OFFICE, OR A PERSON CONTROLLED BY THE MORTGAGE
9 ORIGINATOR, TO PAY AN APPLICATION, LICENSING, FRANCHISE, START-UP, OR
10 OTHER FEE TO THE MORTGAGE LENDER OR DIRECTLY TO THE COMMISSIONER;

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

13 1. A MORTGAGE ORIGINATOR WHO WORKS IN OR OUT OF
14 THE BRANCH OFFICE; OR

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

17 (III) THE MORTGAGE LENDER IS NOT:

18 1. AN OBLIGOR ON A LEASE OF THE PREMISES OF THE
19 BRANCH LOCATION; OR

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

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

23 11-602.

24 THE COMMISSIONER MAY ADOPT REGULATIONS TO CARRY OUT THIS SUBTITLE.

25 11-603.

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

29 (B) A LICENSEE MAY NOT:

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

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

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

33 (I) THE NAME OF THE LICENSEE; 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 ORIGINATION 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 2. REVOKED OR SUSPENDED A LICENSE; OR
- 2 3. IMPOSED ANY OTHER FORMAL ORDER OR REGULATOR
- 3 SANCTION.

4 (B) WITH EACH APPLICATION, THE APPLICANT SHALL PAY TO THE
5 COMMISSIONER:

- 6 (1) A NONREFUNDABLE APPLICATION FEE OF \$100; AND
- 7 (2) A LICENSE FEE OF \$300.

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

14 (2) AN APPLICANT OR LICENSEE REQUIRED TO PROVIDE FINGERPRINTS
15 UNDER THIS SUBSECTION SHALL PAY ANY PROCESSING OR OTHER FEES REQUIRED
16 BY THE FEDERAL BUREAU OF INVESTIGATION OR THE CRIMINAL JUSTICE
17 INFORMATION SYSTEM CENTRAL REPOSITORY OF THE DEPARTMENT OF PUBLIC
18 SAFETY AND CORRECTIONAL SERVICES.

19 11-607.

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

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

26 (C) IF THE COMMISSIONER HAS NOT NOTIFIED THE APPLICANT IN WRITING
27 THAT THE APPLICANT'S APPLICATION IS INCOMPLETE OR HAS BEEN DENIED OR
28 PROVISIONALLY DENIED WITHIN 30 DAYS AFTER THE COMMISSIONER RECEIVES THE
29 COMPLETED APPLICATION, THE APPLICATION SHALL BE CONSIDERED
30 PROVISIONALLY APPROVED.

31 (D) IF THE COMMISSIONER NOTIFIES AN APPLICANT THAT THE APPLICATION
32 IS INCOMPLETE:

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

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

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 ORIGATION.

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 ORIGATION 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 REPAYED 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.