

HOUSE BILL 292

I1, I2

9lr0188
CF SB 269

By: **The Speaker (By Request – Administration) and Delegates Jones, Manno, Montgomery, and Taylor**

Introduced and read first time: January 29, 2009

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Financial Institutions – Mortgage Lenders and Mortgage Loan Originators**

3 FOR the purpose of altering certain provisions of law regulating mortgage lenders
4 and mortgage loan originators to conform to the requirements of the federal
5 Secure and Fair Enforcement for Mortgage Licensing Act of 2009; expanding
6 the authority of the Commissioner of Financial Regulation to adopt regulations
7 to facilitate implementation of a multistate automated licensing system;
8 requiring certain applicants and licensees to provide certain information and
9 pay certain fees to a certain multistate automated licensing system at certain
10 times; authorizing the Commissioner to use the multistate automated licensing
11 system to request information from and distribute information to certain
12 sources under certain circumstances; altering the required contents of an
13 application for a mortgage lender license and a mortgage loan originator license;
14 altering the terms of mortgage lender licenses and mortgage loan originator
15 licenses; requiring a licensed mortgage lender to submit a certain annual report;
16 increasing certain civil penalties; altering the circumstances under which a
17 mortgage lender must require a borrower to provide certain information to the
18 mortgage lender; prohibiting an individual from engaging in the business of a
19 mortgage loan originator unless the individual holds a valid license or is exempt
20 from certain provisions of law; establishing certain exemptions from the
21 licensing requirement; providing that a license issued under certain provisions
22 of law authorizes the licensee to act as a mortgage loan originator when acting
23 within the scope of employment of a person exempt from licensing as a
24 mortgage lender; altering the information the Commissioner must include on a
25 mortgage loan originator license; altering the actions a licensed mortgage loan
26 originator must take before acting as a mortgage loan originator under a certain
27 name or for a certain employer; altering certain requirements for the issuance
28 and renewal of a mortgage loan originator license; establishing certain
29 education, testing, and surety bond requirements for certain applicants and
30 licensees; authorizing certain licensees to comply with certain requirements on

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 or before a certain date; authorizing the Commissioner to issue an interim
 2 mortgage loan originator license to certain individuals under certain
 3 circumstances; altering the circumstances under which the Commissioner must
 4 revoke the license of a mortgage loan originator; providing that certain
 5 requirements and privileges apply to certain information or material under
 6 certain circumstances; providing that certain information and material may be
 7 shared with certain regulatory officials without the loss of certain privilege or
 8 confidentiality protections; authorizing the Commissioner to enter into certain
 9 information sharing agreements; requiring certain nonfederally insured credit
 10 unions to register certain employees with a certain multistate automated
 11 licensing system in a certain manner; requiring the Commissioner to report
 12 certain enforcement actions and information to the multistate automated
 13 licensing system and adopt regulations establishing a process to challenge the
 14 information entered into the system; requiring a mortgage loan originator's
 15 unique identifier to be displayed in a certain manner and under certain
 16 circumstances; defining certain terms; altering and repealing certain
 17 definitions; making stylistic and conforming changes; and generally relating to
 18 the regulation of mortgage lenders and mortgage loan originators.

19 BY repealing and reenacting, with amendments,

20 Article – Financial Institutions

21 Section 2–105.1(c), 11–501, 11–502(b), 11–505(d) and (e), 11–506(c),
 22 11–506.1, 11–507, 11–508(b) and (d), 11–508.1(a), 11–511, 11–513(a),
 23 11–515(b) and (d), 11–516(a), 11–517(a) and (c), 11–521(a), 11–523(b),
 24 11–601, 11–602, 11–603, 11–605, 11–606, 11–607(a), 11–609, 11–612,
 25 11–613(a), and 11–615(a), (c), and (f)

26 Annotated Code of Maryland

27 (2003 Replacement Volume and 2008 Supplement)

28 BY adding to

29 Article – Financial Institutions

30 Section 11–513.1, 11–605.1, 11–606, 11–606.1, and 11–619 through 11–623

31 Annotated Code of Maryland

32 (2003 Replacement Volume and 2008 Supplement)

33 BY repealing

34 Article – Financial Institutions

35 Section 11–604

36 Annotated Code of Maryland

37 (2003 Replacement Volume and 2008 Supplement)

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

40 **Article – Financial Institutions**

41 2–105.1.

1 (c) (1) The Commissioner may participate in the establishment and
2 implementation of a multistate automated licensing system for mortgage lenders and
3 mortgage originators.

4 (2) To facilitate implementation of a multistate automated licensing
5 system, the Commissioner may adopt regulations that waive or modify the
6 requirements of [§§ 11-507, 11-511, 11-606, and 11-609 of this article] **TITLE 11,**
7 **SUBTITLES 5 AND 6 OF THIS ARTICLE.**

8 11-501.

9 (a) In this subtitle the following words have the meanings indicated.

10 (b) “Borrower” means a person who makes a loan application for or receives a
11 loan or other extension of credit that is or is intended to be secured in whole or in part
12 by any interest in **A DWELLING OR** residential real [property] **ESTATE** located in
13 Maryland.

14 (c) **“DWELLING” HAS THE MEANING STATED IN 15 U.S.C. § 1602(V).**

15 [(c)] (D) (1) “Independent evidence of commercial purpose” means,
16 where a **RESIDENTIAL** mortgage loan is made for a commercial purpose to an
17 individual, any and all documentation by which the mortgage lender, prior to the
18 making or procurement of the loan, establishes that the borrower is seeking funds for
19 a legitimate commercial enterprise.

20 (2) “Independent evidence of commercial purpose” does not include an
21 affidavit of the borrower without supporting evidence, except where:

22 (i) The borrower is seeking funds to start a business and has
23 not yet incorporated or prepared documentation or proof of ownership of a commercial
24 enterprise; and

25 (ii) The affidavit states the purpose for which the proceeds of
26 the **RESIDENTIAL** mortgage loan are to be used and the nature of the business
27 conducted or to be conducted by the borrower.

28 [(d)] (E) “Interest in real [property] **ESTATE**” includes:

29 (1) A confessed judgment note or consent judgment required or
30 obtained by any person acting as a mortgage lender for the purpose of acquiring a lien
31 on **A DWELLING OR** residential real [property] **ESTATE**;

32 (2) A sale and leaseback required or obtained by any person acting as
33 a mortgage lender for the purpose of creating a lien on **A DWELLING OR** residential
34 real [property] **ESTATE**;

1 (3) A mortgage, deed of trust or lien other than a judgment lien, on **A**
2 **DWELLING OR** residential real [property] **ESTATE**; and

3 (4) Any other security interest that has the effect of creating a lien on
4 **A DWELLING OR** residential real [property] **ESTATE** in Maryland.

5 [(e)] **(F)** “License” means a license issued by the Commissioner under this
6 subtitle to authorize a person to engage in business as a mortgage lender.

7 [(f)] **(G)** “Licensee” means a person who is licensed under the Maryland
8 Mortgage Lender Law.

9 [(g)] **(H)** (1) “Loan application” means any oral or written request for an
10 extension of credit that is made in accordance with procedures established by a
11 mortgage lender for the purpose of inducing the lender to seek to procure or make a
12 **RESIDENTIAL** mortgage loan.

13 (2) [A loan application] **“LOAN APPLICATION”** does not include the
14 use of an account or line of credit to obtain a loan within a previously established
15 credit limit.

16 [(h)] **(I)** “Mortgage broker” means a person who:

17 (1) For a fee or other valuable consideration, whether received directly
18 or indirectly, aids or assists a borrower in obtaining a **RESIDENTIAL** mortgage loan;
19 and

20 (2) Is not named as a lender in the agreement, note, deed of trust, or
21 other evidence of the indebtedness.

22 [(i)] **(J)** (1) “Mortgage lender” means any person who:

23 (i) Is a mortgage broker;

24 (ii) Makes a **RESIDENTIAL** mortgage loan to any person; or

25 (iii) [1. Engages in whole or in part in the business of
26 servicing mortgage loans for others; or

27 2. Collects or otherwise receives payments on mortgage
28 loans directly from borrowers for distribution to any other person] **IS A MORTGAGE**
29 **SERVICER.**

30 (2) “Mortgage lender” does not include:

1 (i) A financial institution that accepts deposits and is regulated
2 under Title 3, Title 4, Title 5, or Title 6 of this article;

3 (ii) The Federal Home Loan Mortgage Corporation;

4 (iii) The Federal National Mortgage Association;

5 (iv) The Government National Mortgage Association; or

6 (v) Any person engaged exclusively in the acquisition of all or
7 any portion of a **RESIDENTIAL** mortgage loan under any federal, State, or local
8 governmental program of **RESIDENTIAL** mortgage loan purchases.

9 **[(j)] (K)** (1) “Mortgage lending business” means the activities set forth in
10 the definition of “mortgage lender” in subsection (i) of this section which require that
11 person to be licensed under this subtitle.

12 (2) “Mortgage lending business” includes the making or procuring of
13 **RESIDENTIAL** mortgage loans secured by **A DWELLING OR** residential real [property]
14 **ESTATE** located [outside] **WITHIN** Maryland.

15 **[(k)] (1)** “Mortgage loan” means any loan or other extension of credit that
16 is:

17 (i) Secured, in whole or in part, by any interest in residential
18 real property in Maryland; and

19 (ii) 1. If for personal, household, or family purposes, in any
20 amount; or

21 2. If for commercial purposes, not in excess of \$75,000.

22 (2) “Mortgage loan” does not include any loan for commercial purposes
23 that is:

24 (i) Secured, in whole or in part, by any interest in residential
25 real property in Maryland;

26 (ii) In excess of \$75,000; and

27 (iii) Supported by independent evidence of the commercial
28 purpose.]

29 **(L) “MORTGAGE LOAN ORIGINATOR” HAS THE MEANING STATED IN §**
30 **11-601 OF THIS TITLE.**

31 **(M) “MORTGAGE SERVICER” MEANS A PERSON WHO:**

1 **(1) ENGAGES IN WHOLE OR IN PART IN THE BUSINESS OF**
2 **SERVICING RESIDENTIAL MORTGAGE LOANS FOR OTHERS; OR**

3 **(2) COLLECTS OR OTHERWISE RECEIVES PAYMENTS ON**
4 **RESIDENTIAL MORTGAGE LOANS DIRECTLY FROM BORROWERS FOR**
5 **DISTRIBUTION TO ANY OTHER PERSON.**

6 **(N) “NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY”**
7 **MEANS A MORTGAGE LICENSING SYSTEM DEVELOPED AND MAINTAINED BY THE**
8 **CONFERENCE OF STATE BANK SUPERVISORS AND THE AMERICAN**
9 **ASSOCIATION OF RESIDENTIAL MORTGAGE REGULATORS FOR THE LICENSING**
10 **AND REGISTRATION OF LICENSED MORTGAGE LOAN ORIGINATORS AND**
11 **MORTGAGE LENDERS.**

12 **[(1)] (O) “Person” [includes an individual, corporation, business trust,**
13 **estate, trust, partnership, association, 2 or more persons having a joint or common**
14 **interest, or any other legal or commercial entity] MEANS A NATURAL PERSON,**
15 **CORPORATION, LIMITED LIABILITY COMPANY, PARTNERSHIP, OR ASSOCIATION.**

16 **(P) “RESIDENTIAL MORTGAGE LOAN” MEANS ANY LOAN PRIMARILY**
17 **FOR PERSONAL, FAMILY, OR HOUSEHOLD USE THAT IS SECURED BY A**
18 **MORTGAGE, DEED OF TRUST, OR OTHER EQUIVALENT CONSENSUAL SECURITY**
19 **INTEREST ON A DWELLING OR RESIDENTIAL REAL ESTATE ON WHICH A**
20 **DWELLING IS CONSTRUCTED OR INTENDED TO BE CONSTRUCTED.**

21 **[(m)] (Q) “Residential real [property] ESTATE” means any owner–occupied**
22 **real property located in Maryland [which property has a dwelling on it designed**
23 **principally as a residence with accommodations for not more than 4 families, but does**
24 **not include any real property held primarily for rental, investment, or the generation**
25 **of income through any commercial or industrial enterprise] ON WHICH A DWELLING**
26 **IS CONSTRUCTED OR INTENDED TO BE CONSTRUCTED.**

27 **[(n)] (R) “State” means the State of Maryland.**

28 11–502.

29 **(b) The provisions of this subtitle do not apply to:**

30 **(1) Any bank, trust company, savings bank, savings and loan**
31 **association, or credit union incorporated or chartered under the laws of this State or**
32 **the United States or any other–state bank having a branch in this State;**

33 **(2) Any insurance company authorized to do business in the State;**

- 1 (3) Any corporate instrumentality of the Government of the United
2 States including:
- 3 (i) The Federal Home Loan Mortgage Corporation;
- 4 (ii) The Federal National Mortgage Association; and
- 5 (iii) The Government National Mortgage Association;
- 6 (4) Any person who:
- 7 (i) Makes 3 or fewer **RESIDENTIAL** mortgage loans per
8 calendar year; and
- 9 (ii) Brokers no more than one **RESIDENTIAL** mortgage loan per
10 calendar year;
- 11 (5) Any person who takes back a deferred purchase money mortgage
12 in connection with the sale of:
- 13 (i) [Residential] **A DWELLING OR RESIDENTIAL** real
14 [property] **ESTATE** owned by, and titled in the name of, that person; or
- 15 (ii) A new residential dwelling that the person built;
- 16 (6) A nonprofit charitable organization registered with the Maryland
17 Secretary of State or a nonprofit religious organization;
- 18 (7) An employer making a **RESIDENTIAL** mortgage loan to an
19 employee;
- 20 (8) A person making a **RESIDENTIAL** mortgage loan to a borrower
21 who is the person's spouse, child, child's spouse, parent, sibling, grandparent,
22 grandchild, or grandchild's spouse;
- 23 (9) A real estate broker who:
- 24 (i) Is licensed in the State; and
- 25 (ii) Makes a **RESIDENTIAL** mortgage loan providing a
26 repayment schedule of 2 years or less to assist the borrower in the purchase or sale of
27 a **DWELLING OR** residential real [property] **ESTATE** through the broker;
- 28 (10) A home improvement contractor licensed under the Maryland
29 Home Improvement Law who assigns a **RESIDENTIAL** mortgage loan without recourse
30 within 30 days after completion of the contract to a person licensed under this subtitle

1 or to an institution that is exempt from this subtitle under [paragraphs] **ITEM** (1), (2),
2 or (11) of this subsection;

3 (11) A subsidiary or affiliate of an institution described in subsection (c)
4 of this section, which subsidiary or affiliate:

5 (i) Is subject to audit or examination by a regulatory body or
6 agency of this State, the United States, or the state where the subsidiary or affiliate
7 maintains its principal office; and

8 (ii) Files with the Commissioner, prior to making **RESIDENTIAL**
9 mortgage loans, information sufficient to identify:

10 1. The correct corporate name of the subsidiary or
11 affiliate;

12 2. An address and telephone number of a contact person
13 for the subsidiary or affiliate;

14 3. A resident agent; and

15 4. Any additional information considered necessary by
16 the Commissioner for protection of the public;

17 (12) Any employee benefit plan qualified under Internal Revenue Code
18 § 401 or persons acting as fiduciaries with respect to such a plan, making
19 **RESIDENTIAL** mortgage loans solely to plan participants from plan assets; or

20 (13) Employees acting within the scope of their employment with:

21 (i) A licensed mortgage lender; or

22 (ii) A person who is exempt from licensure under this subtitle.

23 11-505.

24 (d) (1) The Commissioner shall include on each license:

25 (i) The name of the licensee; and

26 (ii) The address at which the business is to be conducted.

27 (2) A person may not conduct any **RESIDENTIAL** mortgage loan
28 business at any location or under any name different from the address and name that
29 appears on the person's license.

1 (e) (1) A licensee may not allow any note, or loan contract, mortgage, or
2 evidence of indebtedness secured by a secondary mortgage or deed of trust **ON A**
3 **DWELLING OR RESIDENTIAL REAL ESTATE** to be signed or executed at any place for
4 which the person does not have a license, except at the office of:

5 (i) The attorney for the borrower or for the licensee; or

6 (ii) A title insurance company, a title company, or an attorney
7 for a title insurance company or a title company.

8 (2) Notwithstanding paragraph (1) of this subsection, a licensee may
9 conduct the loan closing at another location at the written request of the borrower or
10 the borrower's designee to accommodate the borrower because of the borrower's
11 sickness.

12 (3) The Commissioner shall adopt regulations to ensure that the loan
13 application process is conducted fairly and in a manner consistent with the best
14 interests of both the borrower and mortgage lender.

15 11-506.

16 (c) (1) The Commissioner may issue a license to an applicant who is a sole
17 proprietor and who does not meet the experience requirement under subsection (b) of
18 this section if:

19 (i) The applicant:

20 1. Is a licensed insurance producer in good standing
21 under § 10-103 of the Insurance Article; and

22 2. Holds an appointment as an insurance producer for
23 an insurer that controls, is controlled by, or is under common control with a financial
24 institution described in § 11-502(b)(1) of this subtitle;

25 (ii) The applicant agrees to limit the applicant's activities to
26 brokering **RESIDENTIAL** mortgage loans made by the single financial institution
27 identified under item (i)2 of this paragraph;

28 (iii) The financial institution and affiliated insurer with which
29 the applicant holds a current appointment are identified in the applicant's application;

30 (iv) The Commissioner approves the selection of the financial
31 institution based on the following criteria:

32 1. The financial institution is in good standing with its
33 primary State or federal regulator; and

1 2. The financial institution is in material compliance
2 with applicable State or federal law;

3 (v) The applicant meets all other requirements for licensure as
4 a mortgage lender under this subtitle;

5 (vi) The applicant has successfully completed at least 20 hours of
6 classroom instruction in residential mortgage lending courses as provided in
7 regulations adopted by the Commissioner and achieved a passing grade on a written
8 exam developed and administered by the person that conducts the classroom
9 education course;

10 (vii) An authorized representative of the financial institution
11 identified under item (i)2 of this paragraph signs the license application; and

12 (viii) The financial institution identified under item (i)2 of this
13 paragraph agrees to:

14 1. Supervise the applicant, including providing direction
15 through written instructions or electronic means and by periodically examining the
16 applicant's books, records, and other aspects of the business; and

17 2. Be held jointly and severally liable with the applicant
18 for claims arising out of the applicant's mortgage brokering activities.

19 (2) Except as provided in paragraph (3) of this subsection, a sole
20 proprietor who is issued a license under this subsection may not:

21 (i) Aid or assist a borrower to obtain a loan from a financial
22 institution other than the financial institution identified in the application for the
23 license;

24 (ii) 1. Be compensated by any person for mortgage
25 brokerage activities on a basis that depends on the loan amount, interest rate, fees, or
26 other terms of the brokered loan; or

27 2. Receive a finder's fee, as defined under Title 12,
28 Subtitle 8 of the Commercial Law Article;

29 (iii) Handle borrower or other third party funds in connection
30 with the brokering or closing of **RESIDENTIAL** mortgage loans;

31 (iv) Refer a borrower to any other licensee under this subtitle; or

32 (v) Make **OR SERVICE RESIDENTIAL** mortgage loans.

1 (3) A sole proprietor who is issued a license under this subsection may
2 forward a check to the financial institution identified under paragraph (1)(i)2 of this
3 subsection if:

4 (i) The check is made payable to the financial institution from a
5 borrower; and

6 (ii) The check is in connection with an application for a
7 **RESIDENTIAL** mortgage loan to cover costs for:

8 1. An appraisal;

9 2. A credit report; or

10 3. Processing an application.

11 11-506.1.

12 (a) This section shall not apply to any corporation the securities of which are
13 exempt from registration under § 11-601(8) or (12) of the Corporations and
14 Associations Article.

15 (b) In connection with an initial application and at any other time the
16 Commissioner requests, each applicant or licensee shall provide fingerprints for use by
17 the [Federal Bureau of Investigation and the] Criminal Justice Information System
18 Central Repository of the Department of Public Safety and Correctional Services to
19 conduct criminal history records checks.

20 [(c) Any applicant or licensee required by this section to provide fingerprints,
21 shall pay any processing or other fee required by the Federal Bureau of Investigation
22 or the Criminal Justice Information System Central Repository of the Department of
23 Public Safety and Correctional Services.

24 (d) If the applicant or licensee is a corporation, the fingerprinting and
25 criminal history records check requirements shall apply to the president and to any
26 other officer, director, or principal of the corporation as requested by the
27 Commissioner.]

28 **(C) IN ADDITION TO THE REQUIREMENT UNDER SUBSECTION (B) OF**
29 **THIS SECTION, IN CONNECTION WITH AN INITIAL APPLICATION AND AT ANY**
30 **OTHER TIME THE COMMISSIONER REQUESTS, AN APPLICANT OR LICENSEE**
31 **SHALL PROVIDE TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND**
32 **REGISTRY INFORMATION CONCERNING THE APPLICANT'S IDENTITY,**
33 **INCLUDING:**

34 **(1) FINGERPRINTS FOR SUBMISSION TO THE FEDERAL BUREAU**
35 **OF INVESTIGATION, AND ANY OTHER GOVERNMENTAL AGENCY OR ENTITY**

1 AUTHORIZED TO RECEIVE THIS INFORMATION FOR A STATE, NATIONAL, OR
2 INTERNATIONAL CRIMINAL HISTORY BACKGROUND CHECK; AND

3 (2) PERSONAL HISTORY AND EXPERIENCE IN A FORM
4 PRESCRIBED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND
5 REGISTRY, INCLUDING THE SUBMISSION OF AUTHORIZATION FOR THE
6 NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AND THE
7 COMMISSIONER TO OBTAIN:

8 (I) AN INDEPENDENT CREDIT REPORT FROM A CONSUMER
9 REPORTING AGENCY DESCRIBED IN THE FEDERAL FAIR CREDIT REPORTING
10 ACT, 15 U.S.C. § 1681A(P); AND

11 (II) INFORMATION RELATED TO ANY ADMINISTRATIVE,
12 CIVIL, OR CRIMINAL FINDINGS BY ANY GOVERNMENTAL JURISDICTION.

13 (D) TO IMPLEMENT THIS SUBTITLE, THE COMMISSIONER MAY USE THE
14 NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AS A
15 CHANNELING AGENT TO REQUEST INFORMATION FROM AND DISTRIBUTE
16 INFORMATION TO THE DEPARTMENT OF JUSTICE, ANY OTHER GOVERNMENTAL
17 AGENCY, AND ANY OTHER SOURCE AS DIRECTED BY THE COMMISSIONER.

18 11-507.

19 (a) (1) To apply for a license, an applicant shall complete, sign, and
20 submit to the Commissioner an application made under oath on the form that the
21 Commissioner requires.

22 (2) The applicant shall comply with all conditions and provisions of
23 the application for licensure and be issued a license before acting as a mortgage lender
24 at a particular location.

25 [(3) The application shall include:

26 (i) If the applicant is an individual, the applicant's name,
27 business address and telephone number, and residence address and telephone
28 number;

29 (ii) If the applicant is a partnership or other noncorporate
30 business association, the business name, business address and telephone number, and
31 the residence address and telephone number of each:

32 1. General partner, if the applicant is a limited
33 partnership;

1 2. General partner who holds an interest in the
2 partnership of more than 10 percent, if the applicant is a general partnership; or

3 3. Member, if the applicant is another noncorporate
4 business association;

5 (iii) If the applicant is a corporation:

6 1. The name, address, and telephone number of the
7 corporate entity; and

8 2. The name, the business telephone number, and the
9 residence address and telephone number of the president, senior vice presidents,
10 secretary, and treasurer, each director, and each stockholder owning or controlling 10
11 percent or more of any class of stock in the corporation;

12 (iv) The name under which the mortgage lending business is to
13 be conducted;

14 (v) The name and address of the applicant's resident agent, if
15 any; and

16 (vi) Any other information that the Commissioner reasonably
17 requires.]

18 (b) With each application, the applicant shall pay to the Commissioner the
19 following fees:

20 (1) A nonrefundable investigation fee set by the Commissioner; and

21 (2) A license fee set by the Commissioner.

22 (c) **IN ADDITION TO THE LICENSE FEE REQUIRED UNDER SUBSECTION**
23 **(B)(2) OF THIS SECTION, AN APPLICANT FOR AN INITIAL LICENSE SHALL PAY TO**
24 **THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY ANY FEES**
25 **THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY**
26 **IMPOSES IN CONNECTION WITH THE APPLICATION.**

27 [(c)] (D) For each license for which an applicant applies, the applicant shall:

28 (1) Submit a separate application;

29 (2) Pay a separate license fee;

30 (3) **PAY ANY APPLICATION PROCESSING FEE OR OTHER FEES**
31 **THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY**
32 **IMPOSES IN CONNECTION WITH THE APPLICATION;**

1 [(3)] (4) If applicable, pay the surcharge; and

2 [(4)] (5) File a separate surety bond or other financial guaranty
3 under § 11–508 of this subtitle.

4 [(d)] (E) In addition to any sanctions that may be imposed under this
5 subtitle by the Commissioner, a nonrefundable surcharge of \$500 shall be paid with an
6 application if the applicant has begun acting as a mortgage lender without a license at
7 the location for which an application is filed.

8 [(e)] (F) A person who knowingly makes a false statement under oath on an
9 application filed with the Commissioner under this section is guilty of perjury and on
10 conviction is subject to the penalties of § 9–101 of the Criminal Law Article.

11 11–508.

12 (b) The surety bond shall:

13 (1) Run to the Commissioner and be for the benefit of any
14 **RESIDENTIAL** mortgage loan borrower who has been damaged by a violation
15 committed by a licensee of any law or regulation governing the activities of mortgage
16 lenders;

17 (2) Be issued by a surety company authorized to do business in the
18 State;

19 (3) Be conditioned that the applicant shall comply with all Maryland
20 laws regulating the activities of mortgage lenders and **RESIDENTIAL** mortgage loan
21 lending; and

22 (4) Be approved by the Commissioner.

23 (d) (1) If an applicant has conducted a mortgage lending business any
24 time during the 36 months prior to the filing of an original or renewal application, the
25 applicant shall provide a sworn statement setting forth the aggregate principal
26 amount of **RESIDENTIAL** mortgage loans secured or to be secured by property located
27 in Maryland and applied for and accepted or **RESIDENTIAL** mortgage loans secured or
28 to be secured by property located in Maryland and applied for, procured, and accepted
29 by the mortgage lender during the 12 months immediately preceding the month in
30 which the application is filed.

31 (2) If an applicant has conducted a mortgage lending business any
32 time during the 36 months prior to the filing of an original application, but during that
33 time has not acted as a mortgage lender in Maryland, the applicant shall provide with
34 the original application a sworn statement setting forth the aggregate principal
35 amount of loans secured or to be secured by **A DWELLING OR** residential real

1 [property] **ESTATE** located in states other than Maryland and applied for, procured,
2 and accepted by the mortgage lender during the 12 months preceding the month in
3 which the application is filed.

4 (3) Except as provided in subsection (e) of this section, the applicant
5 shall file with the original or renewal application:

6 (i) Where the aggregate principal amount of loans set forth in
7 the sworn statement was \$3,000,000 or less, a surety bond in the amount of \$50,000;

8 (ii) Where the aggregate principal amount of loans set forth in
9 the sworn statement was more than \$3,000,000 but not more than \$10,000,000, a
10 surety bond in the amount of \$100,000; and

11 (iii) Where the aggregate principal amount of loans set forth in
12 the sworn statement was more than \$10,000,000, a surety bond in the amount of
13 \$150,000.

14 11-508.1.

15 (a) An applicant for a new license or for the renewal of a license shall satisfy
16 the Commissioner that the applicant or licensee has, and at all times will maintain, a
17 minimum net worth computed according to generally accepted accounting principles:

18 (1) In the case of an applicant or licensee that does not lend money
19 secured by **A DWELLING OR** residential real [property] **ESTATE**, in the amount of
20 \$25,000; and

21 (2) In the case of an applicant or licensee that lends money secured by
22 **A DWELLING OR** residential real [property] **ESTATE**, in the amount of:

23 (i) \$25,000, if the applicant or licensee, in the 12 months prior
24 to the license application or the renewal application, lent in the aggregate not more
25 than \$1,000,000 secured by **A DWELLING OR** residential real [property] **ESTATE**;

26 (ii) \$50,000, if the applicant or licensee, in the 12 months prior
27 to the license application or the renewal application, lent in the aggregate more than
28 \$1,000,000, but not more than \$5,000,000 secured by **A DWELLING OR** residential real
29 [property] **ESTATE**;

30 (iii) \$100,000, if the applicant or licensee, in the 12 months prior
31 to the license application or the renewal application, lent in the aggregate more than
32 \$5,000,000, but not more than \$10,000,000 secured by **A DWELLING OR** residential
33 real [property] **ESTATE**; and

1 (iv) \$250,000, if the applicant or licensee, in the 12 months prior
2 to the license application or the renewal application, lent in the aggregate more than
3 \$10,000,000 secured by **A DWELLING OR** residential real [property] **ESTATE**.

4 11-511.

5 (a) [A license expires on the second anniversary of its date of issue.]
6 **SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN CONNECTION**
7 **WITH THE TRANSITION TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM**
8 **AND REGISTRY, AN INITIAL LICENSE TERM SHALL:**

9 (1) **BE FOR A MAXIMUM PERIOD OF 1 YEAR;**

10 (2) **BEGIN ON THE DAY THE LICENSE IS ISSUED; AND**

11 (3) **EXPIRE ON DECEMBER 31 OF THE YEAR THE LICENSE IS**
12 **ISSUED.**

13 (b) At least 30 days before its expiration, a license may be renewed [for an
14 additional 2-year term,] if the licensee:

15 (1) Otherwise is entitled to be licensed;

16 (2) Pays to the Commissioner a renewal fee set by the Commissioner;

17 (3) Files a bond or bond continuation certificate for the amount
18 required under § 11-508 of this subtitle; and

19 (4) Submits to the Commissioner:

20 (i) A renewal application on the form that the Commissioner
21 requires; and

22 (ii) Satisfactory evidence of compliance with any continuing
23 education requirements set by regulations adopted by the Commissioner.

24 (c) **SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN**
25 **CONNECTION WITH THE TRANSITION TO THE NATIONWIDE MORTGAGE**
26 **LICENSING SYSTEM AND REGISTRY, A RENEWAL TERM SHALL:**

27 (1) **BE FOR A PERIOD OF 1 YEAR;**

28 (2) **BEGIN ON JANUARY 1 OF EACH YEAR AFTER THE INITIAL**
29 **TERM; AND**

1 **(3) EXPIRE ON DECEMBER 31 OF THE YEAR THE RENEWAL TERM**
2 **BEGINS.**

3 **(D) IN ADDITION TO THE LICENSE RENEWAL FEE REQUIRED IN**
4 **SUBSECTION (B)(2) OF THIS SECTION, AN APPLICANT FOR A LICENSE RENEWAL**
5 **SHALL PAY TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND**
6 **REGISTRY ANY FEES THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM**
7 **AND REGISTRY IMPOSES IN CONNECTION WITH THE RENEWAL APPLICATION.**

8 **[(c)] (E)** If a license is [issued for less than 2 full years and is] surrendered
9 voluntarily, or is suspended or revoked, the Commissioner may not refund any part of
10 the license fee regardless of the time remaining in the license term.

11 **[(d)** The Secretary may determine that licenses issued under this subtitle
12 shall expire on a staggered basis.]

13 11-513.

14 (a) Each licensee shall keep and make available to the Commissioner at the
15 licensee's place of business any books and records that the Commissioner, by rule or
16 regulation, requires to enable the Commissioner to enforce:

17 (1) This subtitle;

18 (2) Any rule or regulation adopted under this subtitle; and

19 (3) Any other provision regulating the application, making, brokering,
20 or servicing of **RESIDENTIAL** mortgage loans under Titles 12 through 14 of the
21 Commercial Law Article.

22 **11-513.1.**

23 **A LICENSEE SHALL SUBMIT TO THE NATIONWIDE MORTGAGE LICENSING**
24 **SYSTEM AND REGISTRY A REPORT OF CONDITION ONCE EACH CALENDAR YEAR**
25 **ON THE DATE, IN THE FORM, AND CONTAINING THE INFORMATION REQUIRED BY**
26 **THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.**

27 11-515.

28 (b) (1) Any person aggrieved by the conduct of a licensee under this
29 subtitle in connection with a **RESIDENTIAL** mortgage loan may file a written
30 complaint with the Commissioner who shall investigate the complaint.

31 (2) The Commissioner may make any other investigation of any
32 person if the Commissioner has reasonable cause to believe that the person has

1 violated any provision of this subtitle, of any regulation adopted under this subtitle, or
2 of any other law regulating **RESIDENTIAL** mortgage loan lending in the State.

3 (d) In connection with an examination or investigation made under this
4 section, the Commissioner may:

5 (1) Examine the books and records of any licensee or of any other
6 person who the Commissioner believes has violated any provision of this subtitle, or
7 any rule or regulation adopted under this subtitle, or of any other law regulating
8 **RESIDENTIAL** mortgage loan lending in the State;

9 (2) Subpoena documents or other evidence; and

10 (3) Summon and examine under oath any person whose testimony the
11 Commissioner requires.

12 11-516.

13 (a) If the Commissioner finds that the conduct of any other business conceals
14 a violation or evasion of this subtitle or of any rule or regulation adopted under this
15 subtitle, or of any law regulating **RESIDENTIAL** mortgage loan lending in the State,
16 the Commissioner may issue a written order to a licensee to:

17 (1) Stop doing business at any place in which the other business is
18 conducted or solicited; or

19 (2) Stop doing business in association or conjunction with the other
20 business.

21 11-517.

22 (a) Subject to the hearing provisions of § 11-518 of this subtitle, the
23 Commissioner may suspend or revoke the license of any licensee if the licensee or any
24 owner, director, officer, member, partner, stockholder, employee, or agent of the
25 licensee:

26 (1) Makes any material misstatement in an application for a license;

27 (2) Is convicted under the laws of the United States or of any state of:

28 (i) A felony; or

29 (ii) A misdemeanor that is directly related to the fitness and
30 qualification of the person to engage in the mortgage lending business;

31 (3) In connection with any **RESIDENTIAL** mortgage loan or loan
32 application transaction:

- 1 (i) Commits any fraud;
- 2 (ii) Engages in any illegal or dishonest activities; or
- 3 (iii) Misrepresents or fails to disclose any material facts to
4 anyone entitled to that information;

5 (4) Violates any provision of this subtitle or any rule or regulation
6 adopted under it or any other law regulating **RESIDENTIAL** mortgage loan lending in
7 the State; or

8 (5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or
9 any other quality that indicates that the business of the licensee has not been or will
10 not be conducted honestly, fairly, equitably, and efficiently.

11 (c) (1) The Commissioner may enforce the provisions of this subtitle,
12 regulations adopted under § 11-503 of this subtitle, and the applicable provisions of
13 Title 12 of the Commercial Law Article by:

- 14 (i) Issuing an order:
- 15 1. To cease and desist from the violation and any further
16 similar violations; and
- 17 2. Requiring the violator to take affirmative action to
18 correct the violation including the restitution of money or property to any person
19 aggrieved by the violation; and

20 (ii) Imposing a civil penalty not exceeding [~~\$1,000~~] **\$10,000** for
21 each violation.

22 (2) If a violator fails to comply with an order issued under paragraph
23 (1)(i) of this subsection, the Commissioner may impose a civil penalty not exceeding
24 [~~\$1,000~~] **\$10,000** for each violation from which the violator failed to cease and desist
25 or for which the violator failed to take affirmative action to correct.

26 11-521.

27 (a) A mortgage lender shall require a borrower to [furnish] **PROVIDE** the
28 mortgage lender with independent evidence of the commercial purpose of the loan
29 where the loan is[:

30 (1) Secured] **SECURED**, in whole or in part, by any interest in **A**
31 **DWELLING OR** residential real [property] **ESTATE** in Maryland[; and

32 (2) In excess of \$75,000].

1 11-523.

2 (b) Any unlicensed person who is not exempt from licensing under this
3 subtitle who makes or assists a borrower in obtaining a **RESIDENTIAL** mortgage loan
4 in violation of this subtitle may collect only the principal amount of the loan and may
5 not collect any interest, costs, finder's fees, broker fees, or other charges with respect
6 to the loan.

7 11-601.

8 (a) In this subtitle the following words have the meanings indicated.

9 (b) "Borrower" has the meaning stated in § 11-501 of this title.

10 (c) **"CLERICAL OR SUPPORT DUTIES" INCLUDE THE FOLLOWING**
11 **ACTIVITIES RELATING TO THE PROCESSING OR UNDERWRITING OF A**
12 **RESIDENTIAL MORTGAGE LOAN WHEN PERFORMED SUBSEQUENT TO THE**
13 **RECEIPT OF A LOAN APPLICATION:**

14 (1) **THE RECEIPT, COLLECTION, DISTRIBUTION, AND ANALYSIS OF**
15 **INFORMATION USUAL AND CUSTOMARY FOR THE PROCESSING OR**
16 **UNDERWRITING OF A RESIDENTIAL MORTGAGE LOAN; AND**

17 (2) **COMMUNICATION WITH A CONSUMER TO OBTAIN**
18 **INFORMATION NECESSARY FOR THE PROCESSING OR UNDERWRITING OF A**
19 **RESIDENTIAL MORTGAGE LOAN, TO THE EXTENT THAT THE COMMUNICATION**
20 **DOES NOT INCLUDE OFFERING OR NEGOTIATING RESIDENTIAL MORTGAGE**
21 **LOAN RATES OR TERMS, OR COUNSELING CONSUMERS ABOUT RESIDENTIAL**
22 **MORTGAGE LOAN RATES OR TERMS.**

23 (d) (1) **"DEPOSITORY INSTITUTION" HAS THE MEANING STATED IN**
24 **THE FEDERAL DEPOSIT INSURANCE ACT, 12 U.S.C. § 1813(C).**

25 (2) **"DEPOSITORY INSTITUTION" INCLUDES CREDIT UNIONS.**

26 (e) **"FEDERAL BANKING AGENCIES" MEANS THE BOARD OF**
27 **GOVERNORS OF THE FEDERAL RESERVE SYSTEM, THE COMPTROLLER OF THE**
28 **CURRENCY, THE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION, THE**
29 **NATIONAL CREDIT UNION ADMINISTRATION, AND THE FEDERAL DEPOSIT**
30 **INSURANCE CORPORATION.**

31 [(c)] (f) "Fund" means the Mortgage Lender-Originator Fund established
32 under § 11-610 of this subtitle.

1 **(G) “IMMEDIATE FAMILY MEMBER” MEANS A SPOUSE, CHILD, SIBLING,**
2 **PARENT, GRANDPARENT, GRANDCHILD, STEPPARENT, STEPCHILD, AND**
3 **STEPSIBLING.**

4 **[(d)] (H) “Independent contractor” means a person whose compensation is**
5 **paid without a deduction for federal or State income tax.**

6 **(I) “INDIVIDUAL” MEANS A NATURAL PERSON.**

7 **[(e)] (J) “License” means a license issued by the Commissioner under this**
8 **subtitle.**

9 **[(f)] (K) “Licensee” means an individual who is licensed by the**
10 **Commissioner under this subtitle.**

11 **[(g)] (L) “Loan application” has the meaning stated in § 11–501 of this title.**

12 **[(h)] (M) “Mortgage lender” means a person that is licensed as a mortgage**
13 **lender under Subtitle 5 of this title.**

14 **[(i)] (N) “Mortgage lending business” has the meaning stated in § 11–501 of**
15 **this title.**

16 **[(j)] “Mortgage loan” has the meaning stated in § 11–501 of this title.]**

17 **[(k)] (1) “Mortgage originator” means an individual who:**

18 **(i) Is an employee of a mortgage lender that:**

19 1. Is a mortgage broker as defined in § 11–501(h) of this
20 **title; or**

21 2. Has or will have a net branch office at or out of which
22 **the individual works or will work;**

23 **(ii) Directly contacts prospective borrowers for the purpose of**
24 **negotiating with or advising the prospective borrowers regarding mortgage loan terms**
25 **and availability;**

26 **(iii) Receives from the mortgage lender compensation that is**
27 **calculated:**

28 1. As a percentage of the principal amount of mortgage
29 **loans originated by the individual; or**

1 2. As a percentage of the interest, fees, and charges
2 received by the mortgage lender that result from mortgage loan transactions
3 originated by the individual; and

4 (iv) Is authorized to accept a loan application on behalf of the
5 mortgage lender.

6 (2) “Mortgage originator” does not include an individual who:

7 (i) Owns a 25 percent or more interest in the mortgage lender;
8 or

9 (ii) Is licensed under Subtitle 5 of this title.]

10 [(1) (1) “Net branch office” means a branch office of a mortgage lender that
11 is separately licensed under Subtitle 5 of this title if:

12 (i) As a condition of establishing the net branch, the mortgage
13 lender requires the mortgage originator who works in or out of the branch office, or a
14 person controlled by the mortgage originator, to pay an application, licensing,
15 franchise, start-up, or other fee to the mortgage lender or directly to the
16 Commissioner;

17 (ii) The overhead expenses of the net branch are paid in whole
18 or in part by:

19 1. A mortgage originator who works in or out of the
20 branch office; or

21 2. A person controlled by a mortgage originator who
22 works in or out of the branch office; or

23 (iii) The mortgage lender is not:

24 1. An obligor on a lease of the premises of the branch
25 location; or

26 2. An owner of the premises of the branch location.

27 (2) “Net branch office” does not include the mortgage lender’s principal
28 office.]

29 **(O) (1) “MORTGAGE LOAN ORIGINATOR” MEANS AN INDIVIDUAL WHO**
30 **FOR COMPENSATION OR GAIN, OR IN THE EXPECTATION OF COMPENSATION OR**
31 **GAIN:**

32 **(I) TAKES A LOAN APPLICATION; OR**

1 **(II) OFFERS OR NEGOTIATES TERMS OF A RESIDENTIAL**
2 **MORTGAGE LOAN.**

3 **(2) “MORTGAGE LOAN ORIGINATOR” DOES NOT INCLUDE AN**
4 **INDIVIDUAL WHO:**

5 **(I) ACTS SOLELY AS A MORTGAGE LOAN PROCESSOR OR**
6 **UNDERWRITER;**

7 **(II) PERFORMS ONLY REAL ESTATE BROKERAGE ACTIVITIES**
8 **AND IS LICENSED IN ACCORDANCE WITH TITLE 17 OF THE BUSINESS**
9 **OCCUPATIONS AND PROFESSIONS ARTICLE, UNLESS THE INDIVIDUAL IS**
10 **COMPENSATED BY A MORTGAGE LENDER, A MORTGAGE BROKER, OR OTHER**
11 **MORTGAGE LOAN ORIGINATOR OR BY ANY AGENT OF A MORTGAGE LENDER,**
12 **MORTGAGE BROKER, OR OTHER MORTGAGE LOAN ORIGINATOR; OR**

13 **(III) IS INVOLVED SOLELY IN EXTENSIONS OF CREDIT**
14 **RELATING TO TIMESHARE PLANS, AS THAT TERM IS DEFINED IN 11 U.S.C. §**
15 **101(53D).**

16 **(P) (1) “MORTGAGE LOAN PROCESSOR OR UNDERWRITER” MEANS AN**
17 **INDIVIDUAL WHO PERFORMS CLERICAL OR SUPPORT DUTIES AS AN EMPLOYEE**
18 **OF, AT THE DIRECTION OF, AND SUBJECT TO THE SUPERVISION AND**
19 **INSTRUCTION OF A PERSON LICENSED, OR EXEMPT FROM LICENSING, UNDER**
20 **TITLE 5 OF THIS ARTICLE.**

21 **(2) “MORTGAGE LOAN PROCESSOR OR UNDERWRITER” DOES NOT**
22 **INCLUDE AN INDIVIDUAL WHO:**

23 **(I) REPRESENTS TO THE PUBLIC, THROUGH ADVERTISING**
24 **OR OTHER MEANS OF COMMUNICATION INCLUDING THE USE OF BUSINESS**
25 **CARDS, STATIONERY, BROCHURES, SIGNS, RATE LISTS, OR OTHER**
26 **PROMOTIONAL ITEMS, THAT THE INDIVIDUAL CAN OR WILL PERFORM ANY OF**
27 **THE ACTIVITIES OF A MORTGAGE LOAN ORIGINATOR; OR**

28 **(II) PERFORMS RESIDENTIAL MORTGAGE LOAN**
29 **PROCESSING OR UNDERWRITING ACTIVITIES AS AN INDEPENDENT**
30 **CONTRACTOR.**

31 **(Q) “NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY”**
32 **HAS THE MEANING STATED IN § 11-501 OF THIS TITLE.**

1 **(R) “NONTRADITIONAL MORTGAGE PRODUCT” MEANS ANY MORTGAGE**
2 **PRODUCT OTHER THAN A 30–YEAR FIXED RATE MORTGAGE LOAN.**

3 **(S) “PERSON” HAS THE MEANING STATED IN § 11–501 OF THIS TITLE.**

4 **(T) “REAL ESTATE BROKERAGE ACTIVITY” MEANS ANY ACTIVITY FOR**
5 **WHICH A LICENSE IS REQUIRED UNDER TITLE 17 OF THE BUSINESS**
6 **OCCUPATIONS AND PROFESSIONS ARTICLE.**

7 **(U) “REGISTERED MORTGAGE LOAN ORIGINATOR” MEANS ANY**
8 **INDIVIDUAL WHO:**

9 **(1) IS A MORTGAGE LOAN ORIGINATOR; AND**

10 **(2) IS AN EMPLOYEE OF:**

11 **(I) A DEPOSITORY INSTITUTION;**

12 **(II) A SUBSIDIARY THAT IS:**

13 **1. OWNED AND CONTROLLED BY A DEPOSITORY**
14 **INSTITUTION; AND**

15 **2. REGULATED BY A FEDERAL BANKING AGENCY; OR**

16 **(III) AN INSTITUTION REGULATED BY THE FARM CREDIT**
17 **ADMINISTRATION; AND**

18 **(3) IS REGISTERED WITH, AND MAINTAINS A UNIQUE IDENTIFIER**
19 **THROUGH, THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.**

20 **(V) “RESIDENTIAL MORTGAGE LOAN” HAS THE MEANING STATED IN §**
21 **11–501 OF THIS TITLE.**

22 **(W) “RESIDENTIAL REAL ESTATE” HAS THE MEANING STATED IN §**
23 **11–501 OF THIS TITLE.**

24 **(X) “UNIQUE IDENTIFIER” MEANS A NUMBER OR OTHER IDENTIFIER**
25 **ASSIGNED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND**
26 **REGISTRY.**

27 11–602.

1 (a) (1) The licensing provisions of this subtitle do not apply to
2 independent contractors.

3 (2) Independent contractors are subject to the licensing provisions of
4 Subtitle 5 of this title unless exempt from licensing under that subtitle.

5 **(B) UNLESS EXEMPTED FROM THIS SUBTITLE UNDER SUBSECTION (D)**
6 **OF THIS SECTION, AN INDIVIDUAL MAY NOT ENGAGE IN THE BUSINESS OF A**
7 **MORTGAGE LOAN ORIGINATOR UNLESS THE INDIVIDUAL HOLDS A VALID**
8 **LICENSE ISSUED UNDER THIS SUBTITLE.**

9 **(C) EACH LICENSEE SHALL OBTAIN AND MAINTAIN A VALID UNIQUE**
10 **IDENTIFIER ISSUED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND**
11 **REGISTRY:**

12 **(1) ON OBTAINING AN INITIAL OR RENEWAL LICENSE ON OR**
13 **AFTER JULY 1, 2009; OR**

14 **(2) IF THE COMMISSIONER HAS NOT JOINED THE NATIONWIDE**
15 **MORTGAGE LICENSING SYSTEM AND REGISTRY AS OF JULY 1, 2009, ON OR**
16 **AFTER THE DATE THAT THE COMMISSIONER JOINS, AS INSTRUCTED BY THE**
17 **COMMISSIONER BY NOTICE TO THE LICENSEE.**

18 **(D) THE FOLLOWING INDIVIDUALS ARE EXEMPT FROM THIS SUBTITLE:**

19 **(1) A REGISTERED MORTGAGE LOAN ORIGINATOR, WHEN ACTING**
20 **FOR AN ENTITY DESCRIBED IN § 11-601(U) OF THIS SUBTITLE;**

21 **(2) AN INDIVIDUAL WHO OFFERS OR NEGOTIATES THE TERMS OF**
22 **A RESIDENTIAL MORTGAGE LOAN WITH OR ON BEHALF OF AN IMMEDIATE**
23 **FAMILY MEMBER OF THE INDIVIDUAL;**

24 **(3) AN INDIVIDUAL WHO OFFERS OR NEGOTIATES THE TERMS OF**
25 **A RESIDENTIAL MORTGAGE LOAN SECURED BY A DWELLING THAT SERVED AS**
26 **THE INDIVIDUAL'S RESIDENCE; AND**

27 **(4) A LICENSED ATTORNEY WHO NEGOTIATES THE TERMS OF A**
28 **RESIDENTIAL MORTGAGE LOAN ON BEHALF OF A CLIENT AS AN ANCILLARY**
29 **MATTER TO THE ATTORNEY'S REPRESENTATION OF THE CLIENT, UNLESS THE**
30 **ATTORNEY IS COMPENSATED BY A MORTGAGE LENDER, A MORTGAGE BROKER,**
31 **OR A MORTGAGE LOAN ORIGINATOR, OR BY AN AGENT OF A LENDER, MORTGAGE**
32 **BROKER, OR MORTGAGE LOAN ORIGINATOR.**

33 **[(b)] (E) The Commissioner may adopt regulations to carry out this subtitle.**

1 11-603.

2 (a) A license issued under this subtitle authorizes the licensee to act as a
3 mortgage **LOAN** originator only when acting within the scope of employment with:

4 (1) [a] **A mortgage lender; OR**

5 (2) **A PERSON WHO IS EXEMPT FROM LICENSING AS A MORTGAGE**
6 **LENDER.**

7 (b) A licensee may not:

8 (1) Maintain more than one license under this subtitle; or

9 (2) Be employed by more than one mortgage lender **OR PERSON WHO**
10 **IS EXEMPT FROM LICENSING AS A MORTGAGE LENDER.**

11 (c) (1) The Commissioner shall include on each license:

12 (i) The name of the licensee; [and]

13 (ii) The name of the licensee's employer; **AND**

14 (iii) **THE UNIQUE IDENTIFIER OF THE LICENSEE IF THE**
15 **LICENSEE HAS BEEN ISSUED A UNIQUE IDENTIFIER.**

16 (2) [Unless the licensee notifies the Commissioner in writing in
17 advance of a change in the licensee's name or the licensee's employer and pays to the
18 Commissioner a license amendment fee set by the Commissioner for each notice
19 provided under this paragraph, an] **AN** individual may not act as a mortgage **LOAN**
20 originator under a name or for an employer that is different from the name and
21 employer that appear on the license[.] **UNLESS THE LICENSEE:**

22 (i) **NOTIFIES THE COMMISSIONER IN WRITING IN ADVANCE**
23 **OF A CHANGE IN THE LICENSEE'S NAME OR THE LICENSEE'S EMPLOYER;**

24 (ii) **PAYS TO THE COMMISSIONER A LICENSE AMENDMENT**
25 **FEE SET BY THE COMMISSIONER FOR EACH NOTICE PROVIDED UNDER THIS**
26 **PARAGRAPH;**

27 (iii) **RETURNS TO THE COMMISSIONER THE LICENSEE'S**
28 **LICENSE, OR AN AFFIDAVIT STATING THAT THE LICENSE HAS BEEN LOST OR**
29 **DESTROYED; AND**

1 (IV) IN THE CASE OF A NEW EMPLOYER, SUBMITS TO THE
2 COMMISSIONER A NOTARIZED STATEMENT FROM THE LICENSEE'S NEW
3 EMPLOYER THAT THE LICENSEE IS AN EMPLOYEE OF THE NEW EMPLOYER.

4 (3) IF A LICENSEE CEASES TO BE EMPLOYED BY A LICENSED
5 MORTGAGE LENDER OR BY A PERSON EXEMPT FROM LICENSING AS A
6 MORTGAGE LENDER, THE LICENSEE SHALL NOTIFY THE COMMISSIONER WITHIN
7 10 BUSINESS DAYS, AND THE LICENSE SHALL BE PLACED INTO NONACTIVE
8 STATUS.

9 (4) DURING THE TIME THAT A LICENSE IS IN NONACTIVE STATUS,
10 IT IS A VIOLATION OF THIS SUBTITLE FOR THE LICENSEE TO ENGAGE IN ANY
11 ACTIVITY FOR WHICH A LICENSE IS REQUIRED UNDER THIS SUBTITLE.

12 (5) THE LICENSE SHALL REMAIN IN NONACTIVE STATUS UNTIL:

13 (I) THE LICENSEE:

14 1. NOTIFIES THE COMMISSIONER IN WRITING THAT
15 THE LICENSEE HAS OBTAINED EMPLOYMENT WITH A LICENSED MORTGAGE
16 LENDER OR WITH A PERSON EXEMPT FROM LICENSING AS A MORTGAGE
17 LENDER; AND

18 2. HAS COMPLIED WITH THE REQUIREMENTS SET
19 FORTH IN PARAGRAPH (C)(2) OF THIS SUBSECTION; OR

20 (II) THE LICENSE EXPIRES OR IS REVOKED.

21 (d) A license may be issued under this subtitle to an individual who is
22 employed by a mortgage lender that has its principal office located outside the State if
23 the mortgage lender maintains:

24 (1) A resident agent within the State; and

25 (2) An office within the State staffed by at least one employee
26 authorized to originate **RESIDENTIAL** mortgage loans.

27 (e) Notwithstanding [paragraph] **SUBSECTION** (d)(2) of this section, a
28 mortgage lender is not required to maintain an office in this State if the laws of the
29 state in which its principal office is located authorize a mortgage lender from this
30 State to engage in mortgage lending without maintaining an office in that state.

31 [11-604.

1 Beginning on January 1, 2007, an individual may not act as a mortgage
2 originator unless the individual is:

3 (1) A licensee; or

4 (2) Exempt from licensing under this subtitle or Subtitle 5 of this
5 title.]

6 [11-606.] **11-604.**

7 (a) (1) To apply for a license, an applicant shall complete, sign, and
8 submit to the Commissioner an application made under oath on the form that the
9 Commissioner requires.

10 (2) The applicant shall comply with all conditions and provisions of
11 the application for a license.

12 [(3) The application shall include:

13 (i) The applicant's name, Social Security number, business
14 address and telephone number, residence address, residence telephone number, and
15 electronic mail address;

16 (ii) The business name, business address, and telephone
17 number of the applicant's employer or prospective employer;

18 (iii) The applicant's resume or work experience, including the
19 names and addresses of previous employers and a description of each job or position
20 held by the applicant with previous employers;

21 (iv) A written statement by the applicant's present or
22 prospective employer that the applicant has been approved for employment as a
23 mortgage originator;

24 (v) A written statement disclosing whether the applicant has
25 been convicted of, pleaded guilty to, or pleaded nolo contendere to a felony or
26 misdemeanor, except minor traffic offenses, within the preceding 10 years, a
27 description of the nature and disposition of any disclosed criminal proceeding, and the
28 name of the court where the proceeding took place; and

29 (vi) A written statement disclosing whether the Commissioner,
30 or any other regulatory authority in the State or any other jurisdiction that governs
31 the mortgage lending or mortgage loan origination business, with respect to the
32 applicant or an entity in which the applicant has or had any ownership interest, has:

33 1. Denied an application for a license;

- 1 2. Revoked or suspended a license; or
2 3. Imposed any other formal order or regulatory
3 sanction.]

4 (b) With each application, the applicant shall pay to the Commissioner:

- 5 (1) A nonrefundable investigation fee set by the Commissioner; and
6 (2) A license fee set by the Commissioner.

7 **(C) IN ADDITION TO THE LICENSE FEE REQUIRED UNDER SUBSECTION**
8 **(B)(2) OF THIS SECTION, AN APPLICANT FOR AN INITIAL LICENSE SHALL PAY TO**
9 **THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY ANY FEES**
10 **THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY**
11 **IMPOSES IN CONNECTION WITH THE APPLICATION.**

12 **(D) IN CONNECTION WITH AN INITIAL APPLICATION FOR A LICENSE**
13 **UNDER THIS SECTION AND AT ANY OTHER TIME THE COMMISSIONER REQUESTS,**
14 **AN APPLICANT OR LICENSEE SHALL PROVIDE TO THE NATIONWIDE MORTGAGE**
15 **LICENSING SYSTEM AND REGISTRY INFORMATION CONCERNING THE**
16 **APPLICANT’S IDENTITY, INCLUDING:**

17 **(1) FINGERPRINTS FOR SUBMISSION TO THE FEDERAL BUREAU**
18 **OF INVESTIGATION, AND ANY OTHER GOVERNMENTAL AGENCY OR ENTITY**
19 **AUTHORIZED TO RECEIVE THIS INFORMATION FOR A STATE, NATIONAL, OR**
20 **INTERNATIONAL CRIMINAL HISTORY BACKGROUND CHECK; AND**

21 **(2) PERSONAL HISTORY AND EXPERIENCE IN A FORM**
22 **PRESCRIBED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND**
23 **REGISTRY, INCLUDING THE SUBMISSION OF AUTHORIZATION FOR THE**
24 **NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AND THE**
25 **COMMISSIONER TO OBTAIN:**

26 **(I) AN INDEPENDENT CREDIT REPORT FROM A CONSUMER**
27 **REPORTING AGENCY DESCRIBED IN THE FEDERAL FAIR CREDIT REPORTING**
28 **ACT, 15 U.S.C. § 1681A(P); AND**

29 **(II) INFORMATION RELATED TO ANY ADMINISTRATIVE,**
30 **CIVIL, OR CRIMINAL FINDINGS BY ANY GOVERNMENTAL JURISDICTION.**

31 **(E) TO IMPLEMENT THIS SUBTITLE, THE COMMISSIONER MAY USE THE**
32 **NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AS A**
33 **CHANNELING AGENT TO REQUEST INFORMATION FROM AND DISTRIBUTE**

1 **INFORMATION TO THE DEPARTMENT OF JUSTICE, ANY OTHER GOVERNMENTAL**
2 **AGENCY, AND ANY OTHER SOURCE AS DIRECTED BY THE COMMISSIONER.**

3 [(c)] (F) (1) In **ADDITION TO THE REQUIREMENT UNDER**
4 **SUBSECTION (D) OF THIS SECTION**, IN connection with an **INITIAL** application for a
5 license under this section, and at any other time that the Commissioner requests, an
6 applicant or licensee shall provide fingerprints for use by the [Federal Bureau of
7 Investigation and the] Criminal Justice Information System Central Repository of the
8 Department of Public Safety and Correctional Services to conduct criminal history
9 records checks.

10 [(2)] (G) An applicant or licensee required to provide fingerprints
11 under this [subsection] **SECTION** shall pay any processing or other fees required by
12 the Federal Bureau of Investigation [or], **THE NATIONWIDE MORTGAGE**
13 **LICENSING SYSTEM AND REGISTRY**, AND the Criminal Justice Information System
14 Central Repository of the Department of Public Safety and Correctional Services.

15 11-605.

16 [(a) To qualify for a license, an applicant shall satisfy the Commissioner that:

17 (1) The applicant:

18 (i) Has at least 3 years of experience in the mortgage lending
19 business and has completed any required courses for continuing education established
20 by the Commissioner; or

21 (ii) Has completed 40 hours of classroom education and achieved
22 a passing grade on a written examination as required by regulation; and

23 (2) The applicant is of good moral character and has general fitness to
24 warrant the belief that the applicant will act as a mortgage originator in a lawful,
25 honest, fair, and efficient manner.

26 (b) (1) Except as provided in paragraph (2) of this subsection, the
27 Commissioner may deny an application for a license filed by an individual who has
28 committed an act that would serve as a sufficient ground for suspension or revocation
29 of a license under this subtitle or a mortgage lender license under Subtitle 5 of this
30 title.

31 (2) The Commissioner shall deny an application for a license filed by
32 an individual who has been convicted within the last 10 years of a felony involving
33 fraud, theft, or forgery.

34 (c) The Commissioner may not deny an application based solely on the
35 applicant's financial condition, credit history, or net worth, or the involvement of the
36 applicant in a bankruptcy proceeding under Title 11 of the United States Code.]

1 (A) THE COMMISSIONER MAY NOT ISSUE A MORTGAGE LOAN
2 ORIGINATOR LICENSE UNLESS THE COMMISSIONER MAKES, AT A MINIMUM, THE
3 FOLLOWING FINDINGS:

4 (1) THE APPLICANT HAS NEVER HAD A MORTGAGE LOAN
5 ORIGINATOR LICENSE REVOKED IN ANY GOVERNMENTAL JURISDICTION.

6 (2) THE APPLICANT HAS NOT BEEN CONVICTED OF, OR PLED
7 GUILTY OR NOLO CONTENDERE TO, A FELONY IN A DOMESTIC, FOREIGN, OR
8 MILITARY COURT:

9 (I) DURING THE 7-YEAR PERIOD IMMEDIATELY
10 PRECEDING THE DATE OF THE APPLICATION FOR LICENSING; OR

11 (II) AT ANY TIME PRECEDING THE DATE OF APPLICATION,
12 IF THE FELONY INVOLVED AN ACT OF FRAUD, DISHONESTY, A BREACH OF
13 TRUST, OR MONEY LAUNDERING;

14 (3) THE APPLICANT HAS DEMONSTRATED FINANCIAL
15 RESPONSIBILITY, CHARACTER, AND GENERAL FITNESS SUFFICIENT TO
16 COMMAND THE CONFIDENCE OF THE COMMUNITY AND TO WARRANT A
17 DETERMINATION THAT THE MORTGAGE LOAN ORIGINATOR WILL OPERATE
18 HONESTLY, FAIRLY, AND EFFICIENTLY;

19 (4) THE APPLICANT HAS COMPLETED THE PRELICENSING
20 EDUCATION REQUIREMENT UNDER § 11-606 OF THIS SUBTITLE AND ANY
21 PRELICENSING EDUCATION REQUIREMENTS ESTABLISHED BY THE
22 COMMISSIONER BY REGULATION;

23 (5) THE APPLICANT HAS PASSED A TEST THAT MEETS THE
24 REQUIREMENTS ESTABLISHED UNDER § 11-606.1 OF THIS SUBTITLE AND ANY
25 PRELICENSING TESTING REQUIREMENTS ESTABLISHED BY THE COMMISSIONER
26 BY REGULATION; AND

27 (6) THE APPLICANT HAS MET THE SURETY BOND REQUIREMENT
28 UNDER § 11-619 OF THIS SUBTITLE.

29 (B) A CONVICTION FOR WHICH A PARDON HAS BEEN GRANTED IS NOT A
30 CONVICTION FOR PURPOSES OF SUBSECTION (A)(2) OF THIS SECTION.

31 (C) A DETERMINATION THAT AN INDIVIDUAL HAS SHOWN A LACK OF
32 FINANCIAL RESPONSIBILITY FOR PURPOSES OF SUBSECTION (A)(3) OF THIS
33 SECTION MAY INCLUDE:

1 **(1) CURRENT OUTSTANDING JUDGMENTS, EXCEPT JUDGMENTS**
2 **SOLELY AS A RESULT OF MEDICAL EXPENSES;**

3 **(2) CURRENT OUTSTANDING TAX LIENS OR OTHER GOVERNMENT**
4 **LIENS AND FILINGS;**

5 **(3) FORECLOSURES WITHIN THE PAST 3 YEARS; AND**

6 **(4) A PATTERN OF SERIOUSLY DELINQUENT ACCOUNTS WITHIN**
7 **THE PAST 3 YEARS.**

8 **11-605.1.**

9 **(A) SUBJECT TO SUBSECTIONS (B) THROUGH (G) OF THIS SECTION, THE**
10 **COMMISSIONER MAY ISSUE AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE**
11 **TO AN INDIVIDUAL WHO PROVIDES TO THE COMMISSIONER WRITTEN PROOF,**
12 **SATISFACTORY TO THE COMMISSIONER, THAT THE INDIVIDUAL:**

13 **(1) IS EMPLOYED BY A PERSON WHO:**

14 **(I) IS A LICENSED MORTGAGE LENDER, OR IS EXEMPT**
15 **FROM LICENSING, UNDER SUBTITLE 5 OF THIS TITLE;**

16 **(II) MAKES RESIDENTIAL MORTGAGE LOANS; AND**

17 **(III) IS NOT A MORTGAGE BROKER; OR**

18 **(2) AS OF JULY 1, 2009, AND THE DATE OF APPLICATION FOR AN**
19 **INTERIM LICENSE, OWNS A 25 PERCENT OR MORE INTEREST IN A MORTGAGE**
20 **LENDER.**

21 **(B) THE COMMISSIONER MAY ACCEPT APPLICATIONS FOR INITIAL**
22 **INTERIM MORTGAGE LOAN ORIGINATOR LICENSES THROUGH JULY 31, 2009.**

23 **(C) THE TERM OF AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE**
24 **SHALL:**

25 **(1) BEGIN ON THE DATE THE LICENSE IS ISSUED; AND**

26 **(2) EXPIRE ON DECEMBER 31, 2010.**

27 **(D) AN APPLICANT FOR AN INTERIM MORTGAGE LOAN ORIGINATOR**
28 **LICENSE SHALL MEET THE QUALIFICATIONS FOR LICENSURE AS REQUIRED BY**

1 THIS SUBTITLE, EXCEPT THAT THE APPLICANT OR INTERIM LICENSEE MAY
2 COMPLY WITH THE FOLLOWING ON OR BEFORE JULY 31, 2010:

3 (1) THE FINGERPRINTING AND CRIMINAL HISTORY REPORT
4 REQUIREMENT UNDER § 11-604 OF THIS SUBTITLE;

5 (2) THE SURETY BOND COVERAGE REQUIREMENT UNDER §
6 11-619 OF THIS SUBTITLE;

7 (3) THE PRELICENSING EDUCATION REQUIREMENT UNDER §
8 11-606 OF THIS SUBTITLE; AND

9 (4) THE PRELICENSING TESTING REQUIREMENT UNDER §
10 11-606.1 OF THIS SUBTITLE.

11 (E) (1) THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL
12 DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION.

13 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, AN
14 INDIVIDUAL HOLDING AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE:

15 (I) MAY ENGAGE ONLY IN TRANSACTIONS IN WHICH THE
16 INDIVIDUAL'S EMPLOYER MAKES A RESIDENTIAL MORTGAGE LOAN; AND

17 (II) MAY NOT ENGAGE IN TRANSACTIONS IN WHICH THE
18 INDIVIDUAL'S EMPLOYER ACTS AS A MORTGAGE BROKER, AS DEFINED IN §
19 11-501 OF THIS TITLE.

20 (3) THE RESTRICTIONS ON AN INDIVIDUAL'S ACTIVITIES UNDER
21 PARAGRAPH (1) OF THIS SUBSECTION SHALL TERMINATE ON THE INDIVIDUAL'S
22 COMPLIANCE WITH:

23 (I) THE FINGERPRINTING AND CRIMINAL HISTORY REPORT
24 REQUIREMENT UNDER § 11-604 OF THIS SUBTITLE;

25 (II) THE SURETY BOND COVERAGE REQUIREMENT UNDER §
26 11-619 OF THIS SUBTITLE;

27 (III) THE PRELICENSING EDUCATION REQUIREMENT UNDER
28 § 11-606 OF THIS SUBTITLE; AND

29 (IV) THE PRELICENSING TESTING REQUIREMENT UNDER §
30 11-606.1 OF THIS SUBTITLE.

1 (F) WITH EACH APPLICATION FOR AN INTERIM MORTGAGE LOAN
2 ORIGINATOR LICENSE, THE APPLICANT SHALL PAY TO THE COMMISSIONER:

3 (1) THE NONREFUNDABLE INVESTIGATION FEE REQUIRED
4 UNDER § 11-604(B)(1) OF THIS SUBTITLE;

5 (2) 150 PERCENT OF THE LICENSING FEE REQUIRED UNDER §
6 11-604(B)(2) OF THIS SUBTITLE; AND

7 (3) ANY FEES IMPOSED BY THE NATIONWIDE MORTGAGE
8 LICENSING SYSTEM AND REGISTRY UNDER § 11-604(C) OF THIS SUBTITLE.

9 (G) IN ADDITION TO ANY OTHER INFORMATION REQUIRED TO BE
10 PLACED ON A LICENSE UNDER THIS SUBTITLE, THE COMMISSIONER SHALL
11 PRINT THE WORDS "INTERIM MORTGAGE LOAN ORIGINATOR LICENSE" ON EACH
12 LICENSE ISSUED UNDER THIS SECTION.

13 **11-606.**

14 (A) TO QUALIFY FOR AN INITIAL LICENSE, AN APPLICANT SHALL
15 COMPLETE AT LEAST 20 HOURS OF PRELICENSING EDUCATION THAT SHALL
16 INCLUDE:

17 (1) 3 HOURS OF INSTRUCTION ON FEDERAL LAW AND
18 REGULATIONS RELATING TO MORTGAGE ORIGINATION;

19 (2) 3 HOURS OF INSTRUCTION ON ETHICS, INCLUDING
20 INSTRUCTION ON FRAUD, CONSUMER PROTECTION, AND FAIR LENDING ISSUES;
21 AND

22 (3) 2 HOURS OF TRAINING RELATED TO LENDING STANDARDS
23 FOR THE NONTRADITIONAL MORTGAGE PRODUCT MARKETPLACE.

24 (B) (1) ALL PRELICENSING EDUCATION COURSES SHALL BE
25 REVIEWED AND APPROVED BY THE NATIONWIDE MORTGAGE LICENSING
26 SYSTEM AND REGISTRY.

27 (2) REVIEW AND APPROVAL OF A PRELICENSING EDUCATION
28 COURSE SHALL INCLUDE REVIEW AND APPROVAL OF THE COURSE PROVIDER BY
29 THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

30 (C) PRELICENSING EDUCATION MAY BE OFFERED IN A CLASSROOM,
31 ONLINE, OR BY ANY OTHER MEANS APPROVED BY THE NATIONWIDE MORTGAGE
32 LICENSING SYSTEM AND REGISTRY.

1 (D) AN APPLICANT'S SUCCESSFUL COMPLETION IN ANOTHER STATE OF
2 THE PRELICENSING EDUCATION REQUIREMENTS APPROVED BY THE
3 NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, EXCEPT
4 PRELICENSING EDUCATION REQUIREMENTS SPECIFIC TO THAT OTHER STATE,
5 SHALL BE ACCEPTED BY THE COMMISSIONER AS CREDIT TOWARD COMPLETION
6 OF PRELICENSING EDUCATION REQUIREMENTS IN THIS STATE.

7 (E) THIS SECTION DOES NOT PRECLUDE ANY PRELICENSING
8 EDUCATION COURSE, AS APPROVED BY THE NATIONWIDE MORTGAGE
9 LICENSING SYSTEM AND REGISTRY, THAT IS PROVIDED BY THE EMPLOYER OF
10 THE APPLICANT OR AN ENTITY THAT IS AFFILIATED WITH THE APPLICANT BY AN
11 AGENCY CONTRACT, OR ANY SUBSIDIARY OR AFFILIATE OF THE EMPLOYER OR
12 ENTITY.

13 **11-606.1.**

14 (A) TO QUALIFY FOR AN INITIAL LICENSE, AN APPLICANT SHALL PASS A
15 QUALIFIED WRITTEN TEST DEVELOPED BY THE NATIONWIDE MORTGAGE
16 LICENSING SYSTEM AND REGISTRY AND ADMINISTERED BY A TEST PROVIDER
17 APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND
18 REGISTRY.

19 (B) A WRITTEN TEST SHALL NOT BE TREATED AS A QUALIFIED WRITTEN
20 TEST FOR PURPOSES OF SUBSECTION (A) OF THIS SECTION UNLESS THE TEST
21 ADEQUATELY MEASURES THE APPLICANT'S KNOWLEDGE AND COMPREHENSION
22 IN APPROPRIATE SUBJECT AREAS, INCLUDING:

23 (1) ETHICS;

24 (2) FEDERAL LAW AND REGULATIONS RELATING TO MORTGAGE
25 ORIGINATION;

26 (3) STATE LAW AND REGULATIONS RELATING TO MORTGAGE
27 ORIGINATION; AND

28 (4) FEDERAL AND STATE LAW AND REGULATIONS RELATING TO
29 FRAUD, CONSUMER PROTECTION, THE NONTRADITIONAL MORTGAGE PRODUCT
30 MARKETPLACE, AND FAIR LENDING ISSUES.

31 (C) TO PASS A QUALIFIED WRITTEN TEST, AN APPLICANT MUST
32 RECEIVE A TEST SCORE OF AT LEAST 75 PERCENT.

1 (D) AN APPLICANT MAY TAKE A TEST THREE TIMES, PROVIDED THAT
2 EACH SUBSEQUENT TEST OCCURS AT LEAST 30 DAYS AFTER THE PRECEDING
3 TEST.

4 (E) AFTER FAILING THREE TESTS, AN APPLICANT SHALL WAIT AT LEAST
5 6 MONTHS BEFORE TAKING THE TEST AGAIN.

6 (F) (1) A LICENSEE WHO FAILS TO RENEW AND MAINTAIN A VALID
7 LICENSE FOR A PERIOD OF 5 YEARS OR LONGER SHALL RETAKE THE TEST AND
8 ACHIEVE A PASSING GRADE AS SET FORTH IN SUBSECTION (C) OF THIS SECTION
9 BEFORE OBTAINING A NEW LICENSE.

10 (2) CALCULATION OF THE TIME PERIOD DURING WHICH AN
11 INDIVIDUAL IS UNLICENSED UNDER PARAGRAPH (1) OF THIS SUBSECTION
12 SHALL EXCLUDE ANY TIME DURING WHICH THE INDIVIDUAL IS A REGISTERED
13 MORTGAGE LOAN ORIGINATOR.

14 (G) THIS SECTION DOES NOT PROHIBIT A TEST PROVIDER APPROVED BY
15 THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY FROM
16 PROVIDING A TEST AT THE LOCATION OF THE EMPLOYER OF THE APPLICANT OR
17 ANY SUBSIDIARY OR AFFILIATE OF THE EMPLOYER OF THE APPLICANT, OR ANY
18 ENTITY WITH WHICH THE APPLICANT HOLDS AN EXCLUSIVE ARRANGEMENT TO
19 CONDUCT THE BUSINESS OF A MORTGAGE LOAN ORIGINATOR.

20 11-607.

21 (a) When an applicant for a license files the application and pays the fees
22 required by § [11-606] ~~11-604~~ of this subtitle, the Commissioner shall conduct an
23 investigation to determine if the applicant meets the requirements of § 11-605 of this
24 subtitle.

25 11-609.

26 [(a) A license issued on or after October 1, 2006, expires on December 31 in
27 each odd-numbered year after December 31, 2006, unless the license is renewed for a
28 2-year term as provided in this section.]

29 (A) SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN
30 CONNECTION WITH THE TRANSITION TO THE NATIONWIDE MORTGAGE
31 LICENSING SYSTEM AND REGISTRY, AN INITIAL LICENSE TERM SHALL:

32 (1) BE FOR A MAXIMUM PERIOD OF 1 YEAR;

33 (2) BEGIN ON THE FIRST DAY THE LICENSE IS ISSUED; AND

1 **(3) EXPIRE ON DECEMBER 31 OF THE YEAR THE LICENSE IS**
2 **ISSUED.**

3 (b) On or before [December] **NOVEMBER** 1 of the year of expiration, a
4 license may be renewed [for an additional 2-year term] if the licensee:

5 (1) [Otherwise] **SUBJECT TO SUBSECTIONS (E) AND (F) OF THIS**
6 **SECTION, MEETS THE MINIMUM STANDARDS FOR THE ISSUANCE OF A LICENSE**
7 **AND OTHERWISE** is entitled to be licensed;

8 (2) Pays to the Commissioner a renewal fee set by the Commissioner;
9 and

10 (3) Submits to the Commissioner:

11 (i) A renewal application on the form that the Commissioner
12 requires; and

13 (ii) Satisfactory evidence of compliance with any continuing
14 education requirements **UNDER THIS SUBTITLE OR** set by regulations adopted by the
15 Commissioner.

16 **(C) SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN**
17 **CONNECTION WITH THE TRANSITION TO THE NATIONWIDE MORTGAGE**
18 **LICENSING SYSTEM AND REGISTRY, A RENEWAL TERM SHALL:**

19 **(1) BE FOR A MAXIMUM PERIOD OF 1 YEAR;**

20 **(2) BEGIN ON JANUARY 1 OF EACH YEAR AFTER THE INITIAL**
21 **TERM; AND**

22 **(3) EXPIRE ON DECEMBER 31 OF THE YEAR THE RENEWAL TERM**
23 **BEGINS.**

24 [(d) Notwithstanding subsections (a) and (b) of this section, the Commissioner
25 may determine that licenses issued under this subtitle shall expire on a staggered
26 basis.]

27 **(D) IN ADDITION TO THE LICENSE RENEWAL FEE REQUIRED UNDER**
28 **SUBSECTION (B)(2) OF THIS SECTION, AN APPLICANT FOR A LICENSE RENEWAL**
29 **SHALL PAY TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND**
30 **REGISTRY ANY FEES THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM**
31 **AND REGISTRY IMPOSES IN CONNECTION WITH THE RENEWAL APPLICATION.**

1 **(E) A LICENSEE HOLDING A LICENSE THAT EXPIRES BETWEEN JULY 1,**
2 **2009, AND DECEMBER 31, 2010, MAY COMPLY WITH THE FOLLOWING**
3 **REQUIREMENTS ON OR BEFORE DECEMBER 31, 2010:**

4 **(1) THE FINGERPRINTING AND CRIMINAL HISTORY REPORT**
5 **REQUIREMENT UNDER § 11-604 OF THIS SUBTITLE;**

6 **(2) THE SURETY BOND COVERAGE REQUIREMENT UNDER §**
7 **11-619 OF THIS SUBTITLE; AND**

8 **(3) THE PRELICENSING TESTING REQUIREMENT UNDER §**
9 **11-606.1 OF THIS SUBTITLE.**

10 **(F) A LICENSEE HOLDING A LICENSE THAT EXPIRES BETWEEN JULY 1,**
11 **2009, AND DECEMBER 31, 2010, MAY COMPLY WITH THE PRELICENSING**
12 **EDUCATION REQUIREMENT UNDER § 11-606 OF THIS SUBTITLE IF THE**
13 **LICENSEE HAS COMPLETED, WITHIN THE 2-YEAR PERIOD IMMEDIATELY**
14 **PRECEDING THE DATE OF THE RENEWAL APPLICATION, AT LEAST 20 HOURS OF**
15 **CONTINUING EDUCATION APPROVED BY THE COMMISSIONER BY REGULATION.**

16 **[(c)] (G) If a license is surrendered voluntarily or is suspended or revoked,**
17 **the Commissioner may not refund any part of the license fee regardless of the time**
18 **remaining in the license term.**

19 **11-612.**

20 **(A) BEFORE APPLYING FOR RENEWAL OF A LICENSE, A LICENSEE**
21 **SHALL COMPLETE AT LEAST 8 HOURS OF CONTINUING EDUCATION, WHICH**
22 **SHALL INCLUDE:**

23 **(1) 3 HOURS OF INSTRUCTION ON FEDERAL LAW AND**
24 **REGULATIONS RELATING TO MORTGAGE ORIGINATION;**

25 **(2) 2 HOURS OF INSTRUCTION ON ETHICS, INCLUDING**
26 **INSTRUCTION ON FRAUD, CONSUMER PROTECTION, AND FAIR LENDING ISSUES;**
27 **AND**

28 **(3) 2 HOURS OF TRAINING RELATED TO LENDING STANDARDS**
29 **FOR THE NONTRADITIONAL MORTGAGE PRODUCT MARKETPLACE.**

30 **(B) (1) ALL CONTINUING EDUCATION COURSES SHALL BE REVIEWED**
31 **AND APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND**
32 **REGISTRY.**

1 **(2) REVIEW AND APPROVAL OF A CONTINUING EDUCATION**
2 **COURSE SHALL INCLUDE REVIEW AND APPROVAL OF THE COURSE PROVIDER BY**
3 **THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.**

4 **(C) CONTINUING EDUCATION MAY BE OFFERED IN A CLASSROOM,**
5 **ONLINE, OR BY ANY OTHER MEANS APPROVED BY THE NATIONWIDE MORTGAGE**
6 **LICENSING SYSTEM AND REGISTRY.**

7 **(D) A LICENSEE:**

8 **(1) SHALL RECEIVE CREDIT FOR A CONTINUING EDUCATION**
9 **COURSE ONLY IN THE YEAR IN WHICH THE COURSE IS TAKEN; AND**

10 **(2) MAY NOT TAKE THE SAME CONTINUING EDUCATION COURSE**
11 **TO MEET THE ANNUAL REQUIREMENT FOR CONTINUING EDUCATION.**

12 **(E) A LICENSEE WHO TEACHES AN APPROVED CONTINUING EDUCATION**
13 **COURSE MAY RECEIVE CREDIT FOR THE LICENSEE'S OWN ANNUAL CONTINUING**
14 **EDUCATION REQUIREMENT AT THE RATE OF 2 HOURS OF CREDIT FOR EVERY 1**
15 **HOUR TAUGHT.**

16 **(F) A LICENSEE'S SUCCESSFUL COMPLETION IN ANOTHER STATE OF**
17 **THE CONTINUING EDUCATION REQUIREMENTS APPROVED BY THE NATIONWIDE**
18 **MORTGAGE LICENSING SYSTEM AND REGISTRY, EXCEPT CONTINUING**
19 **EDUCATION REQUIREMENTS SPECIFIC TO THAT OTHER STATE, SHALL BE**
20 **ACCEPTED BY THE COMMISSIONER AS CREDIT TOWARDS COMPLETION OF**
21 **CONTINUING EDUCATION REQUIREMENTS IN THIS STATE.**

22 **(G) THIS SECTION DOES NOT PRECLUDE ANY CONTINUING EDUCATION**
23 **COURSE, AS APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM**
24 **AND REGISTRY, THAT IS PROVIDED BY THE EMPLOYER OF THE MORTGAGE LOAN**
25 **ORIGINATOR OR AN ENTITY THAT IS AFFILIATED WITH THE MORTGAGE LOAN**
26 **ORIGINATOR BY AN AGENCY CONTRACT, OR ANY SUBSIDIARY OR AFFILIATE OF**
27 **THE EMPLOYER OR ENTITY.**

28 **[(a) (H) The Commissioner [shall] MAY adopt regulations [that:**

29 **(1) Set continuing education requirements as a condition to the**
30 **renewal of a license under this subtitle; and**

31 **(2) Prescribe rules for the classroom education requirement provided**
32 **for in § 11-605(a) of this subtitle] TO IMPLEMENT THIS SECTION.**

1 [(b) Any continuing education requirement established by the Commissioner
2 under this section shall apply to the first renewal of a license.]

3 11-613.

4 (a) (1) Any person aggrieved by the conduct of a licensee under this
5 subtitle in connection with a **RESIDENTIAL** mortgage loan may file a written
6 complaint with the Commissioner who shall investigate the complaint.

7 (2) The Commissioner may make any other investigation of a licensee
8 if the Commissioner has reasonable cause to believe that the licensee has violated any
9 provision of this subtitle, of any regulation adopted under this subtitle, or of any other
10 law regulating mortgage lending or mortgage origination in the State.

11 11-615.

12 (a) Subject to the hearing provisions of § 11-616 of this subtitle, and except
13 as provided in subsection (f) of this section, the Commissioner may suspend or revoke
14 the license of any licensee if the licensee:

15 (1) Makes any material misstatement in an application for a license;

16 (2) Is convicted under the laws of the United States or of any state of a
17 felony or a misdemeanor that is directly related to the fitness and qualification of the
18 individual to act as a mortgage **LOAN** originator;

19 (3) In connection with any **RESIDENTIAL** mortgage loan or loan
20 application transaction:

21 (i) Commits any fraud;

22 (ii) Engages in any illegal or dishonest activities; or

23 (iii) Misrepresents or fails to disclose any material facts to a
24 person entitled to that information;

25 (4) Violates any provision of this subtitle, any regulation adopted
26 under this subtitle, or any other law regulating mortgage lending or mortgage
27 origination in the State; or

28 (5) Otherwise demonstrates unworthiness, bad faith, dishonesty, or
29 any other quality that indicates that the business of the licensee has not been or will
30 not be conducted honestly.

31 (c) (1) The Commissioner may enforce the provisions of this subtitle,
32 regulations adopted under this subtitle, and the applicable provisions of Title 12 of the
33 Commercial Law Article by:

- 1 (i) Issuing an order:
- 2 1. To cease and desist from the violation and any further
3 similar violations; and
- 4 2. Requiring the violator to take affirmative action to
5 correct the violation, including the restitution of money or property to any person
6 aggrieved by the violation; and
- 7 (ii) Imposing a civil penalty not exceeding [~~\$1,000~~] **\$10,000** for
8 each violation.

9 (2) If a violator fails to comply with an order issued under paragraph
10 (1)(i) of this subsection, the Commissioner may impose a civil penalty not exceeding
11 [~~\$1,000~~] **\$10,000** for each violation from which the violator failed to cease and desist
12 or for which the violator failed to take affirmative action to correct.

13 (f) **[If] THE COMMISSIONER SHALL REVOKE THE LICENSE OF THE**
14 **LICENSEE IF** the Commissioner determines that a licensee, **WHILE LICENSED**, has
15 **[been]:**

16 (1) [~~convicted~~] **BEEN CONVICTED** of a felony [involving fraud, theft,
17 or forgery while the licensee has been licensed, the Commissioner shall revoke the
18 license of the licensee]; **OR**

19 (2) **HAD A MORTGAGE LOAN ORIGINATOR LICENSE REVOKED IN**
20 **ANY GOVERNMENTAL JURISDICTION.**

21 **11-619.**

22 (A) **EACH MORTGAGE LOAN ORIGINATOR SHALL BE COVERED BY A**
23 **SURETY BOND IN ACCORDANCE WITH THIS SECTION.**

24 (B) (1) **A MORTGAGE LOAN ORIGINATOR WHO IS AN EMPLOYEE OF A**
25 **PERSON SUBJECT TO LICENSURE UNDER SUBTITLE 5 OF THIS TITLE MAY USE**
26 **THE SURETY BOND OF THAT PERSON TO MEET THE MORTGAGE LOAN**
27 **ORIGINATOR'S SURETY BOND REQUIREMENT.**

28 (2) **A MORTGAGE LOAN ORIGINATOR WHO IS AN EMPLOYEE OF A**
29 **PERSON EXEMPT FROM LICENSURE UNDER SUBTITLE 5 OF THIS TITLE MAY USE**
30 **A SURETY BOND OF THE PERSON TO MEET THE MORTGAGE LOAN ORIGINATOR'S**
31 **SURETY BOND REQUIREMENT, PROVIDED THE SURETY BOND MEETS THE**
32 **REQUIREMENTS, BASED ON RESIDENTIAL MORTGAGE LOAN VOLUME, UNDER §**
33 **11-508 OF THIS TITLE.**

1 **11-620.**

2 (A) (1) EXCEPT AS OTHERWISE PROVIDED IN 12 U.S.C. § 5111, THE
3 REQUIREMENTS UNDER ANY FEDERAL LAW AND §§ 10-611 THROUGH 10-628 OF
4 THE STATE GOVERNMENT ARTICLE REGARDING THE PRIVACY OR
5 CONFIDENTIALITY OF INFORMATION OR MATERIAL PROVIDED TO THE
6 NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AND ANY
7 PRIVILEGE ARISING UNDER FEDERAL OR STATE LAW, INCLUDING THE RULES OF
8 ANY FEDERAL OR STATE COURT WITH RESPECT TO THAT INFORMATION OR
9 MATERIAL, SHALL CONTINUE TO APPLY TO THAT INFORMATION OR MATERIAL
10 AFTER THE INFORMATION OR MATERIAL HAS BEEN DISCLOSED TO THE
11 NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

12 (2) THE INFORMATION AND MATERIAL MAY BE SHARED WITH ALL
13 STATE AND FEDERAL REGULATORY OFFICIALS HAVING MORTGAGE INDUSTRY
14 OVERSIGHT AUTHORITY WITHOUT THE LOSS OF PRIVILEGE OR THE LOSS OF
15 CONFIDENTIALITY PROTECTIONS PROVIDED BY FEDERAL LAW OR §§ 10-611
16 THROUGH 10-628 OF THE STATE GOVERNMENT ARTICLE.

17 (B) THE COMMISSIONER MAY ENTER INTO INFORMATION SHARING
18 AGREEMENTS WITH OTHER GOVERNMENTAL AGENCIES, THE CONFERENCE OF
19 STATE BANK SUPERVISORS, THE AMERICAN ASSOCIATION OF RESIDENTIAL
20 MORTGAGE REGULATORS, OR OTHER ASSOCIATIONS REPRESENTING
21 GOVERNMENTAL AGENCIES.

22 (C) INFORMATION OR MATERIAL THAT IS SUBJECT TO A PRIVILEGE OR
23 CONFIDENTIALITY UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE
24 SUBJECT TO:

25 (1) DISCLOSURE UNDER ANY FEDERAL OR STATE LAW
26 GOVERNING THE DISCLOSURE TO THE PUBLIC OF INFORMATION HELD BY AN
27 OFFICER OR AGENCY OF THE FEDERAL GOVERNMENT OR A STATE THAT HAS
28 RECEIVED THE INFORMATION OR MATERIAL; OR

29 (2) SUBPOENA, DISCOVERY, OR ADMISSION INTO EVIDENCE, IN
30 ANY PRIVATE CIVIL ACTION OR ADMINISTRATIVE PROCESS, UNLESS WITH
31 RESPECT TO ANY PRIVILEGE HELD BY THE NATIONWIDE MORTGAGE LICENSING
32 SYSTEM AND REGISTRY THE PERSON TO WHOM THE INFORMATION OR
33 MATERIAL PERTAINS WAIVES, IN WHOLE OR IN PART, THAT PRIVILEGE.

34 (D) ANY PROVISIONS OF §§ 10-611 THROUGH 10-628 OF THE STATE
35 GOVERNMENT ARTICLE RELATING TO THE DISCLOSURE OF ANY INFORMATION
36 OR MATERIAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION THAT ARE

1 INCONSISTENT WITH SUBSECTION (A) OF THIS SECTION SHALL BE SUPERSEDED
2 BY THE REQUIREMENTS OF THIS SECTION.

3 (E) THIS SECTION DOES NOT APPLY TO INFORMATION OR MATERIAL
4 RELATING TO THE EMPLOYMENT HISTORY OF, AND PUBLICLY ADJUDICATED
5 DISCIPLINARY AND ENFORCEMENT ACTIONS AGAINST, MORTGAGE LOAN
6 ORIGINATORS THAT IS INCLUDED IN THE NATIONWIDE MORTGAGE LICENSING
7 SYSTEM AND REGISTRY AND DESIGNATED FOR ACCESS BY THE PUBLIC.

8 **11-621.**

9 NONFEDERALLY INSURED CREDIT UNIONS THAT EMPLOY MORTGAGE
10 LOAN ORIGINATORS SHALL REGISTER THESE EMPLOYEES WITH THE
11 NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY BY PROVIDING
12 THE INFORMATION CONCERNING THE EMPLOYEES' IDENTITY SET FORTH IN 12
13 U.S.C. § 5106(A)(2).

14 **11-622.**

15 (A) NOTWITHSTANDING §§ 10-611 THROUGH 10-628 OF THE STATE
16 GOVERNMENT ARTICLE, AND SUBJECT TO § 11-620 OF THIS SUBTITLE, THE
17 COMMISSIONER SHALL REPORT ADJUDICATED ENFORCEMENT ACTIONS AND
18 OTHER RELEVANT INFORMATION TO THE NATIONWIDE MORTGAGE LICENSING
19 SYSTEM AND REGISTRY.

20 (B) THE COMMISSIONER SHALL ADOPT REGULATIONS ESTABLISHING A
21 PROCESS BY WHICH A LICENSEE OR AN APPLICANT FOR A LICENSE MAY
22 CHALLENGE INFORMATION ENTERED BY THE COMMISSIONER INTO THE
23 NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

24 **11-623.**

25 AS THE COMMISSIONER REQUIRES BY REGULATION, THE UNIQUE
26 IDENTIFIER OF A MORTGAGE LOAN ORIGINATOR SHALL BE CLEARLY DISPLAYED
27 ON LOAN APPLICATION FORMS, SOLICITATIONS, ADVERTISEMENTS, BUSINESS
28 CARDS, WEBSITES, AND ANY OTHER FORMS OF COMMUNICATION SPECIFIED BY
29 THE COMMISSIONER.

30 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
31 July 1, 2009.