

SENATE BILL 269

I1, I2

9lr0199
CF HB 292

By: **The President (By Request – Administration) and Senators Kelley and Middleton**

Introduced and read first time: January 23, 2009

Assigned to: Finance

Committee Report: Favorable with amendments

Senate action: Adopted

Read second time: March 17, 2009

CHAPTER _____

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 and
4 mortgage loan originators to conform to the requirements of the federal Secure
5 and Fair Enforcement for Mortgage Licensing Act of ~~2009~~ 2008; expanding the
6 authority of the Commissioner of Financial Regulation to adopt regulations to
7 facilitate implementation of a multistate automated licensing system; requiring
8 certain applicants and licensees to provide certain information and pay certain
9 fees to a certain multistate automated licensing system at certain times;
10 authorizing the Commissioner to use the multistate automated licensing system
11 to request information from and distribute information to certain ~~sources~~
12 governmental agencies and state licensing entities under certain circumstances;
13 altering the required contents of an application for a mortgage lender license
14 and a mortgage loan originator license; altering the terms of mortgage lender
15 licenses and mortgage loan originator licenses; requiring a licensed mortgage
16 lender to submit a certain annual report; increasing certain civil penalties;
17 altering the circumstances under which a mortgage lender must require a
18 borrower to provide certain information to the mortgage lender; prohibiting an
19 individual from engaging in the business of a mortgage loan originator unless
20 the individual holds a valid license or is exempt from certain provisions of law;
21 establishing certain exemptions from the licensing requirement; providing that
22 a license issued under certain provisions of law authorizes the licensee to act as
23 a mortgage loan originator when acting within the scope of employment of a
24 person exempt from licensing as a mortgage lender; altering the information the
25 Commissioner must include on a mortgage loan originator license; altering the

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 actions a licensed mortgage loan originator must take before acting as a
 2 mortgage loan originator under a certain name or for a certain employer;
 3 establishing an affiliated insurance producer–mortgage loan originator license;
 4 specifying the circumstances under which the license will be issued; exempting
 5 an affiliated insurance producer–mortgage loan originator from certain
 6 provisions of law applicable to mortgage loan originator licensees; altering
 7 certain requirements for the issuance and renewal of a mortgage loan originator
 8 license; establishing certain education, testing, and surety bond requirements
 9 for certain applicants and licensees; authorizing certain licensees to comply
 10 with certain requirements on or before a certain date; authorizing the
 11 Commissioner to issue an interim mortgage loan originator license to certain
 12 individuals under certain circumstances; altering the circumstances under
 13 which the Commissioner must revoke the license of a mortgage loan originator;
 14 providing that certain requirements and privileges apply to certain information
 15 or material under certain circumstances; providing that certain information and
 16 material may be shared with certain regulatory officials without the loss of
 17 certain privilege or confidentiality protections; authorizing the Commissioner to
 18 enter into certain information sharing agreements; requiring certain
 19 nonfederally insured credit unions to register certain employees with a certain
 20 multistate automated licensing system in a certain manner; requiring the
 21 Commissioner to report certain enforcement actions and information to the
 22 multistate automated licensing system and adopt regulations establishing a
 23 process to challenge the information entered into the system; requiring a
 24 mortgage loan originator’s unique identifier to be displayed in a certain manner
 25 and under certain circumstances; defining certain terms; altering and repealing
 26 certain definitions; providing that certain licensing requirements shall apply to
 27 retail sellers of manufactured homes under certain circumstances; establishing
 28 the circumstances under which certain prelicensing testing requirements shall
 29 be effective for certain licensees; requiring the Commissioner to notify certain
 30 licensees under certain circumstances; making stylistic and conforming
 31 changes; and generally relating to the regulation of mortgage lenders and
 32 mortgage loan originators.

33 BY repealing and reenacting, with amendments,
 34 Article – Financial Institutions
 35 Section 2–105.1(c), 11–501, 11–502(b), ~~11–505(d) and (e)~~, ~~11–506(e)~~ 11–505(e),
 36 11–506.1, 11–507, ~~11–508(b) and (d)~~ 11–508(d)(2), 11–508.1(a), 11–511,
 37 ~~11–513(a)~~, ~~11–515(b) and (d)~~, ~~11–516(a)~~, ~~11–517(a) and (e)~~ 11–517(c),
 38 11–521(a), ~~11–523(b)~~, 11–601, 11–602, 11–603, 11–605, 11–606,
 39 11–607(a), 11–609, 11–612, ~~11–613(a)~~ 11–613, and 11–615(a), (c), and (f)
 40 Annotated Code of Maryland
 41 (2003 Replacement Volume and 2008 Supplement)

42 BY adding to
 43 Article – Financial Institutions
 44 Section 11–513.1, 11–603.1, 11–605.1, 11–606, 11–606.1, and 11–619 through
 45 11–623
 46 Annotated Code of Maryland

1 (2003 Replacement Volume and 2008 Supplement)

2 BY repealing

3 Article – Financial Institutions

4 Section 11–604

5 Annotated Code of Maryland

6 (2003 Replacement Volume and 2008 Supplement)

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

9 **Article – Financial Institutions**

10 2–105.1.

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

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

18 11–501.

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

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

24 (c) (1) “DWELLING” HAS THE MEANING STATED IN 15 U.S.C. §
25 **1602(V).**

26 (2) “DWELLING” DOES NOT INCLUDE A RESIDENTIAL STRUCTURE
27 **OR MOBILE HOME UNLESS THE RESIDENTIAL STRUCTURE OR MOBILE HOME, OR**
28 **AT LEAST ONE UNIT CONTAINED IN THE RESIDENTIAL STRUCTURE OR MOBILE**
29 **HOME, IS OWNER–OCCUPIED.**

30 [(c)] (D) (1) “Independent evidence of commercial purpose” means,
31 where a ~~RESIDENTIAL~~ mortgage loan is made for a commercial purpose to an
32 individual, any and all documentation by which the mortgage lender, prior to the
33 making or procurement of the loan, establishes that the borrower is seeking funds for
34 a legitimate commercial enterprise.

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

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

6 (ii) The affidavit states the purpose for which the proceeds of
7 the ~~RESIDENTIAL~~ mortgage loan are to be used and the nature of the business
8 conducted or to be conducted by the borrower.

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

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

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

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

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

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

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

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

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

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

1 (1) For a fee or other valuable consideration, whether received directly
 2 or indirectly, aids or assists a borrower in obtaining a ~~RESIDENTIAL~~ mortgage loan;
 3 and

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

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

7 (i) Is a mortgage broker;

8 (ii) Makes a ~~RESIDENTIAL~~ mortgage loan to any person; or

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

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

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

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

17 (ii) The Federal Home Loan Mortgage Corporation;

18 (iii) The Federal National Mortgage Association;

19 (iv) The Government National Mortgage Association; ~~or~~

20 (v) Any person engaged exclusively in the acquisition of all or
 21 any portion of a ~~RESIDENTIAL~~ mortgage loan under any federal, State, or local
 22 governmental program of ~~RESIDENTIAL~~ mortgage loan purchases; **OR**

23 **(VI) AN AFFILIATED INSURANCE PRODUCER-MORTGAGE**
 24 **LOAN ORIGINATOR LICENSED UNDER § 11-603.1 OF THIS SUBTITLE.**

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

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

1 [(k) (1) "Mortgage loan" means any loan or other extension of credit that
2 is:

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

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

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

8 (2) "Mortgage loan" does not include any loan for commercial purposes
9 that is:

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

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

13 (iii) Supported by independent evidence of the commercial
14 purpose.]

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

20 ~~(L)~~ **(M) "MORTGAGE LOAN ORIGINATOR" HAS THE MEANING STATED IN §**
21 **11-601 OF THIS TITLE.**

22 ~~(M)~~ **(N) "MORTGAGE SERVICER" MEANS A PERSON WHO:**

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

25 (2) **COLLECTS OR OTHERWISE RECEIVES PAYMENTS ON**
26 **~~RESIDENTIAL~~ MORTGAGE LOANS DIRECTLY FROM BORROWERS FOR**
27 **DISTRIBUTION TO ANY OTHER PERSON.**

28 ~~(N)~~ **(O) "NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY"**
29 **MEANS A MORTGAGE LICENSING SYSTEM DEVELOPED AND MAINTAINED BY THE**
30 **CONFERENCE OF STATE BANK SUPERVISORS AND THE AMERICAN**
31 **ASSOCIATION OF RESIDENTIAL MORTGAGE REGULATORS FOR THE LICENSING**
32 **AND REGISTRATION OF LICENSED MORTGAGE LOAN ORIGINATORS AND**
33 **MORTGAGE LENDERS.**

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

6 ~~**(P)** “RESIDENTIAL MORTGAGE LOAN” MEANS ANY LOAN PRIMARILY
 7 FOR PERSONAL, FAMILY, OR HOUSEHOLD USE THAT IS SECURED BY A
 8 MORTGAGE, DEED OF TRUST, OR OTHER EQUIVALENT CONSENSUAL SECURITY
 9 INTEREST ON A DWELLING OR RESIDENTIAL REAL ESTATE ON WHICH A
 10 DWELLING IS CONSTRUCTED OR INTENDED TO BE CONSTRUCTED.~~

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

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

18 11-502.

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

20 (1) Any bank, trust company, savings bank, savings and loan
 21 association, or credit union incorporated or chartered under the laws of this State or
 22 the United States or any other-state bank having a branch in this State;

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

24 (3) Any corporate instrumentality of the Government of the United
 25 States including:

26 (i) The Federal Home Loan Mortgage Corporation;

27 (ii) The Federal National Mortgage Association; and

28 (iii) The Government National Mortgage Association;

29 (4) Any person who:

30 (i) Makes 3 or fewer ~~RESIDENTIAL~~ mortgage loans per
 31 calendar year; and

1 (ii) Brokers no more than one ~~RESIDENTIAL~~ mortgage loan per
2 calendar year;

3 (5) Any person who takes back a deferred purchase money mortgage
4 in connection with the sale of:

5 (i) [Residential] **A DWELLING OR RESIDENTIAL** real
6 [property] **ESTATE** owned by, and titled in the name of, that person; or

7 (ii) A new residential dwelling that the person built;

8 (6) A nonprofit charitable organization registered with the Maryland
9 Secretary of State or a nonprofit religious organization;

10 (7) An employer making a ~~RESIDENTIAL~~ mortgage loan to an
11 employee;

12 (8) A person making a ~~RESIDENTIAL~~ mortgage loan to a borrower
13 who is the person's spouse, child, child's spouse, parent, sibling, grandparent,
14 grandchild, or grandchild's spouse;

15 (9) A real estate broker who:

16 (i) Is licensed in the State; and

17 (ii) Makes a ~~RESIDENTIAL~~ mortgage loan providing a
18 repayment schedule of 2 years or less to assist the borrower in the purchase or sale of
19 a **DWELLING OR** residential real [property] **ESTATE** through the broker;

20 (10) A home improvement contractor licensed under the Maryland
21 Home Improvement Law who assigns a ~~RESIDENTIAL~~ mortgage loan without recourse
22 within 30 days after completion of the contract to a person licensed under this subtitle
23 or to an institution that is exempt from this subtitle under [paragraphs] **ITEM** (1), (2),
24 or (11) of this subsection;

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

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

30 (ii) Files with the Commissioner, prior to making ~~RESIDENTIAL~~
31 mortgage loans, information sufficient to identify:

32 1. The correct corporate name of the subsidiary or
33 affiliate;

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

4 ~~11-506.~~

5 ~~(e) (1) The Commissioner may issue a license to an applicant who is a sole~~
6 ~~proprietor and who does not meet the experience requirement under subsection (b) of~~
7 ~~this section if:~~

8 ~~(i) The applicant:~~

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

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

14 ~~(ii) The applicant agrees to limit the applicant's activities to~~
15 ~~brokering RESIDENTIAL mortgage loans made by the single financial institution~~
16 ~~identified under item (i)2 of this paragraph;~~

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

19 ~~(iv) The Commissioner approves the selection of the financial~~
20 ~~institution based on the following criteria:~~

21 ~~1. The financial institution is in good standing with its~~
22 ~~primary State or federal regulator; and~~

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

25 ~~(v) The applicant meets all other requirements for licensure as~~
26 ~~a mortgage lender under this subtitle;~~

27 ~~(vi) The applicant has successfully completed at least 20 hours of~~
28 ~~classroom instruction in residential mortgage lending courses as provided in~~
29 ~~regulations adopted by the Commissioner and achieved a passing grade on a written~~
30 ~~exam developed and administered by the person that conducts the classroom~~
31 ~~education course;~~

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

1 11-506.1.

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

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

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

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

18 **(C) IN ADDITION TO THE REQUIREMENT UNDER SUBSECTION (B) OF**
19 **THIS SECTION, IN CONNECTION WITH AN INITIAL APPLICATION AND AT ANY**
20 **OTHER TIME THE COMMISSIONER REQUESTS, AN APPLICANT OR LICENSEE**
21 **SHALL PROVIDE TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND**
22 **REGISTRY INFORMATION CONCERNING THE APPLICANT'S IDENTITY,**
23 **INCLUDING:**

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

28 **(2) PERSONAL HISTORY AND EXPERIENCE IN A FORM**
29 **PRESCRIBED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND**
30 **REGISTRY, INCLUDING THE SUBMISSION OF AUTHORIZATION FOR THE**
31 **NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AND THE**
32 **COMMISSIONER TO OBTAIN:**

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

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

1 (D) TO IMPLEMENT THIS SUBTITLE, THE COMMISSIONER MAY USE THE
2 NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AS A
3 CHANNELING AGENT TO REQUEST INFORMATION FROM AND DISTRIBUTE
4 INFORMATION TO THE DEPARTMENT OF JUSTICE, ANY OTHER GOVERNMENTAL
5 AGENCY, ~~AND ANY OTHER SOURCE AS DIRECTED BY THE COMMISSIONER WITH~~
6 SUBJECT MATTER JURISDICTION, AND ANY OTHER STATE LICENSING ENTITY
7 THAT HAS LOAN ORIGINATORS REGISTERED WITH THE NATIONWIDE
8 MORTGAGE LICENSING SYSTEM AND REGISTRY.

9 11-507.

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

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

16 [(3) The application shall include:

17 (i) If the applicant is an individual, the applicant's name,
18 business address and telephone number, and residence address and telephone
19 number;

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

23 1. General partner, if the applicant is a limited
24 partnership;

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

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

29 (iii) If the applicant is a corporation:

30 1. The name, address, and telephone number of the
31 corporate entity; and

32 2. The name, the business telephone number, and the
33 residence address and telephone number of the president, senior vice presidents,

1 secretary, and treasurer, each director, and each stockholder owning or controlling 10
2 percent or more of any class of stock in the corporation;

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

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

7 (vi) Any other information that the Commissioner reasonably
8 requires.]

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

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

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

13 (c) **IN ADDITION TO THE LICENSE FEE REQUIRED UNDER SUBSECTION**
14 **(B)(2) OF THIS SECTION, AN APPLICANT FOR AN INITIAL LICENSE SHALL PAY TO**
15 **THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY ANY FEES**
16 **THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY**
17 **IMPOSES IN CONNECTION WITH THE APPLICATION.**

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

19 (1) Submit a separate application;

20 (2) Pay a separate license fee;

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

24 [(3)] (4) If applicable, pay the surcharge; and

25 [(4)] (5) File a separate surety bond or other financial guaranty
26 under § 11-508 of this subtitle.

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

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

4 11–508.

5 ~~(b) The surety bond shall:~~

6 ~~(1) Run to the Commissioner and be for the benefit of any~~
7 ~~RESIDENTIAL mortgage loan borrower who has been damaged by a violation~~
8 ~~committed by a licensee of any law or regulation governing the activities of mortgage~~
9 ~~lenders;~~

10 ~~(2) Be issued by a surety company authorized to do business in the~~
11 ~~State;~~

12 ~~(3) Be conditioned that the applicant shall comply with all Maryland~~
13 ~~laws regulating the activities of mortgage lenders and RESIDENTIAL mortgage loan~~
14 ~~lending; and~~

15 ~~(4) Be approved by the Commissioner.~~

16 (d) (1) ~~If an applicant has conducted a mortgage lending business any~~
17 ~~time during the 36 months prior to the filing of an original or renewal application, the~~
18 ~~applicant shall provide a sworn statement setting forth the aggregate principal~~
19 ~~amount of RESIDENTIAL mortgage loans secured or to be secured by property located~~
20 ~~in Maryland and applied for and accepted or RESIDENTIAL mortgage loans secured or~~
21 ~~to be secured by property located in Maryland and applied for, procured, and accepted~~
22 ~~by the mortgage lender during the 12 months immediately preceding the month in~~
23 ~~which the application is filed.~~

24 (2) If an applicant has conducted a mortgage lending business any
25 time during the 36 months prior to the filing of an original application, but during that
26 time has not acted as a mortgage lender in Maryland, the applicant shall provide with
27 the original application a sworn statement setting forth the aggregate principal
28 amount of loans secured or to be secured by **A DWELLING OR** residential real
29 [property] **ESTATE** located in states other than Maryland and applied for, procured,
30 and accepted by the mortgage lender during the 12 months preceding the month in
31 which the application is filed.

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

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

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

4 (iii) ~~Where the aggregate principal amount of loans set forth in~~
5 ~~the sworn statement was more than \$10,000,000, a surety bond in the amount of~~
6 ~~\$150,000.~~

7 11-508.1.

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

11 (1) In the case of an applicant or licensee that does not lend money
12 secured by **A DWELLING OR** residential real [property] **ESTATE**, in the amount of
13 \$25,000; and

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

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

19 (ii) \$50,000, if the applicant or licensee, in the 12 months prior
20 to the license application or the renewal application, lent in the aggregate more than
21 \$1,000,000, but not more than \$5,000,000 secured by **A DWELLING OR** residential real
22 [property] **ESTATE**;

23 (iii) \$100,000, if the applicant or licensee, in the 12 months prior
24 to the license application or the renewal application, lent in the aggregate more than
25 \$5,000,000, but not more than \$10,000,000 secured by **A DWELLING OR** residential
26 real [property] **ESTATE**; and

27 (iv) \$250,000, if the applicant or licensee, in the 12 months prior
28 to the license application or the renewal application, lent in the aggregate more than
29 \$10,000,000 secured by **A DWELLING OR** residential real [property] **ESTATE**.

30 11-511.

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

- 1 (1) **BE FOR A MAXIMUM PERIOD OF 1 YEAR;**
 2 (2) **BEGIN ON THE DAY THE LICENSE IS ISSUED; AND**
 3 (3) **EXPIRE ON DECEMBER 31 OF THE YEAR THE LICENSE IS**
 4 **ISSUED.**

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

- 7 (1) Otherwise is entitled to be licensed;
 8 (2) Pays to the Commissioner a renewal fee set by the Commissioner;
 9 (3) Files a bond or bond continuation certificate for the amount
 10 required under § 11-508 of this subtitle; and
 11 (4) Submits to the Commissioner:
 12 (i) A renewal application on the form that the Commissioner
 13 requires; and
 14 (ii) Satisfactory evidence of compliance with any continuing
 15 education requirements set by regulations adopted by the 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 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) **IN ADDITION TO THE LICENSE RENEWAL FEE REQUIRED ~~IN~~ UNDER**
 25 **SUBSECTION (B)(2) OF THIS SECTION, AN APPLICANT FOR A LICENSE RENEWAL**
 26 **SHALL PAY TO THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND**
 27 **REGISTRY ANY FEES THAT THE NATIONWIDE MORTGAGE LICENSING SYSTEM**
 28 **AND REGISTRY IMPOSES IN CONNECTION WITH THE RENEWAL APPLICATION.**

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

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

3 ~~11-513.~~

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

7 ~~(1) This subtitle;~~

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

9 ~~(3) Any other provision regulating the application, making, brokering,
10 or servicing of RESIDENTIAL mortgage loans under Titles 12 through 14 of the
11 Commercial Law Article.~~

12 **11-513.1.**

13 **A LICENSEE SHALL SUBMIT TO THE NATIONWIDE MORTGAGE LICENSING
14 SYSTEM AND REGISTRY A REPORT OF CONDITION ONCE EACH CALENDAR YEAR
15 ON THE DATE, IN THE FORM, AND CONTAINING THE INFORMATION REQUIRED BY
16 THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.**

17 ~~11-515.~~

18 ~~(b) (1) Any person aggrieved by the conduct of a licensee under this
19 subtitle in connection with a RESIDENTIAL mortgage loan may file a written
20 complaint with the Commissioner who shall investigate the complaint.~~

21 ~~(2) The Commissioner may make any other investigation of any
22 person if the Commissioner has reasonable cause to believe that the person has
23 violated any provision of this subtitle, of any regulation adopted under this subtitle, or
24 of any other law regulating RESIDENTIAL mortgage loan lending in the State.~~

25 ~~(d) In connection with an examination or investigation made under this
26 section, the Commissioner may:~~

27 ~~(1) Examine the books and records of any licensee or of any other
28 person who the Commissioner believes has violated any provision of this subtitle, or
29 any rule or regulation adopted under this subtitle, or of any other law regulating
30 RESIDENTIAL mortgage loan lending in the State;~~

31 ~~(2) Subpoena documents or other evidence; and~~

1 ~~(3) Summon and examine under oath any person whose testimony the~~
2 ~~Commissioner requires.~~

3 ~~11-516.~~

4 ~~(a) If the Commissioner finds that the conduct of any other business conceals~~
5 ~~a violation or evasion of this subtitle or of any rule or regulation adopted under this~~
6 ~~subtitle, or of any law regulating RESIDENTIAL mortgage loan lending in the State,~~
7 ~~the Commissioner may issue a written order to a licensee to:~~

8 ~~(1) Stop doing business at any place in which the other business is~~
9 ~~conducted or solicited; or~~

10 ~~(2) Stop doing business in association or conjunction with the other~~
11 ~~business.~~

12 ~~11-517.~~

13 ~~(a) Subject to the hearing provisions of § 11-518 of this subtitle, the~~
14 ~~Commissioner may suspend or revoke the license of any licensee if the licensee or any~~
15 ~~owner, director, officer, member, partner, stockholder, employee, or agent of the~~
16 ~~licensee:~~

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

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

19 ~~(i) A felony; or~~

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

22 ~~(3) In connection with any RESIDENTIAL mortgage loan or loan~~
23 ~~application transaction:~~

24 ~~(i) Commits any fraud;~~

25 ~~(ii) Engages in any illegal or dishonest activities; or~~

26 ~~(iii) Misrepresents or fails to disclose any material facts to~~
27 ~~anyone entitled to that information;~~

28 ~~(4) Violates any provision of this subtitle or any rule or regulation~~
29 ~~adopted under it or any other law regulating RESIDENTIAL mortgage loan lending in~~
30 ~~the State; or~~

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

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

7 (i) Issuing an order:

8 1. To cease and desist from the violation and any further
 9 similar violations; and

10 2. Requiring the violator to take affirmative action to
 11 correct the violation including the restitution of money or property to any person
 12 aggrieved by the violation; and

13 (ii) Imposing a civil penalty not exceeding [\$1,000] ~~\$10,000~~
 14 \$5,000 for each violation.

15 (2) If a violator fails to comply with an order issued under paragraph
 16 (1)(i) of this subsection, the Commissioner may impose a civil penalty not exceeding
 17 [\$1,000] ~~\$10,000~~ \$5,000 for each violation from which the violator failed to cease and
 18 desist or for which the violator failed to take affirmative action to correct.

19 11-521.

20 (a) A mortgage lender shall require a borrower to [furnish] **PROVIDE** the
 21 mortgage lender with independent evidence of the commercial purpose of the loan
 22 where the loan is~~f~~:

23 (1) Secured~~d~~ **SECURED**, in whole or in part, by any interest in A
 24 **DWELLING OR** residential real [property] **ESTATE** in Maryland~~f~~; and

25 (2) In excess of \$75,000~~f~~.

26 ~~11-523.~~

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

32 11-601.

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

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

2 (c) "CLERICAL OR SUPPORT DUTIES" INCLUDE THE FOLLOWING
3 ACTIVITIES RELATING TO THE PROCESSING OR UNDERWRITING OF A
4 ~~RESIDENTIAL~~ MORTGAGE LOAN WHEN PERFORMED SUBSEQUENT TO THE
5 RECEIPT OF A LOAN APPLICATION:

6 (1) THE RECEIPT, COLLECTION, DISTRIBUTION, AND ANALYSIS OF
7 INFORMATION USUAL AND CUSTOMARY FOR THE PROCESSING OR
8 UNDERWRITING OF A ~~RESIDENTIAL~~ MORTGAGE LOAN; AND

9 (2) COMMUNICATION WITH A CONSUMER TO OBTAIN
10 INFORMATION NECESSARY FOR THE PROCESSING OR UNDERWRITING OF A
11 ~~RESIDENTIAL~~ MORTGAGE LOAN, TO THE EXTENT THAT THE COMMUNICATION
12 DOES NOT INCLUDE OFFERING OR NEGOTIATING ~~RESIDENTIAL~~ MORTGAGE
13 LOAN RATES OR TERMS, OR COUNSELING CONSUMERS ABOUT ~~RESIDENTIAL~~
14 MORTGAGE LOAN RATES OR TERMS.

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

17 (2) "DEPOSITORY INSTITUTION" INCLUDES CREDIT UNIONS.

18 (e) "FEDERAL BANKING AGENCIES" MEANS THE BOARD OF
19 GOVERNORS OF THE FEDERAL RESERVE SYSTEM, THE COMPTROLLER OF THE
20 CURRENCY, THE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION, THE
21 NATIONAL CREDIT UNION ADMINISTRATION, AND THE FEDERAL DEPOSIT
22 INSURANCE CORPORATION.

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

25 (g) "IMMEDIATE FAMILY MEMBER" MEANS A SPOUSE, CHILD, SIBLING,
26 PARENT, GRANDPARENT, GRANDCHILD, STEPPARENT, STEPCHILD, AND
27 STEPSIBLING.

28 [(d)] (h) "Independent contractor" means a person whose compensation is
29 paid without a deduction for federal or State income tax.

30 (i) "INDIVIDUAL" MEANS A NATURAL PERSON.

31 (j) "INDIVIDUAL LOAN SERVICER" MEANS AN INDIVIDUAL WHO ON
32 BEHALF OF A NOTE HOLDER OR MORTGAGE LOAN SERVICER:

1 **(1) COLLECTS OR RECEIVES PAYMENTS, INCLUDING PAYMENTS**
 2 **OF PRINCIPAL, INTEREST, ESCROW AMOUNTS, AND OTHER AMOUNTS DUE ON**
 3 **EXISTING MORTGAGE LOAN OBLIGATIONS OWED TO THE NOTE HOLDER OR**
 4 **MORTGAGE LOAN SERVICER, AT A TIME WHEN THE BORROWER IS IN DEFAULT,**
 5 **OR IN REASONABLY FORESEEABLE LIKELIHOOD OF DEFAULT; AND**

6 **(2) WORKING WITH THE BORROWER AND THE NOTE HOLDER OR**
 7 **MORTGAGE LOAN SERVICER, COLLECTS DATA AND MAKES DECISIONS TO**
 8 **MODIFY, EITHER TEMPORARILY OR PERMANENTLY, THE TERMS OF THE**
 9 **MORTGAGE LOAN OBLIGATIONS DESCRIBED IN ITEM (1) OF THIS SUBSECTION**
 10 **OR TO PROCEED WITH COLLECTION EFFORTS THROUGH FORECLOSURE OR**
 11 **OTHER PROCESSES.**

12 ~~[(e)]~~ **(K)** “License” means a license issued by the Commissioner under this
 13 subtitle.

14 ~~[(f)]~~ **(L)** “Licensee” means an individual who is licensed by the
 15 Commissioner under this subtitle.

16 ~~[(g)]~~ **(M)** “Loan application” has the meaning stated in § 11-501 of this
 17 title.

18 ~~[(h)]~~ **(N)** “Mortgage lender” means a person that is licensed as a mortgage
 19 lender under Subtitle 5 of this title.

20 ~~[(i)]~~ **(O)** “Mortgage lending business” has the meaning stated in § 11-501
 21 of this title.

22 ~~[(j)]~~ **(P)** “Mortgage loan” has the meaning stated in § 11-501 of this title.‡

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

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

25 1. Is a mortgage broker as defined in § 11-501(h) of this
 26 title; or

27 2. Has or will have a net branch office at or out of which
 28 the individual works or will work;

29 (ii) Directly contacts prospective borrowers for the purpose of
 30 negotiating with or advising the prospective borrowers regarding mortgage loan terms
 31 and availability;

32 (iii) Receives from the mortgage lender compensation that is
 33 calculated:

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

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

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

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

9 (i) Owns a 25 percent or more interest in the mortgage lender;
10 or

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

12 [(1) (1) “Net branch office” means a branch office of a mortgage lender that
13 is separately licensed under Subtitle 5 of this title if:

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

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

21 1. A mortgage originator who works in or out of the
22 branch office; or

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

25 (iii) The mortgage lender is not:

26 1. An obligor on a lease of the premises of the branch
27 location; or

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

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

1 ~~(Q)~~ (Q) (1) “MORTGAGE LOAN ORIGINATOR” MEANS AN INDIVIDUAL WHO
2 FOR COMPENSATION OR GAIN, OR IN THE EXPECTATION OF COMPENSATION OR
3 GAIN:

4 (I) TAKES A LOAN APPLICATION; OR

5 (II) OFFERS OR NEGOTIATES TERMS OF A ~~RESIDENTIAL~~
6 MORTGAGE LOAN.

7 (2) “MORTGAGE LOAN ORIGINATOR” DOES NOT INCLUDE AN
8 INDIVIDUAL WHO:

9 (I) ACTS SOLELY AS A MORTGAGE LOAN PROCESSOR OR
10 UNDERWRITER;

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

17 (III) IS INVOLVED SOLELY IN EXTENSIONS OF CREDIT
18 RELATING TO TIMESHARE PLANS, AS THAT TERM IS DEFINED IN 11 U.S.C. §
19 101(53D).

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

25 (2) “MORTGAGE LOAN PROCESSOR OR UNDERWRITER” DOES NOT
26 INCLUDE AN INDIVIDUAL WHO:

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

32 (II) PERFORMS ~~RESIDENTIAL~~ MORTGAGE LOAN
33 PROCESSING OR UNDERWRITING ACTIVITIES AS AN INDEPENDENT
34 CONTRACTOR.

1 ~~(Q)~~ (S) “NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY”
2 HAS THE MEANING STATED IN § 11-501 OF THIS TITLE.

3 ~~(R)~~ (T) “NONTRADITIONAL MORTGAGE PRODUCT” MEANS ANY
4 MORTGAGE PRODUCT OTHER THAN A 30-YEAR FIXED RATE MORTGAGE LOAN.

5 ~~(S)~~ (U) “PERSON” HAS THE MEANING STATED IN § 11-501 OF THIS
6 TITLE.

7 ~~(T)~~ (V) “REAL ESTATE BROKERAGE ACTIVITY” MEANS ANY ACTIVITY
8 FOR WHICH A LICENSE IS REQUIRED UNDER TITLE 17 OF THE BUSINESS
9 OCCUPATIONS AND PROFESSIONS ARTICLE.

10 ~~(U)~~ (W) “REGISTERED MORTGAGE LOAN ORIGINATOR” MEANS ANY
11 INDIVIDUAL WHO:

12 (1) IS A MORTGAGE LOAN ORIGINATOR; AND

13 (2) IS AN EMPLOYEE OF:

14 (I) A DEPOSITORY INSTITUTION;

15 (II) A SUBSIDIARY THAT IS:

16 1. OWNED AND CONTROLLED BY A DEPOSITORY
17 INSTITUTION; AND

18 2. REGULATED BY A FEDERAL BANKING AGENCY; OR

19 (III) AN INSTITUTION REGULATED BY THE FARM CREDIT
20 ADMINISTRATION; AND

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

23 ~~(V)~~ ~~“RESIDENTIAL MORTGAGE LOAN” HAS THE MEANING STATED IN §~~
24 ~~11-501 OF THIS TITLE.~~

25 ~~(W)~~ (X) “RESIDENTIAL REAL ESTATE” HAS THE MEANING STATED IN §
26 11-501 OF THIS TITLE.

27 ~~(X)~~ (Y) “UNIQUE IDENTIFIER” MEANS A NUMBER OR OTHER IDENTIFIER
28 ASSIGNED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND
29 REGISTRY.

1 11-602.

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

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

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

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

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

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

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

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

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

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

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

1 **(5) SUBJECT TO SUBSECTION (E) OF THIS SECTION, AN**
 2 **INDIVIDUAL LOAN SERVICER.**

3 **(E) THE EXEMPTION UNDER SUBSECTION (D)(5) OF THIS SECTION IS**
 4 **SUBJECT TO MODIFICATION BY REGULATIONS THAT ARE ADOPTED BY THE**
 5 **COMMISSIONER AND CONSISTENT WITH ANY APPLICABLE WRITTEN**
 6 **INTERPRETATIONS OF THE FEDERAL SECURE AND FAIR ENFORCEMENT FOR**
 7 **MORTGAGE LICENSING ACT OF 2008 BY THE UNITED STATES DEPARTMENT OF**
 8 **HOUSING AND URBAN DEVELOPMENT PRESENTED THROUGH COMMENTARIES,**
 9 **GUIDELINES, RULES, REGULATIONS, OR INTERPRETIVE LETTERS.**

10 **[(b)] ~~(E)~~ (F)** The Commissioner may adopt regulations to carry out this subtitle.
 11 11-603.

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

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

15 **(2) A PERSON WHO IS EXEMPT FROM LICENSING AS A MORTGAGE**
 16 **LENDER.**

17 (b) A licensee may not:

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

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

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

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

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

24 **(III) THE UNIQUE IDENTIFIER OF THE LICENSEE IF THE**
 25 **LICENSEE HAS BEEN ISSUED A UNIQUE IDENTIFIER.**

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

1 (I) NOTIFIES THE COMMISSIONER IN WRITING IN ADVANCE
2 OF A CHANGE IN THE LICENSEE'S NAME OR THE LICENSEE'S EMPLOYER;

3 (II) PAYS TO THE COMMISSIONER A LICENSE AMENDMENT
4 FEE SET BY THE COMMISSIONER FOR EACH NOTICE PROVIDED UNDER THIS
5 PARAGRAPH;

6 (III) RETURNS TO THE COMMISSIONER THE LICENSEE'S
7 LICENSE, OR AN AFFIDAVIT STATING THAT THE LICENSE HAS BEEN LOST OR
8 DESTROYED; AND

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

12 (3) IF A LICENSEE CEASES TO BE EMPLOYED BY A LICENSED
13 MORTGAGE LENDER OR BY A PERSON EXEMPT FROM LICENSING AS A
14 MORTGAGE LENDER, THE LICENSEE SHALL NOTIFY THE COMMISSIONER WITHIN
15 10 BUSINESS DAYS, AND THE LICENSE SHALL BE PLACED INTO NONACTIVE
16 STATUS.

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

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

21 (I) THE LICENSEE:

22 1. NOTIFIES THE COMMISSIONER IN WRITING THAT
23 THE LICENSEE HAS OBTAINED EMPLOYMENT WITH A LICENSED MORTGAGE
24 LENDER OR WITH A PERSON EXEMPT FROM LICENSING AS A MORTGAGE
25 LENDER; AND

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

28 (II) THE LICENSE EXPIRES OR IS REVOKED.

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

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

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

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

7 **(F) THIS SECTION DOES NOT APPLY TO AN AFFILIATED INSURANCE**
8 **PRODUCER-MORTGAGE LOAN ORIGINATOR LICENSED UNDER § 11-603.1 OF**
9 **THIS SUBTITLE.**

10 **11-603.1.**

11 **(A) IN THIS SECTION, “AFFILIATED INSURANCE PRODUCER-MORTGAGE**
12 **LOAN ORIGINATOR” MEANS AN INDIVIDUAL WHO:**

13 **(1) ORIGINATES MORTGAGE LOANS ONLY ON BEHALF OF A**
14 **SINGLE FINANCIAL INSTITUTION THAT IS:**

15 **(I) DESCRIBED IN § 11-502(B)(1) OF THIS TITLE; AND**

16 **(II) APPROVED BY THE COMMISSIONER UNDER**
17 **SUBSECTION (B) OF THIS SECTION;**

18 **(2) IS A LICENSED INSURANCE PRODUCER IN GOOD STANDING**
19 **UNDER § 10-103 OF THE INSURANCE ARTICLE; AND**

20 **(3) HOLDS AN APPOINTMENT AS AN INSURANCE PRODUCER FOR**
21 **AN INSURER THAT CONTROLS, IS CONTROLLED BY, OR IS UNDER COMMON**
22 **CONTROL WITH:**

23 **(I) THE FINANCIAL INSTITUTION DESCRIBED IN ITEM (1)**
24 **OF THIS SUBSECTION; OR**

25 **(II) A MORTGAGE LENDER LICENSEE THAT:**

26 **1. IS APPROVED BY THE COMMISSIONER UNDER**
27 **SUBSECTION (C) OF THIS SECTION; AND**

28 **2. ORIGINATES LOANS ONLY ON BEHALF OF THE**
29 **FINANCIAL INSTITUTION DESCRIBED IN ITEM (1) OF THIS SUBSECTION UNDER**
30 **AN EXCLUSIVE CONTRACT WITH THE FINANCIAL INSTITUTION.**

1 **(B) THE COMMISSIONER SHALL APPROVE A FINANCIAL INSTITUTION**
2 **DESCRIBED IN SUBSECTION (A)(1) OF THIS SECTION BASED ON THE FOLLOWING**
3 **CRITERIA:**

4 **(1) THE FINANCIAL INSTITUTION IS IN GOOD STANDING WITH ITS**
5 **PRIMARY STATE OR FEDERAL REGULATOR; AND**

6 **(2) THE FINANCIAL INSTITUTION IS IN MATERIAL COMPLIANCE**
7 **WITH APPLICABLE STATE AND FEDERAL LAW.**

8 **(C) THE COMMISSIONER SHALL APPROVE A MORTGAGE LENDER**
9 **LICENSEE DESCRIBED IN SUBSECTION (A)(3)(II) OF THIS SECTION BASED ON**
10 **THE FOLLOWING CRITERIA:**

11 **(1) THE MORTGAGE LENDER LICENSEE IS IN GOOD STANDING**
12 **WITH THE COMMISSIONER AND ANY OTHER REGULATOR TO WHICH IT IS**
13 **SUBJECT; AND**

14 **(2) THE MORTGAGE LENDER LICENSEE IS IN MATERIAL**
15 **COMPLIANCE WITH APPLICABLE STATE AND FEDERAL LAW.**

16 **(D) APPROVAL BY THE COMMISSIONER OF A FINANCIAL INSTITUTION**
17 **UNDER SUBSECTION (B) OF THIS SECTION AND A MORTGAGE LENDER LICENSEE**
18 **UNDER SUBSECTION (C) OF THIS SECTION SHALL BE IN WRITING.**

19 **(E) (1) AN APPLICATION FOR A LICENSE UNDER THIS SECTION SHALL**
20 **BE IN THE FORM APPROVED BY THE COMMISSIONER.**

21 **(2) THE APPLICATION SHALL REQUIRE THE IDENTIFICATION OF:**

22 **(I) THE FINANCIAL INSTITUTION DESCRIBED IN**
23 **SUBSECTION (A)(1) OF THIS SECTION;**

24 **(II) IF APPLICABLE, THE MORTGAGE LENDER LICENSEE**
25 **DESCRIBED IN SUBSECTION (A)(3)(II) OF THIS SECTION; AND**

26 **(III) THE INSURER WITH WHICH THE APPLICANT HOLDS AN**
27 **APPOINTMENT.**

28 **(3) AN APPLICATION FOR A LICENSE UNDER THIS SECTION SHALL**
29 **BE SIGNED BY AN AUTHORIZED REPRESENTATIVE OF:**

30 **(I) THE FINANCIAL INSTITUTION IDENTIFIED IN THE**
31 **APPLICATION; OR**

1 **(II) IF A MORTGAGE LENDER LICENSEE IS IDENTIFIED IN**
2 **THE APPLICATION, THE MORTGAGE LENDER LICENSEE.**

3 **(F) NOTWITHSTANDING §§ 11-602(A) AND 11-603 OF THIS SUBTITLE,**
4 **AND SUBJECT TO THE PROVISIONS OF THIS SECTION, A LICENSE ISSUED UNDER**
5 **THIS SECTION AUTHORIZES THE LICENSEE TO ACT AS A MORTGAGE LOAN**
6 **ORIGINATOR.**

7 **(G) AN APPLICANT FOR A LICENSE UNDER THIS SECTION AND A**
8 **LICENSEE UNDER THIS SECTION SHALL COMPLY WITH ALL OTHER**
9 **REQUIREMENTS FOR LICENSURE AS A MORTGAGE LOAN ORIGINATOR UNDER**
10 **THIS SUBTITLE.**

11 **(H) A LICENSEE UNDER THIS SECTION SHALL LIMIT THE LICENSEE'S**
12 **ACTIVITIES TO ORIGINATING MORTGAGE LOANS ONLY ON BEHALF OF A SINGLE**
13 **FINANCIAL INSTITUTION APPROVED BY THE COMMISSIONER UNDER**
14 **SUBSECTION (B) OF THIS SECTION.**

15 **(I) THE FINANCIAL INSTITUTION IDENTIFIED IN A LICENSEE'S LICENSE**
16 **APPLICATION OR, IF A MORTGAGE LENDER LICENSEE IS IDENTIFIED IN A**
17 **LICENSEE'S LICENSE APPLICATION, THE MORTGAGE LENDER LICENSEE SHALL:**

18 **(1) SUPERVISE THE LICENSEE, INCLUDING PROVIDING**
19 **DIRECTION THROUGH WRITTEN INSTRUCTIONS OR ELECTRONIC MEANS AND BY**
20 **PERIODICALLY EXAMINING THE LICENSEE'S BOOKS, RECORDS, AND OTHER**
21 **ASPECTS OF THE LICENSEE'S BUSINESS;**

22 **(2) BE HELD JOINTLY AND SEVERALLY LIABLE WITH THE**
23 **LICENSEE FOR CLAIMS ARISING OUT OF THE LICENSEE'S MORTGAGE LOAN**
24 **ORIGINATION ACTIVITIES; AND**

25 **(3) MEET, OR CAUSE THE LICENSEE TO MEET, THE SURETY BOND**
26 **REQUIREMENTS UNDER § 11-619(C) OF THIS SUBTITLE.**

27 **(J) EXCEPT AS PROVIDED IN SUBSECTION (K) OF THIS SECTION, A**
28 **LICENSEE UNDER THIS SECTION MAY NOT:**

29 **(1) AID OR ASSIST A BORROWER TO OBTAIN A MORTGAGE LOAN**
30 **FROM A FINANCIAL INSTITUTION OTHER THAN THE FINANCIAL INSTITUTION**
31 **IDENTIFIED IN THE LICENSEE'S LICENSE APPLICATION;**

32 **(2) EXCEPT FOR COMPENSATION BASED ON THE PRINCIPAL**
33 **BALANCE OF A MORTGAGE LOAN, BE COMPENSATED BY ANY PERSON FOR**
34 **MORTGAGE LOAN ORIGINATION ACTIVITIES ON A BASIS THAT DEPENDS ON THE**
35 **TERMS OF THE MORTGAGE LOAN, INCLUDING INTEREST RATE OR FEES;**

1 **(3) RECEIVE A FINDER'S FEE, AS DEFINED IN § 12-801 OF THE**
2 **COMMERCIAL LAW ARTICLE;**

3 **(4) HANDLE BORROWER OR OTHER THIRD PARTY FUNDS IN**
4 **CONNECTION WITH THE ORIGINATION OR CLOSING OF A MORTGAGE LOAN;**

5 **(5) REFER A BORROWER TO ANY OTHER LICENSEE UNDER**
6 **SUBTITLE 5 OF THIS TITLE; OR**

7 **(6) MAKE OR SERVICE A MORTGAGE LOAN.**

8 **(K) A LICENSEE UNDER THIS SECTION MAY FORWARD A CHECK TO THE**
9 **FINANCIAL INSTITUTION IDENTIFIED IN THE LICENSEE'S LICENSE APPLICATION**
10 **IF THE CHECK IS:**

11 **(1) MADE PAYABLE TO THE FINANCIAL INSTITUTION;**

12 **(2) FROM AN APPLICANT FOR A MORTGAGE LOAN; AND**

13 **(3) IN CONNECTION WITH AN APPLICATION FOR A MORTGAGE**
14 **LOAN TO COVER COSTS FOR:**

15 **(I) AN APPRAISAL;**

16 **(II) A CREDIT REPORT; OR**

17 **(III) PROCESSING THE APPLICATION.**

18 **(L) AN AFFILIATED INSURANCE PRODUCER-MORTGAGE LOAN**
19 **ORIGINATOR WHO HOLDS A MORTGAGE LENDER LICENSE UNDER § 11-506(C)**
20 **OF THIS TITLE ON JULY 1, 2009, MAY CONTINUE TO ORIGINATE MORTGAGES**
21 **UNDER A VALID MORTGAGE LENDER LICENSE UNTIL DECEMBER 31, 2009,**
22 **PROVIDED THAT THE AFFILIATED INSURANCE PRODUCER-MORTGAGE LOAN**
23 **ORIGINATOR TAKES THE ACTIONS NECESSARY TO PARTICIPATE IN THE**
24 **NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AS REQUIRED BY**
25 **THE COMMISSIONER.**

26 [11-604.

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

29 (1) A licensee; or

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

3 [11-606.] **11-604.**

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

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

9 [(3) The application shall include:

10 (i) The applicant's name, Social Security number, business
11 address and telephone number, residence address, residence telephone number, and
12 electronic mail address;

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

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

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

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

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

30 1. Denied an application for a license;

31 2. Revoked or suspended a license; or

32 3. Imposed any other formal order or regulatory
33 sanction.]

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

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

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

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

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

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

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

23 (i) **AN INDEPENDENT CREDIT REPORT FROM A CONSUMER**
24 **REPORTING AGENCY DESCRIBED IN THE ~~FEDERAL~~ FEDERAL FAIR CREDIT**
25 **REPORTING ACT, 15 U.S.C. § 1681A(P); AND**

26 (ii) **INFORMATION RELATED TO ANY ADMINISTRATIVE,**
27 **CIVIL, OR CRIMINAL FINDINGS BY ANY GOVERNMENTAL JURISDICTION.**

28 (e) **TO IMPLEMENT THIS SUBTITLE, THE COMMISSIONER MAY USE THE**
29 **NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY AS A**
30 **CHANNELING AGENT TO REQUEST INFORMATION FROM AND DISTRIBUTE**
31 **INFORMATION TO THE DEPARTMENT OF JUSTICE, ANY OTHER GOVERNMENTAL**
32 **AGENCY, ~~AND ANY OTHER SOURCE AS DIRECTED BY THE COMMISSIONER~~ WITH**
33 **SUBJECT MATTER JURISDICTION, AND ANY OTHER STATE LICENSING ENTITY**
34 **THAT HAS LOAN ORIGINATORS REGISTERED WITH THE NATIONWIDE**
35 **MORTGAGE LICENSING SYSTEM AND REGISTRY.**

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

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

13 11-605.

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

15 (1) The applicant:

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

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

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

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

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

32 (c) The Commissioner may not deny an application based solely on the
33 applicant's financial condition, credit history, or net worth, or the involvement of the
34 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 DOES NOT MEET THE REQUIREMENTS FOR FINANCIAL RESPONSIBILITY FOR
33 PURPOSES OF UNDER SUBSECTION (A)(3) OF THIS SECTION MAY INCLUDE NOT
34 BE BASED SOLELY ON:

1 (1) ~~CURRENT OUTSTANDING JUDGMENTS, EXCEPT JUDGMENTS~~
2 ~~SOLELY AS A RESULT OF~~ DEBTS ARISING FROM MEDICAL EXPENSES, INCLUDING
3 JUDGMENTS;

4 (2) ~~CURRENT OUTSTANDING TAX LIENS OR OTHER GOVERNMENT~~
5 ~~LIENS AND FILINGS~~ EXCEPT FOR DELINQUENT CHILD SUPPORT PAYMENTS,
6 DEBTS, INCLUDING JUDGMENTS, ARISING FROM DIVORCE PROCEEDINGS OR
7 DIVORCE SETTLEMENTS;

8 (3) ~~FORECLOSURES WITHIN THE PAST 3 YEARS; AND~~ ON THE
9 APPLICANT'S PRINCIPAL RESIDENCE;

10 (4) ~~A PATTERN OF SERIOUSLY DELINQUENT ACCOUNTS WITHIN~~
11 ~~THE PAST 3 YEARS~~ THE APPLICANT'S CREDIT SCORE AS REPORTED BY ANY
12 CONSUMER REPORTING AGENCY, AS DEFINED IN 15 U.S.C. § 1681A; OR

13 (5) THE APPLICANT'S INVOLVEMENT IN A BANKRUPTCY
14 PROCEEDING UNDER TITLE 11 OF THE UNITED STATES CODE.

15 **11-605.1.**

16 (A) SUBJECT TO SUBSECTIONS (B) THROUGH (G) OF THIS SECTION, THE
17 COMMISSIONER MAY ISSUE AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE
18 TO AN INDIVIDUAL WHO PROVIDES TO THE COMMISSIONER WRITTEN PROOF,
19 SATISFACTORY TO THE COMMISSIONER, THAT THE INDIVIDUAL:

20 (1) IS EMPLOYED BY A PERSON WHO:

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

23 (II) ~~MAKES RESIDENTIAL~~ MORTGAGE LOANS; AND

24 (III) IS NOT A MORTGAGE BROKER; OR

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

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

30 (C) THE TERM OF AN INTERIM MORTGAGE LOAN ORIGINATOR LICENSE
31 SHALL:

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

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

3 (D) **AN APPLICANT FOR AN INTERIM MORTGAGE LOAN ORIGINATOR**
4 **LICENSE SHALL MEET THE QUALIFICATIONS FOR LICENSURE AS REQUIRED BY**
5 **THIS SUBTITLE, EXCEPT THAT THE APPLICANT OR INTERIM LICENSEE MAY**
6 **COMPLY WITH THE FOLLOWING ON OR BEFORE JULY 31, 2010:**

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

9 (2) **THE SURETY BOND COVERAGE REQUIREMENT UNDER §**
10 **11-619 OF THIS SUBTITLE;**

11 (3) **THE PRELICENSING EDUCATION REQUIREMENT UNDER §**
12 **11-606 OF THIS SUBTITLE; AND**

13 (4) **THE PRELICENSING TESTING REQUIREMENT UNDER §**
14 **11-606.1 OF THIS SUBTITLE.**

15 (E) (1) **THIS SUBSECTION DOES NOT APPLY TO AN INDIVIDUAL**
16 **DESCRIBED IN SUBSECTION (A)(2) OF THIS SECTION.**

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

19 (I) **MAY ENGAGE ONLY IN TRANSACTIONS IN WHICH THE**
20 **INDIVIDUAL'S EMPLOYER MAKES A ~~RESIDENTIAL~~ MORTGAGE LOAN; AND**

21 (II) **MAY NOT ENGAGE IN TRANSACTIONS IN WHICH THE**
22 **INDIVIDUAL'S EMPLOYER ACTS AS A MORTGAGE BROKER, AS DEFINED IN §**
23 **11-501 OF THIS TITLE.**

24 (3) **THE RESTRICTIONS ON AN INDIVIDUAL'S ACTIVITIES UNDER**
25 **PARAGRAPH (1) OF THIS SUBSECTION SHALL TERMINATE ON THE INDIVIDUAL'S**
26 **COMPLIANCE WITH:**

27 (I) **THE FINGERPRINTING AND CRIMINAL HISTORY REPORT**
28 **REQUIREMENT UNDER § 11-604 OF THIS SUBTITLE;**

29 (II) **THE SURETY BOND COVERAGE REQUIREMENT UNDER §**
30 **11-619 OF THIS SUBTITLE;**

1 (III) THE PRELICENSING EDUCATION REQUIREMENT UNDER
2 § 11-606 OF THIS SUBTITLE; AND

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

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

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

9 (2) 150 PERCENT OF THE LICENSING FEE REQUIRED UNDER §
10 11-604(B)(2) OF THIS SUBTITLE; AND

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

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

17 11-606.

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

21 (1) 3 HOURS OF INSTRUCTION ON FEDERAL LAW AND
22 REGULATIONS RELATING TO MORTGAGE ORIGINATION;

23 (2) 3 HOURS OF INSTRUCTION ON ETHICS, INCLUDING
24 INSTRUCTION ON FRAUD, CONSUMER PROTECTION, AND FAIR LENDING ISSUES;
25 AND

26 (3) 2 HOURS OF TRAINING RELATED TO LENDING STANDARDS
27 AND LOAN TERMS FOR THE NONTRADITIONAL MORTGAGE PRODUCT
28 MARKETPLACE PRODUCTS.

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

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

4 **(C) PRELICENSING 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) AN APPLICANT'S SUCCESSFUL COMPLETION IN ANOTHER STATE OF**
8 **THE PRELICENSING EDUCATION REQUIREMENTS APPROVED BY THE**
9 **NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, EXCEPT**
10 **PRELICENSING EDUCATION REQUIREMENTS SPECIFIC TO THAT OTHER STATE,**
11 **SHALL BE ACCEPTED BY THE COMMISSIONER AS CREDIT TOWARD COMPLETION**
12 **OF PRELICENSING EDUCATION REQUIREMENTS IN THIS STATE.**

13 **(E) THIS SECTION DOES NOT PRECLUDE ANY PRELICENSING**
14 **EDUCATION COURSE, AS APPROVED BY THE NATIONWIDE MORTGAGE**
15 **LICENSING SYSTEM AND REGISTRY, THAT IS PROVIDED BY THE EMPLOYER OF**
16 **THE APPLICANT OR AN ENTITY THAT IS AFFILIATED WITH THE APPLICANT BY AN**
17 **AGENCY CONTRACT, OR ANY SUBSIDIARY OR AFFILIATE OF THE EMPLOYER OR**
18 **ENTITY.**

19 **11-606.1.**

20 **(A) TO QUALIFY FOR AN INITIAL LICENSE, AN APPLICANT SHALL PASS A**
21 **QUALIFIED WRITTEN TEST DEVELOPED BY THE NATIONWIDE MORTGAGE**
22 **LICENSING SYSTEM AND REGISTRY AND ADMINISTERED BY A TEST PROVIDER**
23 **APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND**
24 **REGISTRY.**

25 **(B) A WRITTEN TEST SHALL NOT BE TREATED AS A QUALIFIED WRITTEN**
26 **TEST FOR PURPOSES OF SUBSECTION (A) OF THIS SECTION UNLESS THE TEST**
27 **ADEQUATELY MEASURES THE APPLICANT'S KNOWLEDGE AND COMPREHENSION**
28 **IN APPROPRIATE SUBJECT AREAS, INCLUDING:**

29 **(1) ETHICS;**

30 **(2) FEDERAL LAW AND REGULATIONS RELATING TO MORTGAGE**
31 **ORIGINATION;**

32 **(3) STATE LAW AND REGULATIONS RELATING TO MORTGAGE**
33 **ORIGINATION; AND**

1 **(4) FEDERAL AND STATE LAW AND REGULATIONS RELATING TO**
2 **FRAUD, CONSUMER PROTECTION, THE NONTRADITIONAL MORTGAGE PRODUCT**
3 **MARKETPLACE, AND FAIR LENDING ISSUES.**

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

6 **(D) AN APPLICANT MAY TAKE A TEST THREE TIMES, PROVIDED THAT**
7 **EACH SUBSEQUENT TEST OCCURS AT LEAST 30 DAYS AFTER THE PRECEDING**
8 **TEST.**

9 **(E) AFTER FAILING THREE TESTS, AN APPLICANT SHALL WAIT AT LEAST**
10 **6 MONTHS BEFORE TAKING THE TEST AGAIN.**

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

15 **(2) CALCULATION OF THE TIME PERIOD DURING WHICH AN**
16 **INDIVIDUAL IS UNLICENSED UNDER PARAGRAPH (1) OF THIS SUBSECTION**
17 **SHALL EXCLUDE ANY TIME DURING WHICH THE INDIVIDUAL IS A REGISTERED**
18 **MORTGAGE LOAN ORIGINATOR.**

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

25 11-607.

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

30 11-609.

31 [(a) A license issued on or after October 1, 2006, expires on December 31 in
32 each odd-numbered year after December 31, 2006, unless the license is renewed for a
33 2-year term as provided in this section.]

1 **(A) SUBJECT TO ANY REGULATIONS THE COMMISSIONER ADOPTS IN**
2 **CONNECTION WITH THE TRANSITION TO THE NATIONWIDE MORTGAGE**
3 **LICENSING SYSTEM AND REGISTRY, AN INITIAL LICENSE TERM SHALL:**

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

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

6 **(3) EXPIRE ON DECEMBER 31 OF THE YEAR THE LICENSE IS**
7 **ISSUED.**

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

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

13 **(2) Pays to the Commissioner a renewal fee set by the Commissioner;**
14 **and**

15 **(3) Submits to the Commissioner:**

16 **(i) A renewal application on the form that the Commissioner**
17 **requires; and**

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

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

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

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

27 **(3) EXPIRE ON DECEMBER 31 OF THE YEAR THE RENEWAL TERM**
28 **BEGINS.**

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

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

6 (E) ~~A NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS~~
 7 ~~SECTION OR § 11-605 OF THIS SUBTITLE, AN LICENSEE HOLDING A LICENSE~~
 8 ~~THAT EXPIRES BETWEEN~~ APPLICANT FOR RENEWAL OF A LICENSE WHO IS DULY
 9 ~~LICENSED UNDER THIS SUBTITLE ON JULY 1, 2009, AND DECEMBER 31, 2010,~~
 10 ~~MAY:~~

11 (1) MAY COMPLY WITH THE FOLLOWING REQUIREMENTS FOR
 12 RENEWAL OF THE LICENSE ON OR BEFORE DECEMBER 31, 2010:

13 ~~(1)~~ (I) THE FINGERPRINTING AND CRIMINAL HISTORY REPORT
 14 REQUIREMENT UNDER § 11-604 OF THIS SUBTITLE;

15 ~~(2)~~ (II) THE SURETY BOND COVERAGE REQUIREMENT UNDER §
 16 11-619 OF THIS SUBTITLE; AND

17 ~~(3)~~ (III) THE PRELICENSING TESTING REQUIREMENT UNDER §
 18 11-606.1 OF THIS SUBTITLE; AND

19 (2) IS DEEMED TO HAVE SATISFIED THE PRELICENSING
 20 EDUCATIONAL COURSE REQUIREMENT UNDER § 11-606 OF THIS SUBTITLE IF
 21 THE APPLICANT COMPLETED 20 HOURS OF CONTINUING EDUCATION COURSES
 22 APPROVED BY THE COMMISSIONER WITHIN 5 YEARS PRIOR TO THE EXPIRATION
 23 DATE OF THE APPLICANT'S CURRENT LICENSE.

24 ~~(F) A LICENSEE HOLDING A LICENSE THAT EXPIRES BETWEEN JULY 1,~~
 25 ~~2009, AND DECEMBER 31, 2010, MAY COMPLY WITH THE PRELICENSING~~
 26 ~~EDUCATION REQUIREMENT UNDER § 11-606 OF THIS SUBTITLE IF THE~~
 27 ~~LICENSEE HAS COMPLETED, WITHIN THE 2-YEAR PERIOD IMMEDIATELY~~
 28 ~~PRECEDING THE DATE OF THE RENEWAL APPLICATION, AT LEAST 20 HOURS OF~~
 29 ~~CONTINUING EDUCATION APPROVED BY THE COMMISSIONER BY REGULATION.~~

30 [(c)] ~~(G)~~ (F) If a license is surrendered voluntarily or is suspended or revoked,
 31 the Commissioner may not refund any part of the license fee regardless of the time
 32 remaining in the license term.

33 11-612.

1 **(A) BEFORE APPLYING FOR RENEWAL OF A LICENSE, A LICENSEE**
2 **SHALL COMPLETE AT LEAST 8 HOURS OF CONTINUING EDUCATION, WHICH**
3 **SHALL INCLUDE:**

4 **(1) 3 HOURS OF INSTRUCTION ON FEDERAL LAW AND**
5 **REGULATIONS RELATING TO MORTGAGE ORIGINATION;**

6 **(2) 2 HOURS OF INSTRUCTION ON ETHICS, INCLUDING**
7 **INSTRUCTION ON FRAUD, CONSUMER PROTECTION, AND FAIR LENDING ISSUES;**
8 **AND**

9 **(3) 2 HOURS OF TRAINING RELATED TO LENDING STANDARDS**
10 **FOR THE NONTRADITIONAL MORTGAGE PRODUCT MARKETPLACE.**

11 **(B) (1) ALL CONTINUING EDUCATION COURSES SHALL BE REVIEWED**
12 **AND APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM AND**
13 **REGISTRY.**

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

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

20 **(D) A LICENSEE:**

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

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

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

29 **(F) A LICENSEE'S SUCCESSFUL COMPLETION IN ANOTHER STATE OF**
30 **THE CONTINUING EDUCATION REQUIREMENTS APPROVED BY THE NATIONWIDE**
31 **MORTGAGE LICENSING SYSTEM AND REGISTRY, EXCEPT CONTINUING**
32 **EDUCATION REQUIREMENTS SPECIFIC TO THAT OTHER STATE, SHALL BE**
33 **ACCEPTED BY THE COMMISSIONER AS CREDIT TOWARDS COMPLETION OF**
34 **CONTINUING EDUCATION REQUIREMENTS IN THIS STATE.**

1 **(G) THIS SECTION DOES NOT PRECLUDE ANY CONTINUING EDUCATION**
2 **COURSE, AS APPROVED BY THE NATIONWIDE MORTGAGE LICENSING SYSTEM**
3 **AND REGISTRY, THAT IS PROVIDED BY THE EMPLOYER OF THE MORTGAGE LOAN**
4 **ORIGINATOR OR AN ENTITY THAT IS AFFILIATED WITH THE MORTGAGE LOAN**
5 **ORIGINATOR BY AN AGENCY CONTRACT, OR ANY SUBSIDIARY OR AFFILIATE OF**
6 **THE EMPLOYER OR ENTITY.**

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

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

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

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

14 11-613.

15 (a) (1) Any person aggrieved by the conduct of a licensee under this
16 subtitle in connection with a ~~RESIDENTIAL~~ mortgage loan may file a written
17 complaint with the Commissioner who shall investigate the complaint.

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

22 **(B) IN ADDITION TO THE REQUIREMENTS OF THIS SECTION, AN**
23 **AFFILIATED INSURANCE PRODUCER-MORTGAGE LOAN ORIGINATOR LICENSED**
24 **UNDER § 11-603.1 OF THIS SUBTITLE SHALL BE SUBJECT TO THE PROVISIONS**
25 **OF §§ 11-513 AND 11-515 OF THIS TITLE:**

26 **(1) TO THE EXTENT THE COMMISSIONER DETERMINES IS**
27 **NECESSARY TO ENABLE THE COMMISSIONER TO INVESTIGATE AND EXAMINE**
28 **THE MORTGAGE LOAN ORIGINATION ACTIVITIES OF THE AFFILIATED**
29 **INSURANCE PRODUCER-MORTGAGE LOAN ORIGINATOR; AND**

30 **(2) AS SPECIFIED IN REGULATIONS ADOPTED BY THE**
31 **COMMISSIONER.**

32 **[(b) (C) A licensee shall pay to the Commissioner a per-day fee set by the**
33 **Commissioner for each of the Commissioner's employees engaged in any investigation**
34 **conducted under this section that the Commissioner reasonably considers necessary.**

1 [(c)] (D) In connection with an investigation made under this section, the
2 Commissioner may:

3 (1) Examine the books and records of a licensee or of any other person
4 that the Commissioner believes has violated a provision of this subtitle, any rule or
5 regulation adopted under this subtitle, or any other law regulating mortgage lending
6 or mortgage origination in the State;

7 (2) Subpoena documents or other evidence; and

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

10 [(d)] (E) (1) If a person fails to comply with a subpoena or summons of
11 the Commissioner under this subtitle or to testify concerning any matter about which
12 the person may be interrogated under this subtitle, the Commissioner may file a
13 petition for enforcement with the circuit court for a county.

14 (2) On petition by the Commissioner, the court may order the person
15 to attend and testify or produce evidence.

16 11-615.

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

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

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

24 (3) In connection with any ~~RESIDENTIAL~~ mortgage loan or loan
25 application transaction:

26 (i) Commits any fraud;

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

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

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

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

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

7 (i) Issuing an order:

8 1. To cease and desist from the violation and any further
9 similar violations; and

10 2. Requiring the violator to take affirmative action to
11 correct the violation, including the restitution of money or property to any person
12 aggrieved by the violation; and

13 (ii) Imposing a civil penalty not exceeding [\$1,000] ~~\$10,000~~
14 \$5,000 for each violation.

15 (2) If a violator fails to comply with an order issued under paragraph
16 (1)(i) of this subsection, the Commissioner may impose a civil penalty not exceeding
17 [\$1,000] ~~\$10,000~~ \$5,000 for each violation from which the violator failed to cease and
18 desist or for which the violator failed to take affirmative action to correct.

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

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

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

27 **11-619.**

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

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

1 (2) A MORTGAGE LOAN ORIGINATOR WHO IS AN EMPLOYEE OF A
2 PERSON EXEMPT FROM LICENSURE UNDER SUBTITLE 5 OF THIS TITLE MAY USE
3 A SURETY BOND OF THE PERSON TO MEET THE MORTGAGE LOAN ORIGINATOR'S
4 SURETY BOND REQUIREMENT, PROVIDED THE SURETY BOND MEETS THE
5 REQUIREMENTS, BASED ON ~~RESIDENTIAL~~ MORTGAGE LOAN VOLUME, UNDER §
6 11-508 OF THIS TITLE.

7 (C) A LICENSEE WHO IS AN AFFILIATED INSURANCE
8 PRODUCER-MORTGAGE LOAN ORIGINATOR SHALL BE DEEMED IN COMPLIANCE
9 WITH THIS SECTION IF THE LICENSEE:

10 (1) HOLDS A SURETY BOND THAT WOULD SATISFY THE SURETY
11 BOND REQUIREMENTS UNDER § 11-508 OF THIS TITLE IF THE AFFILIATED
12 INSURANCE PRODUCER-MORTGAGE LOAN ORIGINATOR WERE A LICENSEE
13 UNDER SUBTITLE 5 OF THIS TITLE; OR

14 (2) IS COVERED UNDER A BLANKET SURETY BOND HELD BY THE
15 FINANCIAL INSTITUTION OR MORTGAGE LENDER LICENSEE IDENTIFIED IN §
16 11-603.1(A)(3) OF THIS SUBTITLE IF THE BLANKET SURETY BOND:

17 (I) COVERS ALL AFFILIATED INSURANCE
18 PRODUCER-MORTGAGE LOAN ORIGINATORS; AND

19 (II) IS IN THE AMOUNT OF \$1,000,000 OR ANOTHER
20 AMOUNT AS REQUIRED BY THE COMMISSIONER BY REGULATION.

21 11-620.

22 (A) (1) EXCEPT AS OTHERWISE PROVIDED IN 12 U.S.C. § 5111, THE
23 REQUIREMENTS UNDER ANY FEDERAL LAW AND §§ 10-611 THROUGH 10-628 OF
24 THE STATE GOVERNMENT ARTICLE REGARDING THE PRIVACY OR
25 CONFIDENTIALITY OF INFORMATION OR MATERIAL PROVIDED TO THE
26 NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY, AND ANY
27 PRIVILEGE ARISING UNDER FEDERAL OR STATE LAW, INCLUDING THE RULES OF
28 ANY FEDERAL OR STATE COURT WITH RESPECT TO THAT INFORMATION OR
29 MATERIAL, SHALL CONTINUE TO APPLY TO THAT INFORMATION OR MATERIAL
30 AFTER THE INFORMATION OR MATERIAL HAS BEEN DISCLOSED TO THE
31 NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

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

1 **(B) THE COMMISSIONER MAY ENTER INTO INFORMATION SHARING**
2 **AGREEMENTS WITH OTHER GOVERNMENTAL AGENCIES, THE CONFERENCE OF**
3 **STATE BANK SUPERVISORS, THE AMERICAN ASSOCIATION OF RESIDENTIAL**
4 **MORTGAGE REGULATORS, OR OTHER ASSOCIATIONS REPRESENTING**
5 **GOVERNMENTAL AGENCIES.**

6 **(C) INFORMATION OR MATERIAL THAT IS SUBJECT TO A PRIVILEGE OR**
7 **CONFIDENTIALITY UNDER SUBSECTION (A) OF THIS SECTION MAY NOT BE**
8 **SUBJECT TO:**

9 **(1) DISCLOSURE UNDER ANY FEDERAL OR STATE LAW**
10 **GOVERNING THE DISCLOSURE TO THE PUBLIC OF INFORMATION HELD BY AN**
11 **OFFICER OR AGENCY OF THE FEDERAL GOVERNMENT OR A STATE THAT HAS**
12 **RECEIVED THE INFORMATION OR MATERIAL; OR**

13 **(2) SUBPOENA, DISCOVERY, OR ADMISSION INTO EVIDENCE, IN**
14 **ANY PRIVATE CIVIL ACTION OR ADMINISTRATIVE PROCESS, UNLESS WITH**
15 **RESPECT TO ANY PRIVILEGE HELD BY THE NATIONWIDE MORTGAGE LICENSING**
16 **SYSTEM AND REGISTRY THE PERSON TO WHOM THE INFORMATION OR**
17 **MATERIAL PERTAINS WAIVES, IN WHOLE OR IN PART, THAT PRIVILEGE.**

18 **(D) ANY PROVISIONS OF §§ 10-611 THROUGH 10-628 OF THE STATE**
19 **GOVERNMENT ARTICLE RELATING TO THE DISCLOSURE OF ANY INFORMATION**
20 **OR MATERIAL DESCRIBED IN SUBSECTION (A) OF THIS SECTION THAT ARE**
21 **INCONSISTENT WITH SUBSECTION (A) OF THIS SECTION SHALL BE SUPERSEDED**
22 **BY THE REQUIREMENTS OF THIS SECTION.**

23 **(E) THIS SECTION DOES NOT APPLY TO INFORMATION OR MATERIAL**
24 **RELATING TO THE EMPLOYMENT HISTORY OF, AND PUBLICLY ADJUDICATED**
25 **DISCIPLINARY AND ENFORCEMENT ACTIONS AGAINST, MORTGAGE LOAN**
26 **ORIGINATORS THAT IS INCLUDED IN THE NATIONWIDE MORTGAGE LICENSING**
27 **SYSTEM AND REGISTRY AND DESIGNATED FOR ACCESS BY THE PUBLIC.**

28 **11-621.**

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

34 **11-622.**

1 (A) NOTWITHSTANDING §§ 10-611 THROUGH 10-628 OF THE STATE
2 GOVERNMENT ARTICLE, AND SUBJECT TO § 11-620 OF THIS SUBTITLE, THE
3 COMMISSIONER SHALL REPORT ADJUDICATED ENFORCEMENT ACTIONS AND
4 OTHER RELEVANT INFORMATION TO THE NATIONWIDE MORTGAGE LICENSING
5 SYSTEM AND REGISTRY.

6 (B) THE COMMISSIONER SHALL ADOPT REGULATIONS ESTABLISHING A
7 PROCESS BY WHICH A LICENSEE OR AN APPLICANT FOR A LICENSE MAY
8 CHALLENGE INFORMATION ENTERED BY THE COMMISSIONER INTO THE
9 NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY.

10 **11-623.**

11 ~~AS THE COMMISSIONER REQUIRES BY REGULATION, THE~~ THE UNIQUE
12 IDENTIFIER OF A MORTGAGE LOAN ORIGINATOR SHALL BE CLEARLY DISPLAYED
13 ~~ON LOAN APPLICATION FORMS, SOLICITATIONS, ADVERTISEMENTS, BUSINESS~~
14 ~~CARDS, WEBSITES, AND ANY OTHER FORMS OF COMMUNICATION SPECIFIED AS~~
15 REQUIRED BY THE COMMISSIONER BY REGULATION.

16 SECTION 2. AND BE IT FURTHER ENACTED, That licensing required under
17 § 11-602 of the Financial Institutions Article, as enacted by Section 1 of this Act, shall
18 apply to retail sellers of manufactured homes based on interpretations of the federal
19 Secure and Fair Enforcement for Mortgage Licensing Act of 2008 by the United States
20 Department of Housing and Urban Development presented through commentaries,
21 guidelines, rules, regulations, or interpretive letters.

22 SECTION 3. AND BE IT FURTHER ENACTED, That the prelicensing testing
23 requirement under § 11-609(e)(1)(iii) of the Financial Institutions Article, as enacted
24 by Section 1 of this Act, for licensees described in § 11-609(e)(1) of the Financial
25 Institutions Article, as enacted by Section 1 of this Act, shall be effective when and if
26 the United States Department of Housing and Urban Development determines
27 through commentaries, guidelines, rules, regulations, or interpretive letters that the
28 requirement is applicable to those licensees. If it is determined that the prelicensing
29 testing requirement is applicable to the licensees, the Commissioner of Financial
30 Regulation shall notify the licensees of the necessity for compliance.

31 SECTION ~~2~~ 4. AND BE IT FURTHER ENACTED, That this Act shall take
32 effect July 1, 2009.