

6924

2009-2010 Regular Sessions

I N A S S E M B L Y

March 17, 2009

Introduced by M. of A. TOWNS -- (at request of the Banking Department)
-- read once and referred to the Committee on Banks

AN ACT to amend the banking law, in relation to conforming the regulation of mortgage loan originators in New York Law to the federal law; and to repeal article 12-E of such law relating thereto

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Article 12-E of the banking law is REPEALED and a new arti-
2 cle 12-E is added to read as follows:

3 ARTICLE 12-E

4 LICENSED MORTGAGE LOAN ORIGINATORS

5 SECTION 599-A. LEGISLATIVE PURPOSE.

6 599-B. DEFINITIONS.

7 599-C. LICENSE REQUIRED.

8 599-D. STATE LICENSE APPLICATION.

9 599-E. ISSUANCE OF A LICENSE.

10 599-F. PRE-LICENSING EDUCATIONAL REQUIREMENTS.

11 599-G. TESTING OF MORTGAGE LOAN ORIGINATORS.

12 599-H. MORTGAGE CALL REPORTS.

13 599-I. STANDARDS FOR LICENSE RENEWAL; INACTIVE STATUS.

14 599-J. CONTINUING EDUCATION FOR MORTGAGE LOAN ORIGINATORS.

15 599-K. REQUIRED SURETY BOND.

16 599-L. REPORTS BY THE SUPERINTENDENT; PERMISSIVE CHALLENGES BY
17 LICENSEES.

18 599-M. REQUIRED RECORDS AND REPORTING.

19 599-N. ENFORCEMENT AUTHORITY; GROUNDS FOR SUSPENSION OR REVOCA-
20 TION OF A MORTGAGE LOAN ORIGINATOR LICENSE; RESTITU-
21 TION.

22 599-O. RULES, REGULATIONS AND EXAMINATIONS.

23 599-P. UNIQUE IDENTIFIER.

24 599-Q. CONFIDENTIALITY.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

LBD09527-02-9

599-R. CONSTRUCTION.

S 599-A. LEGISLATIVE PURPOSE. THE LEGISLATURE DEEMS IT NECESSARY, IN ORDER TO ENHANCE CONSUMER PROTECTION, REDUCE FRAUD AND ENSURE THE PUBLIC WELFARE, THAT MORTGAGE LOAN ORIGINATORS WHO ORIGINATE MORTGAGE LOANS ON RESIDENTIAL REAL PROPERTY BE SUBJECT TO REGULATION BY THE SUPERINTENDENT AND THAT SUCH REGULATION BE CONSISTENT WITH TITLE V OF THE HOUSING AND ECONOMIC RECOVERY ACT OF 2008, ALSO KNOWN AS THE S.A.F.E. MORTGAGE LICENSING ACT, AS IT MAY BE AMENDED FROM TIME TO TIME, AND REGULATIONS THEREUNDER OR INTERPRETATIONS THEREOF, THAT MAY BE ADOPTED FROM TIME TO TIME BY THE SECRETARY OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

S 599-B. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "ANNUAL EXPIRATION DATE" MEANS DECEMBER THIRTY-FIRST OF EACH YEAR.

2. "DEPOSITORY INSTITUTION" HAS THE SAME MEANING AS IN SECTION THREE OF THE FEDERAL DEPOSIT INSURANCE ACT, AND INCLUDES ANY CREDIT UNION.

3. "FEDERAL BANKING AGENCIES" MEANS THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM, THE COMPTROLLER OF THE CURRENCY, THE DIRECTOR OF THE OFFICE OF THRIFT SUPERVISION, THE NATIONAL CREDIT UNION ADMINISTRATION, AND THE FEDERAL DEPOSIT INSURANCE CORPORATION.

4. "IMMEDIATE FAMILY MEMBER" MEANS A SPOUSE, CHILD, SIBLING, PARENT, GRANDPARENT, OR GRANDCHILD. THIS INCLUDES STEPPARENTS, STEPCHILDREN, STEPSIBLINGS AND ADOPTIVE RELATIONSHIPS.

5. "INDIVIDUAL" MEANS A NATURAL PERSON.

6. LOAN PROCESSOR OR UNDERWRITER-

(A) "LOAN PROCESSOR OR UNDERWRITER" MEANS AN INDIVIDUAL WHO PERFORMS CLERICAL OR SUPPORT DUTIES AS AN EMPLOYEE AT THE DIRECTION OF AND SUBJECT TO THE SUPERVISION AND INSTRUCTION OF A PERSON LICENSED, OR EXEMPT FROM LICENSING, UNDER ARTICLE TWELVE-D OF THIS CHAPTER, PROVIDED THAT SUCH INDIVIDUAL DOES NOT REPRESENT TO THE PUBLIC, THROUGH ADVERTISING OR OTHER MEANS OF COMMUNICATING OR PROVIDING INFORMATION, INCLUDING THE USE OF BUSINESS CARDS, STATIONERY, BROCHURES, SIGNS, RATE LISTS, OR OTHER PROMOTIONAL ITEMS, THAT SUCH INDIVIDUAL CAN OR WILL PERFORM ANY OF THE ACTIVITIES OF A MORTGAGE LOAN ORIGINATOR.

(B) FOR PURPOSES OF THIS SUBDIVISION, "CLERICAL OR SUPPORT DUTIES" MAY INCLUDE SUBSEQUENT TO THE RECEIPT OF AN APPLICATION:

(I) THE RECEIPT, COLLECTION, DISTRIBUTION, AND ANALYSIS OF INFORMATION COMMON FOR THE PROCESSING OR UNDERWRITING OF A RESIDENTIAL MORTGAGE LOAN; AND

(II) COMMUNICATING WITH A CONSUMER TO OBTAIN THE INFORMATION NECESSARY FOR THE PROCESSING OR UNDERWRITING OF A LOAN, TO THE EXTENT THAT SUCH COMMUNICATION DOES NOT INCLUDE OFFERING OR NEGOTIATING LOAN RATES OR TERMS, OR COUNSELING CONSUMERS ABOUT RESIDENTIAL MORTGAGE LOAN RATES OR TERMS.

7. MORTGAGE LOAN ORIGINATOR (MLO) --

(A) "MORTGAGE LOAN ORIGINATOR" MEANS AN INDIVIDUAL WHO FOR COMPENSATION OR GAIN OR IN THE EXPECTATION OF COMPENSATION OR GAIN:

(I) TAKES A RESIDENTIAL MORTGAGE LOAN APPLICATION; OR

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

(B) DOES NOT INCLUDE:

(I) ANY INDIVIDUAL ENGAGED SOLELY AS A LOAN PROCESSOR OR UNDERWRITER EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION FOUR OF SECTION FIVE HUNDRED NINETY-NINE-C OF THIS ARTICLE;

(II) AN INDIVIDUAL WHO PERFORMS ONLY REAL ESTATE BROKERAGE ACTIVITIES AND IS LICENSED OR REGISTERED IN ACCORDANCE WITH APPLICABLE NEW YORK LAW, UNLESS THE INDIVIDUAL IS COMPENSATED BY A LENDER, A MORTGAGE

1 BROKER, OR OTHER MORTGAGE LOAN ORIGINATOR OR BY ANY AGENT OF SUCH LEND-
2 ER, MORTGAGE BROKER, OR OTHER MORTGAGE LOAN ORIGINATOR; AND

3 (III) AN INDIVIDUAL SOLELY INVOLVED IN EXTENSIONS OF CREDIT RELATING
4 TO TIMESHARE PLANS, AS THAT TERM IS DEFINED IN SECTION 101(53D) OF TITLE
5 11, UNITED STATES CODE.

6 (C) FOR PURPOSES OF THIS ARTICLE, "REAL ESTATE BROKERAGE ACTIVITY"
7 MEANS ANY ACTIVITY THAT INVOLVES OFFERING OR PROVIDING REAL ESTATE
8 BROKERAGE SERVICES TO THE PUBLIC, INCLUDING:

9 (I) ACTING AS A REAL ESTATE AGENT OR REAL ESTATE BROKER FOR A BUYER,
10 SELLER, LESSOR, OR LESSEE OF REAL PROPERTY;

11 (II) BRINGING TOGETHER PARTIES INTERESTED IN THE SALE, PURCHASE,
12 LEASE, RENTAL, OR EXCHANGE OF REAL PROPERTY;

13 (III) NEGOTIATING, ON BEHALF OF ANY PARTY, ANY PORTION OF A CONTRACT
14 RELATING TO THE SALE, PURCHASE, LEASE, RENTAL, OR EXCHANGE OF REAL PROP-
15 erty (OTHER THAN IN CONNECTION WITH PROVIDING FINANCING WITH RESPECT TO
16 ANY SUCH TRANSACTION);

17 (IV) ENGAGING IN ANY ACTIVITY FOR WHICH A PERSON ENGAGED IN THE ACTIV-
18 ity IS REQUIRED TO BE REGISTERED OR LICENSED AS A REAL ESTATE AGENT OR
19 REAL ESTATE BROKER UNDER ANY APPLICABLE LAW; AND

20 (V) OFFERING TO ENGAGE IN ANY ACTIVITY, OR ACT IN ANY CAPACITY,
21 DESCRIBED IN SUBPARAGRAPHS (I), (II), (III), OR (IV) OF THIS PARAGRAPH.

22 8. "RESIDENTIAL MORTGAGE LOAN" SHALL MEAN A LOAN TO A NATURAL PERSON
23 MADE PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD USE, SECURED BY EITHER
24 MORTGAGE, DEED OF TRUST OF OTHER EQUIVALENT CONSENSUAL SECURITY INTEREST
25 ON A DWELLING (AS DEFINED IN SECTION 1203(V) OF THE TRUTH IN LENDING
26 ACT) OR RESIDENTIAL REAL PROPERTY OR ANY CERTIFICATE OF STOCK OR OTHER
27 EVIDENCE OF OWNERSHIP IN, AND PROPRIETARY LEASE FROM, A CORPORATION OR
28 PARTNERSHIP FORMED FOR THE PURPOSE OF COOPERATIVE OWNERSHIP OF RESIDEN-
29 tial REAL PROPERTY AND SHALL INCLUDE ANY REFINANCE OR MODIFICATION OF
30 ANY SUCH EXISTING LOAN.

31 9. "NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY" (NMLSR) MEANS A
32 MORTGAGE LICENSING SYSTEM DEVELOPED AND MAINTAINED BY THE CONFERENCE OF
33 STATE BANK SUPERVISORS AND THE AMERICAN ASSOCIATION OF RESIDENTIAL MORT-
34 GAGE REGULATORS FOR THE LICENSING AND REGISTRATION OF LICENSED MORTGAGE
35 LOAN ORIGINATORS.

36 10. "NONTRADITIONAL MORTGAGE PRODUCT" MEANS, FOR PURPOSES OF THIS
37 ARTICLE, ANY MORTGAGE PRODUCT OTHER THAN A THIRTY-YEAR FIXED RATE MORT-
38 GAGE.

39 11. "ORIGINATING ENTITY" MEANS A PERSON OR ENTITY LICENSED OR REGIS-
40 TERED PURSUANT TO ARTICLE TWELVE-D OF THIS CHAPTER.

41 12. "PERSON" MEANS AN INDIVIDUAL OR ANY CORPORATION, COMPANY, LIMITED
42 LIABILITY COMPANY, PARTNERSHIP, ASSOCIATION OR OTHER ENTITY.

43 13. "REGISTERED MORTGAGE LOAN ORIGINATOR" MEANS ANY INDIVIDUAL WHO:

44 (A) MEETS THE DEFINITION OF MORTGAGE LOAN ORIGINATOR AND IS AN EMPLOY-
45 EE OF:

46 (I) A DEPOSITORY INSTITUTION;

47 (II) A SUBSIDIARY THAT IS OWNED AND CONTROLLED BY A DEPOSITORY INSTI-
48 TUTION AND REGULATED BY A FEDERAL BANKING AGENCY; OR

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

50 (B) IS REGISTERED WITH, AND MAINTAINS A UNIQUE IDENTIFIER THROUGH, THE
51 NMLSR.

52 14. "RESIDENTIAL REAL PROPERTY" SHALL MEAN REAL PROPERTY LOCATED IN
53 THIS STATE IMPROVED BY A ONE-TO-FOUR FAMILY RESIDENCE OR RESIDENTIAL
54 UNIT IN A BUILDING USED OR OCCUPIED, OR INTENDED TO BE USED OR OCCUPIED,
55 WHOLLY OR PARTLY, AS THE HOME OR RESIDENCE OF ONE OR MORE PERSONS, BUT

1 SHALL NOT REFER TO UNIMPROVED REAL PROPERTY UPON WHICH SUCH RESIDENCE IS
2 TO BE CONSTRUCTED.

3 15. "UNIQUE IDENTIFIER" MEANS A NUMBER OR OTHER IDENTIFIER ASSIGNED BY
4 PROTOCOLS ESTABLISHED BY THE NMLSR.

5 S 599-C. LICENSE REQUIRED. 1. LICENSE REQUIRED. NO INDIVIDUAL, UNLESS
6 SPECIFICALLY EXEMPT PURSUANT TO SUBDIVISION THREE OF THIS SECTION SHALL
7 ENGAGE IN THE BUSINESS OF A MORTGAGE LOAN ORIGINATOR WITH RESPECT TO ANY
8 DWELLING OR RESIDENTIAL REAL PROPERTY IN THIS STATE WITHOUT FIRST
9 OBTAINING AND MAINTAINING ANNUALLY A LICENSE UNDER THIS ARTICLE. EACH
10 LICENSED MORTGAGE LOAN ORIGINATOR MUST REGISTER WITH AND MAINTAIN A
11 VALID UNIQUE IDENTIFIER ISSUED BY THE NMLSR.

12 2. EFFECTIVE DATE. IN ORDER TO FACILITATE AN ORDERLY TRANSITION TO
13 LICENSING AND MINIMIZE DISRUPTION IN THE MORTGAGE MARKETPLACE:

14 (A) FOR ALL INDIVIDUALS, OTHER THAN INDIVIDUALS DESCRIBED IN PARAGRAPH
15 (B) OF THIS SUBDIVISION, LICENSING PURSUANT TO SUBDIVISION ONE OF THIS
16 SECTION SHALL BE REQUIRED AS OF JULY THIRTY-FIRST, TWO THOUSAND TEN, OR
17 SUCH LATER DATE APPROVED FOR MORTGAGE LOAN ORIGINATORS IN THIS STATE BY
18 THE SECRETARY OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
19 PURSUANT TO THE AUTHORITY GRANTED UNDER PUBLIC LAW 110-289, SECTION
20 1508(A) AND APPROVED BY THE SUPERINTENDENT;

21 (B) FOR ALL INDIVIDUALS AUTHORIZED AS MORTGAGE LOAN ORIGINATORS AS OF
22 THE EFFECTIVE DATE OF THIS ARTICLE, LICENSING PURSUANT TO SUBDIVISION
23 ONE OF THIS SECTION SHALL BE REQUIRED AS OF JANUARY FIRST, TWO THOUSAND
24 ELEVEN, OR SUCH LATER DATE APPROVED FOR MORTGAGE LOAN ORIGINATORS IN
25 THIS STATE BY THE SECRETARY OF THE U.S. DEPARTMENT OF HOUSING AND URBAN
26 DEVELOPMENT, PURSUANT TO THE AUTHORITY GRANTED UNDER PUBLIC LAW 110-289,
27 SECTION 1508(A) AND APPROVED BY THE SUPERINTENDENT; PROVIDED THAT, SUCH
28 INDIVIDUAL WAS EMPLOYED BY, OR SERVED AS AN INDEPENDENT CONTRACTOR OF,
29 AN ORIGINATING ENTITY AS OF THE DATE OF THE EFFECTIVE DATE OF THIS ARTI-
30 CLE, CONTINUED DURING ANY SUCH PERIOD TO BE SO EMPLOYED OR AFFILIATED
31 AND CONTINUED TO OTHERWISE SATISFY THE EDUCATIONAL AND OTHER REQUIRE-
32 MENTS TO BE A MORTGAGE LOAN ORIGINATOR AS IN EFFECT ON THE DAY PRIOR TO
33 THE EFFECTIVE DATE OF THIS ARTICLE. ANY SUCH INDIVIDUAL MAY CONTINUE TO
34 ENGAGE IN MORTGAGE LOAN ORIGINATING ACTIVITIES UNTIL SUCH TIME AS HE OR
35 SHE IS NOTIFIED THAT HIS OR HER APPLICATION UNDER THIS ARTICLE HAS BEEN
36 DENIED.

37 3. EXEMPTION FROM LICENSING REQUIREMENTS. THE FOLLOWING PERSONS ARE
38 EXEMPT FROM THE LICENSING REQUIREMENTS OTHERWISE APPLICABLE UNDER THIS
39 ARTICLE:

40 (A) REGISTERED MORTGAGE LOAN ORIGINATORS, WHEN ACTING FOR AN ENTITY
41 DESCRIBED IN SUBPARAGRAPHS (I), (II) AND (III) OF PARAGRAPH (A) OF
42 SUBDIVISION THIRTEEN OF SECTION FIVE HUNDRED NINETY-NINE-B OF THIS ARTI-
43 CLE.

44 (B) ANY INDIVIDUAL WHO OFFERS OR NEGOTIATES THE TERMS OF A RESIDENTIAL
45 MORTGAGE LOAN WITH OR ON BEHALF OF AN IMMEDIATE FAMILY MEMBER OF THE
46 INDIVIDUAL.

47 (C) ANY INDIVIDUAL WHO OFFERS OR NEGOTIATES TERMS OF A RESIDENTIAL
48 MORTGAGE LOAN SECURED BY A DWELLING OR RESIDENTIAL REAL PROPERTY THAT
49 SERVED AS THE INDIVIDUAL'S OWN RESIDENCE.

50 (D) A LICENSED ATTORNEY WHO NEGOTIATES THE TERMS OF A RESIDENTIAL
51 MORTGAGE LOAN ON BEHALF OF A CLIENT AS AN ANCILLARY MATTER TO THE ATTOR-
52 NEY'S REPRESENTATION OF THE CLIENT, UNLESS THE ATTORNEY IS COMPENSATED
53 BY A LENDER, A MORTGAGE BROKER, OR OTHER MORTGAGE LOAN ORIGINATOR OR BY
54 ANY AGENT OF SUCH LENDER, MORTGAGE BROKER, OR OTHER MORTGAGE LOAN ORIGI-
55 NATOR.

1 4. INDEPENDENT CONTRACTOR LOAN PROCESSORS OR UNDERWRITERS. A LOAN
2 PROCESSOR OR UNDERWRITER WHO IS AN INDEPENDENT CONTRACTOR OF AN ORIGI-
3 NATING ENTITY MAY NOT ENGAGE IN RESIDENTIAL MORTGAGE LOAN ORIGINATION
4 ACTIVITIES UNLESS SUCH INDEPENDENT CONTRACTOR LOAN PROCESSOR OR UNDER-
5 WRITER OBTAINS AND MAINTAINS A LICENSE UNDER THIS ARTICLE. EACH INDE-
6 PENDENT CONTRACTOR LOAN PROCESSOR OR UNDERWRITER LICENSED AS A MORTGAGE
7 LOAN ORIGINATOR MUST HAVE AND MAINTAIN A VALID UNIQUE IDENTIFIER ISSUED
8 BY THE NMLSR.

9 S 559-D. STATE LICENSE APPLICATION. 1. FORM OF APPLICATION. APPLICANTS
10 FOR A LICENSE UNDER THIS ARTICLE SHALL APPLY ON A FORM PRESCRIBED BY THE
11 SUPERINTENDENT. EACH SUCH FORM SHALL CONTAIN CONTENT AS SET FORTH BY
12 RULE, REGULATION, INSTRUCTION OR PROCEDURE OF THE SUPERINTENDENT AND MAY
13 BE CHANGED OR UPDATED AS NECESSARY BY THE SUPERINTENDENT IN ORDER TO
14 CARRY OUT THE PURPOSES OF THIS ARTICLE. AS PART OF SUCH APPLICATION AND
15 NOTWITHSTANDING SECTION EIGHTEEN-A OF THIS CHAPTER, THE APPLICANT (OR
16 HIS OR HER ORIGINATING ENTITY ON HIS OR HER BEHALF) SHALL PAY A FEE AS
17 DETERMINED BY THE SUPERINTENDENT AS AN INVESTIGATION AND INITIAL LICENSE
18 FEE; PROVIDED, HOWEVER, THAT THE INVESTIGATION PORTION OF SUCH FEE SHALL
19 BE NO MORE THAN THE SUPERINTENDENT'S REASONABLE ESTIMATE OF THE ACTUAL
20 COST OR COSTS TO THE DEPARTMENT TO UNDERTAKE SUCH INVESTIGATION OF THE
21 APPLICANT, AND THE INITIAL LICENSE PORTION OF SUCH FEE AND THE ANNUAL
22 LICENSE FEE AS HEREAFTER REQUIRED PURSUANT TO THIS ARTICLE SHALL BE A
23 LICENSE FEE AMOUNT DETERMINED BY THE SUPERINTENDENT.

24 2. CHARGES TO ORIGINATING ENTITIES. ANY EXPENSE OF THE ADMINISTRATION
25 OF THIS ARTICLE WITH RESPECT TO THE LICENSING OF MORTGAGE LOAN ORIGINA-
26 TORS THAT IS INCLUDED WITH AN ASSESSMENT OF ORIGINATING ENTITIES PURSU-
27 ANT TO SECTION SEVENTEEN OF THIS CHAPTER SHALL BE LEVIED ONLY UPON SUCH
28 ORIGINATING ENTITIES HAVING EMPLOYED OR AFFILIATED MORTGAGE LOAN ORIGI-
29 NATORS THAT ARE REQUIRED TO BE LICENSED.

30 3. FEE COLLECTION BY THE NMLSR. ANY FEE ESTABLISHED PURSUANT TO THIS
31 SECTION MAY BE COLLECTED BY THE NMLSR AND INCLUDE A PROCESSING FEE
32 CHARGED BY THAT ENTITY. ANY SUCH PROCESSING FEES SHALL NOT BE REMITTED
33 TO THE SUPERINTENDENT AND SHALL NOT BE DEEMED REVENUE PURSUANT TO THIS
34 SECTION OR THE STATE FINANCE LAW.

35 4. RELATIONSHIP WITH NMLSR. IN ORDER TO FULFILL THE PURPOSES OF THIS
36 ARTICLE, THE SUPERINTENDENT IS AUTHORIZED TO ESTABLISH CONTRACTS WITH
37 THE NMLSR OR OTHER ENTITIES DESIGNATED BY THE NMLSR TO COLLECT AND MAIN-
38 TAIN RECORDS AND PROCESS TRANSACTION FEES OR OTHER FEES RELATED TO
39 LICENSEES OR OTHER PERSONS SUBJECT TO THIS ARTICLE.

40 5. WAIVER OR MODIFICATION OF REQUIREMENTS. THE SUPERINTENDENT IS
41 AUTHORIZED TO WAIVE OR MODIFY, IN WHOLE OR PART, BY RULE, REGULATION OR
42 ORDER, ANY AND ALL REQUIREMENTS OF THIS ARTICLE AND TO ESTABLISH NEW
43 REQUIREMENTS AS MAY BE REASONABLY NECESSARY TO PARTICIPATE IN THE NMLSR
44 OR TO COMPLY WITH TITLE V OF THE HOUSING AND ECONOMIC RECOVERY ACT OF
45 2008, ALSO KNOWN AS THE S.A.F.E. MORTGAGE LICENSING ACT, AS IT MAY BE
46 AMENDED FROM TIME TO TIME, AND REGULATIONS THEREUNDER OR INTERPRETATIONS
47 THEREOF, THAT MAY BE ADOPTED FROM TIME TO TIME BY THE SECRETARY OF THE
48 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

49 6. ELECTRONIC FILING. NOTWITHSTANDING ARTICLE THREE OF THE STATE TECH-
50 NOLOGY LAW OR ANY OTHER LAW TO THE CONTRARY, THE SUPERINTENDENT MAY
51 REQUIRE THAT ANY APPLICATION FOR, OR RENEWAL OF, A LICENSE OR FOR ANY
52 OTHER SUBMISSION OR APPROVAL AS MAY BE REQUIRED BY THIS ARTICLE, BE MADE
53 OR EXECUTED BY ELECTRONIC MEANS, INCLUDING THROUGH THE NMLSR OR OTHER
54 ENTITIES DESIGNATED BY THE NMLSR IF HE OR SHE DEEMS IT NECESSARY TO
55 ENSURE THE EFFICIENT AND EFFECTIVE ADMINISTRATION OF THIS ARTICLE.

1 7. NMLSR AS AGENT TO DISTRIBUTE CRIMINAL BACKGROUND INFORMATION. FOR
2 THE PURPOSES OF THIS SECTION AND IN ORDER TO EXPEDITE THE PROCESSING OF
3 ALL FINGERPRINTS, THE SUPERINTENDENT IS AUTHORIZED TO USE THE NMLSR AS A
4 CHANNELING AGENT FOR REQUESTING INFORMATION FROM AND DISTRIBUTING INFOR-
5 MATION TO THE U.S. DEPARTMENT OF JUSTICE OR ANY GOVERNMENTAL AGENCY.

6 8. NMLSR AS AGENT TO DISTRIBUTE NON-CRIMINAL BACKGROUND INFORMATION.
7 FOR THE PURPOSES OF THIS SECTION AND IN ORDER TO EXPEDITE THE PROCESSING
8 OF ALL APPLICATIONS, INCLUDING OBTAINING INDEPENDENT CREDIT REPORTS AND
9 INFORMATION RELATED TO ADMINISTRATIVE, CIVIL OR CRIMINAL FINDINGS BY ANY
10 GOVERNMENTAL JURISDICTION, THE SUPERINTENDENT IS AUTHORIZED TO USE THE
11 NMLSR AS A CHANNELING AGENT FOR REQUESTING AND DISTRIBUTING INFORMATION
12 TO AND FROM ANY SOURCE.

13 9. BACKGROUND INFORMATION. IN CONNECTION WITH AN APPLICATION FOR
14 LICENSING AS A MORTGAGE LOAN ORIGINATOR, THE APPLICANT SHALL, AT A MINI-
15 MUM, FURNISH TO THE NMLSR AND THE SUPERINTENDENT, AS REQUIRED BY THE
16 SUPERINTENDENT, INFORMATION CONCERNING THE APPLICANT'S IDENTITY, INCLUD-
17 ING:

18 (A) FINGERPRINTS FOR SUBMISSION TO THE FEDERAL BUREAU OF INVESTI-
19 GATION, AND ANY GOVERNMENTAL AGENCY OR ENTITY AUTHORIZED TO RECEIVE SUCH
20 INFORMATION FOR A STATE, NATIONAL AND INTERNATIONAL CRIMINAL HISTORY
21 BACKGROUND CHECK, AS MAY BE DESIGNATED BY THE SUPERINTENDENT; AND

22 (B) PERSONAL HISTORY AND EXPERIENCE IN A FORM PRESCRIBED BY THE NMLSR,
23 INCLUDING THE SUBMISSION OF AUTHORIZATION FOR THE NMLSR TO OBTAIN:

24 (I) AN INDEPENDENT CREDIT REPORT FROM A CONSUMER REPORTING AGENCY
25 DESCRIBED IN SECTION 603(P) OF THE FAIR CREDIT REPORTING ACT; AND

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

28 (C) THE CURRENT BUSINESS NAME AND PRINCIPAL ADDRESS OF THE ORIGINATING
29 ENTITY EMPLOYING THE APPLICANT OR WITH WHICH THE APPLICANT HAS AN AFFIL-
30 IATION; AND

31 (D) SUCH OTHER PERTINENT INFORMATION AS THE SUPERINTENDENT MAY
32 REQUIRE.

33 S 599-E. ISSUANCE OF A LICENSE. 1. FINDINGS. NOTWITHSTANDING ANY OTHER
34 LAW, THE SUPERINTENDENT SHALL NOT ISSUE A MORTGAGE LOAN ORIGINATION
35 LICENSE UNLESS HE OR SHE MAKES, AT A MINIMUM, THE FOLLOWING FINDINGS:

36 (A) NO LICENSE REVOCATION. THAT THE APPLICANT HAS NEVER HAD A MORTGAGE
37 LOAN ORIGINATOR AUTHORIZATION, LICENSE OR LICENSE EQUIVALENT REVOKED IN
38 ANY GOVERNMENTAL JURISDICTION, EXCEPT THAT A SUBSEQUENT FORMAL VACATION
39 OF SUCH REVOCATION SHALL NOT BE DEEMED A REVOCATION;

40 (B) NO FELONY CONVICTION. THAT THE APPLICANT HAS NOT BEEN CONVICTED
41 OF, OR PLEAD GUILTY OR NOLO CONTENDERE TO, A FELONY IN A DOMESTIC,
42 FOREIGN, OR MILITARY COURT:

43 (I) DURING THE SEVEN-YEAR PERIOD PRECEDING THE DATE OF THE APPLICATION
44 FOR LICENSING; OR

45 (II) AT ANY TIME PRECEDING SUCH DATE OF APPLICATION, IF SUCH FELONY
46 INVOLVED AN ACT OF FRAUD, DISHONESTY, OR A BREACH OF TRUST, OR MONEY
47 LAUNDERING, PROVIDED THAT FOR PURPOSES OF THIS SUBDIVISION, THE SUPER-
48 INTENDENT MAY, IN HIS OR HER DISCRETION, DISREGARD A CONVICTION WHERE
49 THE FELON HAS BEEN PARDONED;

50 (C) CHARACTER AND FITNESS. THAT THE APPLICANT HAS DEMONSTRATED FINAN-
51 CIAL RESPONSIBILITY, CHARACTER, AND GENERAL FITNESS SUCH AS TO COMMAND
52 THE CONFIDENCE OF THE COMMUNITY AND TO WARRANT A DETERMINATION THAT THE
53 MLO WILL OPERATE HONESTLY, FAIRLY, AND EFFICIENTLY WITHIN THE PURPOSES
54 OF THIS ARTICLE;

1 (D) PRE-LICENSING EDUCATION. THAT THE APPLICANT HAS COMPLETED THE
2 PRE-LICENSING EDUCATION REQUIREMENT DESCRIBED IN SECTION FIVE HUNDRED
3 NINETY-NINE-F OF THIS ARTICLE;

4 (E) WRITTEN TEST. THAT THE APPLICANT HAS PASSED A WRITTEN TEST THAT
5 MEETS THE TEST REQUIREMENT DESCRIBED IN SECTION FIVE HUNDRED
6 NINETY-NINE-G OF THIS ARTICLE;

7 (F) SURETY BOND. THAT THE APPLICANT HAS MET THE SURETY BOND REQUIRE-
8 MENT DESCRIBED IN SECTION FIVE HUNDRED NINETY-NINE-K OF THIS ARTICLE;
9 AND

10 (G) AFFILIATION. THAT THE APPLICANT IS EMPLOYED BY, OR IS AN INDEPEND-
11 ENT CONTRACTOR OF, AN ORIGINATING ENTITY. A MORTGAGE LOAN ORIGINATOR MAY
12 NOT BE SIMULTANEOUSLY EMPLOYED OR AFFILIATED WITH MORE THAN ONE AFFIL-
13 IATED ENTITY.

14 2. DISQUALIFYING ASSOCIATIONS. THE SUPERINTENDENT MAY REFUSE TO ISSUE
15 A LICENSE PURSUANT TO THIS ARTICLE IF HE OR SHE SHALL FIND THAT THE
16 APPLICANT (A) HAS BEEN A DIRECTOR, PARTNER, OR SUBSTANTIAL STOCKHOLDER
17 OF AN ORIGINATING ENTITY WHICH HAS HAD A REGISTRATION OR LICENSE REVOKED
18 BY THE SUPERINTENDENT OR A REGULATOR OF ANOTHER STATE THAT REGULATES
19 SUCH ORIGINATING ENTITY, OR (B) HAS BEEN AN EMPLOYEE, OFFICER OR AGENT
20 OF, OR A CONSULTANT TO, AN ORIGINATING ENTITY THAT HAS HAD A REGISTRA-
21 TION OR LICENSE REVOKED BY THE SUPERINTENDENT OR A REGULATOR OF ANOTHER
22 STATE THAT REGULATES SUCH ORIGINATING ENTITY WHERE SUCH PERSON SHALL
23 HAVE BEEN FOUND BY THE SUPERINTENDENT OR BY SUCH REGULATOR OF ANOTHER
24 STATE TO BEAR RESPONSIBILITY FOR THE ACTS RESULTING IN SUCH REVOCATION.
25 FOR THE PURPOSES OF THIS SUBDIVISION, A PERSON SHALL BE DEEMED TO HAVE
26 BEEN CONVICTED OF A CRIME IF SUCH PERSON SHALL HAVE PLED GUILTY TO A
27 CHARGE THEREOF BEFORE A COURT OR MAGISTRATE, OR SHALL HAVE BEEN FOUND
28 GUILTY THEREOF BY THE DECISION OR JUDGMENT OF A COURT OR MAGISTRATE OR
29 BY THE VERDICT OF A JURY, IRRESPECTIVE OF THE PRONOUNCEMENT OF SENTENCE
30 OR THE SUSPENSION THEREOF.

31 3. ISSUANCE OF A LICENSE. THE SUPERINTENDENT, AFTER MAKING THE FIND-
32 INGS REQUIRED BY SUBDIVISION ONE OF THIS SECTION SHALL THEREUPON ISSUE A
33 LICENSE TO THE APPLICANT AS MORTGAGE LOAN ORIGINATOR. THE SUPERINTENDENT
34 SHALL TRANSMIT ONE COPY OF SUCH CERTIFICATE TO THE APPLICANT AND FILE
35 ANOTHER IN HIS OR HER OFFICE, AND SHALL TRANSMIT NOTICE OF APPROVAL OF
36 SUCH APPLICATION, IN SUCH FORM AS THE SUPERINTENDENT DEEMS APPROPRIATE,
37 TO THE ORIGINATING ENTITY FOR WHICH THE APPLICANT IS PROVIDING SERVICES.
38 SUCH LICENSE SHALL BE DEEMED TO TERMINATE AT THE END OF THE ANNUAL
39 LICENSE PERIOD, UNLESS SUCH LICENSE IS RENEWED IN ACCORDANCE WITH
40 SECTION FIVE HUNDRED NINETY-NINE-I OF THIS ARTICLE.

41 S 599-F. PRE-LICENSING EDUCATIONAL REQUIREMENTS. 1. MINIMUM EDUCA-
42 TIONAL REQUIREMENTS. IN ORDER TO MEET THE PRE-LICENSING EDUCATION
43 REQUIREMENT REFERRED TO IN THIS ARTICLE, A PERSON SHALL COMPLETE AT
44 LEAST TWENTY-THREE HOURS OF EDUCATION APPROVED IN ACCORDANCE WITH SUBDI-
45 VISION TWO OF THIS SECTION, WHICH SHALL INCLUDE AT LEAST THE FOLLOWING
46 MINIMUM REQUIREMENTS:

47 (A) THREE HOURS OF FEDERAL LAW AND REGULATIONS;

48 (B) THREE HOURS OF ETHICS, WHICH SHALL INCLUDE INSTRUCTION ON FRAUD,
49 CONSUMER PROTECTION, AND FAIR LENDING ISSUES;

50 (C) TWO HOURS OF TRAINING RELATED TO LENDING STANDARDS FOR THE NONTRA-
51 DITIONAL MORTGAGE PRODUCT MARKETPLACE; AND

52 (D) THREE HOURS OF TRAINING ON APPLICABLE NEW YORK STATE LAW AND REGU-
53 LATIONS AS MAY BE APPROVED BY THE SUPERINTENDENT.

54 2. APPROVED EDUCATION COURSES. FOR PURPOSES OF SUBDIVISION ONE OF THIS
55 SECTION, PRE-LICENSING EDUCATION COURSES SHALL BE SUCH COURSES, INCLUD-
56 ING THE COURSE PROVIDER THEREOF, AS SHALL HAVE BEEN REVIEWED, AND

1 APPROVED, BY THE NMLSR BASED UPON REASONABLE STANDARDS. AN HOUR OF
2 EDUCATION FOR PURPOSES OF THIS ARTICLE SHALL BE AS DEFINED BY THE NMLSR.

3 3. EMPLOYER AND AFFILIATE EDUCATION COURSES. NOTHING IN THIS SECTION
4 SHALL PRECLUDE ANY PRE-LICENSING EDUCATION COURSE, AS APPROVED BY THE
5 NMLSR, THAT IS PROVIDED BY THE EMPLOYER OF THE APPLICANT OR AN ENTITY
6 THAT IS AFFILIATED WITH THE APPLICANT BY AN AGENCY CONTRACT, OR ANY
7 SUBSIDIARY OR AFFILIATE OF SUCH EMPLOYER OR ENTITY.

8 4. VENUE OF EDUCATION. PRE-LICENSING EDUCATION MAY BE OFFERED EITHER
9 IN A CLASSROOM, ONLINE OR BY ANY OTHER MEANS APPROVED BY THE NMLSR.

10 5. RECIPROCITY OF EDUCATION COURSES. PRE-LICENSING EDUCATION COURSES
11 APPROVED BY THE NMLSR PURSUANT TO PARAGRAPHS (A), (B) AND (C) OF SUBDI-
12 VISION ONE OF THIS SECTION FOR ANY STATE SHALL BE ACCEPTED AS CREDIT
13 TOWARDS COMPLETION OF PRE-LICENSING EDUCATION REQUIREMENTS IN THIS
14 STATE.

15 6. RE-LICENSING EDUCATIONAL REQUIREMENTS. AN INDIVIDUAL LICENSED UNDER
16 THIS ARTICLE SUBSEQUENT TO ITS EFFECTIVE DATE APPLYING TO BE LICENSED
17 AGAIN MUST PROVE THAT HE OR SHE HAS COMPLETED ALL THE CONTINUING EDUCA-
18 TION REQUIREMENTS FOR THE YEAR IN WHICH THE LICENSE WAS LAST HELD.

19 S 599-G. TESTING OF MORTGAGE LOAN ORIGINATORS. 1. GENERAL REQUIRE-
20 MENTS. IN ORDER TO MEET THE WRITTEN TEST REQUIREMENT REFERRED TO IN THIS
21 ARTICLE, AN INDIVIDUAL SHALL PASS, IN ACCORDANCE WITH THE STANDARDS
22 ESTABLISHED UNDER THIS SECTION, A QUALIFIED WRITTEN TEST DEVELOPED BY
23 THE NMLSR AND ADMINISTERED BY A TEST PROVIDER APPROVED BY THE NMLSR
24 BASED UPON REASONABLE STANDARDS.

25 2. QUALIFIED TEST. A WRITTEN TEST SHALL NOT BE TREATED AS A QUALIFIED
26 WRITTEN TEST FOR PURPOSES OF SUBDIVISION ONE OF THIS SECTION UNLESS THE
27 TEST ADEQUATELY MEASURES THE APPLICANT'S KNOWLEDGE AND COMPREHENSION IN
28 APPROPRIATE SUBJECT AREAS, INCLUDING THE FOLLOWING:

29 (A) ETHICS;

30 (B) FEDERAL LAW AND REGULATION PERTAINING TO MORTGAGE ORIGINATION;

31 (C) STATE LAW AND REGULATION PERTAINING TO MORTGAGE ORIGINATION; AND

32 (D) FEDERAL AND STATE LAW AND REGULATION, INCLUDING INSTRUCTION ON
33 FRAUD, CONSUMER PROTECTION, THE NONTRADITIONAL MORTGAGE MARKETPLACE, AND
34 FAIR LENDING ISSUES.

35 3. TESTING LOCATION. NOTHING IN THIS SECTION SHALL PROHIBIT A TEST
36 PROVIDER APPROVED BY THE NMLSR FROM PROVIDING A TEST AT THE LOCATION OF
37 THE EMPLOYER OF THE APPLICANT OR THE LOCATION OF ANY SUBSIDIARY OR
38 AFFILIATE OF SUCH ENTITY, OR THE LOCATION OF ANY ENTITY WITH WHICH THE
39 APPLICANT HOLDS AN EXCLUSIVE ARRANGEMENT TO CONDUCT THE BUSINESS OF A
40 MORTGAGE LOAN ORIGINATOR.

41 4. MINIMUM COMPETENCY. THE FOLLOWING CONDITIONS APPLY TO INDIVIDUALS
42 TAKING SUCH COMPETENCY TESTS:

43 (A) AN INDIVIDUAL SHALL NOT BE CONSIDERED TO HAVE PASSED A QUALIFIED
44 WRITTEN TEST UNLESS THE INDIVIDUAL SHALL HAVE ACHIEVED A TEST SCORE OF
45 NOT LESS THAN SEVENTY-FIVE PERCENT CORRECT ANSWERS TO QUESTIONS;

46 (B) AN INDIVIDUAL MAY RETAKE A TEST THREE CONSECUTIVE TIMES, WITH EACH
47 CONSECUTIVE TAKING OCCURRING AT LEAST THIRTY DAYS AFTER THE PRECEDING
48 TEST;

49 (C) AFTER FAILING THREE CONSECUTIVE TESTS, AN INDIVIDUAL SHALL WAIT AT
50 LEAST SIX MONTHS BEFORE TAKING THE TEST AGAIN; AND

51 (D) A LICENSED MORTGAGE LOAN ORIGINATOR WHO FAILS TO MAINTAIN A VALID
52 LICENSE FOR A PERIOD OF FIVE YEARS OR LONGER, NOT TAKING INTO ACCOUNT
53 ANY TIME DURING WHICH SUCH INDIVIDUAL IS A REGISTERED MORTGAGE LOAN
54 ORIGINATOR, SHALL RETAKE THE TEST.

1 S 599-H. MORTGAGE CALL REPORTS. EACH ORIGINATING ENTITY SHALL SUBMIT
2 TO THE NMLSR REPORTS OF CONDITION, WHICH SHALL BE IN SUCH FORM AND SHALL
3 CONTAIN SUCH INFORMATION AS THE NMLSR MAY REQUIRE.

4 S 599-I. STANDARDS FOR LICENSE RENEWAL; INACTIVE STATUS. 1. STANDARDS
5 FOR RENEWAL. THE FOLLOWING MINIMUM STANDARDS FOR LICENSE RENEWAL FOR
6 MORTGAGE LOAN ORIGINATORS ARE HEREBY ESTABLISHED:

7 (A) THE MORTGAGE LOAN ORIGINATOR MUST CONTINUE TO MEET THE MINIMUM
8 STANDARDS FOR LICENSE ISSUANCE SET FORTH IN SECTION FIVE HUNDRED NINE-
9 TY-NINE-E OF THIS ARTICLE;

10 (B) THE MORTGAGE LOAN ORIGINATOR MUST SATISFY THE ANNUAL CONTINUING
11 EDUCATION REQUIREMENTS DESCRIBED IN SECTION FIVE HUNDRED NINETY-NINE-J
12 OF THIS ARTICLE; AND

13 (C) THE MORTGAGE LOAN ORIGINATOR MUST HAVE PAID ALL REQUIRED FEES FOR
14 THE RENEWAL OF THE LICENSE.

15 2. FAILURE TO SATISFY STANDARDS. THE LICENSE OF A MORTGAGE LOAN ORIGI-
16 NATOR FAILING TO SATISFY THE MINIMUM STANDARDS FOR RENEWAL SHALL TERMI-
17 NATE. IN THE EVENT THE LICENSED MORTGAGE LOAN ORIGINATOR FAILS TO PAY
18 SUCH FEE OR OTHERWISE SATISFY THIS SECTION, THEN THE DEPARTMENT SHALL
19 NOTIFY THE ORIGINATING ENTITY OF THE TERMINATION OF THE LICENSE. SUCH
20 LICENSE SHALL BE REINSTATED, IN THE CASE OF A LICENSED MORTGAGE LOAN
21 ORIGINATOR FAILING TO TIMELY PAY SUCH FEE, IF SUCH LICENSED MORTGAGE
22 LOAN ORIGINATOR PAYS SUCH FEE WITHIN SIXTY DAYS OF SUCH DUE DATE.

23 3. SUBMISSION OF ANNUAL REQUEST. AN ANNUAL REQUEST FOR RENEWAL OF A
24 LICENSE AS A MORTGAGE LOAN ORIGINATOR SHALL BE AFFIRMED BY THE MORTGAGE
25 LOAN ORIGINATOR AND SUBMITTED ELECTRONICALLY, INCLUDING THROUGH THE
26 NMLSR, IN SUCH FORM AND IN SUCH MANNER AS MAY BE PRESCRIBED BY THE
27 SUPERINTENDENT. THE ANNUAL REQUEST FOR RENEWAL SHALL CONTAIN SUCH INFOR-
28 MATION AS SPECIFIED BY THE SUPERINTENDENT.

29 4. INACTIVE STATUS. THE LICENSE OF A MORTGAGE LOAN ORIGINATOR IS NOT
30 EFFECTIVE DURING ANY PERIOD DURING WHICH THE MORTGAGE LOAN ORIGINATOR IS
31 NOT EMPLOYED BY, OR IS AN INDEPENDENT CONTRACTOR OF, AN ORIGINATING
32 ENTITY. WHEN A MORTGAGE LOAN ORIGINATOR CEASES TO BE EMPLOYED BY, OR IS
33 AN INDEPENDENT CONTRACTOR OF, AN ORIGINATING ENTITY, THE ORIGINATING
34 ENTITY SHALL PROMPTLY NOTIFY THE SUPERINTENDENT OF THE TERMINATION DATE
35 OF SUCH EMPLOYMENT OR AFFILIATION. THE LICENSE OF SUCH MORTGAGE LOAN
36 ORIGINATOR SHALL BE PLACED IN INACTIVE STATUS UNTIL THE SUPERINTENDENT
37 RECEIVES WRITTEN OR ELECTRONIC NOTICE OF THE MORTGAGE LOAN ORIGINATOR'S
38 NEW EMPLOYMENT OR AFFILIATION. A MORTGAGE LOAN ORIGINATOR SHALL CONTINUE
39 TO PAY THE ANNUAL LICENSE FEE AND TO TAKE REQUIRED EDUCATION COURSES
40 WHILE IN INACTIVE STATUS.

41 S 599-J. CONTINUING EDUCATION FOR MORTGAGE LOAN ORIGINATORS. 1.
42 CONTINUING EDUCATION REQUIREMENTS. IN ORDER TO MEET THE ANNUAL CONTINU-
43 ING EDUCATION REQUIREMENTS REFERRED TO IN SECTION FIVE HUNDRED
44 NINETY-NINE-I OF THIS ARTICLE, A LICENSED MORTGAGE LOAN ORIGINATOR SHALL
45 COMPLETE, BEGINNING IN THE YEAR AFTER SUCH INDIVIDUAL IS LICENSED, AT
46 LEAST ELEVEN HOURS OF EDUCATION APPROVED IN ACCORDANCE WITH SUBDIVISION
47 TWO OF THIS SECTION, WHICH SHALL INCLUDE AT LEAST:

48 (A) THREE HOURS OF FEDERAL LAW AND REGULATIONS;

49 (B) TWO HOURS OF ETHICS, WHICH SHALL INCLUDE INSTRUCTION ON FRAUD,
50 CONSUMER PROTECTION, AND FAIR LENDING ISSUES;

51 (C) TWO HOURS OF TRAINING RELATED TO LENDING STANDARDS FOR THE NONTRA-
52 DITIONAL MORTGAGE PRODUCT MARKETPLACE; AND

53 (D) THREE HOURS OF TRAINING ON APPLICABLE NEW YORK STATE LAW AND REGU-
54 LATIONS.

55 2. APPROVED EDUCATION COURSES. FOR PURPOSES OF SUBDIVISION ONE OF THIS
56 SECTION, CONTINUING EDUCATION COURSES SHALL BE REVIEWED AND APPROVED BY

1 THE NMLSR BASED UPON REASONABLE STANDARDS. REVIEW AND APPROVAL OF A
2 CONTINUING EDUCATION COURSE SHALL INCLUDE REVIEW AND APPROVAL OF THE
3 COURSE PROVIDER.

4 3. EMPLOYER AND AFFILIATE EDUCATION COURSES. NOTHING IN THIS SECTION
5 SHALL PRECLUDE ANY EDUCATION COURSE APPROVED BY THE NMLSR THAT IS
6 PROVIDED BY THE EMPLOYER OF THE MORTGAGE LOAN ORIGINATOR OR AN ENTITY
7 WHICH IS AFFILIATED WITH THE MORTGAGE LOAN ORIGINATOR BY AN AGENCY
8 CONTRACT, OR ANY SUBSIDIARY OR AFFILIATE OF SUCH EMPLOYER OR ENTITY.

9 4. VENUE OF EDUCATION. CONTINUING EDUCATION MAY BE OFFERED EITHER IN A
10 CLASSROOM, ONLINE OR BY ANY OTHER MEANS APPROVED BY THE NMLSR.

11 5. CALCULATION OF CREDITS. A LICENSED MORTGAGE LOAN ORIGINATOR:

12 (A) EXCEPT FOR SUBDIVISION NINE OF THIS SECTION, MAY RECEIVE CREDIT
13 FOR A CONTINUING EDUCATION COURSE ONLY IN THE CALENDAR YEAR IN WHICH THE
14 COURSE IS TAKEN; AND

15 (B) MAY NOT TAKE THE SAME APPROVED COURSE IN THE SAME OR SUCCESSIVE
16 YEARS TO MEET THE ANNUAL REQUIREMENTS FOR CONTINUING EDUCATION.

17 6. INSTRUCTOR CREDIT. A LICENSED MORTGAGE LOAN ORIGINATOR WHO IS AN
18 INSTRUCTOR OF AN APPROVED CONTINUING EDUCATION COURSE MAY RECEIVE CREDIT
19 FOR THE LICENSED MORTGAGE LOAN ORIGINATOR'S OWN ANNUAL CONTINUING EDUCA-
20 TION REQUIREMENT AT THE RATE OF TWO HOURS CREDIT FOR EVERY ONE HOUR
21 TAUGHT.

22 7. RECIPROCITY OF EDUCATION. A PERSON HAVING SUCCESSFULLY COMPLETED
23 THE EDUCATION REQUIREMENTS APPROVED BY THE NMLSR PURSUANT TO PARAGRAPHS
24 (A), (B), AND (C) OF SUBDIVISION ONE OF THIS SECTION FOR ANY STATE SHALL
25 BE ACCEPTED AS CREDIT TOWARDS COMPLETION OF CONTINUING EDUCATION
26 REQUIREMENTS IN THIS STATE.

27 8. LAPSE IN LICENSE. A LICENSED MORTGAGE LOAN ORIGINATOR WHO SUBSE-
28 QUENTLY BECOMES UNLICENSED MUST COMPLETE THE CONTINUING EDUCATION
29 REQUIREMENTS FOR THE LAST YEAR IN WHICH THE LICENSE WAS HELD PRIOR TO
30 ISSUANCE OF A NEW OR RENEWED LICENSE.

31 9. MAKE UP OF CONTINUING EDUCATION. AN INDIVIDUAL MEETING THE REQUIRE-
32 MENTS OF PARAGRAPHS (A) AND (C) OF SUBDIVISION ONE OF SECTION FIVE
33 HUNDRED NINETY-NINE-I OF THIS ARTICLE MAY MAKE UP ANY DEFICIENCY IN
34 CONTINUING EDUCATION AS ESTABLISHED BY RULE OR REGULATION OF THE SUPER-
35 INTENDENT.

36 S 599-K. REQUIRED SURETY BOND. 1. EACH MORTGAGE LOAN ORIGINATOR SHALL
37 BE COVERED BY A SURETY BOND IN ACCORDANCE WITH THIS SECTION. IN THE
38 EVENT THAT THE MORTGAGE LOAN ORIGINATOR IS AN EMPLOYEE OR EXCLUSIVE
39 AGENT OF AN ORIGINATING ENTITY, THE SURETY BOND OF SUCH PERSON MAY BE
40 USED TO SATISFY THE MORTGAGE LOAN ORIGINATOR'S SURETY BOND REQUIREMENT;
41 PROVIDED THAT SUCH SURETY BOND CONTAINS COVERAGE FOR EACH MORTGAGE LOAN
42 ORIGINATOR NOT OTHERWISE COVERED BY A QUALIFYING SURETY BOND IN AN
43 AMOUNT PRESCRIBED IN SUBDIVISION TWO OF THIS SECTION. THE SURETY BOND
44 SHALL BE IN A FORM PRESCRIBED BY THE SUPERINTENDENT. THE SUPERINTENDENT
45 MAY PROMULGATE RULES OR REGULATIONS WITH RESPECT TO THE REQUIREMENTS FOR
46 SUCH SURETY BONDS AS ARE NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS
47 ARTICLE.

48 2. THE PENAL AMOUNT OF THE REQUIRED SURETY BOND SHALL BE MAINTAINED IN
49 AN AMOUNT THAT REFLECTS THE DOLLAR AMOUNT OF LOANS ORIGINATED BY THE
50 MORTGAGE LOAN ORIGINATOR AS DETERMINED BY THE SUPERINTENDENT.

51 3. WHEN AN ACTION IS COMMENCED ON A LICENSEE'S BOND, THE SUPERINTEN-
52 DENT MAY REQUIRE THE FILING OF A NEW OR SUPPLEMENTAL BOND.

53 4. IMMEDIATELY UPON RECOVERY UPON ANY CLAIM OR ACTION ON OR UNDER THE
54 BOND, THE MORTGAGE LOAN ORIGINATOR (OR THE ORIGINATING ENTITY AS THE
55 CASE MAY BE), SHALL FILE A NEW OR SUPPLEMENTAL BOND RESTORING THE FACE
56 AMOUNT OF THE BOND TO THE AMOUNT REQUIRED BY THE SUPERINTENDENT.

1 S 599-L. REPORTS BY THE SUPERINTENDENT; PERMISSIVE CHALLENGES BY
2 LICENSEES. 1. NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW, THE SUPER-
3 INTENDENT SHALL REPORT ON A REGULAR BASIS, NOT MORE THAN ANNUALLY, ALL
4 VIOLATIONS OF THIS ARTICLE, AS WELL AS ENFORCEMENT ACTIONS AND OTHER
5 RELEVANT INFORMATION, TO THE NMLSR SUBJECT TO THE PROVISIONS CONTAINED
6 IN THE CONFIDENTIALITY PROVISIONS OF SECTION FIVE HUNDRED NINETY-NINE-Q
7 OF THIS ARTICLE.

8 2. THE SUPERINTENDENT SHALL ESTABLISH A PROCESS WHEREBY A MORTGAGE
9 LOAN ORIGINATOR MAY CHALLENGE INFORMATION ENTERED INTO THE NMLSR BY THE
10 SUPERINTENDENT.

11 S 559-M. REQUIRED RECORDS AND REPORTING. 1. EDUCATIONAL RECORDS. EACH
12 ORIGINATING ENTITY SHALL OBTAIN AND RETAIN ACCEPTABLE DOCUMENTATION OF
13 THE SATISFACTORY COMPLETION OF EDUCATION COURSES REQUIRED PURSUANT TO
14 THIS ARTICLE BY EACH MORTGAGE LOAN ORIGINATOR EMPLOYED BY OR AFFILIATED
15 WITH SUCH ORIGINATING ENTITY AND SHALL PROVIDE SUCH DOCUMENTATION AT THE
16 REQUEST OF THE SUPERINTENDENT. SUCH DOCUMENTATION SHALL BE RETAINED BY
17 AN ORIGINATING ENTITY FOR SIX YEARS. AN ORIGINATING ENTITY SHALL RETAIN
18 A COPY OF ANY ORIGINAL PROOF OR RECORD OF COMPLETION PROVIDED BY A MORT-
19 GAGE LOAN ORIGINATOR. IN THOSE INSTANCES WHEN AN ORIGINATING ENTITY ALSO
20 RETAINS THE ORIGINAL PROOF OR RECORD OF SUCH COMPLETION OF ANY THEN
21 APPLICABLE EDUCATION REQUIREMENT, SUCH ORIGINATING ENTITY SHALL PROVIDE
22 THE ORIGINAL PROOF OR RECORD, UPON REQUEST, WHEN A MORTGAGE LOAN ORIGI-
23 NATOR TERMINATES OR HAS TERMINATED HIS OR HER EMPLOYMENT OR AFFILIATION
24 WITH THE ORIGINATING ENTITY.

25 2. LIST OF LICENSED MORTGAGE LOAN ORIGINATORS. THE SUPERINTENDENT
26 SHALL MAINTAIN UPON THE INTERNET WEB-PAGE OF THE DEPARTMENT A LIST OF
27 THE MORTGAGE LOAN ORIGINATORS LICENSED AND IN GOOD STANDING. SUCH LIST
28 SHALL INDICATE THE NAME, LICENSE NUMBER AND CURRENT ORIGINATING ENTITY,
29 IF ANY, EMPLOYING EACH MORTGAGE LOAN ORIGINATOR OR WITH WHOM SUCH MORT-
30 GAGE LOAN ORIGINATOR IS AFFILIATED.

31 3. REPORTS BY ORIGINATING ENTITIES. EACH ORIGINATING ENTITY SHALL ON A
32 QUARTERLY BASIS IN EACH CALENDAR YEAR PROVIDE THE SUPERINTENDENT, IN
33 WRITTEN OR ELECTRONIC FORM, WITH A LIST OF THE MORTGAGE LOAN ORIGINATORS
34 EMPLOYED BY, OR AFFILIATED WITH, SUCH ORIGINATING ENTITY AND SHALL ALSO
35 ADVISE IN SUCH REPORT OF ANY DISMISSAL FOR CAUSE OF A MORTGAGE LOAN
36 ORIGINATOR EMPLOYED BY, OR AFFILIATED WITH, SUCH ORIGINATING ENTITY
37 DURING SUCH QUARTER, WHICH IS DUE OR BASED UPON AN ALLEGED VIOLATION OF
38 THIS CHAPTER OR ANY LAW INVOLVING REAL PROPERTY.

39 4. REPORTS BY MORTGAGE LOAN ORIGINATORS. EACH MORTGAGE LOAN ORIGINATOR
40 SHALL PROMPTLY NOTIFY THE SUPERINTENDENT OF THE FOLLOWING:

41 (A) A CHANGE IN HIS OR HER PRIMARY RESIDENCE ADDRESS;

42 (B) ANY FELONY CONVICTION OR PENDING FELONY CHARGES; ANY CHARGE OF OR
43 CONVICTION WITH RESPECT TO A MISDEMEANOR INVOLVING FINANCIAL SERVICES OR
44 A FINANCIAL SERVICES RELATED BUSINESS; OR ANY CHARGE OR CONVICTION
45 INVOLVING FRAUD, FALSE STATEMENTS OR OMISSIONS, THEFT OR WRONGFUL TAKING
46 OF PROPERTY, BRIBERY, PERJURY, FORGERY OR EXTORTION SUBSEQUENT TO
47 INITIAL AUTHORIZATION;

48 (C) ANY TERMINATION OF OR RESIGNATION FROM EMPLOYMENT OF AFFILIATION
49 WITH AN ORIGINATING ENTITY;

50 (D) ANY INITIATION, SETTLEMENT OR RESOLUTION OF ANY COMPLAINT, ACTION
51 OR PROCEEDING BROUGHT AGAINST HIM OR HER BY A STATE OR FEDERAL GOVERN-
52 MENTAL UNIT OR SELF-REGULATORY ORGANIZATION IN CONNECTION WITH A FINAN-
53 CIAL SERVICES-RELATED ACTIVITY OR BUSINESS OR INVOLVING FRAUD, MISREPRE-
54 SENTATION, CONSUMER DECEPTION, LARCENY OR PERJURY;

1 (E) ANY INITIATION, SETTLEMENT OR RESOLUTION OF ANY OTHER CIVIL ACTION
2 OR PROCEEDING AGAINST HIM OR HER INVOLVING FRAUD, MISREPRESENTATION,
3 LARCENY OR PERJURY; AND

4 (F) ANY OTHER MATTERS AS DIRECTED BY THE SUPERINTENDENT.

5 S 599-N. ENFORCEMENT AUTHORITY; GROUNDS FOR SUSPENSION OR REVOCATION
6 OF A MORTGAGE LOAN ORIGINATOR LICENSE; RESTITUTION. 1. LICENSEE REVOCATION.
7 THE SUPERINTENDENT MAY REVOKE A LICENSE TO ENGAGE IN BUSINESS AS A
8 MORTGAGE LOAN ORIGINATOR PURSUANT TO THIS ARTICLE IF HE OR SHE FINDS
9 THAT:

10 (A) THROUGH A COURSE OF CONDUCT, THE LICENSEE HAS VIOLATED ANY
11 PROVISIONS OF THIS ARTICLE, OR ANY RULE OR REGULATION PROMULGATED BY THE
12 BANKING BOARD, OR ANY RULE OR REGULATION PRESCRIBED BY THE SUPERINTENDENT
13 UNDER AND WITHIN THE AUTHORITY OF THIS ARTICLE OR ARTICLE TWELVE-D
14 OF THIS CHAPTER OR OF ANY OTHER APPLICABLE LAW, RULE OR REGULATION OF
15 THIS STATE OR THE FEDERAL GOVERNMENT PERTAINING TO MORTGAGE BANKING,
16 BROKERING OR LOAN ORIGINATING; OR

17 (B) ANY FACT OR CONDITION EXISTS WHICH, IF IT HAD EXISTED AT THE TIME
18 OF THE ORIGINAL APPLICATION FOR SUCH LICENSE, WOULD HAVE WARRANTED THE
19 SUPERINTENDENT TO REFUSE TO ISSUE SUCH INITIAL LICENSE.

20 2. RESTITUTION. THE SUPERINTENDENT MAY ORDER A MORTGAGE LOAN ORIGINATOR
21 OR ANY OTHER PERSON TO PAY RESTITUTION FOR VIOLATIONS OF THIS ARTICLE
22 OR ANY RULES OF THE BANKING BOARD OR THE SUPERINTENDENT PROMULGATED
23 HEREUNDER.

24 3. SUSPENSION; TERMINATION. (A) THE SUPERINTENDENT MAY, ON GOOD CAUSE
25 SHOWN, OR WHERE THERE IS A SUBSTANTIAL RISK OF PUBLIC HARM, SUSPEND ANY
26 LICENSE OF ANY MORTGAGE LOAN ORIGINATOR FOR A PERIOD NOT TO EXCEED NINETY
27 DAYS FOR INVESTIGATION. "GOOD CAUSE", AS USED IN THIS SUBDIVISION,
28 SHALL EXIST ONLY WHEN THE MORTGAGE LOAN ORIGINATOR HAS ENGAGED OR
29 ENGAGES IN DISHONEST OR INEQUITABLE PRACTICES OR PRACTICES WHICH DEMONSTRATE
30 INCOMPETENT MORTGAGE LOAN ORIGINATING, WHICH PRACTICES MAY CAUSE
31 SUBSTANTIAL HARM TO THE PERSONS AFFORDED THE PROTECTION OF ARTICLE
32 TWELVE-D OF THIS CHAPTER, THE MORTGAGE LOAN ORIGINATOR IS IN VIOLATION
33 OF THIS ARTICLE, THE MORTGAGE LOAN ORIGINATOR LICENSE WAS ERRONEOUSLY
34 ISSUED OR THE LICENSE OF THE MORTGAGE LOAN ORIGINATOR WAS REVOKED IN
35 ANOTHER STATE OR JURISDICTION PARTICIPATING IN THE NMLSR.

36 (B) THE SUPERINTENDENT MAY SUSPEND ANY LICENSE: (I) THIRTY DAYS AFTER
37 THE DATE THE MORTGAGE LOAN ORIGINATOR FAILS TO FILE ANY REPORT REQUIRED
38 TO BE FILED WITH THE SUPERINTENDENT PURSUANT TO THE AUTHORITY PROVIDED
39 BY THIS ARTICLE; OR (II) IMMEDIATELY UPON NOTICE THAT THE LICENSEE HAS
40 FAILED TO CONTINUE IN PLACE ANY REQUIRED SURETY BOND. THE LICENSE OF ANY
41 MORTGAGE LOAN ORIGINATOR SUSPENDED PURSUANT TO THIS SUBPARAGRAPH MAY BE
42 REINSTATED IF SUCH REPORT OR BOND IS PROVIDED TO THE SUPERINTENDENT
43 WITHIN NINETY DAYS OF SUCH SUSPENSION, OTHERWISE SUCH LICENSE SHALL BE
44 DEEMED AUTOMATICALLY TERMINATED AT THE END OF SUCH NINETY DAY PERIOD,
45 UNLESS THE SUPERINTENDENT IN HIS OR HER SOLE DISCRETION SHALL CONTINUE
46 THE SUSPENSION FOR SUCH PERIOD OF TIME AS THE SUPERINTENDENT SHALL DEEM
47 APPROPRIATE.

48 4. REQUIREMENT FOR A HEARING. EXCEPT AS PROVIDED IN SUBDIVISION THREE
49 OF THIS SECTION, NO LICENSE SHALL BE REVOKED OR SUSPENDED EXCEPT AFTER
50 NOTICE AND OR HEARING THEREON. ANY ORDER OF SUSPENSION ISSUED AFTER
51 NOTICE AND A HEARING MAY INCLUDE AS A CONDITION OF REINSTATEMENT THAT
52 RESTITUTION BE MADE TO CONSUMERS OF FEES OR OTHER CHARGES WHICH HAVE
53 BEEN IMPROPERLY CHARGED OR COLLECTED AS DETERMINED BY THE SUPERINTENDENT.
54

55 5. SURRENDER OF LICENSE. WITH THE PRIOR CONSENT OF THE SUPERINTENDENT,
56 ANY MORTGAGE LOAN ORIGINATOR MAY SURRENDER ANY LICENSE BY DELIVERING TO

1 THE SUPERINTENDENT WRITTEN NOTICE THAT HE OR SHE THEREBY SURRENDERS SUCH
2 LICENSE, BUT SUCH SURRENDER SHALL NOT AFFECT SUCH MORTGAGE LOAN ORIGINA-
3 TOR'S CIVIL OR CRIMINAL LIABILITY FOR ACTS COMMITTED PRIOR TO SUCH
4 SURRENDER OR ITS OBLIGATIONS TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES
5 OR ADMINISTRATIVE ACTIONS WITH RESPECT TO THE PERIODS BEFORE SUCH
6 SURRENDER.

7 6. CONTINUATION OF LIABILITY. A SUSPENSION, REVOCATION OR TERMINATION
8 OF A LICENSE IN ACCORDANCE WITH THIS ARTICLE SHALL NOT AFFECT SUCH MORT-
9 GAGE LOAN ORIGINATOR'S CIVIL OR CRIMINAL LIABILITY FOR ACTS COMMITTED
10 PRIOR TO SUCH SUSPENSION, REVOCATION OR TERMINATION OR ITS OBLIGATIONS
11 TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES OR ADMINISTRATIVE ACTIONS
12 WITH RESPECT TO THE PERIODS BEFORE SUCH SUSPENSION, REVOCATION OR TERMI-
13 NATION.

14 7. CONTINUATION OF CONTRACTS. NO REVOCATION, SUSPENSION, SURRENDER OR
15 TERMINATION OF ANY LICENSE UNDER THIS ARTICLE SHALL IMPAIR OR AFFECT THE
16 OBLIGATION OF ANY PREEXISTING LAWFUL CONTRACT BETWEEN ANY LICENSEE UNDER
17 ARTICLE TWELVE-D OF THIS CHAPTER AND ANY PERSON.

18 8. CONTINUATION OF LICENSE. EVERY LICENSE ISSUED PURSUANT TO THIS
19 ARTICLE SHALL REMAIN IN FORCE AND EFFECT UNTIL THE SAME SHALL HAVE BEEN
20 SURRENDERED, REVOKED, TERMINATED OR SUSPENDED IN ACCORDANCE WITH ANY
21 PROVISION OF THIS ARTICLE, BUT THE SUPERINTENDENT SHALL HAVE AUTHORITY
22 IN HIS OR HER SOLE DISCRETION TO REINSTATE A SUSPENDED LICENSE OR TO
23 ISSUE A NEW LICENSE TO A MORTGAGE LOAN ORIGINATOR WHOSE LICENSE SHALL
24 HAVE BEEN REVOKED OR TERMINATED IF NO FACT OR CONDITION THEN EXISTS
25 WHICH WOULD HAVE WARRANTED THE SUPERINTENDENT TO REFUSE TO ISSUE SUCH
26 INITIAL AUTHORIZATION UNDER THIS ARTICLE.

27 9. NOTICE OF REVOCATION OR SUSPENSION; REVIEW. WHENEVER THE SUPER-
28 INTENDENT SHALL REVOKE OR SUSPEND A LICENSE ISSUED PURSUANT TO THIS
29 ARTICLE, HE OR SHE SHALL FORTHWITH EXECUTE MULTIPLE COPIES OF A WRITTEN
30 ORDER TO THAT EFFECT. THE SUPERINTENDENT SHALL FILE ONE COPY OF SUCH
31 ORDER IN THE OFFICE OF THE DEPARTMENT AND SHALL FORTHWITH SERVE A COPY
32 UPON THE MORTGAGE LOAN ORIGINATOR AND ANY AFFECTED ORIGINATING ENTITY.
33 ANY SUCH ORDER MAY BE REVIEWED IN THE MANNER PROVIDED BY ARTICLE SEVEN-
34 TY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. SUCH APPLICATION FOR
35 REVIEW AS AUTHORIZED BY THIS SECTION MUST BE MADE WITHIN THIRTY DAYS
36 FROM THE DATE OF SUCH ORDER OF SUSPENSION OR REVOCATION.

37 10. NOTICE OF TERMINATION. WHENEVER A LICENSE SHALL HAVE TERMINATED IN
38 ACCORDANCE WITH THIS ARTICLE, THE SUPERINTENDENT SHALL NOTIFY THE MORT-
39 GAGE LOAN ORIGINATOR AND ANY AFFECTED ORIGINATING ENTITY THAT THE
40 LICENSE HAS TERMINATED AND THAT THE MORTGAGE LOAN ORIGINATOR MAY NOT
41 ENGAGE IN THE BUSINESS OF SOLICITING, PROCESSING, PLACING OR NEGOTIATING
42 A MORTGAGE LOAN OR OFFERING TO SOLICIT, PROCESS, PLACE OR NEGOTIATE A
43 MORTGAGE LOAN IN THIS STATE.

44 11. HEARING REQUIREMENTS. ANY HEARING HELD PURSUANT TO THE PROVISIONS
45 OF THIS SECTION SHALL BE SUBJECT TO THE PROVISIONS OF THE STATE ADMINIS-
46 TRATIVE PROCEDURE ACT.

47 S 599-0. RULES, REGULATIONS AND EXAMINATIONS. 1. THE SUPERINTENDENT
48 IS HEREBY AUTHORIZED AND EMPOWERED TO MAKE SUCH RULES AND REGULATIONS
49 AND INTERIM PROCEDURES FOR LICENSING AND ACCEPTANCE OF APPLICATIONS AS
50 MAY IN HIS OR HER JUDGMENT BE NECESSARY OR APPROPRIATE FOR THE EFFECTIVE
51 ADMINISTRATION OR ENFORCEMENT OF THIS ARTICLE. FOR INDIVIDUALS PREVIOUS-
52 LY AUTHORIZED TO ACT AS MORTGAGE LOAN ORIGINATORS UNDER THIS CHAPTER,
53 THE SUPERINTENDENT MAY ESTABLISH EXPEDITED REVIEW AND LICENSING PROCE-
54 DURES.

55 2. FOR THE PURPOSE OF DISCOVERING VIOLATIONS OF THIS ARTICLE OR SECUR-
56 ING INFORMATION LAWFULLY REQUIRED BY HIM OR HER HEREUNDER, THE SUPER-

1 INTENDENT MAY AT ANY TIME, AND AS OFTEN AS HE OR SHE MAY DETERMINE,
2 INVESTIGATE THE BUSINESS AND EXAMINE THE BOOKS, ACCOUNTS, RECORDS, AND
3 FILES OF EVERY LICENSEE UNDER THIS ARTICLE AND ANY ENTITY WITH WHICH
4 SUCH INDIVIDUAL IS ASSOCIATED AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR.
5 FOR THAT PURPOSE THE SUPERINTENDENT SHALL HAVE FREE ACCESS TO THE
6 OFFICES AND PLACES OF BUSINESS, BOOKS, ACCOUNTS, PAPERS, RECORDS, FILES,
7 SAFES AND VAULTS OF ALL SUCH ENTITIES. THE SUPERINTENDENT SHALL HAVE
8 AUTHORITY TO REQUIRE THE ATTENDANCE OF AND TO EXAMINE UNDER OATH ALL
9 PERSONS WHOSE TESTIMONY HE OR SHE MAY DEEM NECESSARY OR DESIRABLE RELA-
10 TIVE TO SUCH BUSINESS. THE EXPENSES INCURRED IN MAKING ANY EXAMINATION
11 PURSUANT TO THIS SECTION SHALL BE ASSESSED AGAINST AND PAID BY THE
12 LICENSEE SO EXAMINED, EXCEPT THAT TRAVELING AND SUBSISTENCE EXPENSES SO
13 INCURRED SHALL BE CHARGED AGAINST AND PAID BY LICENSEES IN SUCH
14 PROPORTIONS AS THE SUPERINTENDENT SHALL DEEM JUST AND REASONABLE, AND
15 SUCH PROPORTIONATE CHARGES SHALL BE ADDED TO THE ASSESSMENT OF THE OTHER
16 EXPENSES INCURRED UPON EACH EXAMINATION. UPON WRITTEN NOTICE BY THE
17 SUPERINTENDENT OF THE TOTAL AMOUNT OF SUCH ASSESSMENT, THE LICENSEE
18 SHALL BECOME LIABLE FOR AND SHALL PAY SUCH ASSESSMENT TO THE SUPERINTEN-
19 DENT.

20 S 599-P. UNIQUE IDENTIFIER. THE UNIQUE IDENTIFIER OF ANY PERSON ORIG-
21 INATING A RESIDENTIAL MORTGAGE LOAN SHALL BE CLEARLY SHOWN ON ALL RESI-
22 DENTIAL MORTGAGE LOAN APPLICATION FORMS, SOLICITATIONS OR ADVERTISE-
23 MENTS, INCLUDING BUSINESS CARDS OR WEBSITES, AND ANY OTHER DOCUMENTS AS
24 ESTABLISHED BY RULE, REGULATION OR ORDER OF THE SUPERINTENDENT.

25 S 599-Q. CONFIDENTIALITY. IN ORDER TO PROMOTE MORE EFFECTIVE REGU-
26 LATION AND REDUCE REGULATORY BURDEN THROUGH SUPERVISORY INFORMATION
27 SHARING, INFORMATION PROVIDED TO THE SUPERINTENDENT BY AN MLO SHALL BE
28 SUBJECT TO THE FOLLOWING:

29 1. EXCEPT AS OTHERWISE PROVIDED IN PUBLIC LAW 110-289, SECTION 1512,
30 THE REQUIREMENTS UNDER ANY FEDERAL LAW, THE FREEDOM OF INFORMATION LAW
31 ("FOIL") OR OTHER LAW OF THIS STATE REGARDING THE PRIVACY OR CONFIDEN-
32 TIALITY OF ANY INFORMATION OR MATERIAL PROVIDED TO THE NMLSR, AND ANY
33 PRIVILEGE ARISING UNDER FEDERAL OR STATE LAW (INCLUDING THE RULES OF ANY
34 FEDERAL OR STATE COURT) WITH RESPECT TO SUCH INFORMATION OR MATERIAL,
35 SHALL CONTINUE TO APPLY TO SUCH INFORMATION OR MATERIAL AFTER THE INFOR-
36 MATION OR MATERIAL HAS BEEN DISCLOSED TO THE NMLSR. SUCH INFORMATION AND
37 MATERIAL MAY BE SHARED WITH ALL STATE AND FEDERAL REGULATORY OFFICIALS
38 WITH MORTGAGE INDUSTRY OVERSIGHT AUTHORITY WITHOUT THE LOSS OF PRIVILEGE
39 OF THE LOSS OF CONFIDENTIALITY PROTECTIONS PROVIDED BY FEDERAL LAW, FOIL
40 OR THIS CHAPTER.

41 2. FOR THESE PURPOSES, THE SUPERINTENDENT IS AUTHORIZED TO ENTER INTO
42 AGREEMENTS OR SHARING ARRANGEMENTS WITH OTHER GOVERNMENTAL AGENCIES, THE
43 CONFERENCE OF STATE BANK SUPERVISORS, THE AMERICAN ASSOCIATION OF RESI-
44 DENTIAL MORTGAGE REGULATORS OR OTHER ASSOCIATIONS REPRESENTING GOVERN-
45 MENTAL AGENCIES AS ESTABLISHED BY RULE, REGULATION OR ORDER OF THE
46 SUPERINTENDENT.

47 S 599-R. CONSTRUCTION. NOTHING CONTAINED IN THIS ARTICLE SHALL BE
48 DEEMED TO IMPAIR, ALTER OR RENDER INEFFECTIVE ANY PROVISION OF ARTICLE
49 TWELVE-D OF THIS CHAPTER, INCLUDING BUT NOT LIMITED TO ANY PROVISION
50 THEREOF RELATING TO ISSUING, SUSPENDING OR REVOKING ANY MORTGAGE BANKER
51 LICENSE OR MORTGAGE BROKER REGISTRATION.

52 S 2. Paragraphs (a) and (b) of subdivision 1 of section 590 of the
53 banking law, as added by chapter 571 of the laws of 1986, are amended to
54 read as follows:

55 (a) "Mortgage loan" shall mean a loan to a natural person made prima-
56 rily for personal, family or household use, [primarily] secured by

1 either a mortgage, DEED OF TRUST OR OTHER EQUIVALENT CONSENSUAL SECURITY
2 INTEREST on A MOBILE HOME OR residential real property or [certificates]
3 ANY CERTIFICATE of stock or other evidence of ownership [interests] in,
4 and proprietary [leases] LEASE from, [corporations or partnerships] A
5 CORPORATION OR PARTNERSHIP formed for the purpose of cooperative owner-
6 ship of residential real property AND SHALL INCLUDE ANY REFINANCE OR
7 MODIFICATION OF ANY SUCH EXISTING LOAN;

8 (b) "Residential real property" shall mean real property located in
9 this state improved by a one-to-four family [dwelling] RESIDENCE OR
10 RESIDENTIAL UNIT IN A BUILDING used or occupied, or intended to be used
11 or occupied, wholly or partly, as the home or residence of one or more
12 persons, but shall not refer to unimproved real property upon which such
13 [dwellings are] RESIDENCE IS to be constructed;

14 S 3. Subdivisions 1, 2 and 5 of section 39 of the banking law, as
15 amended by chapter 472 of the laws of 2008, are amended to read as
16 follows:

17 1. To appear and explain an apparent violation. Whenever it shall
18 appear to the superintendent that any banking organization, bank holding
19 company, registered mortgage broker, licensed mortgage banker, regis-
20 tered mortgage loan servicer, [authorized] LICENSED mortgage loan origi-
21 nator, licensed lender, licensed cashier of checks, licensed sales
22 finance company, licensed insurance premium finance agency, licensed
23 transmitter of money, licensed budget planner, out-of-state state bank
24 that maintains a branch or branches or representative or other offices
25 in this state, or foreign banking corporation licensed by the super-
26 intendent to do business or maintain a representative office in this
27 state has violated any law or regulation, he or she may, in his or her
28 discretion, issue an order describing such apparent violation and
29 requiring such banking organization, bank holding company, registered
30 mortgage broker, licensed mortgage banker, [authorized] LICENSED mort-
31 gage loan originator, licensed lender, licensed cashier of checks,
32 licensed sales finance company, licensed insurance premium finance agen-
33 cy, licensed transmitter of money, licensed budget planner, out-of-state
34 state bank that maintains a branch or branches or representative or
35 other offices in this state, or foreign banking corporation to appear
36 before him or her, at a time and place fixed in said order, to present
37 an explanation of such apparent violation.

38 2. To discontinue unauthorized or unsafe and unsound practices. When-
39 ever it shall appear to the superintendent that any banking organiza-
40 tion, bank holding company, registered mortgage broker, licensed mort-
41 gage banker, registered mortgage loan servicer, [authorized] LICENSED
42 mortgage loan originator, licensed lender, licensed cashier of checks,
43 licensed sales finance company, licensed insurance premium finance agen-
44 cy, licensed transmitter of money, licensed budget planner, out-of-state
45 state bank that maintains a branch or branches or representative or
46 other offices in this state, or foreign banking corporation licensed by
47 the superintendent to do business in this state is conducting business
48 in an unauthorized or unsafe and unsound manner, he or she may, in his
49 or her discretion, issue an order directing the discontinuance of such
50 unauthorized or unsafe and unsound practices, and fixing a time and
51 place at which such banking organization, bank holding company, regis-
52 tered mortgage broker, licensed mortgage banker, registered mortgage
53 loan servicer, [authorized] LICENSED mortgage loan originator, licensed
54 lender, licensed cashier of checks, licensed sales finance company,
55 licensed insurance premium finance agency, licensed transmitter of
56 money, licensed budget planner, out-of-state state bank that maintains a

1 branch or branches or representative or other offices in this state, or
2 foreign banking corporation may voluntarily appear before him or her to
3 present any explanation in defense of the practices directed in said
4 order to be discontinued.

5 5. To keep books and accounts as prescribed. Whenever it shall appear
6 to the superintendent that any banking organization, bank holding compa-
7 ny, registered mortgage broker, licensed mortgage banker, registered
8 mortgage loan servicer, [authorized] LICENSED mortgage loan originator,
9 licensed lender, licensed casher of checks, licensed sales finance
10 company, licensed insurance premium finance agency, licensed transmitter
11 of money, licensed budget planner, agency or branch of a foreign banking
12 corporation licensed by the superintendent to do business in this state,
13 does not keep its books and accounts in such manner as to enable him or
14 her to readily ascertain its true condition, he or she may, in his or
15 her discretion, issue an order requiring such banking organization, bank
16 holding company, registered mortgage broker, licensed mortgage banker,
17 registered mortgage loan servicer, [authorized] LICENSED mortgage loan
18 originator, licensed lender, licensed casher of checks, licensed sales
19 finance company, licensed insurance premium finance agency, licensed
20 transmitter of money, licensed budget planner, or foreign banking corpo-
21 ration, or the officers or agents thereof, or any of them, to open and
22 keep such books or accounts as he or she may, in his or her discretion,
23 determine and prescribe for the purpose of keeping accurate and conven-
24 ient records of its transactions and accounts.

25 S 4. Paragraph (a) of subdivision 1 of section 44 of the banking law,
26 as amended by chapter 472 of the laws of 2008, is amended to read as
27 follows:

28 (a) Without limiting any power granted to the superintendent under any
29 other provision of this chapter, the superintendent may, in a proceeding
30 after notice and a hearing, require any safe deposit company, licensed
31 lender, licensed casher of checks, licensed sales finance company,
32 licensed insurance premium finance agency, licensed transmitter of
33 money, licensed mortgage banker, registered mortgage broker, [author-
34 ized] LICENSED mortgage loan originator, registered mortgage loan servi-
35 cer or licensed budget planner to pay to the people of this state a
36 penalty for any violation of this chapter, any regulation promulgated
37 thereunder, any final or temporary order issued pursuant to section
38 thirty-nine of this article, any condition imposed in writing by the
39 superintendent or banking board in connection with the grant of any
40 application or request, or any written agreement entered into with the
41 superintendent.

42 S 5. The superintendent of banks may provide for the licensing of
43 mortgage loan originators and charge fees for such purposes pursuant to
44 article 12-E of the banking law, as added by section one of this act,
45 and take any other measures and use any reasonable methods necessary to
46 implement such article in order to ensure the effective and timely
47 administration thereof, including but not limited to providing for the
48 licensing of mortgage loan originators on or before July 1, 2009.

49 S 6. This act shall take effect immediately; provided, however, that
50 sections one and two of this act shall take effect July 1, 2009 and
51 sections three and four of this act shall take effect on the same date
52 and in the same manner as sections 15 and 16 of chapter 472 of the laws
53 of 2008 take effect, respectively, and provided, further, that the
54 superintendent of banks may delay the implementation of any provision of
55 this act if consistent with title V of The Housing and Economic Develop-
56 ment Act of 2008, Pub. L. No. 110-287.