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6924--B

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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 Article 12-E of the banking law is REPEALED and a new article 12-E is added to read as follows:

ARTICLE 12-E

LICENSED MORTGAGE LOAN ORIGINATORS

SECTION 599-A. LEGISLATIVE PURPOSE.
599-B. DEFINITIONS.
599-C. LICENSE REQUIRED.
599-D. STATE LICENSE APPLICATION.
599-E. ISSUANCE OF A LICENSE.
599-F. PRE-LICENSING EDUCATIONAL REQUIREMENTS.
599-G. TESTING OF MORTGAGE LOAN ORIGINATORS.
599-H. MORTGAGE CALL REPORTS.
599-I. STANDARDS FOR LICENSE RENEWAL; INACTIVE STATUS.
599-J. CONTINUING EDUCATION FOR MORTGAGE LOAN ORIGINATORS.
599-K. REQUIRED SURETY BOND.
599-L. REPORTS BY THE SUPERINTENDENT; PERMISSIVE CHALLENGES BY LICENSEES.
599-M. REQUIRED RECORDS AND REPORTING.

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

599-N. ENFORCEMENT AUTHORITY; GROUNDS FOR SUSPENSION OR REVOCATION OF A MORTGAGE LOAN ORIGINATOR LICENSE; RESTITUTION.
599-O. RULES, REGULATIONS AND EXAMINATIONS.
599-P. UNIQUE IDENTIFIER.
599-Q. CONFIDENTIALITY.
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 THIS ARTICLE, 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 BROKER, OR OTHER MORTGAGE LOAN ORIGINATOR OR BY ANY AGENT OF SUCH LENDER, MORTGAGE BROKER, OR OTHER MORTGAGE LOAN ORIGINATOR; AND

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

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

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

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

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

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

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

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

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

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

11. "ORIGINATING ENTITY" MEANS A PERSON OR ENTITY LICENSED OR REGISTERED PURSUANT TO ARTICLE TWELVE-D OF THIS CHAPTER OR SUCH OTHER EMPLOYER OF MORTGAGE LOAN ORIGINATORS AS THE SUPERINTENDENT MAY APPROVE.

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

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

(A) MEETS THE DEFINITION OF MORTGAGE LOAN ORIGINATOR AND IS AN EMPLOYEE OF:

(I) A DEPOSITORY INSTITUTION;

(II) A SUBSIDIARY THAT IS OWNED AND CONTROLLED BY A DEPOSITORY INSTITUTION AND REGULATED BY A FEDERAL BANKING AGENCY; OR

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

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

14. "RESIDENTIAL REAL PROPERTY" SHALL MEAN REAL PROPERTY LOCATED IN THIS STATE IMPROVED BY A ONE-TO-FOUR FAMILY RESIDENCE OR RESIDENTIAL UNIT IN A BUILDING USED OR OCCUPIED, OR INTENDED TO BE USED OR OCCUPIED, WHOLLY OR PARTLY, AS THE HOME OR RESIDENCE OF ONE OR MORE PERSONS, BUT SHALL NOT REFER TO UNIMPROVED REAL PROPERTY UPON WHICH SUCH RESIDENCE IS TO BE CONSTRUCTED.

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

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

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

(A) EACH INDIVIDUAL, OTHER THAN AN INDIVIDUAL DESCRIBED IN PARAGRAPH (B) OF THIS SUBDIVISION, SHALL BE LICENSED PURSUANT TO SUBDIVISION ONE OF THIS SECTION NOT LATER THAN JULY THIRTY-FIRST, TWO THOUSAND TEN, OR SUCH LATER DATE APPROVED FOR MORTGAGE LOAN ORIGINATORS IN THIS STATE BY THE SECRETARY OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, PURSUANT TO THE AUTHORITY GRANTED UNDER PUBLIC LAW 110-289, SECTION 1508(A) AND APPROVED BY THE SUPERINTENDENT;

(B) EACH INDIVIDUAL AUTHORIZED AS A MORTGAGE LOAN ORIGINATOR UNDER PRIOR LAW NOT LATER THAN JULY THIRTY-FIRST, TWO THOUSAND NINE, SHALL BE LICENSED PURSUANT TO SUBDIVISION ONE OF THIS SECTION NOT LATER THAN JANUARY FIRST, TWO THOUSAND ELEVEN, OR SUCH LATER DATE APPROVED FOR MORTGAGE LOAN ORIGINATORS IN THIS STATE BY THE SECRETARY OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, PURSUANT TO THE AUTHORITY GRANTED UNDER PUBLIC LAW 110-289, SECTION 1508(A) AND APPROVED BY THE SUPERINTENDENT.

(C) NOTWITHSTANDING PARAGRAPHS (A) AND (B) OF THIS SUBDIVISION, AFTER THE EFFECTIVE DATE OF THIS ARTICLE, NO INDIVIDUAL SHALL ACT AS A MORTGAGE LOAN ORIGINATOR IF SUCH INDIVIDUAL HAS BEEN CONVICTED OF, OR PLED GUILTY OR NOLO CONTENDERE TO, A FELONY OF THE TYPES AND DURING THE TIME PERIODS DESCRIBED IN PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION FIVE HUNDRED NINETY-NINE-E OF THIS ARTICLE, IN A DOMESTIC, FOREIGN OR MILITARY COURT, UNLESS EXPRESSLY AUTHORIZED TO ACT AS A MORTGAGE LOAN ORIGINATOR BY THE SUPERINTENDENT.

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

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

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

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

(D) A LICENSED ATTORNEY WHO NEGOTIATES THE TERMS OF A RESIDENTIAL MORTGAGE LOAN ON BEHALF OF A CLIENT AS AN ANCILLARY MATTER TO THE ATTORNEY'S REPRESENTATION OF THE CLIENT, UNLESS THE ATTORNEY IS COMPENSATED BY A LENDER, A MORTGAGE BROKER, OR OTHER MORTGAGE LOAN ORIGINATOR OR BY ANY AGENT OF SUCH LENDER, MORTGAGE BROKER, OR OTHER MORTGAGE LOAN ORIGINATOR.

(E) ANY INDIVIDUAL EMPLOYED BY A MORTGAGE LOAN SERVICER REGISTERED UNDER ARTICLE TWELVE-D OF THIS CHAPTER, WHO NEGOTIATES ANY MODIFICATION OF AN EXISTING RESIDENTIAL MORTGAGE LOAN ON BEHALF OF SUCH SERVICER, AND DOES NOT OTHERWISE ACT AS A MORTGAGE LOAN ORIGINATOR, UNLESS LICENSING IS REQUIRED BY A RULE, REGULATION, GUIDELINE OR INTERPRETATION ISSUED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT UNDER PUBLIC LAW 110-289.

(F) ANY INDIVIDUAL INVOLVED IN THE SALE OF MANUFACTURED HOMES IF EXEMPTED FROM LICENSING BY A RULE, REGULATION, GUIDELINE OR INTERPRETATION ISSUED BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT UNDER PUBLIC LAW 110-289.

4. INDEPENDENT CONTRACTOR LOAN PROCESSORS OR UNDERWRITERS. A LOAN PROCESSOR OR UNDERWRITER WHO IS AN INDEPENDENT CONTRACTOR OF AN ORIGINATING ENTITY MAY NOT ENGAGE IN RESIDENTIAL MORTGAGE LOAN ORIGINATION ACTIVITIES UNLESS SUCH INDEPENDENT CONTRACTOR LOAN PROCESSOR OR UNDERWRITER OBTAINS AND MAINTAINS A LICENSE UNDER THIS ARTICLE. EACH INDEPENDENT CONTRACTOR LOAN PROCESSOR OR UNDERWRITER LICENSED AS A MORTGAGE LOAN ORIGINATOR MUST HAVE AND MAINTAIN A VALID UNIQUE IDENTIFIER ISSUED BY THE NMLSR.

S 599-D. STATE LICENSE APPLICATION. 1. FORM OF APPLICATION. APPLICANTS FOR A LICENSE UNDER THIS ARTICLE SHALL APPLY ON A FORM PRESCRIBED BY THE SUPERINTENDENT. EACH SUCH FORM SHALL CONTAIN CONTENT AS SET FORTH BY RULE, REGULATION, INSTRUCTION OR PROCEDURE OF THE SUPERINTENDENT AND MAY BE CHANGED OR UPDATED AS NECESSARY BY THE SUPERINTENDENT IN ORDER TO CARRY OUT THE PURPOSES OF THIS ARTICLE. AS PART OF SUCH APPLICATION AND NOTWITHSTANDING SECTION EIGHTEEN-A OF THIS CHAPTER, THE APPLICANT (OR HIS OR HER ORIGINATING ENTITY ON HIS OR HER BEHALF) SHALL PAY A FEE AS DETERMINED BY THE SUPERINTENDENT AS AN INVESTIGATION AND INITIAL LICENSE FEE; PROVIDED, HOWEVER, THAT THE INVESTIGATION PORTION OF SUCH FEE SHALL BE NO MORE THAN THE SUPERINTENDENT'S REASONABLE ESTIMATE OF THE ACTUAL COST OR COSTS TO THE DEPARTMENT TO UNDERTAKE SUCH INVESTIGATION OF THE APPLICANT, AND THE INITIAL LICENSE PORTION OF SUCH FEE AND THE ANNUAL LICENSE FEE AS HEREAFTER REQUIRED PURSUANT TO THIS ARTICLE SHALL BE A LICENSE FEE AMOUNT DETERMINED BY THE SUPERINTENDENT.

2. CHARGES TO ORIGINATING ENTITIES. ANY EXPENSE OF THE ADMINISTRATION OF THIS ARTICLE WITH RESPECT TO THE LICENSING OF MORTGAGE LOAN ORIGINATORS THAT IS INCLUDED WITH AN ASSESSMENT OF ORIGINATING ENTITIES PURSUANT TO SECTION SEVENTEEN OF THIS CHAPTER SHALL BE LEVIED ONLY UPON SUCH ORIGINATING ENTITIES HAVING EMPLOYED OR AFFILIATED MORTGAGE LOAN ORIGINATORS THAT ARE REQUIRED TO BE LICENSED.

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

4. RELATIONSHIP WITH NMLSR. IN ORDER TO FULFILL THE PURPOSES OF THIS ARTICLE, THE SUPERINTENDENT IS AUTHORIZED TO ESTABLISH CONTRACTS WITH THE NMLSR OR OTHER ENTITIES DESIGNATED BY THE NMLSR TO COLLECT AND MAINTAIN RECORDS AND PROCESS TRANSACTION FEES OR OTHER FEES RELATED TO LICENSEES OR OTHER PERSONS SUBJECT TO THIS ARTICLE.

5. WAIVER OR MODIFICATION OF REQUIREMENTS. THE SUPERINTENDENT IS AUTHORIZED TO WAIVE OR MODIFY, IN WHOLE OR PART, BY RULE, REGULATION OR ORDER, ANY AND ALL REQUIREMENTS OF THIS ARTICLE AND TO ESTABLISH NEW REQUIREMENTS AS MAY BE REASONABLY NECESSARY TO PARTICIPATE IN THE NMLSR OR TO COMPLY 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.

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

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

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

9. BACKGROUND INFORMATION. IN CONNECTION WITH AN APPLICATION FOR LICENSING AS A MORTGAGE LOAN ORIGINATOR, THE APPLICANT SHALL, AT A MINIMUM, FURNISH TO THE NMLSR AND THE SUPERINTENDENT, AS REQUIRED BY THE SUPERINTENDENT, INFORMATION CONCERNING THE APPLICANT'S IDENTITY, INCLUDING:

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

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

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

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

(C) THE CURRENT BUSINESS NAME AND PRINCIPAL ADDRESS OF THE ORIGINATING ENTITY EMPLOYING THE APPLICANT OR WITH WHICH THE APPLICANT HAS AN AFFILIATION; AND

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

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

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

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

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

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

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

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

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

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

(G) AFFILIATION. UNLESS THE SUPERINTENDENT SHALL HAVE WAIVED THE AFFILIATION REQUIREMENT PURSUANT TO REGULATIONS ADOPTED BY THE BANKING BOARD, THAT THE APPLICANT IS EMPLOYED BY, OR IS AN INDEPENDENT CONTRACTOR OF (I) AN ORIGINATING ENTITY, (II) SOLELY IN THE CASE OF A MORTGAGE LOAN ORIGINATOR ENGAGED IN THE ORIGINATION OF RESIDENTIAL MORTGAGE LOANS ON MANUFACTURED HOMES, AN ENTITY LICENSED UNDER ARTICLE NINE OR ELEVEN-B OF THIS CHAPTER, OR (III) IN THE CASE OF A MORTGAGE LOAN ORIGINATOR ENGAGED IN MORTGAGE LOAN SERVICING AND EMPLOYED BY A MORTGAGE LOAN SERVICER, AN ENTITY REGISTERED AS A MORTGAGE LOAN SERVICER UNDER ARTICLE TWELVE-D OF THIS CHAPTER OR EXEMPT FROM REGISTRATION UNDER SUCH ARTICLE. A MORTGAGE LOAN ORIGINATOR MAY NOT BE SIMULTANEOUSLY EMPLOYED OR AFFILIATED WITH MORE THAN ONE ORIGINATING ENTITY.

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

3. ISSUANCE OF A LICENSE. THE SUPERINTENDENT, AFTER MAKING THE FINDINGS REQUIRED BY SUBDIVISION ONE OF THIS SECTION SHALL THEREUPON ISSUE A LICENSE TO THE APPLICANT AS MORTGAGE LOAN ORIGINATOR. THE SUPERINTENDENT

SHALL TRANSMIT ONE COPY OF SUCH CERTIFICATE TO THE APPLICANT AND FILE ANOTHER IN HIS OR HER OFFICE, AND SHALL TRANSMIT NOTICE OF APPROVAL OF SUCH APPLICATION, IN SUCH FORM AS THE SUPERINTENDENT DEEMS APPROPRIATE, TO THE ORIGINATING ENTITY FOR WHICH THE APPLICANT IS PROVIDING SERVICES. SUCH LICENSE SHALL BE DEEMED TO TERMINATE AT THE END OF THE ANNUAL LICENSE PERIOD, UNLESS SUCH LICENSE IS RENEWED IN ACCORDANCE WITH SECTION FIVE HUNDRED NINETY-NINE-I OF THIS ARTICLE.

S 599-F. PRE-LICENSING EDUCATIONAL REQUIREMENTS. 1. MINIMUM EDUCATIONAL REQUIREMENTS. IN ORDER TO MEET THE PRE-LICENSING EDUCATION REQUIREMENT REFERRED TO IN THIS ARTICLE, A PERSON SHALL COMPLETE AT LEAST TWENTY HOURS OF EDUCATION APPROVED IN ACCORDANCE WITH SUBDIVISION TWO OF THIS SECTION, WHICH SHALL INCLUDE AT LEAST THE FOLLOWING MINIMUM REQUIREMENTS:

(A) THREE HOURS OF FEDERAL LAW AND REGULATIONS;

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

(C) TWO HOURS OF TRAINING RELATED TO LENDING STANDARDS FOR THE NONTRADITIONAL MORTGAGE PRODUCT MARKETPLACE; AND

(D) THREE HOURS OF TRAINING ON APPLICABLE NEW YORK STATE LAW AND REGULATIONS AS MAY BE APPROVED BY THE SUPERINTENDENT.

2. APPROVED EDUCATION COURSES. FOR PURPOSES OF SUBDIVISION ONE OF THIS SECTION, PRE-LICENSING EDUCATION COURSES SHALL BE SUCH COURSES, INCLUDING THE COURSE PROVIDER THEREOF, AS SHALL HAVE BEEN REVIEWED, AND APPROVED, BY THE NMLSR BASED UPON REASONABLE STANDARDS. AN HOUR OF EDUCATION FOR PURPOSES OF THIS ARTICLE SHALL BE AS DEFINED BY THE NMLSR.

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

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

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

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

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

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

(A) ETHICS;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. FAILURE TO SATISFY STANDARDS. THE LICENSE OF A MORTGAGE LOAN ORIGINATOR FAILING TO SATISFY THE MINIMUM STANDARDS FOR RENEWAL SHALL TERMINATE. IN THE EVENT THE LICENSED MORTGAGE LOAN ORIGINATOR FAILS TO PAY SUCH FEE OR OTHERWISE SATISFY THIS SECTION, THEN THE DEPARTMENT SHALL NOTIFY THE ORIGINATING ENTITY OF THE TERMINATION OF THE LICENSE. SUCH LICENSE SHALL BE REINSTATED, IN THE CASE OF A LICENSED MORTGAGE LOAN ORIGINATOR FAILING TO TIMELY PAY SUCH FEE, IF SUCH LICENSED MORTGAGE LOAN ORIGINATOR PAYS SUCH FEE WITHIN SIXTY DAYS OF SUCH DUE DATE.

3. SUBMISSION OF ANNUAL REQUEST. AN ANNUAL REQUEST FOR RENEWAL OF A LICENSE AS A MORTGAGE LOAN ORIGINATOR SHALL BE AFFIRMED BY THE MORTGAGE LOAN ORIGINATOR AND SUBMITTED ELECTRONICALLY, INCLUDING THROUGH THE NMLSR, IN SUCH FORM AND IN SUCH MANNER AS MAY BE PRESCRIBED BY THE SUPERINTENDENT. THE ANNUAL REQUEST FOR RENEWAL SHALL CONTAIN SUCH INFORMATION AS SPECIFIED BY THE SUPERINTENDENT.

4. INACTIVE STATUS. THE LICENSE OF A MORTGAGE LOAN ORIGINATOR IS NOT EFFECTIVE DURING ANY PERIOD DURING WHICH THE MORTGAGE LOAN ORIGINATOR IS NOT EMPLOYED BY, OR IS AN INDEPENDENT CONTRACTOR OF, AN ORIGINATING ENTITY. WHEN A MORTGAGE LOAN ORIGINATOR CEASES TO BE EMPLOYED BY, OR IS AN INDEPENDENT CONTRACTOR OF, AN ORIGINATING ENTITY, THE ORIGINATING

ENTITY SHALL PROMPTLY NOTIFY THE SUPERINTENDENT OF THE TERMINATION DATE OF SUCH EMPLOYMENT OR AFFILIATION. THE LICENSE OF SUCH MORTGAGE LOAN ORIGINATOR SHALL BE PLACED IN INACTIVE STATUS UNTIL THE SUPERINTENDENT RECEIVES WRITTEN OR ELECTRONIC NOTICE OF THE MORTGAGE LOAN ORIGINATOR'S NEW EMPLOYMENT OR AFFILIATION. A MORTGAGE LOAN ORIGINATOR SHALL CONTINUE TO PAY THE ANNUAL LICENSE FEE AND TO TAKE REQUIRED EDUCATION COURSES WHILE IN INACTIVE STATUS.

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

(A) THREE HOURS OF FEDERAL LAW AND REGULATIONS;

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

(C) TWO HOURS OF TRAINING RELATED TO LENDING STANDARDS FOR THE NONTRADITIONAL MORTGAGE PRODUCT MARKETPLACE; AND

(D) THREE HOURS OF TRAINING ON APPLICABLE NEW YORK STATE LAW AND REGULATIONS.

2. APPROVED EDUCATION COURSES. FOR PURPOSES OF SUBDIVISION ONE OF THIS SECTION, CONTINUING EDUCATION COURSES SHALL BE REVIEWED AND APPROVED BY THE NMLSR BASED UPON REASONABLE STANDARDS. REVIEW AND APPROVAL OF A CONTINUING EDUCATION COURSE SHALL INCLUDE REVIEW AND APPROVAL OF THE COURSE PROVIDER.

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

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

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

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

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

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

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

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

9. MAKE UP OF CONTINUING EDUCATION. AN INDIVIDUAL MEETING THE REQUIREMENTS OF PARAGRAPHS (A) AND (C) OF SUBDIVISION ONE OF SECTION FIVE HUNDRED NINETY-NINE-I OF THIS ARTICLE MAY MAKE UP ANY DEFICIENCY IN

CONTINUING EDUCATION AS ESTABLISHED BY RULE OR REGULATION OF THE SUPERINTENDENT.

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

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

3. WHEN AN ACTION IS COMMENCED ON A LICENSEE'S BOND, THE SUPERINTENDENT MAY REQUIRE THE FILING OF A NEW OR SUPPLEMENTAL BOND.

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

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

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

S 599-M. REQUIRED RECORDS AND REPORTING. 1. EDUCATIONAL RECORDS. EACH ORIGINATING ENTITY SHALL OBTAIN AND RETAIN ACCEPTABLE DOCUMENTATION OF THE SATISFACTORY COMPLETION OF EDUCATION COURSES REQUIRED PURSUANT TO THIS ARTICLE BY EACH MORTGAGE LOAN ORIGINATOR EMPLOYED BY OR AFFILIATED WITH SUCH ORIGINATING ENTITY AND SHALL PROVIDE SUCH DOCUMENTATION AT THE REQUEST OF THE SUPERINTENDENT. SUCH DOCUMENTATION SHALL BE RETAINED BY AN ORIGINATING ENTITY FOR SIX YEARS. AN ORIGINATING ENTITY SHALL RETAIN A COPY OF ANY ORIGINAL PROOF OR RECORD OF COMPLETION PROVIDED BY A MORTGAGE LOAN ORIGINATOR. IN THOSE INSTANCES WHEN AN ORIGINATING ENTITY ALSO RETAINS THE ORIGINAL PROOF OR RECORD OF SUCH COMPLETION OF ANY THEN APPLICABLE EDUCATION REQUIREMENT, SUCH ORIGINATING ENTITY SHALL PROVIDE THE ORIGINAL PROOF OR RECORD, UPON REQUEST, WHEN A MORTGAGE LOAN ORIGINATOR TERMINATES OR HAS TERMINATED HIS OR HER EMPLOYMENT OR AFFILIATION WITH THE ORIGINATING ENTITY.

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

3. REPORTS BY ORIGINATING ENTITIES. EACH ORIGINATING ENTITY SHALL ON A QUARTERLY BASIS IN EACH CALENDAR YEAR PROVIDE THE SUPERINTENDENT, IN WRITTEN OR ELECTRONIC FORM, WITH A LIST OF THE MORTGAGE LOAN ORIGINATORS

EMPLOYED BY, OR AFFILIATED WITH, SUCH ORIGINATING ENTITY AND SHALL ALSO ADVISE IN SUCH REPORT OF ANY DISMISSAL FOR CAUSE OF A MORTGAGE LOAN ORIGINATOR EMPLOYED BY, OR AFFILIATED WITH, SUCH ORIGINATING ENTITY DURING SUCH QUARTER, WHICH IS DUE OR BASED UPON AN ALLEGED VIOLATION OF THIS CHAPTER OR ANY LAW INVOLVING REAL PROPERTY.

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

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

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

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

(D) ANY INITIATION, SETTLEMENT OR RESOLUTION OF ANY COMPLAINT, ACTION OR PROCEEDING BROUGHT AGAINST HIM OR HER BY A STATE OR FEDERAL GOVERNMENTAL UNIT OR SELF-REGULATORY ORGANIZATION IN CONNECTION WITH A FINANCIAL SERVICES-RELATED ACTIVITY OR BUSINESS OR INVOLVING FRAUD, MISREPRESENTATION, CONSUMER DECEPTION, LARCENY OR PERJURY;

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

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

S 599-N. ENFORCEMENT AUTHORITY; GROUNDS FOR SUSPENSION OR REVOCATION OF A MORTGAGE LOAN ORIGINATOR LICENSE; RESTITUTION. 1. LICENSEE REVOCATION. IN ADDITION TO THE AUTHORITY SET FORTH IN SUBDIVISION THREE OF THIS SECTION, THE SUPERINTENDENT MAY REVOKE A LICENSE TO ENGAGE IN BUSINESS AS A MORTGAGE LOAN ORIGINATOR PURSUANT TO THIS ARTICLE IF HE OR SHE FINDS, AFTER NOTICE AND A HEARING, THAT:

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

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

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

3. SUSPENSION; TERMINATION. (A) THE SUPERINTENDENT MAY, FOR GOOD CAUSE, OR WHERE THERE IS A SUBSTANTIAL RISK OF PUBLIC HARM, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING THE LICENSE OF ANY MORTGAGE LOAN ORIGINATOR FOR A PERIOD NOT TO EXCEED NINETY DAYS FOR INVESTIGATION. "GOOD CAUSE", AS USED IN THIS SUBDIVISION, SHALL EXIST ONLY WHEN THE MORTGAGE LOAN ORIGINATOR HAS ENGAGED OR ENGAGES IN DISHONEST OR INEQUITABLE PRACTICES OR PRACTICES WHICH DEMONSTRATE INCOMPETENT MORTGAGE LOAN ORIGINATING, WHICH PRACTICES MAY CAUSE SUBSTANTIAL HARM TO THE PERSONS AFFORDED THE PROTECTION OF ARTICLE TWELVE-D OF THIS CHAPTER, OR THE LICENSE OF THE MORTGAGE LOAN ORIGINATOR WAS REVOKED IN ANOTHER STATE OR JURISDICTION PARTICIPATING IN THE NMLSR.

(B) THE SUPERINTENDENT MAY, WITHOUT NOTICE OR A HEARING, ISSUE AN ORDER SUSPENDING ANY LICENSE: (I) THIRTY DAYS AFTER THE DATE THE MORTGAGE LOAN ORIGINATOR FAILS TO FILE ANY REPORT REQUIRED TO BE FILED WITH THE SUPERINTENDENT PURSUANT TO THE AUTHORITY PROVIDED BY THIS ARTICLE; OR (II) IMMEDIATELY UPON NOTICE THAT ANY REQUIRED SURETY BOND WITH RESPECT TO THE LICENSEE IS NO LONGER IN EFFECT.

(C) IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, SUCH LICENSE MAY BE REINSTATED IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION AFTER INVESTIGATION, THAT GOOD CAUSE THEREFOR DID NOT EXIST OR NO LONGER EXISTS. IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, SUCH LICENSE MAY BE REINSTATED, IF THE SUPERINTENDENT DETERMINES, IN HIS OR HER SOLE DISCRETION, THAT THE LICENSEE HAS CURED ALL DEFICIENCIES SET FORTH IN SUCH ORDER BY THE CLOSE OF BUSINESS NINETY DAYS AFTER THE DATE OF SUCH SUSPENSION ORDER. OTHERWISE, IN CASE OF A SUSPENSION PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, UNLESS THE SUPERINTENDENT HAS, IN HIS OR HER SOLE DISCRETION, EXTENDED SUCH SUSPENSION, THE LICENSE OF SUCH MORTGAGE LOAN ORIGINATOR SHALL BE DEEMED TO BE AUTOMATICALLY TERMINATED BY OPERATION OF LAW AT THE CLOSE OF BUSINESS ON SUCH NINETIETH DAY.

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

5. SURRENDER OF LICENSE. WITH THE PRIOR CONSENT OF THE SUPERINTENDENT, ANY MORTGAGE LOAN ORIGINATOR MAY SURRENDER ANY LICENSE BY DELIVERING TO THE SUPERINTENDENT WRITTEN NOTICE THAT HE OR SHE THEREBY SURRENDERS SUCH LICENSE, BUT SUCH SURRENDER SHALL NOT AFFECT SUCH MORTGAGE LOAN ORIGINATOR'S CIVIL OR CRIMINAL LIABILITY FOR ACTS COMMITTED PRIOR TO SUCH SURRENDER OR ITS OBLIGATIONS TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES OR ADMINISTRATIVE ACTIONS WITH RESPECT TO THE PERIODS BEFORE SUCH SURRENDER.

6. CONTINUATION OF LIABILITY. A SUSPENSION, REVOCATION OR TERMINATION OF A LICENSE IN ACCORDANCE WITH THIS ARTICLE SHALL NOT AFFECT SUCH MORTGAGE LOAN ORIGINATOR'S CIVIL OR CRIMINAL LIABILITY FOR ACTS COMMITTED PRIOR TO SUCH SUSPENSION, REVOCATION OR TERMINATION OR ITS OBLIGATIONS TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES OR ADMINISTRATIVE ACTIONS WITH RESPECT TO THE PERIODS BEFORE SUCH SUSPENSION, REVOCATION OR TERMINATION.

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

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

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

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

11. HEARING REQUIREMENTS. ANY HEARING HELD PURSUANT TO THE PROVISIONS OF THIS SECTION SHALL BE SUBJECT TO THE PROVISIONS OF THE STATE ADMINISTRATIVE PROCEDURE ACT.

S 599-O. RULES, REGULATIONS AND EXAMINATIONS. 1. THE SUPERINTENDENT IS HEREBY AUTHORIZED AND EMPOWERED TO MAKE SUCH RULES AND REGULATIONS AND INTERIM PROCEDURES FOR LICENSING AND ACCEPTANCE OF APPLICATIONS AS MAY IN HIS OR HER JUDGMENT BE NECESSARY OR APPROPRIATE FOR THE EFFECTIVE ADMINISTRATION OR ENFORCEMENT OF THIS ARTICLE. FOR INDIVIDUALS PREVIOUSLY AUTHORIZED TO ACT AS MORTGAGE LOAN ORIGINATORS UNDER THIS CHAPTER, THE SUPERINTENDENT MAY ESTABLISH EXPEDITED REVIEW AND LICENSING PROCEDURES.

2. FOR THE PURPOSE OF DISCOVERING VIOLATIONS OF THIS ARTICLE OR SECURING INFORMATION LAWFULLY REQUIRED BY HIM OR HER HEREUNDER, THE SUPERINTENDENT MAY AT ANY TIME, AND AS OFTEN AS HE OR SHE MAY DETERMINE, INVESTIGATE THE BUSINESS AND EXAMINE THE BOOKS, ACCOUNTS, RECORDS, AND FILES OF EVERY LICENSEE UNDER THIS ARTICLE AND ANY ENTITY WITH WHICH SUCH INDIVIDUAL IS ASSOCIATED AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR. FOR THAT PURPOSE THE SUPERINTENDENT SHALL HAVE FREE ACCESS TO THE OFFICES AND PLACES OF BUSINESS, BOOKS, ACCOUNTS, PAPERS, RECORDS, FILES, SAFES AND VAULTS OF ALL SUCH ENTITIES. THE SUPERINTENDENT SHALL HAVE AUTHORITY TO REQUIRE THE ATTENDANCE OF AND TO EXAMINE UNDER OATH ALL PERSONS WHOSE TESTIMONY HE OR SHE MAY DEEM NECESSARY OR DESIRABLE RELATIVE TO SUCH BUSINESS. THE EXPENSES INCURRED IN MAKING ANY EXAMINATION PURSUANT TO THIS SECTION SHALL BE ASSESSED AGAINST AND PAID BY THE LICENSEE SO EXAMINED, EXCEPT THAT TRAVELING AND SUBSISTENCE EXPENSES SO INCURRED SHALL BE CHARGED AGAINST AND PAID BY LICENSEES IN SUCH PROPORTIONS AS THE SUPERINTENDENT SHALL DEEM JUST AND REASONABLE, AND SUCH PROPORTIONATE CHARGES SHALL BE ADDED TO THE ASSESSMENT OF THE OTHER EXPENSES INCURRED UPON EACH EXAMINATION. UPON WRITTEN NOTICE BY THE SUPERINTENDENT OF THE TOTAL AMOUNT OF SUCH ASSESSMENT, THE LICENSEE SHALL BECOME LIABLE FOR AND SHALL PAY SUCH ASSESSMENT TO THE SUPERINTENDENT.

S 599-P. UNIQUE IDENTIFIER. THE UNIQUE IDENTIFIER OF ANY PERSON ORIGINATING A RESIDENTIAL MORTGAGE LOAN SHALL BE CLEARLY SHOWN ON ALL RESIDENTIAL MORTGAGE LOAN APPLICATION FORMS, SOLICITATIONS OR ADVERTISEMENTS, INCLUDING BUSINESS CARDS OR WEBSITES, AND ANY OTHER DOCUMENTS AS ESTABLISHED BY RULE, REGULATION OR ORDER OF THE SUPERINTENDENT.

S 599-Q. CONFIDENTIALITY. IN ORDER TO PROMOTE MORE EFFECTIVE REGULATION AND REDUCE REGULATORY BURDEN THROUGH SUPERVISORY INFORMATION

SHARING, INFORMATION PROVIDED TO THE SUPERINTENDENT BY AN MLO SHALL BE SUBJECT TO THE FOLLOWING:

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

2. FOR THESE PURPOSES, THE SUPERINTENDENT IS AUTHORIZED TO ENTER INTO AGREEMENTS OR SHARING ARRANGEMENTS WITH OTHER GOVERNMENTAL AGENCIES, THE CONFERENCE OF STATE BANK SUPERVISORS, THE AMERICAN ASSOCIATION OF RESIDENTIAL MORTGAGE REGULATORS OR OTHER ASSOCIATIONS REPRESENTING GOVERNMENTAL AGENCIES AS ESTABLISHED BY RULE, REGULATION OR ORDER OF THE SUPERINTENDENT.

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

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

1. To appear and explain an apparent violation. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, registered mortgage loan servicer, [authorized] LICENSED mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to do business or maintain a representative office in this state has violated any law or regulation, he or she may, in his or her discretion, issue an order describing such apparent violation and requiring such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, [authorized] LICENSED mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation to appear before him or her, at a time and place fixed in said order, to present an explanation of such apparent violation.

2. To discontinue unauthorized or unsafe and unsound practices. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, registered mortgage loan servicer, [authorized] LICENSED mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state

state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation licensed by the superintendent to do business in this state is conducting business in an unauthorized or unsafe and unsound manner, he or she may, in his or her discretion, issue an order directing the discontinuance of such unauthorized or unsafe and unsound practices, and fixing a time and place at which such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, registered mortgage loan servicer, [authorized] LICENSED mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, out-of-state state bank that maintains a branch or branches or representative or other offices in this state, or foreign banking corporation may voluntarily appear before him or her to present any explanation in defense of the practices directed in said order to be discontinued.

5. To keep books and accounts as prescribed. Whenever it shall appear to the superintendent that any banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, registered mortgage loan servicer, [authorized] LICENSED mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, agency or branch of a foreign banking corporation licensed by the superintendent to do business in this state, does not keep its books and accounts in such manner as to enable him or her to readily ascertain its true condition, he or she may, in his or her discretion, issue an order requiring such banking organization, bank holding company, registered mortgage broker, licensed mortgage banker, registered mortgage loan servicer, [authorized] LICENSED mortgage loan originator, licensed lender, licensed casher of checks, licensed sales finance company, licensed insurance premium finance agency, licensed transmitter of money, licensed budget planner, or foreign banking corporation, or the officers or agents thereof, or any of them, to open and keep such books or accounts as he or she may, in his or her discretion, determine and prescribe for the purpose of keeping accurate and convenient records of its transactions and accounts.

S 3. Paragraph (a) of subdivision 1 of section 44 of the banking law, as amended by chapter 472 of the laws of 2008, is amended to read as follows:

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

S 4. The superintendent of banks may provide for the licensing of mortgage loan originators and charge fees for such purposes pursuant to article 12-E of the banking law, as added by section one of this act, and take any other measures and use any reasonable methods necessary to implement such article in order to ensure the effective and timely administration thereof, including but not limited to providing for the licensing of mortgage loan originators on or before the effective date of this act.

S 5. This act shall take effect immediately; provided, however, that sections two and three of this act shall take effect on the same date and in the same manner as sections 15 and 16 of chapter 472 of the laws of 2008 take effect, respectively, and provided, further, that the superintendent of banks may delay the implementation of any provision of this act if consistent with title V of The Housing and Economic Recovery Act of 2008, Pub. L. No. 110-287.