

S T A T E O F N E W Y O R K

3725--A

2009-2010 Regular Sessions

I N S E N A T E

March 30, 2009

Introduced by Sen. FOLEY -- (at request of the State Banking Department)
-- read twice and ordered printed, and when printed to be committed to
the Committee on Banks -- 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 regula-
tion 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 ASSEM-
BLY, 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 Article 12-E of the banking law is REPEALED and a new arti-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.

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

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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

1 LAW, UNLESS THE INDIVIDUAL IS COMPENSATED BY A LENDER, A MORTGAGE
2 BROKER, OR OTHER MORTGAGE LOAN ORIGINATOR OR BY ANY AGENT OF SUCH LEND-
3 ER, MORTGAGE BROKER, OR OTHER MORTGAGE LOAN ORIGINATOR; AND
4 (III) AN INDIVIDUAL SOLELY INVOLVED IN EXTENSIONS OF CREDIT RELATING
5 TO TIMESHARE PLANS, AS THAT TERM IS DEFINED IN SECTION 101(53D) OF TITLE
6 11, UNITED STATES CODE.
7 (C) FOR PURPOSES OF THIS ARTICLE, "REAL ESTATE BROKERAGE ACTIVITY"
8 MEANS ANY ACTIVITY THAT INVOLVES OFFERING OR PROVIDING REAL ESTATE
9 BROKERAGE SERVICES TO THE PUBLIC, INCLUDING:
10 (I) ACTING AS A REAL ESTATE AGENT OR REAL ESTATE BROKER FOR A BUYER,
11 SELLER, LESSOR, OR LESSEE OF REAL PROPERTY;
12 (II) BRINGING TOGETHER PARTIES INTERESTED IN THE SALE, PURCHASE,
13 LEASE, RENTAL, OR EXCHANGE OF REAL PROPERTY;
14 (III) NEGOTIATING, ON BEHALF OF ANY PARTY, ANY PORTION OF A CONTRACT
15 RELATING TO THE SALE, PURCHASE, LEASE, RENTAL, OR EXCHANGE OF REAL PROP-
16 erty (OTHER THAN IN CONNECTION WITH PROVIDING FINANCING WITH RESPECT TO
17 ANY SUCH TRANSACTION);
18 (IV) ENGAGING IN ANY ACTIVITY FOR WHICH A PERSON ENGAGED IN THE ACTIV-
19 ITY IS REQUIRED TO BE REGISTERED OR LICENSED AS A REAL ESTATE AGENT OR
20 REAL ESTATE BROKER UNDER ANY APPLICABLE LAW; AND
21 (V) OFFERING TO ENGAGE IN ANY ACTIVITY, OR ACT IN ANY CAPACITY,
22 DESCRIBED IN SUBPARAGRAPHS (I), (II), (III), OR (IV) OF THIS PARAGRAPH.
23 8. "RESIDENTIAL MORTGAGE LOAN" SHALL MEAN A LOAN TO A NATURAL PERSON
24 MADE PRIMARILY FOR PERSONAL, FAMILY OR HOUSEHOLD USE, SECURED BY EITHER
25 A MORTGAGE, DEED OF TRUST OR OTHER EQUIVALENT CONSENSUAL SECURITY INTER-
26 EST ON A DWELLING (AS DEFINED IN SECTION 1203(V) OF THE TRUTH IN LENDING
27 ACT) OR RESIDENTIAL REAL PROPERTY OR ANY CERTIFICATE OF STOCK OR OTHER
28 EVIDENCE OF OWNERSHIP IN, AND PROPRIETARY LEASE FROM, A CORPORATION OR
29 PARTNERSHIP FORMED FOR THE PURPOSE OF COOPERATIVE OWNERSHIP OF RESIDEN-
30 TIAL REAL PROPERTY AND SHALL INCLUDE ANY REFINANCE OR MODIFICATION OF
31 ANY SUCH EXISTING LOAN.
32 9. "NATIONWIDE MORTGAGE LICENSING SYSTEM AND REGISTRY" (NMLSR) MEANS A
33 MORTGAGE LICENSING SYSTEM DEVELOPED AND MAINTAINED BY THE CONFERENCE OF
34 STATE BANK SUPERVISORS AND THE AMERICAN ASSOCIATION OF RESIDENTIAL MORT-
35 GAGE REGULATORS FOR THE LICENSING AND REGISTRATION OF LICENSED MORTGAGE
36 LOAN ORIGINATORS.
37 10. "NONTRADITIONAL MORTGAGE PRODUCT" MEANS, FOR PURPOSES OF THIS
38 ARTICLE, ANY MORTGAGE PRODUCT OTHER THAN A THIRTY-YEAR FIXED RATE MORT-
39 GAGE.
40 11. "ORIGINATING ENTITY" MEANS A PERSON OR ENTITY LICENSED OR REGIS-
41 TERED PURSUANT TO ARTICLE TWELVE-D OF THIS CHAPTER OR SUCH OTHER EMPLOY-
42 ER OF MORTGAGE LOAN ORIGINATORS AS THE SUPERINTENDENT MAY APPROVE.
43 12. "PERSON" MEANS AN INDIVIDUAL OR ANY CORPORATION, COMPANY, LIMITED
44 LIABILITY COMPANY, PARTNERSHIP, ASSOCIATION OR OTHER ENTITY.
45 13. "REGISTERED MORTGAGE LOAN ORIGINATOR" MEANS ANY INDIVIDUAL WHO:
46 (A) MEETS THE DEFINITION OF MORTGAGE LOAN ORIGINATOR AND IS AN EMPLOY-
47 EE OF:
48 (I) A DEPOSITORY INSTITUTION;
49 (II) A SUBSIDIARY THAT IS OWNED AND CONTROLLED BY A DEPOSITORY INSTI-
50 TUTION AND REGULATED BY A FEDERAL BANKING AGENCY; OR
51 (III) AN INSTITUTION REGULATED BY THE FARM CREDIT ADMINISTRATION; AND
52 (B) IS REGISTERED WITH, AND MAINTAINS A UNIQUE IDENTIFIER THROUGH, THE
53 NMLSR.
54 14. "RESIDENTIAL REAL PROPERTY" SHALL MEAN REAL PROPERTY LOCATED IN
55 THIS STATE IMPROVED BY A ONE-TO-FOUR FAMILY RESIDENCE OR RESIDENTIAL
56 UNIT IN A BUILDING USED OR OCCUPIED, OR INTENDED TO BE USED OR OCCUPIED,

1 WHOLLY OR PARTLY, AS THE HOME OR RESIDENCE OF ONE OR MORE PERSONS, BUT
2 SHALL NOT REFER TO UNIMPROVED REAL PROPERTY UPON WHICH SUCH RESIDENCE IS
3 TO BE CONSTRUCTED.

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

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

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

15 (A) EACH INDIVIDUAL, OTHER THAN AN INDIVIDUAL DESCRIBED IN PARAGRAPH
16 (B) OF THIS SUBDIVISION, SHALL BE LICENSED PURSUANT TO SUBDIVISION ONE
17 OF THIS SECTION NOT LATER THAN JULY THIRTY-FIRST, TWO THOUSAND TEN, OR
18 SUCH LATER DATE APPROVED FOR MORTGAGE LOAN ORIGINATORS IN THIS STATE BY
19 THE SECRETARY OF THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT,
20 PURSUANT TO THE AUTHORITY GRANTED UNDER PUBLIC LAW 110-289, SECTION
21 1508(A) AND APPROVED BY THE SUPERINTENDENT;

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

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

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

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

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

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

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

(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 ORIENTATION 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

1 AMENDED FROM TIME TO TIME, AND REGULATIONS THEREUNDER OR INTERPRETATIONS
2 THEREOF, THAT MAY BE ADOPTED FROM TIME TO TIME BY THE SECRETARY OF THE
3 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT.

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

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

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

23 9. BACKGROUND INFORMATION. IN CONNECTION WITH AN APPLICATION FOR
24 LICENSING AS A MORTGAGE LOAN ORIGINATOR, THE APPLICANT SHALL, AT A MINI-
25 MUM, FURNISH TO THE NMLSR AND THE SUPERINTENDENT, AS REQUIRED BY THE
26 SUPERINTENDENT, INFORMATION CONCERNING THE APPLICANT'S IDENTITY, INCLUD-
27 ING:

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

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

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

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

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

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

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

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

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

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

55 (II) AT ANY TIME PRECEDING SUCH DATE OF APPLICATION, IF SUCH FELONY
56 INVOLVED AN ACT OF FRAUD, DISHONESTY, OR A BREACH OF TRUST, OR MONEY

1 LAUNDERING, PROVIDED THAT FOR PURPOSES OF THIS SUBDIVISION, THE SUPER-
2 INTENDENT MAY, IN HIS OR HER DISCRETION, DISREGARD A CONVICTION WHERE
3 THE FELON HAS BEEN PARDONED;

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

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

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

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

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

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

47 3. ISSUANCE OF A LICENSE. THE SUPERINTENDENT, AFTER MAKING THE FIND-
48 INGS REQUIRED BY SUBDIVISION ONE OF THIS SECTION SHALL THEREUPON ISSUE A
49 LICENSE TO THE APPLICANT AS MORTGAGE LOAN ORIGINATOR. THE SUPERINTENDENT
50 SHALL TRANSMIT ONE COPY OF SUCH CERTIFICATE TO THE APPLICANT AND FILE
51 ANOTHER IN HIS OR HER OFFICE, AND SHALL TRANSMIT NOTICE OF APPROVAL OF
52 SUCH APPLICATION, IN SUCH FORM AS THE SUPERINTENDENT DEEMS APPROPRIATE,
53 TO THE ORIGINATING ENTITY FOR WHICH THE APPLICANT IS PROVIDING SERVICES.
54 SUCH LICENSE SHALL BE DEEMED TO TERMINATE AT THE END OF THE ANNUAL
55 LICENSE PERIOD, UNLESS SUCH LICENSE IS RENEWED IN ACCORDANCE WITH
56 SECTION FIVE HUNDRED NINETY-NINE-I OF THIS ARTICLE.

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

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

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

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

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

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

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

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

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

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

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

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

45 (A) ETHICS;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

29 2. FAILURE TO SATISFY STANDARDS. THE LICENSE OF A MORTGAGE LOAN ORIGI-
30 NATOR FAILING TO SATISFY THE MINIMUM STANDARDS FOR RENEWAL SHALL TERMI-
31 NATE. IN THE EVENT THE LICENSED MORTGAGE LOAN ORIGINATOR FAILS TO PAY
32 SUCH FEE OR OTHERWISE SATISFY THIS SECTION, THEN THE DEPARTMENT SHALL
33 NOTIFY THE ORIGINATING ENTITY OF THE TERMINATION OF THE LICENSE. SUCH
34 LICENSE SHALL BE REINSTATED, IN THE CASE OF A LICENSED MORTGAGE LOAN
35 ORIGINATOR FAILING TO TIMELY PAY SUCH FEE, IF SUCH LICENSED MORTGAGE
36 LOAN ORIGINATOR PAYS SUCH FEE WITHIN SIXTY DAYS OF SUCH DUE DATE.

37 3. SUBMISSION OF ANNUAL REQUEST. AN ANNUAL REQUEST FOR RENEWAL OF A
38 LICENSE AS A MORTGAGE LOAN ORIGINATOR SHALL BE AFFIRMED BY THE MORTGAGE
39 LOAN ORIGINATOR AND SUBMITTED ELECTRONICALLY, INCLUDING THROUGH THE
40 NMLSR, IN SUCH FORM AND IN SUCH MANNER AS MAY BE PRESCRIBED BY THE
41 SUPERINTENDENT. THE ANNUAL REQUEST FOR RENEWAL SHALL CONTAIN SUCH INFOR-
42 MATION AS SPECIFIED BY THE SUPERINTENDENT.

43 4. INACTIVE STATUS. THE LICENSE OF A MORTGAGE LOAN ORIGINATOR IS NOT
44 EFFECTIVE DURING ANY PERIOD DURING WHICH THE MORTGAGE LOAN ORIGINATOR IS
45 NOT EMPLOYED BY, OR IS AN INDEPENDENT CONTRACTOR OF, AN ORIGINATING
46 ENTITY. WHEN A MORTGAGE LOAN ORIGINATOR CEASES TO BE EMPLOYED BY, OR IS
47 AN INDEPENDENT CONTRACTOR OF, AN ORIGINATING ENTITY, THE ORIGINATING
48 ENTITY SHALL PROMPTLY NOTIFY THE SUPERINTENDENT OF THE TERMINATION DATE
49 OF SUCH EMPLOYMENT OR AFFILIATION. THE LICENSE OF SUCH MORTGAGE LOAN
50 ORIGINATOR SHALL BE PLACED IN INACTIVE STATUS UNTIL THE SUPERINTENDENT
51 RECEIVES WRITTEN OR ELECTRONIC NOTICE OF THE MORTGAGE LOAN ORIGINATOR'S
52 NEW EMPLOYMENT OR AFFILIATION. A MORTGAGE LOAN ORIGINATOR SHALL CONTINUE
53 TO PAY THE ANNUAL LICENSE FEE AND TO TAKE REQUIRED EDUCATION COURSES
54 WHILE IN INACTIVE STATUS.

55 S 599-J. CONTINUING EDUCATION FOR MORTGAGE LOAN ORIGINATORS. 1.
56 CONTINUING EDUCATION REQUIREMENTS. IN ORDER TO MEET THE ANNUAL CONTINU-

1 ING EDUCATION REQUIREMENTS REFERRED TO IN SECTION FIVE HUNDRED
2 NINETY-NINE-I OF THIS ARTICLE, A LICENSED MORTGAGE LOAN ORIGINATOR SHALL
3 COMPLETE, BEGINNING IN THE YEAR AFTER SUCH INDIVIDUAL IS LICENSED, AT
4 LEAST ELEVEN HOURS OF EDUCATION APPROVED IN ACCORDANCE WITH SUBDIVISION
5 TWO OF THIS SECTION, WHICH SHALL INCLUDE AT LEAST:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

50 S 599-K. REQUIRED SURETY BOND. 1. EACH MORTGAGE LOAN ORIGINATOR SHALL
51 BE COVERED BY A SURETY BOND IN ACCORDANCE WITH THIS SECTION. IN THE
52 EVENT THAT THE MORTGAGE LOAN ORIGINATOR IS AN EMPLOYEE OR EXCLUSIVE
53 AGENT OF AN ORIGINATING ENTITY, THE SURETY BOND OF SUCH PERSON MAY BE
54 USED TO SATISFY THE MORTGAGE LOAN ORIGINATOR'S SURETY BOND REQUIREMENT;
55 PROVIDED THAT SUCH SURETY BOND CONTAINS COVERAGE FOR EACH MORTGAGE LOAN
56 ORIGINATOR NOT OTHERWISE COVERED BY A QUALIFYING SURETY BOND IN AN

1 AMOUNT PRESCRIBED IN SUBDIVISION TWO OF THIS SECTION. THE SURETY BOND
2 SHALL BE IN A FORM PRESCRIBED BY THE SUPERINTENDENT. THE SUPERINTENDENT
3 MAY PROMULGATE RULES OR REGULATIONS WITH RESPECT TO THE REQUIREMENTS FOR
4 SUCH SURETY BONDS AS ARE NECESSARY TO ACCOMPLISH THE PURPOSES OF THIS
5 ARTICLE.

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

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

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

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

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

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

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

45 3. REPORTS BY ORIGINATING ENTITIES. EACH ORIGINATING ENTITY SHALL ON A
46 QUARTERLY BASIS IN EACH CALENDAR YEAR PROVIDE THE SUPERINTENDENT, IN
47 WRITTEN OR ELECTRONIC FORM, WITH A LIST OF THE MORTGAGE LOAN ORIGINATORS
48 EMPLOYED BY, OR AFFILIATED WITH, SUCH ORIGINATING ENTITY AND SHALL ALSO
49 ADVISE IN SUCH REPORT OF ANY DISMISSAL FOR CAUSE OF A MORTGAGE LOAN
50 ORIGINATOR EMPLOYED BY, OR AFFILIATED WITH, SUCH ORIGINATING ENTITY
51 DURING SUCH QUARTER, WHICH IS DUE OR BASED UPON AN ALLEGED VIOLATION OF
52 THIS CHAPTER OR ANY LAW INVOLVING REAL PROPERTY.

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

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

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

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

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

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

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

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

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

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

34 2. RESTITUTION. THE SUPERINTENDENT MAY ORDER A MORTGAGE LOAN ORIGINA-
35 TOR OR ANY OTHER PERSON TO PAY RESTITUTION FOR VIOLATIONS OF THIS ARTI-
36 CLE OR ANY RULES OF THE BANKING BOARD OR THE SUPERINTENDENT PROMULGATED
37 HEREUNDER.

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

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

55 (C) IF THE SUPERINTENDENT HAS ISSUED AN ORDER SUSPENDING A LICENSE
56 PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION, SUCH LICENSE MAY BE REIN-

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

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

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

28 6. CONTINUATION OF LIABILITY. A SUSPENSION, REVOCATION OR TERMINATION
29 OF A LICENSE IN ACCORDANCE WITH THIS ARTICLE SHALL NOT AFFECT SUCH MORT-
30 GAGE LOAN ORIGINATOR'S CIVIL OR CRIMINAL LIABILITY FOR ACTS COMMITTED
31 PRIOR TO SUCH SUSPENSION, REVOCATION OR TERMINATION OR ITS OBLIGATIONS
32 TO THE SUPERINTENDENT FOR ASSESSMENTS, FEES OR ADMINISTRATIVE ACTIONS
33 WITH RESPECT TO THE PERIODS BEFORE SUCH SUSPENSION, REVOCATION OR TERMI-
34 NATION.

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

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

48 9. NOTICE OF REVOCATION OR SUSPENSION; REVIEW. WHENEVER THE SUPER-
49 INTENDENT SHALL REVOKE OR SUSPEND A LICENSE ISSUED PURSUANT TO THIS
50 ARTICLE, HE OR SHE SHALL FORTHWITH EXECUTE MULTIPLE COPIES OF A WRITTEN
51 ORDER TO THAT EFFECT. THE SUPERINTENDENT SHALL FILE ONE COPY OF SUCH
52 ORDER IN THE OFFICE OF THE DEPARTMENT AND SHALL FORTHWITH SERVE A COPY
53 UPON THE MORTGAGE LOAN ORIGINATOR AND ANY AFFECTED ORIGINATING ENTITY.
54 ANY SUCH ORDER MAY BE REVIEWED IN THE MANNER PROVIDED BY ARTICLE SEVEN-
55 TY-EIGHT OF THE CIVIL PRACTICE LAW AND RULES. SUCH APPLICATION FOR

1 REVIEW AS AUTHORIZED BY THIS SECTION MUST BE MADE WITHIN THIRTY DAYS
2 FROM THE DATE OF SUCH ORDER OF SUSPENSION OR REVOCATION.

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

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

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

21 2. FOR THE PURPOSE OF DISCOVERING VIOLATIONS OF THIS ARTICLE OR SECUR-
22 ING INFORMATION LAWFULLY REQUIRED BY HIM OR HER HEREUNDER, THE SUPER-
23 INTENDENT MAY AT ANY TIME, AND AS OFTEN AS HE OR SHE MAY DETERMINE,
24 INVESTIGATE THE BUSINESS AND EXAMINE THE BOOKS, ACCOUNTS, RECORDS, AND
25 FILES OF EVERY LICENSEE UNDER THIS ARTICLE AND ANY ENTITY WITH WHICH
26 SUCH INDIVIDUAL IS ASSOCIATED AS AN EMPLOYEE OR INDEPENDENT CONTRACTOR.
27 FOR THAT PURPOSE THE SUPERINTENDENT SHALL HAVE FREE ACCESS TO THE
28 OFFICES AND PLACES OF BUSINESS, BOOKS, ACCOUNTS, PAPERS, RECORDS, FILES,
29 SAFES AND VAULTS OF ALL SUCH ENTITIES. THE SUPERINTENDENT SHALL HAVE
30 AUTHORITY TO REQUIRE THE ATTENDANCE OF AND TO EXAMINE UNDER OATH ALL
31 PERSONS WHOSE TESTIMONY HE OR SHE MAY DEEM NECESSARY OR DESIRABLE RELA-
32 TIVE TO SUCH BUSINESS. THE EXPENSES INCURRED IN MAKING ANY EXAMINATION
33 PURSUANT TO THIS SECTION SHALL BE ASSESSED AGAINST AND PAID BY THE
34 LICENSEE SO EXAMINED, EXCEPT THAT TRAVELING AND SUBSISTENCE EXPENSES SO
35 INCURRED SHALL BE CHARGED AGAINST AND PAID BY LICENSEES IN SUCH
36 PROPORTIONS AS THE SUPERINTENDENT SHALL DEEM JUST AND REASONABLE, AND
37 SUCH PROPORTIONATE CHARGES SHALL BE ADDED TO THE ASSESSMENT OF THE OTHER
38 EXPENSES INCURRED UPON EACH EXAMINATION. UPON WRITTEN NOTICE BY THE
39 SUPERINTENDENT OF THE TOTAL AMOUNT OF SUCH ASSESSMENT, THE LICENSEE
40 SHALL BECOME LIABLE FOR AND SHALL PAY SUCH ASSESSMENT TO THE SUPERINTEN-
41 DENT.

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

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

51 1. EXCEPT AS OTHERWISE PROVIDED IN PUBLIC LAW 110-289, SECTION 1512,
52 THE REQUIREMENTS UNDER ANY FEDERAL LAW, THE FREEDOM OF INFORMATION LAW
53 ("FOIL") OR OTHER LAW OF THIS STATE REGARDING THE PRIVACY OR CONFIDEN-
54 TIALITY OF ANY INFORMATION OR MATERIAL PROVIDED TO THE NMLSR, AND ANY
55 PRIVILEGE ARISING UNDER FEDERAL OR STATE LAW (INCLUDING THE RULES OF ANY
56 FEDERAL OR STATE COURT) WITH RESPECT TO SUCH INFORMATION OR MATERIAL,

1 SHALL CONTINUE TO APPLY TO SUCH INFORMATION OR MATERIAL AFTER THE INFOR-
2 MATION OR MATERIAL HAS BEEN DISCLOSED TO THE NMLSR. SUCH INFORMATION AND
3 MATERIAL MAY BE SHARED WITH ALL STATE AND FEDERAL REGULATORY OFFICIALS
4 WITH MORTGAGE INDUSTRY OVERSIGHT AUTHORITY WITHOUT THE LOSS OF PRIVILEGE
5 OF THE LOSS OF CONFIDENTIALITY PROTECTIONS PROVIDED BY FEDERAL LAW, FOIL
6 OR THIS CHAPTER.

7 2. FOR THESE PURPOSES, THE SUPERINTENDENT IS AUTHORIZED TO ENTER INTO
8 AGREEMENTS OR SHARING ARRANGEMENTS WITH OTHER GOVERNMENTAL AGENCIES, THE
9 CONFERENCE OF STATE BANK SUPERVISORS, THE AMERICAN ASSOCIATION OF RESI-
10 DENTIAL MORTGAGE REGULATORS OR OTHER ASSOCIATIONS REPRESENTING GOVERN-
11 MENTAL AGENCIES AS ESTABLISHED BY RULE, REGULATION OR ORDER OF THE
12 SUPERINTENDENT.

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

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

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

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

1 loan servicer, [authorized] LICENSED mortgage loan originator, licensed
2 lender, licensed casher of checks, licensed sales finance company,
3 licensed insurance premium finance agency, licensed transmitter of
4 money, licensed budget planner, out-of-state state bank that maintains a
5 branch or branches or representative or other offices in this state, or
6 foreign banking corporation may voluntarily appear before him or her to
7 present any explanation in defense of the practices directed in said
8 order to be discontinued.

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

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

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

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

54 S 5. This act shall take effect immediately; provided, however, that
55 sections two and three of this act shall take effect on the same date
56 and in the same manner as sections 15 and 16 of chapter 472 of the laws

1 of 2008 take effect, respectively, and provided, further, that the
2 superintendent of banks may delay the implementation of any provision of
3 this act if consistent with title V of The Housing and Economic Recovery
4 Act of 2008, Pub. L. No. 110-287.