§ 28-bb. Credit needs of local communities; mortgage bankers. 1. When taking any action on an application made by a mortgage banker licensed pursuant to section five hundred ninety-one of this chapter for a change in control under section five hundred ninety-four-b of this chapter, or on any other application or notice to which the superintendent of financial services shall by rule or regulation make applicable the provisions of this section, the superintendent shall take into account, among other factors, an assessment, in writing, of the record of performance of the mortgage banker in helping to meet the credit needs of its entire community, including low and moderate income neighborhoods, and consistent with safe and sound operation of the mortgage banker. Such assessment and any written communications from the department of financial services to a mortgage banker relating to such assessment shall be made available to the public upon request, provided that nothing contained in this subdivision shall be deemed to alter, amend or affect the provisions of subdivision ten of section thirty-six of this article. In making such assessment of a mortgage banker, the superintendent shall review all reports and documents filed by the mortgage banker pursuant to section five hundred ninety-seven of this chapter. In addition, the superintendent shall consider the following factors in assessing a mortgage banker's record of performance, and include in its written assessment required by this section the record of performance of such mortgage banker as to each of the following factors:

(a) Activities conducted by the mortgage banker to ascertain credit needs of its community, including the extent of the mortgage banker's efforts to communicate with members of its community regarding the services being provided by the mortgage banker;

(b) The extent of the mortgage banker's marketing and special programs to make members of the community aware of the services offered by the mortgage banker;

(c) The extent of the mortgage banker's participation in community outreach, community development or redevelopment, and educational programs;

(d) The extent of participation by the mortgage banker's board of directors, advisory committee, managing members or executive management or equivalent body or person, in formulating the mortgage banker's policies and reviewing its performance with respect to the purposes of

this section;

(e) Any practices intended to discourage application for types of credit offered by the mortgage banker;

(f) The geographic distribution of the mortgage banker's credit extensions, credit applications, and credit denials;

(g) Evidence of prohibited discriminatory or other illegal credit practices;

(h) The mortgage banker's record of opening and closing offices and providing services at offices;

(i) The mortgage banker's participation in governmentally-insured, guaranteed or subsidized loan programs for housing;

(j) The mortgage banker's ability to meet various community credit needs based on its financial condition, size, legal impediments, local economic condition and other factors; and

(k) Other factors that, in the judgment of the superintendent, reasonably bear upon the extent to which a mortgage banker is helping to meet the credit needs of its entire community.

2. In assessing the record of performance of a mortgage banker pursuant to the provisions of subdivision one of this section, the superintendent may, where he or she deems it appropriate, provide for public hearings when an objection to the mortgage banker's application or notice has been submitted.

3. An assessment of a mortgage banker's record of performance under subdivision one of this section may be the basis for denying an application under the provisions of this section.

4. Notwithstanding any other provision of this chapter or other law to the contrary, the term mortgage banker when used in this section shall mean and include mortgage bankers licensed pursuant to section five hundred ninety-one of this chapter that originate a minimum number of loans annually, such number to be set by regulation promulgated by the superintendent.

5. The superintendent is hereby authorized and empowered to promulgate rules and regulations effectuating the provisions of this section,

including any rules and regulations providing that the assessment of mortgage bankers shall be made on a graduated numerical basis.

6. If any clause, sentence, paragraph, subdivision or part of this section or the application thereof to any person, firm, or corporation, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined (i) in its operation to the clause, sentence, paragraph, subdivision, or part of this section or (ii) in its application to the person, firm or corporation, or circumstance, directly involved in the controversy in which such judgment shall have been rendered.