**§ 591. Application for a mortgage banker's license; fees.** 1. The application for a license to be a mortgage banker shall be in writing, under oath, and in the form prescribed by the superintendent. Notwithstanding article three of the state technology law or any other law to the contrary, the superintendent may require that an application for, or renewal of, a license or any other submission or application for approval as may be required by this article, be made or executed by electronic means, including through the National Mortgage Licensing System and Registry or other entities designated by the National Mortgage Licensing System and Registry if he or she deems it necessary to ensure the efficient and effective administration of this article. The application shall contain the name and complete business and residential address or addresses of the applicant. If the applicant is a partnership, association, corporation or other form of business organization, the application shall contain the names and complete business and residential addresses of each member, director and principal officer thereof. Such application shall also include a description of the activities of the applicant, in such detail and for such periods, as the superintendent may require; including:

(a) An affirmation of financial solvency noting such capitalization requirements as may be required by the superintendent, and access to such credit as may be required by the superintendent;

(b) The fingerprints of the applicant, which may be submitted to the division of criminal justice services and the federal bureau of investigation for state and national criminal history record checks;

(c) An affirmation that the applicant, or its members, directors or principals as may be appropriate, are at least twenty-one years of age;

(d) Information as to the character, fitness, financial and business responsibility, background and experiences of the applicant.

2. An application shall be accompanied by an investigation fee as prescribed pursuant to section eighteen-a of this chapter payable to the superintendent.

3. A licensee may apply for authority to open and maintain a branch office by giving the superintendent prior notice of its intention in such form as shall be prescribed by the superintendent. Unless the

superintendent denies the application within thirty days of publication of notice of receipt of a completed application, the licensee shall be permitted to open and maintain such branch office. An application to open and maintain a branch office shall be accompanied by an investigation fee as prescribed pursuant to section eighteen-a of this chapter.

4. As a condition for the issuance and retention of a mortgage banker's license, and subject to such regulations as the superintendent shall prescribe, applicants for a license shall file with the superintendent a surety bond in form satisfactory to him or her issued by a bonding company or insurance company authorized to do business in this state. The principal amount of such bond shall be in an amount and form prescribed by regulations of the superintendent. Such regulations shall provide for a varying bond amount based upon a licensee's volume of business and any other relevant factors as determined by the superintendent, but in no case shall such bond be less than fifty thousand dollars nor more than five hundred thousand dollars; provided, however, that if the superintendent determines, in his or her sole discretion, that a licensee has engaged in a pattern of conduct resulting in bona fide consumer complaints of misconduct, the superintendent may require such licensee to post a surety bond, or keep on deposit as provided in this subdivision, twice the amount of such bond or deposit as is required consistent with such regulations. In lieu of such bond, an applicant may keep on deposit with such banks, savings banks, savings and loan associations, or trust companies or private bankers or national banks or federal savings banks or federal savings and loan associations in the state of New York as such applicant may designate and the superintendent may approve, interest-bearing stocks and bonds, notes, debentures, or other obligations of the United States or any agency or instrumentality thereof, or guaranteed by the United States, or of this state, or of a city, county, town, village, school district, or instrumentality of this state or guaranteed by this state, or dollar deposits, or such other assets or letters of credit as the superintendent shall by rule or regulation permit. In the event of the insolvency, liquidation or bankruptcy of such licensee, or the surrender or revocation of such mortgage banker's license, or where the

superintendent takes possession of such licensee, the proceeds of each bond or deposit shall constitute a trust fund to be used exclusively to reimburse consumer fees or other charges determined by the superintendent to be improperly charged or collected and to pay past due department of financial services examination costs and assessments charged to the licensee, unpaid penalties, or other obligations of the licensee. The superintendent is authorized to promulgate such regulations as are necessary and desirable to define and implement the provisions of this subdivision. Persons and entities licensed prior to the effective date of any regulations of the superintendent prescribing the bonding requirement authorized by this subdivision shall file such bond or establish such deposit within six months of the effective date of such regulations.