

HOUSE No. 980

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act adopting the federal secure and fair enforcement for mortgage licensing act of 2008..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The General Laws are hereby amended by striking out chapter 255F, as
2 inserted by section 15 of chapter 206 of the acts of 2008, and inserting in place thereof the
3 following chapter:

4 CHAPTER 255F.

5 LICENSING OF MORTGAGE LOAN ORIGINATORS.

6 Section 1. As used in this chapter, the following words shall, unless the context
7 otherwise requires, have the following meanings:-

8 “Commissioner”, the commissioner of banks.

9 “Depository institution”, the term “depository institution” has the same meaning as in
10 section 3 of the Federal Deposit Insurance Act, and includes any credit union.

11 “Division”, the division of banks.

12 “Entity”, a person or entity that is a licensee under chapter 255E, as regulated by the
13 division.

14 “Federal banking agencies”, the term “federal banking agencies” means the Board of
15 Governors of the Federal Reserve System, the Comptroller of the Currency, the Director of the
16 Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit
17 Insurance Corporation.

18 “Immediate family member”, a spouse, child, sibling, parent, grandparent, or grandchild.
19 This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

20 “Individual”, a natural person.

21 “Loan processor or underwriter”, (a) an individual who performs clerical or support
22 duties as an employee at the direction of and subject to the supervision and instruction of a
23 person licensed, or exempt from licensing under this chapter.

24 (b) for purposes of subsection (a), the term “clerical or support duties” may include
25 subsequent to the receipt of an application:

26 (i) the receipt, collection, distribution, and analysis of information common for the
27 processing or underwriting of a residential mortgage loan; and

28 (ii) communicating with a consumer to obtain the information necessary for the
29 processing or underwriting of a loan, to the extent that such communication does not include
30 offering or negotiating loan rates or terms, or counseling consumers about residential mortgage
31 loan rates or terms.

32 (c) An individual engaging solely in loan processor or underwriter activities, shall not
33 represent to the public, through advertising or other means of communicating or providing
34 information including the use of business cards, stationery, brochures, signs, rate lists, or other
35 promotional items, that such individual can or will perform any of the activities of a mortgage
36 loan originator

37 “Mortgage loan originator”,(a) The term “mortgage loan originator”, an individual who
38 for compensation or gain or in the expectation of compensation or gain:

39 (A) takes a residential mortgage loan application; or

40 (B) offers or negotiates terms of a residential mortgage loan;

41 (ii) does not include an individual engaged solely as a loan processor or underwriter
42 except as otherwise provided in subsection 4 of section 2;

43 (iii) does not include a person or entity that only performs real estate brokerage activities
44 and is licensed or registered in accordance with chapter 112, sections 87PP to 87DDD1/2,
45 inclusive, unless the person or entity is compensated by a lender, a mortgage broker, or other
46 mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage
47 loan originator; and

48 (iv) does not include a person or entity solely involved in extensions of credit relating to
49 timeshare plans, as that term is defined in section 101(53D) of title 11, United States Code.

50 (b) For purposes of this chapter the term “real estate brokerage activity” shall mean any
51 activity that involves offering or providing real estate brokerage services to the public, including:

52 (i) acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee of
53 real property;

54 (ii) bringing together parties interested in the sale, purchase, lease, rental, or exchange of
55 real property;

56 (iii) negotiating, on behalf of any party, any portion of a contract relating to the sale,
57 purchase, lease, rental, or exchange of real property (other than in connection with providing
58 financing with respect to any such transaction);

59 (iv) engaging in any activity for which a person engaged in the activity is required to be
60 registered or licensed as a real estate agent or real estate broker under any applicable law; and

61 (v) offering to engage in any activity, or act in any capacity, described in clauses (i), (ii),
62 (iii), or (iv) of this paragraph.

63 “Nationwide mortgage licensing system and registry”, a mortgage licensing system
64 developed and maintained by the Conference of State Bank Supervisors and the American
65 Association of Residential Mortgage Regulators for the licensing and registration of licensed
66 mortgage loan originators.

67 “Nontraditional mortgage product”, any mortgage product other than a 30-year fixed rate
68 mortgage.

69 “Person”, a natural person, corporation, company, limited liability company, partnership,
70 or association.

71 “Registered mortgage loan originator”, any individual who:

72 (a) meets the definition of mortgage loan originator and is an employee of:
73 (i) a depository institution;
74 (ii) a subsidiary that is—
75 (A) owned and controlled by a depository institution; and
76 (B) regulated by a federal banking agency; or
77 (iii) An institution regulated by the Farm Credit Administration; and
78 (b) Is registered with, and maintains a unique identifier through, the Nationwide
79 Mortgage Licensing System and Registry.

80 “Residential mortgage loan”, any loan primarily for personal, family, or household use
81 that is secured by a mortgage, deed of trust, or other equivalent consensual security interest on a
82 dwelling as defined in section 103(v) of the Truth in Lending Act or residential real estate upon
83 which is constructed or intended to be constructed a dwelling as so defined.

84 “Residential real estate”, any real property located in the commonwealth, upon which is
85 constructed or intended to be constructed a dwelling.

86 “Unique identifier”, a number or other identifier assigned by protocols established by the
87 Nationwide Mortgage Licensing System and Registry.

88 Section 2. (1) An individual, unless specifically exempted from this chapter under
89 subsection (3) of this section, shall not engage in the business of a mortgage loan originator with
90 respect to any dwelling located in the commonwealth without first obtaining and maintaining
91 annually a license under this chapter. Each licensed mortgage loan originator must register with

92 and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing System and
93 Registry. An individual who is an employee of a person exempt from licensing under section 2
94 of chapter 255E who is not exempt by subsection (3) shall not engage in the business of a
95 mortgage loan originator with respect to any dwelling located in the commonwealth without first
96 obtaining and maintaining annually a license under this chapter.

97 (2) In order to facilitate an orderly transition to licensing and minimize disruption in the
98 mortgage marketplace, the effective date for subsection (1):

99 (a) For all individuals other than individuals described in subsection (b) shall be July 31,
100 2010, or such later date approved by the Secretary of the U.S. Department of Housing and Urban
101 Development, pursuant to the authority granted under Public Law 110-289, Section 1508(a).

102 (b) For all individuals licensed as mortgage loan originators as of the enactment of this
103 chapter shall be January 1, 2011, or such later date approved by the Secretary of the U.S.
104 Department of Housing and Urban Development, pursuant to the authority granted under Public
105 Law 110-289, Section 1508(a).

106 (3) The following are exempt from this chapter:

107 (a) Registered Mortgage Loan Originators are exempt from this chapter.

108 (b) Any individual who offers or negotiates terms of a residential mortgage loan with or
109 on behalf of an immediate family member of the individual.

110 (c) Any individual who offers or negotiates terms of a residential mortgage loan secured
111 by a dwelling that served as the individual's residence.

112 (d) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf
113 of a client as an ancillary matter to the attorney's representation of the client, unless the attorney
114 is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent
115 of such lender, mortgage broker, or other mortgage loan originator.

116 (4) A loan processor or underwriter who is an independent contractor may not engage in
117 the activities of a loan processor or underwriter unless such independent contractor loan
118 processor or underwriter obtains and maintains a license under subsection (1) of section 2. Each
119 independent contractor loan processor or underwriter licensed as a mortgage loan originator must
120 have and maintain a valid unique identifier issued by the Nationwide Mortgage Licensing
121 System and Registry.

122 (5) For the purposes of implementing an orderly and efficient licensing process the
123 commissioner may establish licensing rules or regulations and interim procedures for licensing
124 and acceptance of applications. For previously registered or licensed individuals the
125 commissioner may establish expedited review and licensing procedures.

126 Section 3. (1) Applicants for a license shall apply in a form as prescribed by the
127 commissioner. Each such form shall contain content as set forth by rule, regulation, instruction
128 or procedure of the commissioner and may be changed or updated as necessary by the
129 commissioner in order to carry out the purposes of this chapter.

130 (2) In order to fulfill the purposes of this chapter, the commissioner is authorized to
131 establish relationships or contracts with the Nationwide Mortgage Licensing System and
132 Registry or other entities designated by the Nationwide Mortgage Licensing System and Registry

133 to collect and maintain records and process transaction fees or other fees related to licensees or
134 other persons subject to this chapter.

135 (3) For the purpose of participating in the Nationwide Mortgage Licensing System and
136 Registry, the commissioner is authorized to waive or modify, in whole or in part, by rule,
137 regulation or order, any or all of the requirements of this chapter and to establish new
138 requirements as reasonably necessary to participate in the Nationwide Mortgage Licensing
139 System and Registry.

140 (4) In connection with an application for licensing as a mortgage loan originator, the
141 applicant shall, at a minimum, furnish to the Nationwide Mortgage Licensing System and
142 Registry information concerning the applicant's identity, including:

143 (a) fingerprints for submission to the Federal Bureau of Investigation, and any
144 governmental agency or entity authorized to receive such information for a state, national and
145 international criminal history background check; and

146 (b) personal history and experience in a form prescribed by the Nationwide Mortgage
147 Licensing System and Registry, including the submission of authorization for the Nationwide
148 Mortgage Licensing System and Registry and the commissioner to obtain—

149 (i) an independent credit report obtained from a consumer reporting agency described in
150 section 603(p) of the Fair Credit Reporting Act; and

151 (ii) information related to any administrative, civil or criminal findings by any
152 governmental jurisdiction.

153 The commissioner may obtain, pursuant to section 172J of chapter 6 all available
154 criminal offender record information from the criminal history systems board on an applicant for
155 a mortgage loan originator license by means of fingerprint checks.

156 (5) For the purposes of this section and in order to reduce the points of contact which
157 the Federal Bureau of Investigation may have to maintain for purposes of clause (a) and
158 subclause (ii) of clause (b) of subsection (4) the commissioner may use the Nationwide Mortgage
159 Licensing System and Registry as a channeling agent for requesting information from and
160 distributing information to the Department of Justice or any governmental agency.

161 (6) For the purposes of this section and in order to reduce the points of contact which the
162 commissioner may have to maintain for purposes of subclauses (i) and (ii) of clause (b) of
163 subsection (4) the commissioner may use the Nationwide Mortgage Licensing System and
164 Registry as a channeling agent for requesting and distributing information to and from any
165 source so directed by the commissioner.

166 Section 4. The commissioner shall not issue a mortgage loan originator license unless the
167 commissioner makes at a minimum the following findings:-

168 (1) The applicant has never had a mortgage loan originator license revoked in any
169 governmental jurisdiction, except that a subsequent formal vacation of such revocation shall not
170 be deemed a revocation.

171 (2) The applicant has not been convicted of, or pled guilty or nolo contendere to, a
172 felony in a domestic, foreign, or military court:

173 (a) during the 7-year period preceding the date of the application for licensing and
174 registration; or

175 (b) at any time preceding such date of application, if such felony involved an act of
176 fraud, dishonesty, or a breach of trust, or money laundering.

177 The applicant has no other convictions or admissions to sufficient facts involving fraud,
178 dishonesty, or a breach of trust, or that the applicant has not had any adverse civil judgments
179 involving fraudulent dealings. A pardon of a conviction shall not be a conviction for purposes of
180 this subsection.

181 (3) The applicant has demonstrated financial responsibility, character, reputation,
182 integrity and general fitness such as to command the confidence of the community and to
183 warrant a determination that the mortgage loan originator will operate honestly, fairly, soundly
184 and efficiently in the public interest, consistent with the purposes of this chapter.

185 (a) For purposes of this subsection a person has shown that he or she is not financially
186 responsible when he or she has shown a disregard in the management of his or her own financial
187 condition. A determination that an individual has not shown financial responsibility may
188 include, but not be limited to:

189 (i) current outstanding judgments, except judgments solely as a result of medical
190 expenses;

191 (ii) current outstanding tax liens or other government liens and filings;

192 (iii) foreclosures within the past 3 years;

193 (iv) a pattern of seriously delinquent accounts within the past 3 years.

194 (4) The applicant has completed the pre-licensing education requirement described in
195 section 5.

196 (5) The applicant has passed a written test that meets the test requirement described in
197 section 6.

198 (6) The applicant has met the surety bond requirement as required pursuant to section 12.

199 (7) A mortgage loan originator may be employed by 1 and not more than 1 entity. Each
200 original license issued to a mortgage loan originator must be provided to and maintained by the
201 employing entity at the entity's main office. If the employment of a mortgage loan originator is
202 terminated, the employing entity shall return the mortgage loan originator's license to the
203 division within 5 business days after termination. The reason for termination shall be given in a
204 format determined by rules and regulations of the commissioner. For a period of 1 year after the
205 termination of employment, the mortgage loan originator may request the re-assignment of the
206 license to another entity by submitting an application to the division, along with a fee established
207 by the division by rule. The return of the license of any mortgage loan originator to the division
208 that is not re-assigned to another entity terminates the right of the mortgage loan originator to
209 engage in any residential mortgage loan origination activity until division procedures have been
210 followed to reactivate such license. The license of any mortgage loan originator that has been
211 returned to the division and not re-assigned to another entity within 1 year of termination of
212 employment shall be cancelled. Each license shall state the name of the mortgage loan originator
213 licensee and the name and main office address of the entity employing such mortgage loan
214 originator.

215 Section 5. (1) In order to meet the pre-licensing education requirement referred to in
216 subsection (4) of section 4 a person shall complete at least 20 hours of education approved in
217 accordance with subsection (2), which shall include at least:-

218 (a) 3 hours of federal and state law and regulations;

219 (b) 3 hours of ethics, which shall include instruction on fraud, consumer protection, and
220 fair lending issues; and

221 (c) 2 hours of training related to lending standards for the nontraditional mortgage
222 product marketplace.

223 (2) For purposes of subsection (1), pre-licensing education courses shall be reviewed, and
224 approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable
225 standards. Review and approval of a pre-licensing education course shall include review and
226 approval of the course provider.

227 (3) Nothing in this section shall preclude any pre-licensing education course, as approved
228 by the Nationwide Mortgage Licensing System and Registry that is provided by the employer of
229 the applicant or an entity which is affiliated with the applicant by an agency contract, or any
230 subsidiary or affiliate of such employer or entity.

231 (4) Pre-licensing education may be offered either in a classroom, online or by any other
232 means approved by the Nationwide Mortgage Licensing System and Registry.

233 (5) The pre-licensing education requirements approved by the Nationwide Mortgage
234 Licensing System and Registry in clauses (a), (b) and (c) of subsection (4) for any state shall be

235 accepted as credit towards completion of pre-licensing education requirements in the
236 commonwealth.

237 Section 6. (1) In order to meet the written test requirement referred to in subsection (5)
238 of section 4, an individual shall pass, in accordance with the standards established under this
239 section, a qualified written test developed by the Nationwide Mortgage Licensing System and
240 Registry and administered by a test provider approved by the Nationwide Mortgage Licensing
241 System and Registry based upon reasonable standards.

242 (2) A written test shall not be treated as a qualified written test for purposes of
243 subsection (1) of this section unless the test adequately measures the applicant's knowledge and
244 comprehension in appropriate subject areas, including:—

245 (a) ethics;

246 (b) federal law and regulation pertaining to mortgage origination;

247 (c) state law and regulation pertaining to mortgage origination; and

248 (d) federal and state law and regulation, including instruction on fraud, consumer
249 protection, the nontraditional mortgage marketplace, and fair lending issues.

250 (3) Nothing in this section shall prohibit a test provider approved by the Nationwide
251 Mortgage Licensing System and Registry from providing a test at the location of the employer of
252 the applicant or the location of any subsidiary or affiliate of the employer of the applicant, or the
253 location of any entity with which the applicant holds an exclusive arrangement to conduct the
254 business of a mortgage loan originator.

255 (4) (a) An individual shall not be considered to have passed a qualified written test
256 unless the individual achieves a test score of not less than 75 per cent correct answers to
257 questions.

258 (b) An individual may retake a test 3 consecutive times with each consecutive taking
259 occurring at least 30 days after the preceding test.

260 (c) After failing 3 consecutive tests, an individual shall wait at least 6 months before
261 taking the test again.

262 (d) A licensed mortgage loan originator who fails to maintain a valid license for a period
263 of 5 years or longer shall retake the test, not taking into account any time during which such
264 individual is a registered mortgage loan originator.

265 Section 7. (1) The minimum standards for license renewal for mortgage loan originators
266 shall include the following:-

267 (a) The mortgage loan originator continues to meet the minimum standards for license
268 issuance under subsections (1) to (7), inclusive, of section 4.

269 (b) The mortgage loan originator has satisfied the annual continuing education
270 requirements described in section 8.

271 (c) The mortgage loan originator has paid all required fees for renewal of the license.

272 (2) The license of a mortgage loan originator failing to satisfy the minimum standards
273 for license renewal shall expire. The commissioner may adopt procedures for the reinstatement
274 of expired licenses consistent with the standards established by the Nationwide Mortgage
275 Licensing System and Registry.

276 Section 8. (1) In order to meet the annual continuing education requirements referred to
277 in clause (b) of subsection (1) of section 7, a licensed mortgage loan originator shall complete at
278 least 8 hours of education approved in accordance with subsection (2) of this section, which shall
279 include at least—

280 (a) 3 hours of federal and state law and regulations;

281 (b) 2 hours of ethics, which shall include instruction on fraud, consumer protection, and
282 fair lending issues; and

283 (c) 2 hours of training related to lending standards for the nontraditional mortgage
284 product marketplace.

285 (2) For purposes of subsection (1), continuing education courses shall be reviewed, and
286 approved by the Nationwide Mortgage Licensing System and Registry based upon reasonable
287 standards. Review and approval of a continuing education course shall include review and
288 approval of the course provider.

289 (3) Nothing in this section shall preclude any education course, as approved by the
290 Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the
291 mortgage loan originator or an entity which is affiliated with the mortgage loan originator by an
292 agency contract, or any subsidiary or affiliate of such employer or entity.

293 (4) Continuing education may be offered either in a classroom, online or by any other
294 means approved by the Nationwide Mortgage Licensing System and Registry.

295 (5) A licensed mortgage loan originator—

296 (a) except for subsection (2) of section 7 and subsection (9) of this section may only
297 receive credit for a continuing education course in the year in which the course is taken; and

298 (b) may not take the same approved course in the same or successive years to meet the
299 annual requirements for continuing education.

300 (6) A licensed mortgage loan originator who is an approved instructor of an approved
301 continuing education course may receive credit for the licensed mortgage loan originator's own
302 annual continuing education requirement at the rate of 2 hours credit for every 1 hour taught.

303 (7) A person having successfully completed the education requirements approved by the
304 Nationwide Mortgage Licensing System and Registry in clauses (a), (b) and (c) of subsection (1)
305 of this section for any state shall be accepted as credit towards completion of continuing
306 education requirements in the commonwealth.

307 (8) A licensed mortgage loan originator who subsequently becomes unlicensed must
308 complete the continuing education requirements for the last year in which the license was held
309 prior to issuance of a new or renewed license.

310 (9) A person meeting the requirements of clauses (a) and (c) of subsection (1) of section
311 7 may make up any deficiency in continuing education as established by rule or regulation of the
312 commissioner.

313 Section 9. In addition to any other duties imposed upon the commissioner by law, the
314 commissioner shall require mortgage loan originators to be licensed and registered through the
315 Nationwide Mortgage Licensing System and Registry. In order to carry out this requirement the
316 commissioner is authorized to participate in the Nationwide Mortgage Licensing System and

317 Registry. For this purpose, the commissioner may establish by regulation requirements as
318 necessary, including, but not limited to:-

319 (1) background checks for:-

320 (a) criminal history through fingerprint or other databases;

321 (b) civil or administrative records;

322 (c) credit history; or

323 (d) any other information as deemed necessary by the Nationwide Mortgage Licensing
324 System and Registry.

325 (2) the payment of fees to apply for or renew licenses through the Nationwide Mortgage
326 Licensing System and Registry provided, however, that each application for a license shall be
327 accompanied by an investigation fee and license fee provided, that investigation and license fees
328 shall be determined annually by the secretary of administration under section 3B of chapter 7;
329 provided, further, that such investigation and license fees shall not apply to any community
330 development corporation as defined in section 1 of chapter 40F and organized under the General
331 Laws provided, further, that classifications or adjustments as deemed necessary may be made
332 relative to fees for any nonprofit agency or corporation incorporated under the laws of the
333 commonwealth for the purpose of assisting low to moderate income households in the purchase
334 or rehabilitation of family residences of 4 units or less and which holds tax-exempt status granted
335 under the provisions of Section 501(c)(3) or 501(c)(4) of the Internal Revenue Code or as
336 otherwise determined by the commissioner;

337 (3) the setting or resetting as necessary of renewal or reporting dates; and

338 (4) requirements for amending or surrendering a license or any other such activities as
339 the commissioner deems necessary for participation in the Nationwide Mortgage Licensing
340 System and Registry.

341 Section 10. The commissioner shall establish a process whereby mortgage loan
342 originators may challenge information entered into the Nationwide Mortgage Licensing System
343 and Registry by the commissioner.

344 Section 11. (1) In order to ensure the effective supervision and enforcement of this
345 chapter the commissioner may, pursuant to chapter 30A:-

346 (a) Deny, suspend, revoke, condition or decline to renew a license for a violation of this
347 chapter, rules or regulations issued under this chapter or order or directive entered under this
348 chapter.

349 (b) Deny, suspend, revoke, condition or decline to renew a license if an applicant or
350 licensee fails at any time to meet the requirements of section 4 or section 7, or withholds
351 information or makes a material misstatement in an application for a license or renewal of a
352 license.

353 (c) Order restitution against persons subject to this chapter for violations of this chapter.

354 (d) Impose fines on persons subject to this chapter pursuant to subsections (2), (3) and
355 (4).

356 (e) Issue orders or directives under this chapter as follows:

357 (i) Order or direct persons subject to this chapter to cease and desist from conducting
358 business, including immediate temporary orders to cease and desist.

359 (ii) Order or direct persons subject to this chapter to cease any harmful activities or
360 violations of this chapter, including immediate temporary orders to cease and desist.

361 (iii) Enter immediate temporary orders to cease business under a license or interim
362 license issued pursuant to the authority granted under subsection (5) of section 2 if the
363 commissioner determines that such license was erroneously granted or the licensee is currently in
364 violation of this chapter;

365 (iv) Order or direct such other affirmative action as the commissioner deems necessary.

366 (2) The commissioner may impose a civil penalty on a mortgage loan originator or
367 person subject to this chapter, if the commissioner finds, on the record after notice and
368 opportunity for hearing, that such mortgage loan originator or person subject to this chapter has
369 violated or failed to comply with any requirement of this chapter or any regulation prescribed by
370 the commissioner under this chapter or order issued under authority of this chapter.

371 (3) The maximum amount of penalty for each act or omission described in subsection (2)
372 shall be \$25,000.

373 (4) Each violation or failure to comply with any directive or order of the commissioner is
374 a separate and distinct violation or failure.

375 (5) (a) Whenever the commissioner determines that any person has, directly or indirectly,
376 violated this chapter or any rule or regulation promulgated hereunder, applicable to the conduct
377 of a mortgage loan originator on residential property in the commonwealth, any order issued by
378 the commissioner pursuant to this chapter or any written agreement entered between the licensee
379 and the commissioner, the commissioner may serve upon that person a written notice of

380 intention:- (i) to prohibit the person from performing in the capacity of a principal employee on
381 behalf of any licensee for a period of time that the commissioner considers necessary; (ii) to
382 prohibit the person from applying for or obtaining a license from the commissioner for a period
383 up to 36 months following the effective date of an order issued under paragraph (b) or (c); or
384 (iii) to prohibit the person from any further participation, in any manner, as a mortgage loan
385 originator in the commonwealth or to prohibit the person from being employed by, as agent of,
386 or operating on behalf of a licensee under this chapter or any other business which requires a
387 license from the commissioner. (b) A written notice issued under paragraph (a) shall contain a
388 written statement of the facts that support the prohibition and shall give notice of an opportunity
389 for a hearing to be held thereon. The hearing shall be fixed for a date not more than 30 days after
390 the date of service upon the commissioner of the request for a hearing. If the person fails to
391 submit a request for a hearing within 20 days of service of notice under said paragraph (a), or
392 otherwise fails to appear in person or by a duly authorized representative, the party shall be
393 considered to have consented to the issuance of an order of prohibition in accordance with the
394 notice. (c) In the event that consent is granted by operation of paragraph (b), or if after a hearing
395 the commissioner finds that any of the grounds specified in the notice have been established, the
396 commissioner may issue an order of prohibition in accordance with paragraph (a) as the
397 commissioner finds appropriate. (d) An order issued under paragraph (b) or (c) shall be effective
398 upon service upon the person. The commissioner shall also serve a copy of the order upon the
399 licensee of which the person is an employee or on whose behalf the person is performing. The
400 order shall remain in effect and enforceable until it is modified, terminated, suspended or set
401 aside by the commissioner or a court of competent jurisdiction. (e) Except as consented to in
402 writing by the commissioner, any person who, pursuant to an order issued under paragraph (b) or

403 (c), has been prohibited from participating in whole or in part as a mortgage loan originator may
404 not, while the order is in effect, continue or commence to perform in the capacity of a mortgage
405 loan originator, or otherwise participate in any manner, if so prohibited by order of the
406 commissioner, in the conduct of the affairs of:- (i) any licensee under this chapter; (ii) any other
407 business which requires a license from the commissioner; or (iii) any bank as defined under
408 section 1 of chapter 167 or any subsidiary thereof. (6) The commissioner may suspend, revoke
409 or refuse to renew the license of the entity employing any licensed mortgage originator if the
410 commissioner finds that: (a) the entity knew or should have known that the mortgage loan
411 originator violated this chapter or any rule or regulation promulgated hereunder, or any other law
412 applicable to the conduct of its business; (b) the entity knew of any fact or condition to exist
413 which, if it had existed at the time of the original application for such license, would have
414 warranted the commissioner in refusing to issue such license; or (c) the mortgage loan originator
415 committed any fraud, misappropriated funds or misrepresented any of the material particulars of
416 a mortgage loan transaction approved by the entity.

417 Section 12. (1) Each mortgage loan originator shall be covered by a surety bond in
418 accordance with this section. In the event that the mortgage loan originator is an employee or
419 exclusive agent of a person subject to chapter 255E, the surety bond of such person subject to
420 this chapter can be used in lieu of the mortgage loan originator's surety bond requirement.

421 (a) The surety bond shall provide coverage for each mortgage loan originator in an
422 amount as prescribed in subsection (2).

423 (b) The surety bond shall be in a form as prescribed by the commissioner.

424 (c) The commissioner may promulgate rules or regulations with respect to the
425 requirements for such surety bonds as are necessary to accomplish the purposes of this chapter.

426 (2) The penal sum of the surety bond shall be maintained in an amount that reflects the
427 dollar amount of loans originated as determined by the commissioner.

428 (3) When an action is commenced on a licensee's bond the commissioner may require
429 the filing of a new bond.

430 (4) Immediately upon recovery upon any action on the bond the licensee shall file a new
431 bond.

432 Section 13. In order to promote more effective regulation and reduce regulatory burden
433 through supervisory information sharing:—

434 (1) Except as otherwise provided in Public Law 110-289, Section 1512, the requirements
435 under any federal law or section 10 of chapter 66 regarding the privacy or confidentiality of any
436 information or material provided to the Nationwide Mortgage Licensing System and Registry,
437 and any privilege arising under federal or state law, including the rules of any federal or state
438 court, with respect to such information or material, shall continue to apply to such information or
439 material after the information or material has been disclosed to the Nationwide Mortgage
440 Licensing System and Registry. Such information and material may be shared with all state and
441 federal regulatory officials with mortgage industry oversight authority without the loss of
442 privilege or the loss of confidentiality protections provided by federal law or said section 10 of
443 chapter 66.

444 (2) For these purposes, the commissioner is authorized to enter agreements or sharing
445 arrangements with other governmental agencies, the Conference of State Bank Supervisors, the
446 American Association of Residential Mortgage Regulators or other associations representing
447 governmental agencies as established by rule, regulation or order of the commissioner.

448 (3) Information or material that is subject to a privilege or confidentiality under
449 subsection (1) shall not be subject to:—

450 (a) disclosure under any federal or state law governing the disclosure to the public of
451 information held by an officer or an agency of the federal government or the respective State; or

452 (b) subpoena or discovery, or admission into evidence, in any private civil action or
453 administrative process, unless with respect to any privilege held by the Nationwide Mortgage
454 Licensing System and Registry with respect to such information or material, the person to whom
455 such information or material pertains waives, in whole or in part, in the discretion of such
456 person, that privilege.

457 (4) Section 10 of chapter 66 relating to the disclosure of confidential supervisory
458 information or any information or material described in subsection (1) that is inconsistent with
459 said subsection (1) shall be superseded by the requirements of this section.

460 (5) This section shall not apply with respect to the information or material relating to the
461 employment history of, and publicly adjudicated disciplinary and enforcement actions against,
462 mortgage loan originators that is included in the Nationwide Mortgage Licensing System and
463 Registry for access by the public.

464 Section 14. In addition to any authority allowed under this chapter the commissioner
465 shall have the authority to conduct investigations and examinations as follows:-

466 (1) For purposes of initial licensing, license renewal, license suspension, license
467 conditioning, license revocation or termination, or general or specific inquiry or investigation to
468 determine compliance with this chapter, the commissioner shall have the authority to access,
469 receive and use any books, accounts, records, files, documents, information or evidence
470 including, but not limited to: