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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

A N A C T

RELATING TO FINANCIAL INSTITUTIONS - LICENSED ACTIVITIES

Introduced By: Representative Michael J. Marcello

Date Introduced: February 25, 2010

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 19-14-1 and 19-14-3 of the General Laws in Chapter 19-14
2 entitled "Licensed Activities" are hereby amended to read as follows:

3 **19-14-1. Definitions.** -- Unless otherwise specified, the following terms shall have the
4 following meanings throughout [this chapter and](#) chapters 14.1, 14.2, 14.3, 14.4, 14.6, 14.8 and
5 14.10 of this title:

6 (1) "Check" means any check, draft, money order, personal money order, or other
7 instrument for the transmission or payment of money. For the purposes of check cashing,
8 travelers checks or foreign denomination instruments shall not be considered checks. "Check
9 cashing" means providing currency for checks;

10 (2) "Deliver" means to deliver a check to the first person who in payment for the check
11 makes or purports to make a remittance of or against the face amount of the check, whether or not
12 the deliverer also charges a fee in addition to the face amount, and whether or not the deliverer
13 signs the check;

14 (3) "Electronic money transfer" means receiving money for transmission within the
15 United States or to locations abroad by any means including, but not limited to, wire, facsimile or
16 other electronic transfer system;

17 (4) (i) "Lender" means any person who makes or funds a loan within this state with the
18 person's own funds, regardless of whether the person is the nominal mortgagee or creditor on the
19 instrument evidencing the loan;

1 (ii) A loan is made or funded within this state if any of the following conditions exist:

2 (A) The loan is secured by real property located in this state;

3 (B) An application for a loan is taken by an employee, agent, or representative of the
4 lender within this state;

5 (C) The loan closes within this state;

6 (D) The loan solicitation is done by an individual with a physical presence in this state;

7 or

8 (E) The lender maintains an office in this state.

9 (iii) The term "lender" shall also include any person engaged in a transaction whereby
10 the person makes or funds a loan within this state using the proceeds of an advance under a line
11 of credit over which proceeds the person has dominion and control and for the repayment of
12 which the person is unconditionally liable. This transaction is not a table funding transaction. A
13 person is deemed to have dominion and control over the proceeds of an advance under a line of
14 credit used to fund a loan regardless of whether:

15 (A) The person may, contemporaneously with or shortly following the funding of the
16 loan, assign or deliver to the line of credit lender one or more loans funded by the proceeds of an
17 advance to the person under the line of credit;

18 (B) The proceeds of an advance are delivered directly to the settlement agent by the line
19 of credit lender, unless the settlement agent is the agent of the line of credit lender;

20 (C) One or more loans funded by the proceeds of an advance under the line of credit is
21 purchased by the line of credit lender; or

22 (D) Under the circumstances as set forth in regulations adopted by the director or the
23 director's designee pursuant to this chapter;

24 (5) "Licensee" means any person licensed under this chapter;

25 (6) "Loan" means any advance of money or credit including, but not limited to:

26 (i) Loans secured by mortgages;

27 (ii) Insurance premium finance agreements;

28 (iii) The purchase or acquisition of retail installment contracts or advances to the holders
29 of those contracts;

30 (iv) Educational loans;

31 (v) Any other advance of money; or

32 (vi) Any transaction such as those commonly known as "pay day loans," "pay day
33 advances," or "deferred presentment loans," in which a cash advance is made to a customer in
34 exchange for the customer's personal check, or in exchange for the customer's authorization to

1 debit the customer's deposit account, and where the parties agree either that the check will not be
2 cashed or deposited, or that customer's deposit account will not be debited, until a designated
3 future date.

4 (7) "Loan broker" means any person who, for compensation or gain, or in the expectation
5 of compensation or gain, either directly or indirectly, solicits, processes, negotiates, places or sells
6 a loan within this state for others in the primary market, or offers to do so. A loan broker shall
7 also mean any person who is the nominal mortgagee or creditor in a table funding transaction. A
8 loan is brokered within this state if any of the following conditions exist:

9 (i) The loan is secured by real property located in this state;

10 (ii) An application for a loan is taken or received by an employee, agent or representative
11 of the loan broker within this state;

12 (iii) The loan closes within this state;

13 (iv) The loan solicitation is done by an individual with a physical presence in this state;

14 or

15 (v) The loan broker maintains an office in this state.

16 (8) "Personal money order" means any instrument for the transmission or payment of
17 money in relation to which the purchaser or remitter appoints or purports to appoint the seller as
18 his or her agent for the receipt, transmission, or handling of money, whether the instrument is
19 signed by the seller or by the purchaser or remitter or some other person;

20 (9) "Primary market" means the market in which loans are made to borrowers by lenders,
21 whether or not through a loan broker or other conduit;

22 (10) "Principal owner" means any person who owns, controls, votes or has a beneficial
23 interest in, directly or indirectly, ten percent (10%) or more of the outstanding capital stock
24 and/or equity interest of a licensee;

25 (11) "Sell" means to sell, to issue, or to deliver a check;

26 (12) "Small loan" means a loan of less than five thousand dollars (\$5,000), not secured
27 by real estate, made pursuant to the provisions of chapter 14.2 of this title;

28 (13) "Small loan lender" means a lender engaged in the business of making small loans
29 within this state;

30 (14) "Table funding transaction" means a transaction in which there is a
31 contemporaneous advance of funds by a lender and an assignment by the mortgagee or creditor of
32 the loan to the lender;

33 (15) "Check casher" means a person or entity that, for compensation, engages, in whole
34 or in part, in the business of cashing checks;

1 (16) "Deferred deposit transaction" means any transaction such as those commonly
2 known as "pay-day loans," "pay-day advances," or "deferred presentment loans" in which a cash
3 advance is made to a customer in exchange for the customer's personal check or in exchange for
4 the customer's authorization to debit the customer's deposit account and where the parties agree
5 either that the check will not be cashed or deposited, or that the customer's deposit account will
6 not be debited until a designated future date;

7 (17) "Insurance premium finance agreement" means an agreement by which an insured,
8 or prospective insured, promises to pay to an insurance premium finance company the amount
9 advanced or to be advanced, under the agreement to an insurer or to an insurance producer, in
10 payment of a premium or premiums on an insurance contract or contracts, together with interest
11 and a service charge, as authorized and limited by this title;

12 (18) "Insurance premium finance company" means a person engaged in the business of
13 making insurance premium finance agreements or acquiring insurance premium finance
14 agreements from other insurance premium finance companies;

15 (19) "Simple interest" means interest computed on the principal balance outstanding
16 immediately prior to a payment for the actual number of days between payments made on a loan
17 over the life of a loan;

18 (20) "Nonprofit organization" means a corporation qualifying as a 26 U.S.C. section
19 501(c)(3) nonprofit organization, in the operation of which no member, director, officer, partner,
20 employee, agent, or other affiliated person profits financially other than receiving reasonable
21 salaries if applicable;

22 (21) "Mortgage loan originator" has the same meaning set forth in subdivision 19-14.10-
23 3(6);

24 (22) "Mortgage loan" means a loan secured in whole or in part by real property located
25 in this state;

26 (23) "Loan solicitation" shall mean an effectuation, procurement, delivery and offer, and
27 advertisement of a loan. Loan solicitation also includes providing or accepting loan applications
28 and assisting persons in completing loan applications and/or advising, conferring, or informing
29 anyone regarding the benefits, terms and/or conditions of a loan product or service. Loan
30 solicitation does not include loan processing or loan underwriting as defined in this section. Loan
31 solicitation does not include telemarketing which is defined for purposes of this section to mean
32 contacting a person by telephone with the intention of collecting such person's name, address and
33 telephone number for the sole purpose of allowing a mortgage loan originator to fulfill a loan
34 inquiry;

1 (24) "Processes" shall mean, with respect to a loan, any of a series of acts or functions
2 including the preparation of a loan application and supporting documents performed by a person
3 which leads to or results in the acceptance, approval, denial, and/or withdrawal of a loan
4 application, including, without limitation, the rendering of services including loan underwriting,
5 obtaining verifications, credit reports or appraisals, communicating with the applicant and/or the
6 lender or loan broker, and/or other loan processing and origination services for consideration by a
7 lender or loan broker. Loan processing does not include the following:

8 (A) Providing loan closing services;

9 (B) Rendering of credit reports by an authorized credit reporting agency; and

10 (C) Rendering of appraisal services.

11 (25) "Loan underwriting" shall mean a loan process that involves the analysis of risk
12 with respect to the decision whether to make a loan to a loan applicant based on credit,
13 employment, assets, and other factors including evaluating a loan applicant against a lender's
14 various lending criteria for creditworthiness, making a determination for the lender as to whether
15 the applicant meets the lender's pre-established credit standards and/or making a recommendation
16 regarding loan approval;

17 (26) "Negotiates" shall mean, with respect to a loan, to confer directly with or offer
18 advice directly to a loan applicant or prospective loan applicant for a loan product or service
19 concerning any of the substantive benefits, terms, or conditions of the loan product or service;

20 (27) "Natural person employee" shall mean any natural person performing services as a
21 bona-fide employee for a person licensed under the provisions of Rhode Island general laws
22 section 19-14-1, et. seq., in return for a salary, wage, or other consideration, where such salary,
23 wage, or consideration is reported by the licensee on a federal form W-2 payroll record. The term
24 does not include any natural person or business entity performing services for a person licensed
25 under the provisions of Rhode Island general laws in return for a salary, wage, or other
26 consideration, where such salary, wage, or consideration is reported by the licensee on a federal
27 form 1099;

28 (28) "Bona-fide employee" shall mean an employee of a licensee who works under the
29 oversight and supervision of the licensee;

30 (29) "Oversight and supervision of the licensee" shall mean that the licensee provides
31 training to the employee, sets the employee's hours of work, and provides the employee with the
32 equipment and physical premises required to perform the employee's duties;

33 (30) "Operating subsidiary" shall mean a majority-owned subsidiary of a financial
34 institution or banking institution that engages only in activities permitted by the parent financial

1 institution or banking institution;

2 (31) "Provisional employee" means a natural person who, pursuant to a written
3 agreement between the natural person and a wholly owned subsidiary of a financial holding
4 company, as defined in The Bank Holding Company Act of 1956, as amended, a bank holding
5 company, savings bank holding company, or thrift holding company, is an exclusive agent for the
6 subsidiary with respect to mortgage loan originations, and the subsidiary: (a) holds a valid loan
7 broker's license and (b) enters into a written agreement with the director or the director's designee
8 to include:

9 (i) An "undertaking of accountability" in a form prescribed by the director or the
10 director's designee, for all of the subsidiary's exclusive agents to include full and direct financial
11 and regulatory responsibility for the mortgage loan originator activities of each exclusive agent as
12 if said exclusive agent was an employee of the subsidiary;

13 (ii) A business plan to be approved by the director or the director's designee, for the
14 education of the exclusive agents, the handling of consumer complaints related to the exclusive
15 agents, and the supervision of the mortgage loan origination activities of the exclusive agents;

16 (iii) A restriction of the exclusive agents' mortgage loan originators' activities to loans to
17 be made only by the subsidiary's affiliated bank; and

18 (32) "Multi-state licensing system" means a system involving one or more states, the
19 District of Columbia, or the Commonwealth of Puerto Rico established to facilitate the sharing of
20 regulatory information and the licensing, application, reporting and payment processes, by
21 electronic or other means, for mortgage lenders and loan brokers, and other licensees required to
22 be licensed under this chapter.

23 (33) "Negative equity" means the difference between the value of an asset and the
24 outstanding portion of the loan taken out to pay for the asset, when the latter exceeds the former
25 amount.

26 (34) "Loan closing services" means providing title services, including title searches, title
27 examinations, abstract preparation, insurability determinations, and the issuance of title
28 commitments and title insurance policies, conducting loan closings, and preparation of loan
29 closing documents when performed by or under the supervision of a licensed attorney, licensed
30 title agency, of licensed title insurance company.

31 **19-14-3. Application for license.** -- (a) The application for a license shall be in the form
32 prescribed by the director and shall contain the name and address or addresses where the business
33 of the applicant is located and if the applicant is a partnership, association, corporation or other
34 form of business organization, the names and addresses of each member, director and principal

1 officer thereof or any individual acting in the capacity of the manager of an office location. Such
2 application shall also include a description of the activities of the applicant, in such detail and for
3 such periods as the director may require, as well as such further information as the director may
4 require. The director may require a background investigation of each applicant for a license by
5 means of fingerprint checks pursuant to Rhode Island general laws sections 19-14-7 and 42-14-
6 14, utilizing the federal bureau of investigation, or other agency as determined by the director for
7 state and national criminal history record checks. If the applicant is a partnership, association,
8 corporation or other form of business organization, the director may require a background
9 investigation by means of fingerprint checks on each member, director, [trustee](#) or principal officer
10 of such applicant ~~or~~ [and](#) any individual acting in the capacity of the manager of an office location.
11 The director will determine by rule those items of information appearing on a criminal records
12 check that will constitute disqualifying information and therefore render the applicant ineligible
13 for licensing under this chapter in accordance with the provisions of section 19-14-7. Receipt of
14 criminal history record information by a private entity is prohibited. Each application for a license
15 shall be accompanied by an investigation fee. The applicant at the time of making application
16 shall pay to the director or the director's designee the sum of one half (1/2) of the annual license
17 fee as a fee for investigating the application. If the application for license is approved, the
18 applicant shall pay a fee equal to the annual license fee as provided in this chapter. The license
19 shall be continuous and the license fee shall cover the period through December 31 of each year.
20 The annual license fee for any application approved after November 1 of any given year shall
21 satisfy the annual license fee requirement through the end of the next succeeding calendar year
22 ending December 31. The director or the director's designee is authorized to participate in a
23 multi-state licensing system for licensees. The director may establish requirements for
24 participation by an applicant for a license or a person licensed under this chapter. Any such
25 requirements that may be established by the director shall be published on the website of the
26 department of business regulation. Upon implementation, participation by an applicant for a
27 license or by a person licensed under the provisions of this chapter shall be mandatory. The
28 applicant may be required to an additional fee for a license or other participation in such multi-
29 state licensing system.

30 (b) [Reserved_.

31 (c) [Reserved_.

32 (d) Any license issued under the provisions of former section 5-66-2 shall remain in full
33 force and effect until its expiration and shall be subject to the provisions of this chapter.

34 (e) An applicant for issuance of a mortgage loan originator license shall file with the

1 director or the director's designee evidence acceptable to the director or the director's designee
2 that said applicant has complied with the provisions of sections 19-14.10-5, 19-14.10-7 and 19-
3 14.10-8.

4 SECTION 2. Sections 19-14.10-3, 19-14.10-4 and 19-14.10-6 of the General Laws in
5 Chapter 19-14.10 entitled "An Act Adopting the Federal Secure and Fair Enforcement for
6 Mortgage Licensing Act of 2009" are hereby amended to read as follows:

7 **19-14.10-3. Definitions.** -- For purposes of this chapter, the following definitions shall
8 apply:

9 (1) "Depository institution" has the same meaning as in section 3 of the Federal Deposit
10 Insurance Act, and includes any credit union.

11 (2) "Federal banking agencies" means the Board of Governors of the Federal Reserve
12 System, the Comptroller of the Currency, the Director of the Office of Thrift Supervision, the
13 National Credit Union Administration, and the Federal Deposit Insurance Corporation.

14 (3) "Immediate family member" means a spouse, child, sibling, parent, grandparent, or
15 grandchild. This includes stepparents, stepchildren, stepsiblings, and adoptive relationships.

16 (4) "Individual" means a natural person.

17 (5) (i) "Loan processor or underwriter" means an individual who performs clerical or
18 support duties as an employee at the direction of and subject to the supervision and instruction of
19 a person licensed as a lender or as a loan broker, or exempt from licensing under chapters 19-14,
20 or 19-14.1.

21 (ii) For purposes of subsection (5)(i), "clerical or support duties" may include subsequent
22 to the receipt of an application:

23 (A) The receipt, collection, distribution, and analysis of information common for the
24 processing or underwriting of a residential mortgage loan; and

25 (B) Communicating with a consumer to obtain the information necessary for the
26 processing or underwriting of a loan, to the extent that such communication does not include
27 offering or negotiating loan rates or terms, or counseling consumers about residential mortgage
28 loan rates or terms.

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

34 (6) (i) "Mortgage loan originator" means:

1 (A) An individual who, for compensation or gain or in the expectation of compensation
2 or gain:

3 (I) Takes a residential mortgage loan application; or

4 (II) Offers or negotiates terms of a residential mortgage loan;

5 (B) Does not include an individual engaged solely as a loan processor or underwriter
6 except as otherwise provided in subsection ~~19-14.10(e)~~ [19-14.10-4\(c\)](#);

7 (C) Does not include a person or entity that only performs real estate brokerage activities
8 and is licensed or registered in accordance with Rhode Island law, unless the person or entity is
9 compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of
10 such lender, mortgage broker, or other mortgage loan originator;

11 (D) Does not include a person or entity solely involved in extensions of credit relating to
12 timeshare plans, as that term is defined in section 101(53D) of title 11, United States Code, as
13 amended; and

14 (E) Does not include a person (or its employees) engaged in servicing mortgage loans.
15 For purposes of this exclusion, "servicing mortgage loans" means, on behalf of the note holder,
16 collecting and receiving payments, including payments of principal, interest, escrow amounts,
17 and other sums due, on obligations due and owing to the note holder pursuant to a residential
18 mortgage loan, and, when the borrower is in default, or in reasonably foreseeable likelihood of
19 default, working with the borrower on behalf of the note holder and pursuant to the contract
20 between the person servicing mortgage loans and the note holder, to modify but not refinance,
21 either temporarily or permanently, the obligations, or otherwise finalizing collection of the
22 obligation through the foreclosure process.

23 (ii) "Real estate brokerage activity" means any activity that involves offering or
24 providing real estate brokerage services to the public, including:

25 (A) Acting as a real estate agent or real estate broker for a buyer, seller, lessor, or lessee
26 of real property;

27 (B) Bringing together parties interested in the sale, purchase, lease, rental, or exchange
28 of real property;

29 (C) Negotiating, on behalf of any party, any portion of a contract relating to the sale,
30 purchase, lease, rental, or exchange of real property (other than in connection with providing
31 financing with respect to any such transaction);

32 (D) Engaging in any activity for which a person engaged in the activity is required to be
33 registered or licensed as a real estate agent or real estate broker under any applicable law; and

34 (E) Offering to engage in any activity, or act in any capacity, described in subparagraphs

1 (A), (B), (C), or (D) of this section.

2 (7) "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing
3 system developed and maintained by the conference of state bank supervisors and the American
4 association of residential mortgage regulators for the licensing and registration of licensed
5 mortgage loan originators.

6 (8) "Nontraditional mortgage product" means any mortgage product other than a thirty
7 (30) year fixed rate mortgage.

8 (9) "Person" means a natural person, corporation, company, limited liability company,
9 partnership, association, or any other entity however organized.

10 (10) "Registered mortgage loan originator" means any individual who:

11 (i) Meets the definition of mortgage loan originator and is an employee of:

12 (A) A depository institution;

13 (B) A subsidiary that is:

14 (I) Owned and controlled by a depository institution; and

15 (II) Regulated by a Federal banking agency; or

16 (C) An institution regulated by the farm credit administration; and

17 (D) Is registered with, and maintains a unique identifier through, the nationwide
18 mortgage licensing system and registry.

19 (11) "Residential mortgage loan" means any loan primarily for personal, family, or
20 household use that is secured by a mortgage, deed of trust, or other equivalent consensual security
21 interest on a dwelling (as defined in section 103(v) of the Truth in Lending Act) or residential real
22 estate upon which is constructed or intended to be constructed a dwelling (as so defined).

23 (12) "Residential real estate" means any real property located in Rhode Island, upon
24 which is constructed or intended to be constructed a dwelling.

25 (13) "Unique identifier" means a number or other identifier assigned by protocols
26 established by the nationwide mortgage licensing system and registry.

27 **19-14.10-4. License and registration required.** -- (a) An individual, unless specifically
28 exempted from this chapter under subsection (b) of this section, shall not engage in the business
29 of a mortgage loan originator with respect to any dwelling located in this state without first
30 obtaining and maintaining annually a license under this chapter. Each licensed mortgage loan
31 originator must register with and maintain a valid unique identifier issued by the nationwide
32 mortgage licensing system and registry.

33 (b) The following [individuals](#) are exempt from this chapter:

34 (1) Registered mortgage loan originators, when acting for an entity described in

1 subparagraphs 19-14.10-3(10)(A), (B), or (C) are exempt from this chapter.

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

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

6 (4) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf
7 of a client as an ancillary matter to the attorney's representation of the client, unless the attorney
8 is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent
9 of such lender, mortgage broker, or other mortgage loan originator.

10 (5) A licensed attorney when performing loan closing services for a licensed lender,
11 licensed loan broker, or for an entity exempt from licensing under subdivision 19-14.1-10(a)(4);

12 (c) ~~A~~ An individual loan processor or underwriter who is an independent contractor may
13 not engage in the activities of a loan processor or underwriter unless such independent contractor
14 loan processor or underwriter obtains and maintains a license under chapters 19-14 ~~or 19-14.1~~
15 and 19-14.10. Each independent contractor loan processor or underwriter licensed as a mortgage
16 loan originator must have and maintain a valid unique identifier issued by the nationwide
17 mortgage licensing system and registry.

18 (d) For the purposes of implementing an orderly and efficient licensing process the
19 director or the director's designee may establish licensing rules or regulations and interim
20 procedures for licensing and acceptance of applications. For previously registered or licensed
21 individuals the director or the director's designee may establish expedited review and licensing
22 procedures as follows:

23 (1) A mortgage loan originator applicant whose employer at the time of application for a
24 mortgage loan originator license is an entity described in subparagraphs 19-14.10-3(10)(A), (B),
25 or (C) and who has been assigned a unique identifier through the nationwide mortgage licensing
26 system and registry and who has completed and filed with the director or the director's designee
27 all information, documents and requirements for licensure pursuant to this chapter shall be
28 permitted to continue to act as a mortgage loan originator for the period prior to action being
29 taken on his or her application by the director or the director's designee;

30 (2) A mortgage loan originator applicant who has been assigned a unique identifier
31 through the nationwide mortgage licensing system and registry and who has completed and filed
32 with the director or the director's designee all information, documents and requirements for
33 licensure pursuant to this chapter and whose employer at the time of application for a mortgage
34 loan originator license is a lender or loan broker licensed under chapter 19-14 and 19-14.1, shall

1 be permitted to continue to act as a mortgage loan originator for the period prior to action being
2 taken on his or her application by the director or director's designee if the applicant and a senior
3 officer or principal of such lender or loan broker files written attestation to the director or the
4 director's designee that:

5 (i) The applicant is currently or has within the six (6) month period prior to the date of
6 the application been acting as a registered mortgage loan originator in this state or as a state-
7 licensed mortgage loan originator in another state, in either case under the provisions of Section
8 1507 of the SAFE Act;

9 (ii) The applicant has never had a mortgage loan license or registration denied, revoked,
10 or suspended in any governmental jurisdiction; and

11 (iii) the applicant has not been convicted of a felony that would otherwise authorize the
12 director or the director's designee to deny the applicant a license.

13 (3) Any provisional authority to act as a mortgage loan originator issued pursuant to this
14 subsection (d) shall expire on the earlier of: (i) The date on which the director or the director's
15 designee issues or denies the application for the license; or (ii) One hundred twenty (120) days
16 from the date of application for the license.

17 (4) The director or the director's designee may deny or suspend the rights of a lender or
18 loan broker licensed under chapter 19-14 or 19-14.1 to employ a mortgage loan originator under
19 this subsection (d) if the director or the director's designee finds that such lender or loan broker, a
20 senior official or principal thereof, or the applicant failed to exercise due diligence and good faith
21 when submitting the attestations required in subdivision (d)(1) or (d)(2) above.

22 **19-14.10-6. Issuance of license.** -- The director or the director's designee shall not
23 approve a mortgage loan originator license unless the director or the director's designee makes at
24 a minimum the following findings:

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

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

30 (i) During the seven (7) year period preceding the date of the application for licensing
31 and registration; or

32 (ii) At any time preceding such date of application, if such felony involved an act of
33 fraud, dishonesty, or a breach of trust, or money laundering.

34 (iii) Pardon of a conviction shall not be a conviction for purposes of this subsection.

1 (3) The applicant has demonstrated financial responsibility, character, and general fitness
2 such as to command the confidence of the community and to warrant a determination that the
3 mortgage loan originator will operate honestly, fairly, and efficiently within the purposes of this
4 chapter.

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

9 (i) Current outstanding judgments, except judgments solely as a result of medical
10 expenses;

11 (ii) Current outstanding tax liens or other government liens and filings;

12 (iii) Foreclosures within the past three years;

13 (iv) A pattern of seriously delinquent accounts within the past three (3) years.

14 ~~(e)~~(4) The applicant has completed the pre-licensing education requirement described in
15 section 19-14.10-7.

16 ~~(e)~~(5) The applicant has passed a written test that meets the test requirement described in
17 section 19-14.10-8.

18 ~~(f)~~(6) The applicant has met the net worth or surety bond requirements required pursuant
19 to section 19-14.10-14.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
A N A C T
RELATING TO FINANCIAL INSTITUTIONS - LICENSED ACTIVITIES

- 1 This act would make technical corrections to both the Licensed Activities Act and the Act
- 2 Adopting the Federal Secure and Fair Enforcement for Mortgage Licensing Act of 2009.
- 3 This act would take effect upon passage.

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