
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 751 Session of
2017

INTRODUCED BY WHITE, JUNE 7, 2017

REFERRED TO BANKING AND INSURANCE, JUNE 7, 2017

AN ACT

1 Amending Title 7 (Banks and Banking) of the Pennsylvania
2 Consolidated Statutes, in mortgage loan industry licensing
3 and consumer protection, further providing for definitions,
4 for license requirements, for exceptions to license
5 requirements, for general requirements, for powers conferred
6 on certain licensees engaged in the mortgage loan business,
7 for mortgage loan business prohibitions, for application for
8 license, for license fees and for licensee requirements and
9 providing for the promulgation of regulations to effectively
10 incorporate Federal regulations.

11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. The definitions of "administrative or clerical
14 tasks," "billing cycle," "clerical or support duties," "mortgage
15 loan business," "mortgage loan correspondent," "qualifying
16 individual" and "service mortgage loan" in section 6102 of Title
17 7 of the Pennsylvania Consolidated Statutes are amended and the
18 section is amended by adding definitions to read:

19 § 6102. Definitions.

20 The following words and phrases when used in this chapter
21 shall have the meanings given to them in this section unless the
22 context clearly indicates otherwise:

1 "Administrative or clerical tasks." The receipt, collection
2 and distribution of information common for the processing,
3 servicing or underwriting of a mortgage loan and communication
4 with a consumer to obtain information necessary for the
5 processing, servicing or underwriting of a mortgage loan.

6 * * *

7 "Billing cycle." In respect to open-end mortgage loans, the
8 time interval between periodic billing dates as established by
9 the mortgage note and subsequent modification to the obligation.
10 A billing cycle shall be considered to be a monthly cycle if the
11 closing date of the cycle is the same date each month or does
12 not vary by more than four days from that date.

13 * * *

14 "Clerical or support duties." Any of the following:

15 (1) The receipt, collection, distribution and analysis
16 of information common for the processing, servicing or
17 underwriting of a mortgage loan.

18 (2) Communicating with a consumer to obtain the
19 information necessary for the processing, servicing or
20 underwriting of a mortgage loan, to the extent that the
21 communication does not include:

22 (i) offering or negotiating mortgage loan rates or
23 terms; [or]

24 (ii) counseling consumers about mortgage loan rates
25 or terms[.]; or

26 (iii) offering or negotiating mortgage servicing
27 terms.

28 * * *

29 "Delinquent." The date when an amount sufficient to cover a
30 periodic payment of principal, interest and, if applicable,

1 escrow becomes due and unpaid, and lasts until the time no
2 periodic payment is due and unpaid, notwithstanding if the
3 borrower is afforded a period after the due date to pay before
4 the servicer assesses a late fee.

5 * * *

6 "Loss mitigation option." An alternative to foreclosure
7 offered by the owner, holder or assignee of a delinquent
8 mortgage loan that is made available through the servicer to the
9 borrower.

10 * * *

11 "Mortgage loan business." [The business of advertising,
12 causing to be advertised, soliciting, negotiating or arranging
13 in the ordinary course of business or offering to make or making
14 mortgage loans.] The business of:

15 (1) advertising, causing to be advertised, soliciting,
16 negotiating or arranging in the ordinary course of business
17 or offering to make or making mortgage loans; or

18 (2) servicing mortgage loans.

19 "Mortgage loan correspondent." A person who engages in the
20 mortgage loan business by directly or indirectly originating and
21 closing mortgage loans in his or her own name utilizing funds
22 provided by a wholesale table funder or other funding sources
23 under the circumstances described under section [6123(6)]
24 6123(a)(6) (relating to mortgage loan business prohibitions) and
25 simultaneously assigning the mortgage loans to the wholesale
26 table funder.

27 * * *

28 "Mortgage servicer." A person who engages in the mortgage
29 loan business by directly or indirectly servicing a mortgage
30 loan.

1 * * *

2 "Qualifying individual." An individual identified by a
3 mortgage broker, mortgage lender, mortgage servicer or mortgage
4 loan correspondent in the Nationwide Mortgage Licensing System
5 and Registry who:

6 (1) Is a mortgage originator or meets the licensing
7 requirements of a mortgage originator.

8 (2) Is a management-level officer assigned to the
9 principal place of business of a mortgage broker, mortgage
10 lender, mortgage servicer or mortgage loan correspondent.

11 * * *

12 "Service mortgage loan." A collecting or remitting payment
13 [for another,] or the right to collect or remit payments [for
14 another,] of principal, interest, tax, insurance or other
15 payment under a mortgage loan.

16 "Single point of contact." An individual or team of
17 personnel, each of whom has the ability and authority to discuss
18 mortgage loan mitigation options with a borrower on behalf of a
19 mortgage servicer. The mortgage servicer shall ensure that each
20 member of the team is knowledgeable about the borrower's
21 situation and current status.

22 * * *

23 Section 2. Section 6111(a) and (b) of Title 7 are amended to
24 read:

25 § 6111. License requirements.

26 (a) General rule.--Except as provided under subsections (b)
27 and (c) and section 6112 (relating to exceptions to license
28 requirements), on and after the effective date of this section,
29 no person shall engage in the mortgage loan business in this
30 Commonwealth without being licensed as a mortgage broker,

1 mortgage lender, mortgage servicer, mortgage loan correspondent
2 or mortgage originator as provided under this chapter. A
3 mortgage originator may not engage in the mortgage loan business
4 unless the mortgage originator is sponsored in the Nationwide
5 Mortgage Licensing System and Registry by a licensed mortgage
6 broker, mortgage lender, mortgage servicer or mortgage loan
7 correspondent, person excepted from this chapter or person
8 excepted from licensure under section 6112 and is under the
9 direct supervision and control of the sponsoring licensee or
10 excepted person.

11 (b) Licensed activity exceptions.--

12 (1) A mortgage lender may [act as a mortgage broker or
13 mortgage loan correspondent without a separate mortgage
14 broker or mortgage loan correspondent license.]:

15 (i) Act as a mortgage broker or mortgage loan
16 correspondent without a separate mortgage broker or
17 mortgage loan correspondent license.

18 (ii) Act as a mortgage servicer without a separate
19 mortgage servicer license for mortgage loans the mortgage
20 lender has originated, negotiated and owns.

21 (2) A mortgage loan correspondent may act as a mortgage
22 broker without a separate mortgage broker license.

23 (3) A person licensed as a mortgage broker may only
24 perform the services of a mortgage broker.

25 (4) A person only licensed as a mortgage servicer may
26 only perform the services of a mortgage servicer.

27 * * *

28 Section 3. Section 6112(2), (3), (6), (7) and (8) of Title 7
29 are amended and the section is amended by adding a paragraph to
30 read:

1 § 6112. Exceptions to license requirements.

2 The following persons shall not be required to be licensed
3 under this chapter in order to conduct the mortgage loan
4 business:

5 * * *

6 (2) An attorney at law not otherwise engaged in or
7 holding himself or herself out to the public as being engaged
8 in the mortgage loan business who acts as a mortgage broker
9 or a mortgage originator in negotiating or placing a mortgage
10 loan in the normal course of legal practice. The exception
11 under this paragraph shall not apply if the attorney is
12 compensated by any of the following:

13 (i) A mortgage broker.

14 (ii) A mortgage lender.

15 (iii) A mortgage loan correspondent.

16 (iv) A person excepted from licensure under this
17 section.

18 (v) A mortgage originator.

19 (v.1) A mortgage servicer.

20 (vi) An agent of a person listed in subparagraphs
21 (i), (ii), (iii), (iv) [and (v)], (v) and (v.1).

22 (3) A person who originates, services or negotiates less
23 than four mortgage loans in a calendar year, unless
24 determined to be engaged in the mortgage loan business by the
25 department.

26 * * *

27 (6) Consumer discount companies, except that a consumer
28 discount company that acts as a mortgage broker, mortgage
29 lender, mortgage servicer or mortgage loan correspondent,
30 shall be subject to the provisions of Subchapter C (relating

1 to mortgage loan business restrictions and requirements) and
2 sections 6131(c) (2), (3) and (5), 6135, 6138 (relating to
3 authority of department) and 6140(b) (relating to penalties).
4 Employees or individuals under the direct supervision and
5 control of licensees under the act of April 8, 1937 (P.L.262,
6 No.66), known as the Consumer Discount Company Act, that act
7 as mortgage originators shall be subject to the licensing
8 requirements of this chapter. Consumer discount companies
9 that employ or directly supervise and control mortgage
10 originators shall be subject to the same requirements as
11 mortgage lenders in regard to the employment and supervision
12 of mortgage originators.

13 (7) Affiliates of banking institutions and subsidiaries
14 and affiliates of federally chartered or State-chartered
15 credit unions. The exception under this paragraph does not
16 apply to consumer discount companies. Notwithstanding the
17 exception under this paragraph, subsidiaries and affiliates
18 of federally chartered or State-chartered credit unions and
19 affiliates of banking institutions shall:

20 (i) be subject to the provisions of [Subchapter C
21 and] sections 6121(1), (2), (3), (4), (5), (6), (7), (8),
22 (9), (10), (11), (12), (13) and (14) (relating to general
23 requirements), 6122(a) and (b) (relating to powers
24 conferred on certain licensees engaged in the mortgage
25 loan business), 6123(a) (relating to mortgage loan
26 business prohibitions), 6124 (relating to prohibited
27 clauses in mortgage loan documents), 6125 (relating to
28 mortgage lending authority), 6126 (relating to
29 requirements as to open-end loans), 6135(a) (2), (3) and
30 (4), (b) and (c), 6138 and 6140(b);

1 (ii) deliver as required to the department annually
2 copies of financial reports made to all supervisory
3 agencies;

4 (iii) be registered with the department;

5 (iv) in the same manner as a mortgage lender, obtain
6 and maintain bond coverage for mortgage originators
7 consistent with section 6131(c)(5); and

8 (v) ensure employees required to be licensed as
9 mortgage originators have completed the requirements
10 under section 6131.1 (relating to prelicensing and
11 continuing education) and have obtained the required
12 mortgage originator license.

13 (8) Employees or individuals under the direct
14 supervision and control of a mortgage broker, mortgage
15 lender, mortgage servicer or mortgage loan correspondent, or
16 a person excepted from licensure under this section, who are
17 not otherwise required to be licensed as mortgage
18 originators.

19 * * *

20 (17) An individual or entity licensed under the act of
21 September 2, 1965 (P.L.490, No.249), referred to as the Money
22 Transmission Business Licensing Law, if the individual or
23 entity only engages in the mortgage loan business to the
24 extent funds are transmitted from a mortgagor to make
25 mortgage payments on behalf of the mortgagor in order to
26 exceed regularly scheduled minimum payment obligations under
27 the terms of the indebtedness.

28 Section 4. Section 6121 of Title 7 is amended by adding a
29 paragraph to read:

30 § 6121. General requirements.

1 A licensee shall do all of the following:

2 * * *

3 (15) For a mortgage servicer, if a mortgage loan is paid
4 in full and, in the case of an open-end mortgage, a mortgage
5 lender is no longer obligated to make future advances to the
6 consumer, the mortgage servicer shall act in good faith to do
7 all of the following:

8 (i) Request the mortgage holder release the lien on
9 the dwelling or residential real estate and cancel the
10 same of record and, at the time the mortgage loan
11 agreement or promissory note evidencing the mortgage loan
12 is returned, deliver to the consumer good and sufficient
13 assignment, releases or other certificate, instrument or
14 document as may be necessary to evidence the release.

15 (ii) Request the mortgage holder cancel any
16 insurance provided in connection with the mortgage loan
17 and refund to the borrower, in accordance with
18 regulations promulgated by the Insurance Department, any
19 unearned portion of the premium for the insurance.

20 (iii) If a mortgage holder has delegated the
21 responsibility to record satisfaction of security
22 instruments to a mortgage servicer, the mortgage servicer
23 shall be treated as a mortgage holder for purposes of
24 satisfying the conditions of subparagraph (i) or (ii).

25 Section 5. Section 6122(a) of Title 7 is amended by adding a
26 paragraph and the section is amended by adding a subsection to
27 read:

28 § 6122. Powers conferred on certain licensees engaged in the
29 mortgage loan business.

30 (a) Mortgage lenders.--If they are in compliance with the

1 provisions of this chapter, mortgage lenders shall have the
2 power and authority:

3 * * *

4 (8) To service first and secondary mortgage loans that
5 are originated, negotiated and owned by the mortgage lender.

6 * * *

7 (c) Mortgage servicers.--If a mortgage servicer is in
8 compliance with this chapter, the mortgage servicer shall have
9 the power and authority to collect and remit for a lender,
10 mortgagee, note owner, note holder, trustee or primary
11 beneficiary of a residential mortgage loan payment of principal,
12 interest or an amount to be placed into escrow for any
13 combination of the payment of insurance, hazard insurance or
14 taxes.

15 Section 6. Sections 6123 introductory paragraph and 6131(a)
16 (1) of Title 7 are amended and the sections are amended by
17 adding subsections to read:

18 § 6123. Mortgage loan business prohibitions.

19 (a) Mortgage loan business prohibitions.--A licensee
20 engaging in the mortgage loan business shall not:

21 * * *

22 (b) Mortgage loan servicer prohibitions.--A licensee
23 engaging in the mortgage servicer business shall not
24 fail to establish or attempt to establish a single point
25 of contact with whom a borrower can communicate about
26 foreclosure matters or loss mitigation options later than the
27 36th day of a borrower's delinquency, unless contact is
28 inconsistent with applicable bankruptcy law or court order.

29 § 6131. Application for license.

30 (a) Contents.--An application for a license under this

1 chapter shall be on a form prescribed and provided by the
2 department. Consistent with sections 202 E and 405 F(1) of the
3 act of May 15, 1933 (P.L.565, No.111), known as the Department
4 of Banking and Securities Code, all applicants and licensees
5 shall use the Nationwide Mortgage Licensing System and Registry
6 to obtain and maintain licenses under this chapter.

7 (1) In the case of a mortgage broker, mortgage lender,
8 mortgage servicer or mortgage loan correspondent, the
9 application shall include the following:

10 (i) The name of the applicant.

11 (ii) The address of the principal place of business
12 and any branches of the applicant.

13 (iii) The full name, official title and business
14 address of each director and principal officer of the
15 mortgage loan business.

16 (iv) Any other information that may be required by
17 the department.

18 * * *

19 (k) Mortgage servicer license.--The department shall issue a
20 mortgage servicer license under this chapter if the applicant
21 has:

22 (1) Been approved by or meets the current eligibility
23 criteria for approval as a residential mortgage loan servicer
24 of at least one Federal Government-sponsored entity,
25 government corporation or Federal agency.

26 (2) Established a minimum net worth of \$250,000 at the
27 time of application and maintains the minimum net worth.

28 (3) Been approved for and maintains as a licensee
29 fidelity bond coverage in accordance with the guidelines
30 established by the Federal National Mortgage Association or

1 the Federal Home Loan Mortgage Corporation.

2 (4) Obtained and maintains a surety bond in an amount
3 that will provide coverage for the mortgage servicer in a
4 form acceptable to the department prior to the issuance of
5 the license, from a surety company authorized to do business
6 in this Commonwealth. The following shall apply:

7 (i) The amount of the bond shall be \$500,000.

8 (ii) The bond shall run to the Commonwealth and
9 shall be for the use of the Commonwealth and for the use
10 of consumer who is injured by the acts or omissions of
11 the licensee's mortgage originators that are related to
12 the mortgage loan business regulated under this chapter.

13 A bond shall not comply with the requirements of this
14 section unless the bond contains a provision that the
15 bond shall not be canceled for any cause unless notice of
16 intention to cancel is given to the department at least
17 30 days, excluding legal holidays, Saturdays and Sundays,
18 before the day upon which cancellation shall take effect.
19 Cancellation of the bond shall not invalidate the bond
20 regarding the period of time the bond was in effect.

21 (5) Designated an individual as the qualifying
22 individual for the principal place of business.

23 Section 7. Sections 6132(a), (b) and (d) and 6135(a)(3) of
24 Title 7 are amended to read:

25 § 6132. License fees.

26 (a) Initial application fees.--Except as set forth in
27 subsection (d)(1), an applicant shall pay to the department at
28 the time an application is filed an initial nonrefundable
29 application fee as set forth under this subsection.

30 (1) For mortgage lenders and mortgage loan

1 correspondents, \$1,500 for the principal place of business
2 and an additional fee of \$1,500 for each branch office.

3 (2) For mortgage brokers, \$1,000 for the principal place
4 of business and an additional fee of \$250 for each branch
5 office.

6 (3) For mortgage originators, \$200.

7 (4) For mortgage servicers, \$2,500 for the principal
8 place of business and an additional fee of \$1,250 for each
9 branch location.

10 (b) Renewal fees.--Prior to each annual renewal of a
11 license, except as set forth in subsection (d)(2), a licensee
12 shall pay to the department a nonrefundable license renewal fee
13 as set forth under this subsection.

14 (1) For mortgage lenders and mortgage loan
15 correspondents, \$750 for the principal place of business and
16 an additional fee of \$750 for each branch office.

17 (2) For mortgage brokers, \$500 for the principal place
18 of business and an additional fee of \$250 for each branch
19 office.

20 (3) For mortgage originators, \$100.

21 (4) For mortgage servicers, \$1,000 for the principal
22 place of business and an additional fee of \$500 for each
23 branch location.

24 * * *

25 (d) Exception to mortgage originator license fees.--

26 (1) An applicant shall not be required to pay the fee
27 for a mortgage originator license as provided in subsection
28 (a) if the applicant is also individually a mortgage lender
29 applicant, mortgage loan correspondent applicant, mortgage
30 servicer applicant or mortgage broker applicant.

1 (2) A licensee shall not be required to pay the fee for
2 a mortgage originator license as provided in subsection (b)
3 if the licensee is also individually a mortgage lender
4 licensee, mortgage loan correspondent licensee or mortgage
5 broker licensee.

6 § 6135. Licensee requirements.

7 (a) Requirements of licensee.--

8 * * *

9 (3) A mortgage broker, mortgage lender [or], mortgage
10 servicer, mortgage loan correspondent, or a mortgage
11 originator that is required to obtain and maintain its own
12 bond coverage under section 6131(f)(4) (relating to
13 application for license), shall file periodically, as
14 determined by the department, a report with the department or
15 the Nationwide Mortgage Licensing System and Registry, as
16 determined by the department, setting forth such information
17 as the department shall require concerning the first or
18 secondary mortgage loan business conducted by the licensee.
19 Licensees who fail to file the required report at the date
20 required by the department may be subject to a penalty of
21 \$100 for each day after the due date until the report is
22 filed.

23 * * *

24 Section 8. Title 7 is amended by adding a section to read:

25 § 6141. Mortgage servicers.

26 (a) Regulatory coordination.--In order to implement this
27 chapter as applicable to mortgage servicers, the following
28 apply:

29 (1) Subject to paragraph (2), the department shall
30 promulgate regulations which effectively incorporate the

1 Consumer Financial Protection Bureau's mortgage servicer
2 regulations at 12 CFR Pt. 1024, Subpt. C (relating to
3 mortgage servicing), other than 12 CFR 1024.30 (relating to
4 scope).

5 (2) When the Federal regulations under paragraph (1) are
6 altered, the department shall promulgate regulations making
7 the appropriate incorporation.

8 (3) Regulations under this subsection shall not be
9 subject to any of the following:

10 (i) Sections 201, 202, 203, 204 and 205 of the act
11 of July 31, 1968 (P.L.769, No.240), referred to as the
12 Commonwealth Documents Law.

13 (ii) Sections 204(b) and 301(10) of the act of
14 October 15, 1980 (P.L.950, No.164), known as the
15 Commonwealth Attorneys Act.

16 (iii) The act of June 25, 1982 (P.L.633, No.181),
17 known as the Regulatory Review Act.

18 (b) Failure of regulatory coordination.--If an alteration of
19 Federal regulations under subsection (a)(2) results in a
20 complete lack of Federal regulations in the area, all of the
21 following apply:

22 (1) The version of the Pennsylvania regulations in
23 effect at the time of the alteration shall remain in effect
24 for two years.

25 (2) During the time period under paragraph (1), the
26 department shall promulgate replacement regulations.

27 Section 9. This act shall take effect as follows:

28 (1) The following provisions shall take effect
29 immediately:

30 (i) The addition of 7 Pa.C.S. § 6141.

1 (ii) This section.

2 (2) The remainder of this act shall take effect upon the
3 effective date of regulations promulgated under 7 Pa.C.S. §
4 6141.