



AN ACT CONCERNING MORTGAGE LOAN ORIGINATORS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 36a-485 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 As used in this section and sections 36a-486 to 36a-498, inclusive,
4 unless the context otherwise requires:

5 (1) "Advance fee" means any consideration paid or given, directly or
6 indirectly, to a mortgage lender, first mortgage broker, [or] originator
7 or insurance producer originator required to be licensed or registered
8 pursuant to sections 36a-485 to 36a-498, inclusive, as amended by this
9 act, prior to the closing of a first mortgage loan to any person,
10 including, but not limited to, loan fees, points, broker's fees or
11 commissions, transaction fees or similar prepaid finance charges;

12 (2) "Advertise" or "advertisement" means the use of media, mail,
13 computer, telephone, personal contact or any other means to offer the
14 opportunity for a first mortgage loan;

15 (3) "First mortgage broker" means a person who, for a fee,
16 commission or other valuable consideration, directly or indirectly,
17 negotiates, solicits, arranges, places or finds a first mortgage loan that
18 is to be made by a mortgage lender, whether or not the mortgage
19 lender is required to be licensed under sections 36a-485 to 36a-498,

20 inclusive, as amended by this act, but does not include an originator or
21 insurance producer originator;

22 (4) "First mortgage correspondent lender" means a person engaged
23 in the business of making first mortgage loans in such person's own
24 name where the loans are not held by such person for more than
25 ninety days and are funded by another person through a warehouse
26 agreement, table funding agreement or similar agreement;

27 (5) "First mortgage lender" means a person engaged in the business
28 of making first mortgage loans: (A) In such person's own name
29 utilizing such person's own funds, or (B) by funding loans through a
30 table funding agreement;

31 (6) "First mortgage loan" means a loan or an extension of credit,
32 including, but not limited to, an extension of credit pursuant to a
33 contract or an assigned contract for the sale of goods or services, made
34 to a natural person, the proceeds of which are to be used primarily for
35 personal, family or household purposes, and which is secured by a
36 first mortgage upon any interest in one-to-four-family residential
37 owner-occupied real property located in this state which is not subject
38 to any prior mortgages and includes the renewal or refinancing of an
39 existing first mortgage loan;

40 (7) "Insurance producer originator" means an individual licensed as
41 an insurance producer under chapter 701a who is retained by not more
42 than one insurer affiliated mortgage lender for, or with the expectation
43 of, a fee, commission or other valuable consideration to solicit or find
44 loan applicants for such insurer affiliated mortgage lender, provided
45 such individual sells, solicits or negotiates insurance issued solely by
46 the insurer with which such insurer affiliated mortgage lender is
47 affiliated from a location in this state owned or leased and occupied by
48 such individual;

49 (8) "Insurer affiliated mortgage lender" means a mortgage lender
50 exempt from licensing under sections 36a-485 to 36a-498, inclusive, as
51 amended by this act, that is an affiliate of an insurer;

52 [(7)] (9) "Mortgage lender" means a first mortgage lender, a first
53 mortgage correspondent lender, or both;

54 [(8)] (10) "Originator" means an individual who is employed or
55 retained by a mortgage lender or first mortgage broker that is required
56 to be licensed under sections 36a-485 to 36a-498, inclusive, as amended
57 by this act, for, or with the expectation of, a fee, commission or other
58 valuable consideration, to negotiate, solicit, arrange or find a first
59 mortgage loan. "Originator" does not include an officer, if the licensee
60 is a corporation; a general partner, if the licensee is a partnership; a
61 member, if the licensee is a limited liability company; or a sole
62 proprietor, if the licensee is a sole proprietorship;

63 [(9)] (11) "Residential property" means improved real property used
64 or occupied, or intended to be used or occupied, for residential
65 purposes;

66 [(10)] (12) "Simulated check" means a document that imitates or
67 resembles a check but is not a negotiable instrument;

68 [(11)] (13) "Table funding agreement" means an agreement wherein
69 a person agrees to fund mortgage loans to be made in another person's
70 name and to purchase such loans after they are made; and

71 [(12)] (14) "Warehouse agreement" means an agreement to provide
72 credit to a person to enable the person to have funds to make mortgage
73 loans and hold such loans pending sale to other persons.

74 Sec. 2. Subsection (b) of section 36a-486 of the general statutes is
75 repealed and the following is substituted in lieu thereof (*Effective*
76 *October 1, 2003*):

77 (b) No licensee shall employ or retain an originator without first
78 registering such originator under sections 36a-485 to 36a-498, inclusive,
79 as amended by this act, provided such registration shall not be
80 required for any originator who is registered by such licensee under
81 sections 36a-510 to 36a-524, inclusive. No individual may act as an

82 originator or insurance producer originator without being registered,
83 or act as an originator or insurance producer originator, as defined in
84 sections 36a-485, as amended by this act, and 36a-510, for more than
85 one person. The registration of an originator is not effective during any
86 period when such originator is not associated with a licensee, and the
87 registration of an insurance producer originator is not effective during
88 any period when such insurance producer originator is not associated
89 with an insurer affiliated mortgage lender. Both the originator and the
90 licensee shall promptly notify the commissioner, in writing, of the
91 termination of employment or services of an originator, and both the
92 insurance producer originator and the insurer affiliated mortgage
93 lender shall promptly notify the commissioner, in writing, of the
94 termination of services of an insurance producer originator.

95 Sec. 3. Section 36a-488 of the general statutes is repealed and the
96 following is substituted in lieu thereof (*Effective October 1, 2003*):

97 (a) (1) The commissioner shall not issue a license as a first mortgage
98 lender, a first mortgage correspondent lender or a first mortgage
99 broker to any person unless such person meets the following tangible
100 net worth and experience requirements, as applicable: (A) The
101 minimum tangible net worth requirement for a first mortgage lender
102 shall be two hundred fifty thousand dollars and the minimum tangible
103 net worth requirement for a first mortgage correspondent lender and a
104 first mortgage broker shall be twenty-five thousand dollars, and (B) a
105 mortgage lender shall have, at the location for which the license is
106 sought, a person with supervisory authority over the lending activities
107 who has at least three years' experience in the mortgage lending
108 business within the five years immediately preceding the application
109 for the license and a first mortgage broker shall have, at the location
110 for which the license is sought, a person with supervisory authority
111 over the brokerage activities who has at least three years' experience in
112 the mortgage lending or mortgage brokerage business within the five
113 years immediately preceding the application for the license, provided
114 such experience requirements shall not apply to any person whose
115 license is renewed effective October 1, 2002.

116 (2) Each licensee shall maintain the net worth required by this
117 subsection and shall promptly notify the commissioner if such
118 licensee's net worth falls below the net worth required by this
119 subsection.

120 (b) The commissioner may issue a first mortgage lender license, a
121 first mortgage correspondent lender license, or a first mortgage broker
122 license. Each first mortgage lender licensee may also act as a first
123 mortgage correspondent lender and a first mortgage broker, and each
124 first mortgage correspondent lender licensee may also act as a first
125 mortgage broker. An application for a license or renewal of such
126 license shall be made under oath and on a form provided by the
127 commissioner. The application shall include: (1) The type of license
128 sought; (2) the name and address of the applicant; (3) the location for
129 which the license is sought; (4) the name and address of each member,
130 partner, officer, director, authorized agent and shareholder owning ten
131 per cent or more of the outstanding stock, as applicable; (5) if the
132 applicant is a trust or the lead lender in one or more participation
133 loans, the name and address of each trustee or lead lender and each
134 beneficiary of the trust or other participant lenders in all outstanding
135 participation loans; (6) a financial statement as of a date not more than
136 six months prior to the filing of the application which reflects tangible
137 net worth, and if such financial statement is unaudited, the proprietor,
138 general partner, or duly authorized officer, trustee or member shall
139 swear to its accuracy under oath before a notary public; (7) evidence
140 that the person with supervisory authority over the lending or
141 brokerage activities at the location for which the license is sought
142 meets the experience required by subsection (a) of this section; (8) an
143 application for registration of each originator or prospective originator
144 of the applicant at such location; and (9) such other information
145 pertaining to the applicant, the applicant's background, the
146 background of its principals and employees, and the applicant's
147 activities as the commissioner may require.

148 (c) An application for registration of an originator or renewal of
149 such registration shall be made on a form provided by the

150 commissioner.

151 (d) An application for registration of an insurance producer
152 originator or renewal of such registration shall be made by the
153 retaining insurer affiliated mortgage lender on a form provided by the
154 commissioner.

155 Sec. 4. Subsection (b) of section 36a-489 of the general statutes is
156 repealed and the following is substituted in lieu thereof (*Effective*
157 *October 1, 2003*):

158 (b) Upon the filing of an application for registration, the
159 commissioner shall register the originator or insurance producer
160 originator named in the application unless the commissioner finds that
161 the applicant has made a material misstatement in the application or
162 that the financial responsibility, character, reputation, integrity and
163 general fitness of the originator, insurance producer originator or
164 retaining insurer affiliated mortgage lender named in the application,
165 are not such as to warrant belief that granting such registration would
166 be in the public interest and consistent with the purposes of sections
167 36a-485 to 36a-498, inclusive, as amended by this act. If the
168 commissioner denies registration, the commissioner shall notify the
169 originator or insurance producer originator named in the application
170 and the applicant filing the application of the denial and the reasons
171 for such denial. Any denial of [an application] a registration or license
172 by the commissioner shall, when applicable, be subject to the
173 provisions of section 46a-80. A registration shall remain in force and
174 effect until it has been surrendered, revoked, suspended or expires in
175 accordance with the provisions of sections 36a-485 to 36a-498,
176 inclusive, as amended by this act.

177 Sec. 5. Section 36a-490 of the general statutes is repealed and the
178 following is substituted in lieu thereof (*Effective October 1, 2003*):

179 (a) Each license shall state the location at which the business is to be
180 conducted and shall state fully the name of the licensee. If the licensee
181 desires to make first mortgage loans in more than one location or to act

182 as a first mortgage broker in more than one location, the licensee shall
183 procure a license for each location where the business is to be
184 conducted. Each license shall be maintained at the location for which
185 the license was issued and shall be available for public inspection.
186 Such license shall not be transferable or assignable. Any change of
187 location of a licensee shall require only prior written notice to the
188 commissioner. No licensee shall use any name other than the name
189 stated on the license issued by the commissioner.

190 [(b)] The licensee shall promptly notify the commissioner, in
191 writing, of any change in the information provided in the application
192 for license or most recent renewal of such license.

193 (b) Evidence of registration shall be maintained at the location for
194 which the registration was issued and shall be available for public
195 inspection. Such registration shall not be transferable or assignable.
196 Any change of location of an insurance producer originator registrant
197 shall require only prior written notice to the commissioner. No
198 registrant shall use any name other than the name stated on the
199 registration issued by the commissioner. Each applicant shall promptly
200 notify the commissioner, in writing, of any change in the information
201 provided in the application for registration or most recent renewal of
202 such registration.

203 (c) Each license or insurance producer originator registration shall
204 remain in force and effect until it has been surrendered, revoked,
205 suspended or expires in accordance with the provisions of sections
206 36a-485 to 36a-498, inclusive, as amended by this act.

207 Sec. 6. Subsection (a) of section 36a-491 of the general statutes is
208 repealed and the following is substituted in lieu thereof (*Effective*
209 *October 1, 2003*):

210 (a) (1) Each applicant for a first mortgage lender license or a first
211 mortgage correspondent lender license shall, at the time of making
212 such application, pay to the commissioner a license fee of eight
213 hundred dollars, provided if such application is filed not earlier than

214 one year before the date such license will expire, the applicant shall
215 pay to the commissioner a license fee of four hundred dollars. Each
216 applicant for a first mortgage broker license shall, at the time of
217 making such application, pay to the commissioner a license fee of four
218 hundred dollars, provided if such application is filed not earlier than
219 one year before the date such license will expire, the applicant shall
220 pay to the commissioner a license fee of two hundred dollars. Each
221 license issued pursuant to this section shall expire at the close of
222 business on September thirtieth of the even-numbered year following
223 its issuance unless such license is renewed. Such licensee shall, on or
224 before September first of the year in which the license expires, pay to
225 the commissioner the appropriate license fee as provided in this
226 section for the succeeding two years, commencing October first,
227 together with such renewal application as the commissioner may
228 require. Any renewal application filed with the commissioner after
229 September first shall be accompanied by a one-hundred-dollar late fee.
230 Whenever an application for a license, other than a renewal
231 application, is filed under sections 36a-485 to 36a-498, inclusive, as
232 amended by this act, by any person who was a licensee under said
233 sections and whose license expired less than sixty days prior to the
234 date such application was filed, such application shall be accompanied
235 by a one-hundred-dollar processing fee in addition to the application
236 fee.

237 (2) [A licensee filing an] An application for registration of an
238 originator shall [, at the time of making such application, pay to the
239 commissioner] include a registration fee of one hundred dollars for
240 such originator, provided if such application is filed not earlier than
241 one year before the date the license of the applicant will expire, the
242 [applicant shall pay to the commissioner a] registration fee [of] shall be
243 fifty dollars for such originator. Each registration shall expire at such
244 time as the licensee's license expires unless such registration is
245 renewed. Such licensee shall file an application for renewal of the
246 registration, [and pay to the commissioner] which shall include the
247 appropriate registration fee as provided in this [subsection]

248 subdivision for the succeeding two years, commencing October first.

249 (3) An application for registration of an insurance producer
250 originator shall include a registration fee of one hundred dollars for
251 such insurance producer originator, provided if such application is
252 filed not earlier than one year before the date the registration of the
253 insurance producer originator will expire, the registration fee shall be
254 fifty dollars for such insurance producer originator. Each registration
255 issued pursuant to this subdivision shall expire at the close of business
256 on September thirtieth of the even-numbered year following its
257 issuance unless such registration is renewed. The insurance producer
258 originator shall file an application for renewal of the registration,
259 which shall include the appropriate registration fee as provided in this
260 subdivision for the succeeding two years, commencing October first.

261 Sec. 7. Section 36a-493 of the general statutes is repealed and the
262 following is substituted in lieu thereof (*Effective October 1, 2003*):

263 (a) Each licensee shall maintain adequate records of each loan
264 transaction at the location named in the license, or shall make such
265 records available at such location not later than five business days after
266 requested by the commissioner to do so. Such records shall provide the
267 following information: (1) A copy of any disclosures required under
268 part III of chapter 669; (2) whether the licensee acted as a mortgage
269 lender, a first mortgage broker or both; (3) if the licensee is acting as a
270 mortgage lender, and retains the first mortgage loan or receives
271 payments thereon, an adequate loan history for those loans retained or
272 upon which payments are received, itemizing the amount and date of
273 each payment and the unpaid balance at all times; (4) the purpose for
274 which the loan was made; (5) the original or an exact copy of the note
275 and mortgage deed; (6) a statement signed by the borrowers
276 acknowledging the receipt of such statement which discloses the full
277 amount of any fee, commission or consideration paid to the first
278 mortgage broker for all services in connection with the mortgage loan;
279 and (7) the name and address of the broker, if any, involved in the loan
280 transaction.

281 (b) For each loan that is made and serviced by a licensee, the
282 licensee shall retain records of such loan transaction for not less than
283 two years following the final payment thereon, or the assignment of
284 such loan, whichever occurs first, or such longer period as may be
285 required by any other provision of law.

286 (c) For each loan transaction in which a licensee acts as a mortgage
287 lender or first mortgage broker but does not service the loan, the
288 licensee shall retain the records of such loan transaction for not less
289 than two years from the date of the transaction or such longer period
290 as may be required by any other provision of law.

291 (d) Any person who furnishes to a licensee any records required to
292 be maintained under this section or any information necessary to
293 complete such records may charge a fee to the licensee in an amount
294 not to exceed fifty dollars.

295 (e) Each insurance producer originator registrant shall maintain
296 adequate records of each loan transaction at the location named in the
297 registration, or shall make such records available at such location not
298 later than five business days after requested by the commissioner to do
299 so. Such records shall provide the following information: (1) A copy of
300 any disclosures required under part III of chapter 669; (2) the purpose
301 for which the loan was made; and (3) an exact copy of the note and
302 mortgage deed. The registrant shall retain such records for not less
303 than two years from the date of the transaction or such longer period
304 as may be required by any other provision of law.

305 Sec. 8. Subdivision (2) of subsection (a) of section 36a-494 of the
306 general statutes is repealed and the following is substituted in lieu
307 thereof (*Effective October 1, 2003*):

308 (2) The commissioner may suspend, revoke or refuse to renew any
309 registration of an originator or insurance producer originator, in
310 accordance with the provisions of section 36a-51, for any reason which
311 would be sufficient grounds for the commissioner to deny an
312 application for a registration under sections 36a-485 to 36a-498,

313 inclusive, as amended by this act, or if the commissioner finds that the
314 registrant has committed any fraud, misappropriated funds or
315 misrepresented any of the material particulars of any first mortgage
316 loan transaction.

317 Sec. 9. Section 36a-497 of the general statutes is repealed and the
318 following is substituted in lieu thereof (*Effective October 1, 2003*):

319 (a) (1) No person licensed pursuant to section 36a-489 shall [:]

320 [(1) Advertise] advertise or cause to be advertised in this state, any
321 first mortgage loan in which such person intends to act only as a first
322 mortgage broker unless the advertisement includes the following
323 statement, clearly and conspicuously expressed: BROKER ONLY, NOT
324 A LENDER, [; or]

325 (2) No insurance producer originator registrant shall advertise or
326 cause to be advertised in this state any first mortgage loan unless the
327 advertisement clearly and conspicuously identifies the insurer
328 affiliated mortgage lender by which it is retained and discloses its
329 relationship with such insurer affiliated mortgage lender.

330 [(2) In] (b) No person licensed pursuant to sections 36a-485 to 36a-
331 498, inclusive, as amended by this act, shall, in connection with an
332 advertisement in this state, use (A) a simulated check; (B) a comparison
333 between the loan payments under the first mortgage loan offered and
334 the loan payments under a hypothetical loan or extension of credit,
335 unless the advertisement includes, with respect to both the
336 hypothetical loan or extension of credit and the first mortgage loan
337 being offered, the interest rate, the loan balance, the total amount of
338 finance charges, the total number of payments and the monthly
339 payment amount that would be required to pay off the outstanding
340 loan balance shown; (C) representations such as "verified as eligible",
341 "eligible", "preapproved", "prequalified" or similar words or phrases,
342 without also disclosing, in immediate proximity to and in similar size
343 print, language which sets forth prerequisites to qualify for the first
344 mortgage loan, including, but not limited to, income verification, credit

345 check, and property appraisal or evaluation; or (D) any words or
 346 symbols in the advertisement or on the envelope containing the
 347 advertisement that give the appearance that the mailing was sent by a
 348 government agency.

349 Sec. 10. Subsection (b) of section 36a-498 of the general statutes is
 350 repealed and the following is substituted in lieu thereof (*Effective*
 351 *October 1, 2003*):

352 (b) No originator required to be registered pursuant to sections 36a-
 353 485 to 36a-498, inclusive, as amended by this act, shall accept payment
 354 of any advance fee except an advance fee on behalf of a licensee, and
 355 no insurance producer originator required to be registered under
 356 sections 36a-485 to 36a-498, inclusive, as amended by this act, shall
 357 accept payment of any advance fee except an advance fee on behalf of
 358 the insurer affiliated mortgage lender by which it is retained. Nothing
 359 in this subsection shall be construed as prohibiting the licensee from
 360 paying an originator all or part of an advance fee, provided such
 361 advance fee paid is not refundable under this section.

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| This act shall take effect as follows: | |
| Section 1 | <i>October 1, 2003</i> |
| Sec. 2 | <i>October 1, 2003</i> |
| Sec. 3 | <i>October 1, 2003</i> |
| Sec. 4 | <i>October 1, 2003</i> |
| Sec. 5 | <i>October 1, 2003</i> |
| Sec. 6 | <i>October 1, 2003</i> |
| Sec. 7 | <i>October 1, 2003</i> |
| Sec. 8 | <i>October 1, 2003</i> |
| Sec. 9 | <i>October 1, 2003</i> |
| Sec. 10 | <i>October 1, 2003</i> |

BA *Joint Favorable Subst.*

FIN *Joint Favorable*