

2021 -- H 5778

=====
LC002062
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

—————
A N A C T

RELATING TO BANKING - FINANCIAL INSTITUTIONS CREATION AND EXPANSION

Introduced By: Representatives Solomon, Kennedy, and Casey

Date Introduced: February 24, 2021

Referred To: House Corporations

It is enacted by the General Assembly as follows:

1 SECTION 1. Section 19-2-12 of the General Laws in Chapter 19-2 entitled "Creation and
2 Expansion" is hereby amended to read as follows:

3 **19-2-12. Relocation of branches.**

4 Any financial institution or credit union may relocate a branch upon sixty (60) days prior
5 written notice to the director, or the director's designee, provided that the relocated branch is:

6 (1) To be located within the same city or town as the existing branch; or

7 (2) To be located within a ~~one~~ ten (10) mile radius of the existing branch; and

8 (3) The existing branch will be closed upon construction and/or occupancy of the relocated
9 branch.

10 SECTION 2. Section 19-12-1 of the General Laws in Chapter 19-12 entitled
11 "Receivership" is hereby amended to read as follows:

12 **19-12-1. Application for receivership.**

13 The director, or the director's designee, is empowered immediately to take possession of
14 any financial institution, ~~or~~ credit union or other licensee under this title and its assets if, upon
15 examination, any financial institution or credit union, which has or has not invoked the
16 conservatorship provisions or the voluntary liquidation provisions of this title, appears to be
17 insolvent by reason of:

18 (1) The financial institution's, ~~or~~ credit union's or other licensee's financial condition is
19 such that the sum of the financial institution's, ~~or~~ credit union's or other licensee's debts are greater

1 than all of the financial institution's, ~~or~~ credit union's or other licensee's property at a fair valuation,
2 exclusive of property transferred, concealed, or removed with intent to hinder, delay, or defraud
3 the financial institution's, ~~or~~ credit union's or other licensee's creditors or because it is generally not
4 paying or is unable to pay its debts as they become due; or

5 (2) The financial institution's, ~~or~~ credit union's or other licensee's condition is such as to
6 render the continuance of its business hazardous to the public or to those having funds in its
7 custody; or

8 (3) The financial institution, ~~or~~ credit union or other licensee has failed to maintain
9 adequate deposit insurance as required by this title; or

10 (4) The financial institution, ~~or~~ credit union or other licensee has failed to remedy unsafe
11 or unsound practices in violation of a cease and desist order.

12 The director may apply to the superior court for the appointment of the director, or one of
13 the director's deputies, as receiver, ~~or both, or in~~ In the case when a financial institution's, ~~or~~ credit
14 union's or other licensee's deposits are insured by the Federal Deposit Insurance Corporation, the
15 National Credit Union Administration or any other agency or instrumentality of the United States
16 that insures the deposits of the financial institution, ~~or~~ credit union or other licensee, as a receiver
17 or receivers of the financial institution, ~~or~~ credit union, or other licensee and for the receiver may
18 request an injunction to restrain the financial institution, ~~or~~ credit union or other licensee under this
19 title, in whole or in part, from further proceeding with its business, and the court shall have
20 jurisdiction in equity of the application.

21 SECTION 3. Sections 19-14-1, 19-14-3, 19-14-6, 19-14-10, 19-14-16, 19-14-22 and 19-
22 14-24 of the General Laws in Chapter 19-14 entitled "Licensed Activities" are hereby amended to
23 read as follows:

24 **19-14-1. Definitions.**

25 Unless otherwise specified, the following terms shall have the following meanings
26 throughout chapters 14, 14.1, 14.2, 14.3, 14.4, 14.6, 14.8, 14.10, and 14.11 of this title:

27 (1) "Bona fide employee" shall mean an employee of a licensee who works under the
28 oversight and supervision of the licensee.

29 (2) "Check" means any check, draft, money order, personal money order, or other
30 instrument for the transmission or payment of money. For the purposes of check cashing, travelers
31 checks or foreign denomination instruments shall not be considered checks. "Check cashing" means
32 providing currency for checks.

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

1 (4) "Currency transmission" means engaging in the business of any of the following:

2 (i) Sale or issuance of payment instruments or stored value primarily for personal, family,
3 or household purposes; or

4 (ii) Receiving money or monetary value for transmission or holding funds incidental to
5 transmission within the United States or to locations abroad by any and all means, including
6 payment instrument, stored value, wire, facsimile, or electronic transfer, primarily for personal,
7 family, or household purposes. This includes maintaining control of virtual currency or transactions
8 in virtual currency on behalf of others.

9 (5) "Deferred-deposit transaction" means any transaction, such as those commonly known
10 as "payday loans," "payday advances," or "deferred-presentment loans," in which a cash advance
11 is made to a customer in exchange for the customer's personal check or in exchange for the
12 customer's authorization to debit the customer's deposit account and where the parties agree either
13 that the check will not be cashed or deposited, or that the customer's deposit account will not be
14 debited until a designated future date.

15 (6) [Deleted by P.L. 2019, ch. 226, § 1 and P.L. 2019, ch. 246, § 1].

16 (7) "Deliver" means to deliver a check to the first person who, in payment for the check,
17 makes, or purports to make, a remittance of, or against, the face amount of the check, whether or
18 not the deliverer also charges a fee in addition to the face amount and whether or not the deliverer
19 signs the check.

20 (8) "Insurance premium finance agreement" means an agreement by which an insured, or
21 prospective insured, promises to pay to an insurance premium finance company the amount
22 advanced, or to be advanced, under the agreement to an insurer or to an insurance producer, in
23 payment of a premium, or premiums, on an insurance contract, or contracts, together with interest
24 and a service charge, as authorized and limited by this title.

25 (9) "Insurance premium finance company" means a person or entity engaged in the
26 business of making insurance premium finance agreements or acquiring insurance premium finance
27 agreements from other insurance premium finance companies.

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

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

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

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

1 (C) The loan closes within this state;

2 [\(D\) A retail installment contract;](#)

3 ~~(E)~~ (E) The loan solicitation is done by an individual with a physical presence in this state;

4 or

5 ~~(F)~~ (F) The lender maintains an office in this state.

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

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

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

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

19 (D) Under the circumstances, as set forth in regulations adopted by the director, or the
20 director's designee, pursuant to this chapter.

21 (11) "Licensee" means any person licensed under this chapter.

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

23 (i) Loans secured by mortgages;

24 (ii) Insurance premium finance agreements;

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

27 (iv) Educational loans;

28 (v) Any other advance of money; or

29 (vi) Any transaction, such as those commonly known as "payday loans," "payday
30 advances," or "deferred-presentment loans," in which a cash advance is made to a customer in
31 exchange for the customer's personal check, or in exchange for the customer's authorization to debit
32 the customer's deposit account, and where the parties agree either, that the check will not be cashed
33 or deposited, or that customer's deposit account will not be debited, until a designated future date.

34 (13) "Loan broker" means any person or entity who or that, for compensation or gain, or

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

- 5 (i) The loan is secured by real property located in this state;
- 6 (ii) An application for a loan is taken or received by an employee, agent, or representative
7 of the loan broker within this state;
- 8 (iii) The loan closes within this state;
- 9 (iv) The loan solicitation is done by an individual with a physical presence in this state; or
- 10 (v) The loan broker maintains an office in this state.

11 (14) "Loan-closing services" means providing title services, including title searches, title
12 examinations, abstract preparation, insurability determinations, and the issuance of title
13 commitments and title insurance policies, conducting loan closings, and preparation of loan-closing
14 documents when performed by, or under the supervision of, a licensed attorney, licensed title
15 agency, or licensed title insurance company.

16 (15) "Loan solicitation" shall mean an effectuation, procurement, delivery and offer, ~~and~~
17 or advertisement of a loan. Loan solicitation also includes providing or accepting loan applications
18 and assisting persons in completing loan applications and/or advising, conferring, or informing
19 anyone regarding the benefits, terms and/or conditions of a loan product or service. Loan
20 solicitation does not include loan processing or loan underwriting as defined in this section. Loan
21 solicitation does not include telemarketing that is defined, for purposes of this section, to mean
22 contacting a person by telephone with the intention of collecting such person's name, address, and
23 telephone number for the sole purpose of allowing a mortgage loan originator to fulfill a loan
24 inquiry.

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

31 (17) "Monetary value" means a medium of exchange, whether or not redeemable in fiat
32 currency.

33 (18) "Mortgage loan" means a loan secured in whole, or in part, by real property located in
34 this state.

1 (19) "Mortgage loan originator" has the same meaning set forth in § 19-14.10-3(6).

2 (20) "Nationwide Multistate Licensing System" means a system involving more than one
3 state, the District of Columbia, or the Commonwealth of Puerto Rico and that is established to
4 facilitate the sharing of regulatory information and the licensing, application, reporting, and
5 payment processes, by electronic or other means, for mortgage lenders and loan brokers and other
6 licensees required to be licensed under this chapter.

7 (21) "Natural person employee" shall mean any natural person performing services as a
8 bona fide employee for a person or entity licensed under § 19-14-1 et seq., in return for a salary,
9 wage, or other consideration, where such salary, wage, or consideration is reported by the licensee
10 on a federal form W-2 payroll record. The term does not include any natural person or business
11 entity performing services for a person licensed under the provisions of Rhode Island general laws
12 in return for a salary, wage, or other consideration, where such salary, wage, or consideration is
13 reported by the licensee on a federal form 1099.

14 (22) "Negative equity" means the difference between the value of an asset and the
15 outstanding portion of the loan taken out to pay for the asset, when the latter exceeds the former
16 amount.

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

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

24 (25) "Operating subsidiary" shall mean a majority-owned subsidiary of a financial
25 institution or banking institution that engages only in activities permitted by the parent financial
26 institution or banking institution.

27 (26) "Oversight and supervision of the licensee" shall mean that the licensee provides
28 training to the employee, sets the employee's hours of work, and provides the employee with the
29 equipment and physical premises required to perform the employee's duties.

30 (27) "Personal money order" means any instrument for the transmission or payment of
31 money in relation to which the purchaser or remitter appoints, or purports to appoint, the seller as
32 his or her agent for the receipt, transmission, or handling of money, whether the instrument is signed
33 by the seller, or by the purchaser, or remitter, or some other person.

34 (28) "Primary market" means the market in which loans are made to borrowers by lenders,

1 whether or not through a loan broker or other conduit.

2 (29) "Principal owner" means any person or entity who or that owns, controls, votes, or has
3 a beneficial interest in, directly or indirectly, ten percent (10%) or more of the outstanding capital
4 stock and/or equity interest of a licensee.

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

12 (i) Providing loan closing services;

13 (ii) Rendering of credit reports by an authorized credit reporting agency; and

14 (iii) Rendering of appraisal services.

15 (31) "Provisional employee" means a natural person who, pursuant to a written agreement
16 between the natural person and a wholly owned subsidiary of a financial holding company, as
17 defined in the Bank Holding Company Act of 1956 (12 U.S.C. § 1841 et seq.), as amended, a bank-
18 holding company, savings-bank-holding company, or thrift-holding company, is an exclusive agent
19 for the subsidiary with respect to mortgage loan originations and the subsidiary: (a) Holds a valid
20 loan broker's license; and (b) Enters into a written agreement with the director, or the director's
21 designee, to include:

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

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

29 (iii) A restriction of the exclusive agents' mortgage loan originators' activities to loans to
30 be made only by the subsidiary's affiliated bank.

31 (32) "Retail installment contract" means any security agreement negotiated or executed in
32 this state, or under the laws of this state, including, but not limited to, any agreement in the nature
33 of a mortgage, conditional sale contract, or any other agreement whether or not evidenced by any
34 written instrument to pay the retail purchase price of goods, or any part thereof, in installments over

1 [any period of time and pursuant to which any security interest is retained or taken by the retail seller](#)
2 [for the payment of the purchase price, or any part thereof, of the retail installment contract.](#)

3 ~~(32)~~(33) "Sell" means to sell, to issue, or to deliver a check.

4 ~~(33)~~(34) "Servicing" means receiving a scheduled, periodic payment from a borrower,
5 pursuant to the terms of a loan, including amounts for escrow accounts, and making the payments
6 to the owner of the loan or other third party of principal and interest and other payments with respect
7 to the amounts received from the borrower as may be required pursuant to the terms of the servicing
8 loan documents or servicing contract. In the case of a home equity conversion mortgage or a reverse
9 mortgage, servicing includes making payment to the borrower.

10 ~~(34)~~(35) "Simple interest" means interest computed on the principal balance outstanding
11 immediately prior to a payment for one plus the actual number of days between payments made on
12 a loan over the life of a loan.

13 ~~(35)~~(36) "Small loan" means a loan of less than five thousand dollars (\$5,000), not secured
14 by real estate, made pursuant to the provisions of chapter 14.2 of this title.

15 ~~(36)~~(37) "Small-loan lender" means a lender engaged in the business of making small loans
16 within this state.

17 ~~(37)~~(38) "Stored value" means monetary value representing a claim against the issuer that
18 is stored on an electronic or digital medium and is evidenced by an electronic or digital record, and
19 that is intended and accepted for use as a means of redemption for money or monetary value or
20 payment for goods or services. The term does not include stored value that is redeemable by the
21 issuer exclusively in goods or services; stored value that is redeemable exclusively in goods or
22 services limited to transactions involving a defined merchant or location or set of locations, such
23 as a specific retailer or retail chain, college campus, or program points, miles, or other units issued
24 in connection with a customer affinity or rewards program, even if there is a secondary market for
25 the stored value.

26 ~~(38)~~(39) "Table-funding transaction" means a transaction in which there is a
27 contemporaneous advance of funds by a lender and an assignment by the mortgagee or creditor of
28 the loan to the lender.

29 ~~(39)~~(40) "Third-party loan servicer" means a person or entity who or that, directly or
30 indirectly, engages in the business of servicing a loan secured by residential real estate located in
31 Rhode Island, for a personal, family, or household purpose, owed or due, or asserted to be owed or
32 due, another, or a person or entity that owns the servicing rights to a loan secured by residential
33 real estate located in Rhode Island whether or not that owner services the loan themselves or
34 contracts with another person or entity for the servicing.

1 ~~(40)~~(41) "Virtual currency":

2 (i) Means a digital representation of value that:

3 (A) Is used as a medium of exchange, unit of account, or store of value; and

4 (B) Is not legal tender, whether or not denominated in legal tender; and

5 (ii) Does not include:

6 (A) A transaction in which a merchant grants, as part of an affinity or rewards program,
7 value that cannot be taken from or exchanged with the merchant for legal tender, bank credit, or
8 virtual currency;

9 (B) A digital representation of value issued by or on behalf of a publisher and used solely
10 within an online game, game platform, or family of games sold by the same publisher or offered
11 on the same game platform;

12 (C) Native digital token used in a proprietary blockchain service platform; or

13 (D) A gift certificate; store gift card; general-use prepaid card; or loyalty, award, or
14 promotional gift card, as these terms are defined in federal Regulation E, 12 C.F.R. 1005.20(a),
15 without giving effect to any exception as specified in 31 C.F.R. 1010.100(kkk) or any card, code
16 or device, or other device that can add funds to those products.

17 ~~(41)~~(42) "Writing" means hard-copy writing or electronic writing that meets the
18 requirements of § 42-127.1-2(7).

19 **19-14-3. Application for license.**

20 (a) The application for a license shall be in the form prescribed by the director and shall
21 contain the name and address or addresses where the business of the applicant is located and if the
22 applicant is a partnership, association, corporation, or other form of business organization, the
23 names and addresses of each member, director, and principal officer thereof or any individual
24 acting in the capacity of the manager of an office location. Such application shall also include a
25 description of the activities of the applicant, in such detail and for such periods as the director may
26 require, as well as such further information as the director may require. The director may require a
27 background investigation of each applicant for a license by means of fingerprint checks pursuant
28 to §§ 19-14-7 and 42-14-14, utilizing the Federal Bureau of Investigation, or other agency as
29 determined by the director for state and national criminal history record checks. If the applicant is
30 a partnership, association, corporation, or other form of business organization, the director may
31 require a background investigation by means of fingerprint checks on each member, director,
32 trustee, or principal officer of such applicant and any individual acting in the capacity of the
33 manager of an office location. The director will determine by rule those items of information
34 appearing on a criminal records check that will constitute disqualifying information and therefore

1 render the applicant ineligible for licensing under this chapter in accordance with the provisions of
2 § 19-14-7. ~~Receipt of criminal history record information by a private entity is prohibited.~~ Each
3 application for a license shall be accompanied by an investigation fee. The applicant at the time of
4 making application shall pay to the ~~director, or the director's designee,~~ department a fee equal to
5 the annual license fee as provided in this chapter and the sum of one half (1/2) of the annual license
6 fee as a fee for investigating the application. ~~If the application for license is approved, the applicant~~
7 ~~shall pay a fee equal to the annual license fee as provided in this chapter.~~ The license shall be
8 continuous and the license fee shall cover the period through December 31 of each year. The annual
9 license fee for any application approved after November 1 of any given year shall satisfy the annual
10 license fee requirement through the end of the next succeeding calendar year ending December 31.
11 The director, or the director's designee, is authorized to participate in a multi-state licensing system
12 for licensees. The director may establish requirements for participation by an applicant for a license
13 or a person licensed under this chapter. Any such requirements that may be established by the
14 director shall be published on the website of the department of business regulation. Upon
15 implementation, participation by an applicant for a license or by a person licensed under the
16 provisions of this chapter shall be mandatory. The applicant may be required to an additional fee
17 for a license or other participation in such multi-state licensing system.

18 (b) ~~{Reserved}.~~

19 (c) ~~{Reserved}.~~

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

22 (e) An applicant for issuance of a mortgage loan originator license shall file with the
23 director, or the director's designee, evidence acceptable to the director, or the director's designee,
24 that said applicant has complied with the provisions of §§ 19-14.10-5, 19-14.10-7 and 19-14.10-8.

25 **19-14-6. Bond of applicant.**

26 (a) An applicant for any license shall file with the director, or the director's designee, a
27 bond to be approved by him or her in which the applicant shall be the obligor.

28 (b) The amount of the bond shall be as follows:

29 (1) Small-loan lenders, the sum of ten thousand dollars (\$10,000);

30 (2) Loan brokers, the sum of twenty thousand dollars (\$20,000);

31 (3) Lenders, the sum of fifty thousand dollars (\$50,000);

32 (4) Currency transmission licensees, the sum of fifty thousand dollars (\$50,000); if a
33 currency transmission licensee shows that a surety bond is not generally available in this state at a
34 commercially reasonable cost, the department may accept an alternative form of security;

1 (5) Check-cashing licensees who accept checks for collection with deferred payment [or](#)
2 [deferred deposit](#), the sum of fifty thousand dollars (\$50,000) subject to a maximum of one hundred
3 and fifty thousand dollars (\$150,000) when aggregated with agent locations;

4 (6) [Deleted by P.L. 2019, ch. 226, § 1 and P.L. 2019, ch. 246, § 1];

5 (7) [Deleted by P.L. 2019, ch. 226, § 1 and P.L. 2019, ch. 246, § 1];

6 (8) Each debt-management services registrant, the amount provided in § 19-14.8-13;

7 (9) Each third-party loan servicer, the sum of fifty thousand dollars (\$50,000); or

8 (10) ~~If a currency transmission licensee shows that a surety bond is not generally available~~
9 ~~in this state at a commercially reasonable cost, the department may accept an alternative form of~~
10 ~~security.~~ [Each debt collector, the sum of fifty thousand dollars \(\\$50,000\).](#)

11 (c) The bond shall run to the state for the use of the state and of any person who may have
12 cause of action against the obligor of the bond under the provisions of this title. The bond shall be
13 perpetual and shall be conditioned upon the obligor faithfully conforming to, and abiding by, the
14 provisions of this title and of all rules and regulations lawfully made, and the obligor will pay to
15 the state and to any person any and all money that may become due or owing to the state or to the
16 person from the obligor under, and by virtue of, the provisions of this title.

17 (d) [Deleted by P.L. 2019, ch. 226, § 1 and P.L. 2019, ch. 246, § 1].

18 (e) The bond shall remain in force and effect until the surety is released from liability by
19 the director, or the director's designee, or until the bond is cancelled by the surety. The surety may
20 cancel the bond and be released from further liability under the bond upon receipt by the director,
21 or the director's designee, of notice in a manner satisfactory to the director, including, but not
22 limited to, for documentation purpose of the cancellation of the bond at least thirty (30) days in
23 advance of the cancellation of the bond. The cancellation shall not affect any liability incurred or
24 accrued under the bond before the termination of the thirty-day (30) period.

25 (f) Upon receipt of any notice of cancellation, the director may provide notice to the
26 licensee requiring reinstatement or replacement of the bond. Unless the bond is reinstated by the
27 surety, or a satisfactory replacement bond is filed with the director prior to the cancellation of the
28 original bond, the license shall be suspended. The licensee will be provided notice of the suspension
29 and may request a hearing within thirty (30) days. If the licensee does not request a hearing, the
30 director, or director's designee, shall issue an order revoking the license for failure to comply with
31 this section.

32 **19-14-10. ~~Attorney for service of process.~~ Agent for service of process.**

33 (a) Every licensee shall appoint, and thereafter maintain, in this state a resident ~~attorney~~
34 [agent](#) with authority to accept process for the licensee in this state, including the process of

1 garnishment.

2 (1) The appointment shall be filed with the director, or the director's designee, ~~in whatever~~
3 ~~format he or she directs~~ [electronically through the Nationwide Multistate Licensing System](#). The
4 ~~power of attorney~~ [designation of agent](#) shall provide all contact information, including the business
5 address, street and number, if any, of the resident ~~attorney~~ [agent](#). Thereafter, if the resident ~~attorney~~
6 [agent](#) changes his or her business address or other contact information, ~~he or she~~ [the licensee](#) shall,
7 within ten (10) days after any change, file ~~in the office of the director, or the director's designee,~~
8 [electronically through the Nationwide Multistate Licensing System](#) notice of the change setting
9 forth the ~~attorney's~~ [agent's](#) current business address or other contact information.

10 (2) If the resident ~~attorney~~ [agent](#) dies, resigns, or leaves the state, the licensee shall make a
11 new appointment and file the ~~power of attorney in the office of the director, or the director's~~
12 ~~designee~~ [new appointment electronically through the Nationwide Multistate Licensing System](#). The
13 ~~power of attorney~~ [original designation](#) shall not be revoked until ~~this power of attorney~~ [new](#)
14 [appointment](#) shall have been given to some other competent person resident in this state and filed
15 with the ~~director, or the director's designee~~ [department](#).

16 (3) Service of process upon the resident ~~attorney~~ [agent](#) shall be deemed sufficient service
17 upon the licensee.

18 (4) Any licensee who fails to appoint a resident ~~attorney~~ [agent](#) and file the ~~power of attorney~~
19 ~~in the office of the director, or the director's designee, as above provided for~~ [appointment](#)
20 [electronically through the Nationwide Multistate Licensing System](#), or fails to replace a resident
21 ~~attorney~~ [agent](#) for a period of thirty (30) days from vacancy, shall be liable for a penalty not
22 exceeding five hundred dollars (\$500) and shall be subject to suspension or revocation of the
23 license.

24 (5) Upon the filing of any ~~power of attorney~~ [appointment](#) required by this section, a fee of
25 twenty-five dollars (\$25.00) shall be paid to the director for the use of the state.

26 (6) Any licensee that is a corporation and complies with the provisions of chapter 1.2 of
27 title 7 is exempt from the ~~power of attorney~~ filing requirements of this section. Any licensee that is
28 a limited partnership or limited liability company and complies with the provisions of chapters 13
29 and 16 of title 7 is exempt from the ~~power of attorney~~ requirements of this section.

30 (b) Any process, including the process of garnishment, may be served upon the director, or
31 the director's designee, as agent of the licensee in the event that no resident ~~attorney~~ [agent](#) can be
32 found upon whom service can be made, or in the event that the licensee has failed to designate a
33 resident ~~attorney~~ [agent](#) as required, and process may be served by leaving a copy of the process
34 with a fee of twenty-five dollars (\$25.00) which shall be included in the taxable costs of the suit,

1 action, or proceeding, in the hands of the director, or the director's designee. This manner of service
2 upon the licensee shall be sufficient, provided that notice of service and a copy of the process shall
3 be immediately sent by certified mail by the plaintiff, or the plaintiff's attorney of record, to the
4 licensee at the latest address filed with the director, or the director's designee. If the licensee has
5 not filed his or her address pursuant to this chapter, notice of service shall be given in any manner
6 that the court in which the action is pending may order as affording the licensee reasonable
7 opportunity to defend the action or to learn of the garnishment. Nothing contained in this section
8 shall limit or affect the right to serve process upon a licensee in any other manner now or hereafter
9 permitted by law.

10 **19-14-16. Surrender of license.**

11 Any licensee may surrender any license or branch certificate(s) by delivering to the
12 director, or the director's designee, ~~written~~ electronic notice through the Nationwide Multistate
13 Licensing System surrendering the license or branch certificate(s). The surrender shall not affect
14 the licensee's civil or criminal liability for acts committed prior to the surrender. ~~Written~~Electronic
15 notice through the Nationwide Multistate Licensing System of any surrender must be filed with the
16 director, or the director's designee, within thirty (30) days of the termination of the business
17 authorized by this chapter at the surrendered location. The surrender of any license does not affect
18 the licensee's requirement to file an annual report with the fifty-five dollars (\$55.00) filing fee. This
19 report shall be filed within thirty (30) days of the surrender of the license. The licensee shall give
20 ~~written~~ electronic notification through the Nationwide Multistate Licensing System to the director,
21 or the director's designee, within twenty-four (24) hours from termination of business.

22 **19-14-22. Reporting requirements.**

23 (a) Each licensee shall ~~annually, on or before March 31,~~ file a report with the director, or
24 the director's designee, on a quarterly basis, giving any relevant information that the director, or the
25 director's designee, may reasonably require concerning the business and operations during the
26 ~~preceding calendar year~~ reporting period of each licensed place of business conducted by the
27 licensee within the state. The report shall be ~~made under oath and shall be in a form prescribed by~~
28 ~~the director, or the director's designee.~~ submitted through the Nationwide Multistate Licensing
29 System and attested to by the entity. To the extent that the Nationwide Multistate Licensing System
30 does not require submission of quarterly reports of condition, each licensee shall, annually, on or
31 before March 31, file a report with the director, or the director's designee, giving any relevant
32 information that the director, or the director's designee, may reasonably require concerning the
33 business and operations during the preceding calendar year of each licensed place of business
34 conducted by the licensee within the state. At the time of ~~filing each report,~~ renewal of the license,

1 the sum of fifty-five dollars (\$55.00) per license and fifty-five dollars (\$55.00) per branch
2 certificate shall be paid by the licensee to the director for the use of the state. Any licensee who or
3 that shall delay transmission of any report required by the provisions of this title beyond the limit,
4 unless additional time is granted, in writing, for good cause, by the director, or the director's
5 designee, shall pay a penalty of twenty-five dollars (\$25) for each day of the delay. In lieu of a
6 report by any licensed mortgage loan originator, the director, or the director's designee, may accept
7 a report by the licensed lender or licensed loan broker who or that employed the licensed mortgage
8 loan originator for the activities of the licensed mortgage loan originator while employed by such
9 lender or loan broker during the applicable calendar year.

10 (b) Any licensee shall, within twenty-four (24) hours after actual knowledge, notify the
11 director, or the director's designee, in writing, of the occurrence of any of the following events: the
12 institution of bankruptcy, receivership, reorganization, or insolvency proceedings regarding a
13 licensee; the institution of any adverse government action against a licensee; or any felony
14 indictment or conviction of any licensee or any officers, directors, owners, employees, members,
15 or partners thereof, as the case may be.

16 (c) Each mortgage loan originator licensee shall, on or before March 31, 2010, and every
17 March 31st thereafter, file with the director, or the director's designee, evidence acceptable to the
18 director, or the director's designee, that said loan originator licensee has filed with the Nationwide
19 ~~Mortgage Multistate~~ Licensing System ~~and Registry~~ a report of condition, which shall be in such
20 form and shall contain such information as the Nationwide ~~Mortgage Multistate~~ Licensing System
21 ~~and Registry~~ may require.

22 (d) Both the mortgage loan originator and his or her licensed employer shall promptly
23 notify the director, or the director's designee, in writing, within fifteen (15) business days of the
24 termination of employment or services of a mortgage loan originator.

25 **19-14-24. ~~Other business in same place. Tying with other business.~~**

26 No licensee shall ~~conduct any business under this title within any office or place of business~~
27 ~~in which any other business is solicited or engaged, except as the director, or the director's designee,~~
28 ~~may authorize, in writing. Approval shall not be unreasonably withheld if the director, or the~~
29 ~~director's designee, finds that the character of the other business is such that the granting of the~~
30 ~~authority would not evade the provisions of this chapter~~ condition any sale on the requirement that
31 the consumer purchase any other product or service from a specified provider including those
32 providers with whom the licensee is sharing office space.

33 SECTION 4. Sections 19-14.10-3, 19-14.10-8, 19-14.10-10 and 19-14.10-21 of the
34 General Laws in Chapter 19-14.10 entitled "An Act Adopting the Federal Secure and Fair

1 Enforcement for Mortgage Licensing Act of 2009" are hereby amended to read as follows:

2 **19-14.10-3. Definitions.**

3 For purposes of this chapter, the following definitions shall apply:

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

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

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

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

12 (5)(i) "Loan processor or underwriter" means an individual who performs clerical or
13 support duties as an employee at the direction of, and subject to the supervision and instruction of,
14 a person licensed as a lender or as a loan broker, or exempt from licensing under chapters 14 or
15 14.1 of title 19.

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

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

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

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

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

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

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

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

34 (B) Does not include an individual engaged solely as a loan processor or underwriter except

1 as otherwise provided in § 19-14.10-4(c);

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

6 (D) Does not include a person or entity solely involved in extensions of credit relating to
7 timeshare plans, as that term is defined in 11 U.S.C. § 101(53D), as amended; and

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

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

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

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

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

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

28 (E) Offering to engage in any activity, or act in any capacity, described in subparagraphs
29 (A), (B), (C), or (D) of this section.

30 (7) "Nationwide ~~Mortgage~~ Multistate Licensing System ~~and Registry~~" means a mortgage
31 licensing system developed and maintained by the Conference of State Bank Supervisors and the
32 American Association of Residential Mortgage Regulators for the licensing and registration of
33 licensed mortgage loan originators.

34 (8) "Nontraditional mortgage product" means any mortgage product other than a thirty-

1 year (30), fixed-rate mortgage.

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

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

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

6 (A) A depository institution;

7 (B) A subsidiary that is:

8 (1) Owned and controlled by a depository institution; and

9 (2) Regulated by a Federal banking agency; or

10 (C) An institution regulated by the Farm Credit Administration; and

11 (ii) Is registered with, and maintains a unique identifier through, the Nationwide ~~Mortgage~~
12 [Multistate](#) Licensing System ~~and Registry~~.

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

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

19 (13) "SAFE Act" means the Secure and Fair Enforcement for Mortgage Licensing Act,
20 comprising §§ 1501-1517 of the Housing and Economic Recovery Act of 2008, Public Laws 110-
21 289.

22 (14) "Unique identifier" means a number or other identifier assigned by protocols
23 established by the ~~nationwide mortgage licensing system and registry~~ [Nationwide Multistate](#)
24 [Licensing System](#).

25 **19-14.10-8. Testing of loan originators.**

26 (a) In order to meet the written test requirement referred to in this chapter, an individual
27 shall pass, in accordance with the standards established under this subsection, a qualified written
28 test developed by the Nationwide ~~Mortgage~~ [Multistate](#) Licensing System ~~and Registry~~ and
29 administered by a test provider approved by the Nationwide ~~Mortgage~~ [Multistate](#) Licensing System
30 ~~and Registry~~ based upon reasonable standards.

31 (b) A written test shall not be treated as a qualified written test for purposes of this section
32 unless the test adequately measures the applicant's knowledge and comprehension in appropriate
33 subject areas, including:

34 (1) Ethics;

- 1 (2) Federal law and regulation pertaining to mortgage origination;
2 (3) State law and regulation pertaining to mortgage origination;
3 (4) Federal and state law and regulation, including instruction on fraud, consumer
4 protection, the nontraditional mortgage marketplace, and fair-lending issues.

5 (c) Nothing in this section shall prohibit a test provider approved by the Nationwide
6 ~~Mortgage~~ Multistate Licensing System ~~and Registry~~ from providing a test at the location of the
7 employer of the applicant or the location of any subsidiary or affiliate of the employer of the
8 applicant, or the location of any entity with which the applicant holds an exclusive arrangement to
9 conduct the business of a mortgage loan originator.

10 (d)(1) An individual shall not be considered to have passed a qualified written test unless
11 the individual achieves a test score of not less than seventy-five percent (75%) correct answers to
12 questions.

13 (2) An individual may retake a test three (3) consecutive times with each consecutive taking
14 occurring at least thirty (30) days after the preceding test.

15 (3) After failing three (3) consecutive tests, an individual shall wait at least six (6) months
16 before taking the test again.

17 (4) A licensed mortgage loan originator who fails to maintain a valid license for a period
18 of ~~five (5)~~ three (3) years or longer shall retake the test, not taking into account any time during
19 which such individual is a registered mortgage loan originator.

20 **19-14.10-10. Continuing education for mortgage loan originators.**

21 (a) In order to meet the annual continuing education requirements referred to in § 19-14.10-
22 9, a licensed mortgage loan originator shall complete at least (8) hours of education approved in
23 accordance with subsection (b), which shall include at least:

- 24 (1) Three (3) hours of Federal law and regulations;
25 (2) Two (2) hours of ethics, which shall include instruction on fraud, consumer protection,
26 and fair-lending issues;
27 (3) Two (2) hours of training related to lending standards for the nontraditional mortgage
28 product marketplace; and
29 (4) One hour of Rhode Island law and regulations.

30 (b) For purposes of this section, continuing education courses shall be reviewed and
31 approved by the Nationwide ~~Mortgage~~ Multistate Licensing System ~~and Registry~~ based upon
32 reasonable standards. Review and approval of a continuing education course shall include review
33 and approval of the course provider.

34 (c) Nothing in this section shall preclude any education course, as approved by the

1 Nationwide Mortgage Licensing System and Registry, that is provided by the employer of the
2 mortgage loan originator or an entity that is affiliated with the mortgage loan originator by an
3 agency contract, or any subsidiary or affiliate of such employer or entity.

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

6 (e) A licensed mortgage loan originator:

7 (1) Except for § 19-14.10-9(b) and subsection (i) of this section, may only receive credit
8 for a continuing education course in the year in which the course is taken; and

9 (2) May not take the same approved course in the same or successive years to meet the
10 annual requirements for continuing education.

11 (f) A licensed mortgage loan originator who is an approved instructor of an approved
12 continuing education course may receive credit for the licensed mortgage loan originator's own
13 annual continuing education requirement at the rate of two (2) hours credit for every one hour
14 taught.

15 (g) A person having successfully completed the education requirements approved by the
16 Nationwide ~~Mortgage~~ Multistate Licensing System ~~and Registry~~ in subsections (a)(1), (a)(2) and
17 (a)(3) for any state shall be accepted as credit towards completion of continuing education
18 requirements in Rhode Island. Nothing herein shall relieve an applicant of the obligation to satisfy
19 educational requirements specifically related to Rhode Island law and regulations.

20 (h) ~~A licensed mortgage loan originator who subsequently becomes unlicensed must~~
21 ~~complete the continuing education requirements for the last year in which the license was held prior~~
22 ~~to issuance of a new or renewed license.~~

23 An individual who:

24 (1) Fails to acquire a valid mortgage loan originator license or federal registration within
25 three (3) years from the date of federal compliance with any approved pre-licensure education (PE)
26 program; or

27 (2) Has obtained a mortgage loan originator license or federal registration but did not
28 maintain an active license or federal registration for at least three (3) years, must complete at least
29 twenty (20) hours of PE in order to be eligible for state mortgage loan originator licensure.

30 (i) A person meeting the requirements of § 19-14.10-9(a)(1) and (a)(3) may make up any
31 deficiency in continuing education as established by rule or regulation of the director, or the
32 director's designee.

33 **19-14.10-21. Unique identifier shown.**

34 The name and the unique identifier assigned by the Nationwide Multistate Licensing

1 System of any person originating a residential mortgage loan shall be clearly shown on all
2 residential mortgage loan application forms, solicitations or advertisements, including business
3 cards or websites, and any other documents as established by rule, regulation or order of the
4 director, or the director's designee.

5 SECTION 5. Chapter 19-4 of the General Laws entitled "Regulatory Oversight" is hereby
6 amended by adding thereto the following section:

7 **19-4-19. Resident agent - Financial institutions.**

8 All banks and lending institutions doing business in this state, whether acting under state
9 or federal authority, which include, but are not limited to:

10 (1) A bank, savings bank, or trust company, as defined in this title, its affiliates or
11 subsidiaries;

12 (2) A bank holding company, as defined in 12 U.S.C. § 1841, its affiliates or subsidiaries;

13 (3) Mortgage companies; and

14 (4) Any other individual, corporation, partnership, or association authorized to take
15 deposits and/or to make loans of money under the provisions of title 19, shall maintain a resident
16 agent in this state who shall have authority to endorse insurance claim checks on behalf of those
17 banks and lending institutions.

18 SECTION 6. Chapter 19-14 of the General Laws entitled "Licensed Activities" is hereby
19 amended by adding thereto the following section:

20 **19-14-34. Resident agent - Loss payee.**

21 (a) All licensees shall maintain a resident agent in this state who shall have authority to
22 endorse insurance claim checks on behalf of those banks and lending institutions.

23 (b) A licensee that has not and will not be included as a loss payee on any insurance policy
24 may be exempted from the provisions of subsection (a) of this section and §§ 5-38-26 and 27-5-
25 3.3. An applicant that wishes to obtain an exemption must clearly state in its business plan that it
26 is not a loss payee on any insurance policy and must provide the department with a statement that
27 it will not be designated as a loss payee on any insurance policy. A licensee that obtains an
28 exemption should expect that compliance will be evaluated on examination.

29 SECTION 7. Sections 19-4-5 and 19-4-7 of the General Laws in Chapter 19-4 entitled
30 "Regulatory Oversight" are hereby repealed.

31 ~~**19-4-5. Quarterly statement of condition of regulated institutions.**~~

32 ~~At least once every three (3) months, every regulated institution shall prepare a statement~~
33 ~~showing the condition of the regulated institution as it appears upon its books, in the form of a~~
34 ~~balance sheet prepared in accordance with generally accepted accounting principles. This statement~~

1 ~~shall be posted in a conspicuous place, where it may be easily read by the public.~~

2 ~~**19-4-7. Balance sheet form -- Publication of report.**~~

3 ~~Once each calendar year, every financial institution, at its own expense, shall publish a~~
4 ~~report in the form of a balance sheet, in a newspaper in the city or town in which the financial~~
5 ~~institution is located. If there is no newspaper published in the city or town where the financial~~
6 ~~institution is located, then the report shall be published in a newspaper published in a city or town~~
7 ~~nearby.~~

8 SECTION 8. Section 19-14.8-12 of the General Laws in Chapter 19-14.8 entitled "Uniform
9 Debt-Management Services Act" is hereby repealed.

10 ~~**19-14.8-12. Registration in another state.**~~

11 ~~If a provider holds a license or certificate of registration in another state authorizing it to~~
12 ~~provide debt management services, the provider may submit a copy of that license or certificate~~
13 ~~and the application for it instead of an application in the form prescribed by § 19-14.8-5(a), § 19-~~
14 ~~14.8-6, or § 19-14.8-11(b). The director shall accept the application and the license or certificate~~
15 ~~from the other state as an application for registration as a provider or for renewal of registration as~~
16 ~~a provider, as appropriate, in this state if:~~

17 ~~(1) The application in the other state contains information substantially similar to, or more~~
18 ~~comprehensive than, that required in an application submitted in this state;~~

19 ~~(2) The applicant provides the information required by § 19-14.8-6(1), (3), (10), (12), and~~
20 ~~(13); and~~

21 ~~(3) The applicant, under oath or certified under the penalties of perjury, certifies that the~~
22 ~~information contained in the application is current or, to the extent it is not current, supplements~~
23 ~~the application to make the information current.~~

24 SECTION 9. This act shall take effect upon passage.

=====
LC002062
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO BANKING - FINANCIAL INSTITUTIONS CREATION AND EXPANSION

1 This act would amend a number of provisions relating to receiverships, retail installment
2 contracts, licensing, security bonds, and resident agent reporting requirements in an effort to
3 eliminate unnecessary requirements and/or clarifying language resulting in the reduction of the
4 burden on financial businesses operating in Rhode Island.

5 This act would take effect upon passage.

=====
LC002062
=====