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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO FINANCIAL INSTITUTIONS -- LICENSED ACTIVITIES

Introduced By: Representative Raymond H. Johnston

Date Introduced: March 27, 2014

Referred To: House Corporations

(Business Regulation)

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 19-14-1, 19-14-2, 19-14-4, 19-14-5 and 19-14-6 of the General
2 Laws in Chapter 19-14 entitled "Licensed Activities" are hereby amended to read as follows:

3 **19-14-1. Definitions.** -- Unless otherwise specified, the following terms shall have the
4 following meanings throughout chapters 14, 14.1, 14.2, 14.3, 14.4, 14.6, 14.8, ~~and~~ 14.10, and
5 14.11 of this title:

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

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

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

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

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

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

3 (B) An application for a loan is taken by an employee, agent, or representative of the

4 lender within this state;

5 (C) The loan closes within this state;

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

7 or

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

9 (iii) The term "lender" shall also include any person engaged in a transaction whereby

10 the person makes or funds a loan within this state using the proceeds of an advance under a line

11 of credit over which proceeds the person has dominion and control and for the repayment of

12 which the person is unconditionally liable. This transaction is not a table-funding transaction. A

13 person is deemed to have dominion and control over the proceeds of an advance under a line of

14 credit used to fund a loan regardless of whether:

15 (A) The person may, contemporaneously with or shortly following the funding of the

16 loan, assign or deliver to the line of credit lender one or more loans funded by the proceeds of an

17 advance to the person under the line of credit;

18 (B) The proceeds of an advance are delivered directly to the settlement agent by the line-

19 of-credit lender, unless the settlement agent is the agent of the line-of-credit lender;

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

21 purchased by the line-of-credit lender; or

22 (D) Under the circumstances, as set forth in regulations adopted by the director or the

23 director's designee pursuant to this chapter;

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

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

26 (i) Loans secured by mortgages;

27 (ii) Insurance premium finance agreements;

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

29 of those contracts;

30 (iv) Educational loans;

31 (v) Any other advance of money; or

32 (vi) Any transaction, such as those commonly known as "~~pay-day~~ payday loans," "~~pay~~

33 ~~day~~ payday advances," or "deferred-presentment loans," in which a cash advance is made to a

34 customer in exchange for the customer's personal check, or in exchange for the customer's

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

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

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

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

12 (iii) The loan closes within this state;

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

14 or

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 8 (i) Providing loan closing services;
- 9 (ii) Rendering of credit reports by an authorized credit reporting agency; and
- 10 (iii) Rendering of appraisal services.

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

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

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

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

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

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

1 institution or banking institution;

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

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

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

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

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

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

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

31 (35) "Servicing" means receiving a scheduled periodic payment from a borrower pursuant
32 to the terms of a loan, including amounts for escrow accounts, and making the payments to the
33 owner of the loan or other third party of principal and interest and other payments with respect to
34 the amounts received from the borrower as may be required pursuant to the terms of the servicing

1 loan documents or servicing contract. In the case of a home equity conversion mortgage or a
2 reverse mortgage, servicing includes making payment to the borrower;

3 (36) "Third-party loan servicer" means a person who, directly or indirectly, engages in
4 the business of servicing a loan made to a resident of Rhode Island, or a loan secured by
5 residential real estate located in Rhode Island, for a personal, family, or household purpose, owed
6 or due or asserted to be owed or due another; and

7 (37) "Writing" means hard-copy writing or electronic writing that meets the requirements
8 of § 42-127.1-1 et seq.

9 **19-14-2. Licenses required.** -- (a) No person shall engage within this state in the
10 business of: (1) ~~m~~Making or funding loans or acting as a lender or small loan lender; (2)
11 ~~b~~Brokering loans or acting as a loan broker; (3) ~~s~~Selling checks for a fee or other consideration;
12 (4) ~~e~~Cashing checks for a fee or other consideration, which includes any premium charged for the
13 sale of goods in excess of the cash price of the goods; (5) ~~p~~Providing electronic money transfers
14 for a fee or other consideration; (6) ~~p~~Providing debt-management services; ~~or~~ (7) ~~p~~Performing the
15 duties of a mortgage-loan originator; (8) Servicing a loan, directly or indirectly, as a third-party
16 loan servicer without first obtaining a license or registration from the director or the director's
17 designee. The licensing requirement for any person providing debt-management plans shall apply
18 to all persons, without regard for state of incorporation or a physical presence in this state, who
19 initiate or service debt-management plans for residents of this state. Special exemptions from
20 licensing for each activity are contained in other chapters in this title.

21 (b) No lender or loan-broker licensee shall permit an employee to act as a mortgage loan
22 originator without first verifying that such originator is licensed under this chapter. No individual
23 may act as a mortgage-loan originator without being licensed, or act as a mortgage loan originator
24 for more than one person. The license of a mortgage-loan originator is not effective during any
25 period when such mortgage-loan originator is not associated with a lender or loan-broker
26 licensee.

27 (c) Each loan negotiated, solicited, placed, found, or made without a license as required
28 in subsection (a) of this section shall constitute a separate violation for purposes of this chapter.

29 (d) No person engaged in the business of making or brokering loans in this state, whether
30 licensed in accordance with the provisions of this chapter, or exempt from licensing, shall accept
31 applications, or referral of applicants from, or pay a fee to, any lender, loan broker or mortgage-
32 loan originator who is required to be licensed or registered under said sections but is not licensed
33 to act as such by the director or the director's designee.

34 **19-14-4. Annual fee.** -- (a) Each licensee shall pay an annual license fee as follows:

1 (1) Each small-loan lender license and each branch certificate, the sum of five hundred
2 fifty dollars (\$550);

3 (2) Each loan-broker license and each branch certificate, the sum of five hundred fifty
4 dollars (\$550);

5 (3) Each lender license and each branch certificate, the sum of one thousand one hundred
6 dollars (\$1,100);

7 (4) Each sale of checks license, the sum of three hundred sixty dollars (\$360);

8 (5) Each check cashing license, the sum of three hundred sixty dollars (\$360);

9 (6) Each electronic money transfer license, the sum of three hundred sixty dollars (\$360);

10 (7) Each registration to provide debt-management services, the sum of two hundred
11 dollars (\$200); ~~and~~

12 (8) Each mortgage-loan originator license, the sum of one hundred dollars (\$100); ~~;~~ and

13 (9) Each third-party loan-servicer license and each branch certificate, the sum of one
14 thousand one hundred dollars (\$1,100).

15 (b) Any licensee who shall not pay the annual fee by December 31 of each year shall be
16 subject to a daily penalty of twenty-five dollars (\$25) per day, subject to a maximum of seven
17 hundred fifty dollars (\$750). The penalty shall be paid to the director to, and for the use of, the
18 state. The penalty may be waived for good cause by the director, or the director's designee, upon
19 written request.

20 **19-14-5. Minimum capital.** -- Each licensee, licensed pursuant to an application for
21 license filed after June 30, 1995, shall maintain the following minimum-net worth to be
22 evidenced in accordance with regulations promulgated by the director or the director's designee.

23 (1) Small-loan lenders, the sum of twenty-five thousand dollars (\$25,000);

24 (2) Loan brokers, the sum of ten thousand dollars (\$10,000);

25 (3) Lenders, the sum of one hundred thousand dollars (\$100,000); ~~and~~

26 (4) Sale of checks, the sum of fifty thousand dollars (\$50,000); ~~;~~ and

27 (5) Third-party loan servicers, the sum of one hundred thousand dollars (\$100,000).

28 **19-14-6. Bond of applicant.** -- (a) An applicant for any license shall file with the
29 director, or the director's designee, a bond to be approved by him or her in which the applicant
30 shall be the obligor.

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

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

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

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

1 (4) Sale of checks and electronic money transfer licensees, the sum of fifty thousand
2 dollars (\$50,000) subject to a maximum of one hundred and fifty thousand dollars (\$150,000)
3 when aggregated with agent locations;

4 (5) Check-cashing licensees who accept checks for collection with deferred payment, the
5 sum of fifty thousand dollars (\$50,000) subject to a maximum of one hundred and fifty thousand
6 dollars (\$150,000) when aggregated with agent locations;

7 (6) Foreign-exchange licensees, the sum of ten thousand dollars (\$10,000);

8 (7) ~~Each~~ The amounts listed above apply to licensees with zero (0) to three (3) branch or
9 agent locations ~~location of a licensee, the sum of five thousand dollars (\$5,000)~~ Licensees with
10 four (4) to seven (7) branches shall post a bond, as indicated above, and an additional bond in the
11 sum of ten thousand dollars (\$10,000). Licensees with eight (8) or more branches shall post a
12 bond, as indicated above, and an additional bond in the sum of twenty-five thousand dollars
13 (\$25,000); ~~or~~

14 (8) Each debt-management services registrant, the amount provided in ~~section~~ §19-14.8-
15 13; ~~or~~

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

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

23 (d) The provisions of subsection (b)(6) of this section shall not apply to any foreign-
24 exchange business holding a valid electronic money-transfer license issued pursuant to ~~section~~
25 §19-14-1 et seq., that has filed with the division of banking the bond required by subsections
26 (b)(4) and (b)(7) of this section.

27 (e) The bond shall remain in force and effect until the surety is released from liability by
28 the director, or the director's designee, or until the bond is cancelled by the surety. The surety
29 may cancel the bond and be released from further liability under the bond upon receipt by the
30 director or the director's designee, of written notice of the cancellation of the bond at least thirty
31 (30) days in advance of the cancellation of the bond. The cancellation shall not affect any liability
32 incurred or accrued under the bond before the termination of the thirty-~~(30)~~ day (30) period. Upon
33 receipt of any notice of cancellation, the director shall provide written notice to the licensee.

34 (f) Upon receipt of any notice of cancellation, the director may provide written notice to

1 the licensee requiring reinstatement or replacement of the bond. Unless the bond is reinstated by
2 the surety, or a satisfactory replacement bond is filed with the director prior to the cancellation of
3 the original bond, the license shall be suspended. The licensee will be provided notice of the
4 suspension and may request a hearing within thirty (30) days. If the licensee does not request a
5 hearing, the director, or director's designee, shall issue an order revoking the license for failure to
6 comply with this section.

7 SECTION 2. Title 19 of the General Laws entitled "FINANCIAL INSTITUTIONS" is
8 hereby amended by adding thereto the following chapter:

9 CHAPTER 14.11

10 THIRD-PARTY LOAN SERVICERS

11 **19-14.11-1. License required.** – (a) No person shall act as a third-party loan servicer,
12 directly or indirectly, for a loan to a Rhode Island borrower without first obtaining a license under
13 this chapter from the director or the director's designee.

14 (b) No license shall be required of:

15 (1) A depository institution, or an affiliate or subsidiary of a depository institution, that is
16 controlled by, or under common control with, the depository institution and subject to the
17 regulatory authority of the primary regulator of the depository institution.

18 (2) A lender licensed under chapter 14 of title 19 that retains the servicing rights on a
19 loan originally closed in the lender's name and subsequently sold, in whole or in part, to a third
20 party, provided that the provisions of §§ 19-14.11-2 (segregated accounts) and 19-14.11-4
21 (prohibited acts and practices) of this chapter shall apply to such lender.

22 (3) A debt-management company licensed in this state when engaged in activities
23 permitted pursuant to its debt-management license.

24 (4) An attorney licensed in this state when collecting a debt on behalf of a client.

25 (5) Bona-fide nonprofit, organizations, exempt from taxation under section 501(c) of the
26 Internal Revenue Code, that are approved by the Department of Housing and Urban Development
27 as housing counseling agencies; that have a physical location in Rhode Island; and that lend state
28 or federal funds.

29 **19-14.11-2. Segregated accounts.** -- (a) All amounts paid by borrowers to a licensee
30 subject to this chapter shall be deposited in one or more accounts maintained at a federally
31 insured depository institution, and with respect to such funds, the licensee shall act as a fiduciary.
32 Such account, or accounts, shall be segregated from all other accounts of the licensee. Such funds
33 shall not be used in the conduct of the licensee's personal affairs or in the licensee's business
34 affairs.

1 **(b) The licensee may withdraw funds from the segregated account for payment directly to**
2 **the owner of the loan or other third party of principal and interest and other payments as may be**
3 **required pursuant to the terms of the loan document or servicing contract.**

4 **(c) The licensee may withdraw funds from the segregated account for commissions to**
5 **which it is entitled for services actually performed.**

6 **(d) The licensee may return funds from the segregated account to the borrower if not**
7 **prohibited.**

8 **(e) The licensee shall maintain complete and accurate account records, including, at a**
9 **minimum, the source of all deposits, the nature and recipient of all disbursements, the date and**
10 **amount of each transaction, and the name of the borrower. All documents pertaining to account**
11 **activity shall be produced upon request of the director.**

12 **19-14.11-3. Records required of licensee. --** **The licensee shall keep, use in the**
13 **licensee's business, and make available to the director, or the director's designee upon request,**
14 **such books, accounts, records and data compilations as will enable the director, or director's**
15 **designee, to determine whether such licensee is complying with the provisions of this and other**
16 **applicable chapters and with the rules and regulations promulgated thereunder. Every licensee**
17 **shall preserve such books, accounts, records, and data compilations in a secure manner and in**
18 **accordance with § 19-14-20 for at least three (3) years after making the final entry on any loan**
19 **recorded therein.**

20 **19-14.11-4. Prohibited acts and practices. --** **It is a violation of this chapter for a person**
21 **to:**

22 **(1) Directly or indirectly employ any scheme, device, or artifice to defraud or mislead**
23 **borrowers or lenders or to defraud any person.**

24 **(2) Engage in any unfair or deceptive practice toward any person.**

25 **(3) Obtain property by fraud or misrepresentation.**

26 **(4) Use any unfair or unconscionable means in servicing a loan.**

27 **(5) Knowingly misapply or recklessly apply loan payments to the outstanding balance of**
28 **a loan.**

29 **(6) Knowingly misapply or recklessly apply payments to escrow accounts.**

30 **(7) Require the unnecessary forced placement of insurance, when adequate insurance is**
31 **currently in place.**

32 **(8) Fail to provide loan payoff information within the time period set forth in chapter 19.**

33 **(9) Charge excessive or unreasonable fees to provide loan payoff information.**

34 **(10) Fail to manage and maintain escrow accounts in accordance with § 19-9-2.**

1 (11) Knowingly or recklessly provide inaccurate information to a credit bureau, thereby
2 harming a consumer's credit worthiness.

3 (12) Fail to report both the favorable and unfavorable payment history of the consumer to
4 a nationally recognized consumer credit bureau at least annually if the servicer regularly reports
5 information to a credit bureau.

6 (13) Collect private mortgage insurance beyond the date for which private mortgage
7 insurance is required.

8 (14) Knowingly or recklessly facilitate the illegal foreclosure of real property collateral.

9 (15) Knowingly or recklessly facilitate the illegal repossession of chattel collateral.

10 (16) Fail to respond to consumer complaints in a timely manner.

11 (17) Conduct any business covered by this chapter without holding a valid license as
12 required under this chapter, or assist, or aid and abet, any person in the conduct of business under
13 this chapter without a valid license as required under this chapter.

14 (18) Fail to comply with any federal or state law, rule, or other legally binding authority
15 relating to the evaluation of loans for modification purposes or the modification of loans.

16 (19) Fail to comply with this chapter, or rules adopted under this chapter, or fail to
17 comply with any orders or directives from the director, or fail to comply with any other state or
18 federal law, including the regulations thereunder, applicable to any business authorized or
19 conducted under this chapter.

20 SECTION 3. This act shall take effect on July 1, 2015.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T
RELATING TO FINANCIAL INSTITUTIONS -- LICENSED ACTIVITIES

1 This act would require that persons performing the functions of a debt collector, servicing
2 loans, directly or indirectly, owed or due or asserted to be owed or due to another, or making
3 deferred deposit loans obtain a license from the director of the department of business regulation.
4 This act would also establish annual fees for these persons, minimum capital requirements and
5 bonding amounts.

6 Additionally, this act would also require third-party loan servicers to be licensed by the
7 department of business regulation.

8 This act would take effect on July 1, 2015.

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