

**2014 -- S 2787 SUBSTITUTE A**

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**STATE OF RHODE ISLAND**

**IN GENERAL ASSEMBLY**

**JANUARY SESSION, A.D. 2014**

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A N A C T

RELATING TO FINANCIAL INSTITUTIONS

Introduced By: Senators Bates, and Picard

Date Introduced: March 25, 2014

Referred To: Senate Commerce

(Business Regulation)

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 19-1-1 of the General Laws in Chapter 19-1 entitled "Definitions  
2 and Establishment of Financial Institutions" is hereby amended to read as follows:

3           **19-1-1. Definitions.** -- Unless otherwise specified, the following terms shall have the  
4 following meanings throughout this title:

5           (1) "Agreement to form" means the agreement to form a financial institution or the  
6 agreement to form a credit union, as applicable, pursuant to this title, and includes, for financial  
7 institutions organized before December 31, 1995, the articles of incorporation or the agreement of  
8 association of the financial institution, where applicable.

9           (2) "Branch" means any office or place of business, other than the main office or  
10 customer-bank-communication-terminal outlets as provided for in this title, at which deposits are  
11 received, or checks paid or money lent, or at which any trust powers are exercised. Any financial  
12 institution which had, on or before June 30, 2003, established an office or place of business, other  
13 than its main office, at which trust powers are exercised, shall not be required to obtain the  
14 approval of the director, or the director's designee, pursuant to ~~section §19-2-11 of the general~~  
15 ~~laws~~ in chapter 2 of title 19 for any such offices established as of that date.

16           (3) "Credit union" means a credit union duly organized under the laws of this state.

17           (4) "Director" means the director of the department of business regulation, or his or her  
18 designee.

19           (5) "Division of banking" means the division within the department of business

1 regulation responsible for the supervision and examination of regulated institutions and/or  
2 licensees under chapter 14 of this title.

3 (6) "Federal credit union" means a credit union duly organized under the laws of the  
4 United States.

5 (7) "Financial institution" means any entity, other than a credit union, duly organized  
6 under the laws of this state ~~which~~ that has the statutory authority to accept money on deposit  
7 pursuant to title 19, including an entity ~~which~~ that is prohibited from accepting deposits by its  
8 own ~~by laws~~ bylaws or agreement to form; the term includes, but is not limited to banks, trust  
9 companies, savings banks, loan and investment banks, and savings and loan associations.

10 (8) "Main office" means, in the case of financial institutions or credit unions, the location  
11 stated in the agreement to form, as amended, and, otherwise, the location recognized by the  
12 institution's primary banking regulator as its main office.

13 (9) "Person" means individuals, partnerships, corporations, limited liability companies,  
14 or any other entity however organized.

15 (10) "Regulated institution" means any financial institution, credit union, or other  
16 insured-deposit-taking institution, which is authorized to do business in this state, including one  
17 authorized by operation of an interstate banking statute ~~which~~ that allowed its original entry.

18 (11) "Retail installment contract" means any security agreement negotiated or executed  
19 in this state, or under the laws of this state, including, but not limited to, any agreement in the  
20 nature of a mortgage, conditional sale contract, or any other agreement whether or not evidenced  
21 by any written instrument to pay the retail purchase price of goods, or any part thereof, in  
22 installments over any period of time and pursuant to which any security interest is retained or  
23 taken by the retail seller for the payment of the purchase price, or any part thereof, of the retail  
24 installment contract.

25 (12) "Retail seller" means any person who sells or contracts to sell any goods under a  
26 retail installment contract to a retail buyer.

27 (13) "Superintendent" means the ~~associate~~ deputy director designated by the director ~~and~~  
28 as superintendent of banking in the department of business regulation.

29 (14) "Unimpaired capital" means the sum of all capital and allowance accounts minus  
30 estimated losses on assets, calculated in accordance with generally accepted accounting  
31 principles.

32 (15) "Writing" means hard copy writing or electronic writing that meets the requirements  
33 of § 42-127.1-1 et seq.

34 SECTION 2. Section 19-3-13 of the General Laws in Chapter 19-3 entitled "Powers and

1 Operations" is hereby amended to read as follows:

2 **19-3-13. Use of electronic devices and machines.** -- (a) Any financial institution, or  
3 credit union, may make available for use by its customers one or more electronic devices or  
4 machines (customer-bank communications terminals/automated teller machines). These devices  
5 or machines shall not be deemed to be the establishment of a branch of the particular financial  
6 institution or credit union. All surcharges chargeable for use of these devices shall be disclosed  
7 prior to completion of any transaction. Disclosure of the surcharge shall be displayed  
8 electronically by the electronic device or machine and shall not be disclosed by means of any  
9 stickers or placards placed on the exterior of the electronic device or machine.

10 ~~(b) The establishment and use of these devices are subject to approval by the director or~~  
11 ~~the director's designee which approval shall not be unreasonably withheld. Any request to~~  
12 ~~establish a customer bank communications terminal/automated teller machine must be sent to the~~  
13 ~~director or the director's designee by any means acceptable to the director or the director's~~  
14 ~~designee. Any request which is received by the director or the director's designee shall be deemed~~  
15 ~~approved, if within five (5) business days of receipt by the director or the director's designee of~~  
16 ~~the request, the director or the director's designee has not issued a notice of intent to deny the~~  
17 ~~request. The director or the director's designee may promulgate rules and regulations not~~  
18 ~~inconsistent with this section.~~

19 ~~(e)~~(b) To the extent consistent with the antitrust laws, each financial institution or credit  
20 union, chartered by this or any other state, is permitted, but not required, to share these devices  
21 with one or more other financial institutions or credit unions, chartered by the state or federal  
22 government.

23 ~~(d)~~(c) Each financial institution or credit union shall adopt and maintain safeguards on  
24 each electronic device or machine consistent with the minimum requirements specified under the  
25 federal Bank Protection Act, 12 U.S.C. section 1881 et seq.

26 SECTION 3. Sections 19-14-1, 19-14-6, 19-14-7, 19-14-8, 19-14-9, 19-14-10, 19-14-12,  
27 19-14-14 and 19-14-23 of the General Laws in Chapter 19-14 entitled "Licensed Activities" are  
28 hereby amended to read as follows:

29 **19-14-1. Definitions.** -- Unless otherwise specified, the following terms shall have the  
30 following meanings throughout chapters 14, 14.1, 14.2, 14.3, 14.4, 14.6, 14.8 and 14.10 of this  
31 title:

32 (1) "Check" means any check, draft, money order, personal money order, or other  
33 instrument for the transmission or payment of money. For the purposes of check cashing,  
34 travelers checks or foreign denomination instruments shall not be considered checks. "Check

1 cashing" means providing currency for checks;

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

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

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

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

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

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

16 (C) The loan closes within this state;

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

18 or

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

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

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

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

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

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

- 1 (5) "Licensee" means any person licensed under this chapter;
- 2 (6) "Loan" means any advance of money or credit including, but not limited to:
- 3 (i) Loans secured by mortgages;
- 4 (ii) Insurance premium finance agreements;
- 5 (iii) The purchase or acquisition of retail installment contracts or advances to the holders
- 6 of those contracts;
- 7 (iv) Educational loans;
- 8 (v) Any other advance of money; or
- 9 (vi) Any transaction such as those commonly known as "~~pay-day~~ payday loans," "~~pay~~
- 10 ~~day~~ payday advances," or "deferred-~~presentment~~ loans," in which a cash advance is made to a
- 11 customer in exchange for the customer's personal check, or in exchange for the customer's
- 12 authorization to debit the customer's deposit account, and where the parties agree either, that the
- 13 check will not be cashed or deposited, or that customer's deposit account will not be debited, until
- 14 a designated future date.
- 15 (7) "Loan broker" means any person who, for compensation or gain, or in the expectation
- 16 of compensation or gain, either directly or indirectly, solicits, processes, negotiates, places or sells
- 17 a loan within this state for others in the primary market, or offers to do so. A loan broker shall
- 18 also mean any person who is the nominal mortgagee or creditor in a table-funding transaction. A
- 19 loan is brokered within this state if any of the following conditions exist:
- 20 (i) The loan is secured by real property located in this state;
- 21 (ii) An application for a loan is taken or received by an employee, agent, or
- 22 representative of the loan broker within this state;
- 23 (iii) The loan closes within this state;
- 24 (iv) The loan solicitation is done by an individual with a physical presence in this state;
- 25 or
- 26 (v) The loan broker maintains an office in this state.
- 27 (8) "Personal money order" means any instrument for the transmission or payment of
- 28 money in relation to which the purchaser or remitter appoints, or purports to appoint, the seller as
- 29 his or her agent for the receipt, transmission, or handling of money, whether the instrument is
- 30 signed by the seller, or by the purchaser, or remitter, or some other person;
- 31 (9) "Primary market" means the market in which loans are made to borrowers by lenders,
- 32 whether or not through a loan broker or other conduit;
- 33 (10) "Principal owner" means any person who owns, controls, votes, or has a beneficial
- 34 interest in, directly or indirectly, ten percent (10%) or more of the outstanding capital stock

1 and/or equity interest of a licensee;

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

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

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

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

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

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

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

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

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

29 (20) "Nonprofit organization" means a corporation qualifying as a 26 U.S.C. section  
30 501(c)(3) nonprofit organization, in the operation of which no member, director, officer, partner,  
31 employee, agent, or other affiliated person profits financially other than receiving reasonable  
32 salaries if applicable;

33 (21) "Mortgage loan originator" has the same meaning set forth in ~~subdivision~~ §19-  
34 14.10-3(6);

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

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

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

- 19 (i) Providing loan closing services;  
20 (ii) Rendering of credit reports by an authorized credit reporting agency; and  
21 (iii) Rendering of appraisal services.

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

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

31 (27) "Natural person employee" shall mean any natural person performing services as a  
32 ~~bona fide~~ bona fide employee for a person licensed under the provisions of ~~Rhode Island general~~  
33 ~~laws section~~ §19-14-1, et. seq., in return for a salary, wage, or other consideration, where such  
34 salary, wage, or consideration is reported by the licensee on a federal form W-2 payroll record.

1 The term does not include any natural person or business entity performing services for a person  
2 licensed under the provisions of Rhode Island general laws in return for a salary, wage, or other  
3 consideration, where such salary, wage, or consideration is reported by the licensee on a federal  
4 form 1099;

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

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

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

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

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

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

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

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

34 (33) "Negative equity" means the difference between the value of an asset and the

1 outstanding portion of the loan taken out to pay for the asset, when the latter exceeds the former  
2 amount;

3 (34) "Loan closing services" means providing title services, including title searches, title  
4 examinations, abstract preparation, insurability determinations, and the issuance of title  
5 commitments and title insurance policies, conducting loan closings, and preparation of loan  
6 closing documents when performed by, or under the supervision of, a licensed attorney, licensed  
7 title agency, or licensed title insurance company; and

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

10 **19-14-6. Bond of applicant.** -- (a) An applicant for any license shall file with the  
11 director, or the director's designee, a bond to be approved by him or her in which the applicant  
12 shall be the obligor.

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

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

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

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

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

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

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

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

29 (8) Each debt-management services registrant, the amount provided in ~~section §~~ 19-14.8-  
30 13.

31 (c) The bond shall run to the state for the use of the state and of any person who may  
32 have cause of action against the obligor of the bond under the provisions of this title and shall be  
33 perpetual. The bond shall be conditioned upon the obligor faithfully conforming to, and abiding  
34 by, the provisions of this title and of all rules and regulations lawfully made, and the obligor will

1 pay to the state and to any person any and all money that may become due or owing to the state or  
2 to the person from the obligor under, and by virtue of, the provisions of this title.

3 (d) The provisions of subsection (b)(6) of this section shall not apply to any foreign  
4 exchange business holding a valid electronic money transfer license issued pursuant to ~~section~~  
5 §19-14-1 et seq., that has filed with the division of banking the bond required by subsections  
6 (b)(4) and (b)(7) of this section.

7 (e) The bond shall remain in force and effect until the surety is released from liability by  
8 the director or the director's designee or until the bond is cancelled by the surety. The surety may  
9 cancel the bond and be released from further liability under the bond upon receipt by the director  
10 or the director's designee of written notice of the cancellation of the bond at least thirty (30) days  
11 in advance of the cancellation of the bond. The cancellation shall not affect any liability incurred  
12 or accrued under the bond before the termination of the thirty (30) day period. Upon receipt of  
13 any notice of cancellation, the director shall provide written notice to the licensee.

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

21 **19-14-7. Issuance or denial of license.** -- (a) Upon the filing of a completed application,  
22 the payment of fees and the approval of the bond, the director, or the director's designee, shall  
23 commence an investigation of the applicant.

24 (b) After the investigation determines that a completed application has been filed, the  
25 director, or the director's designee, shall approve the license applied for in accordance with the  
26 provisions of this chapter if he or she shall find:

27 (+) That the financial responsibility, experience, character, and general fitness of the  
28 applicant, and of the applicant's members and of the applicant's officers, including the designated  
29 manager of record of a licensed location, if the applicant is a partnership, limited liability  
30 company or association, or of the officers including the designated manager of record of a  
31 licensed location, and directors and the principal owner or owners of the issued and outstanding  
32 capital stock, if the applicant is a corporation, are such as to command the confidence of the  
33 community and to warrant belief that the business will be operated honestly, fairly, and efficiently  
34 within the purposes of this title; ~~and.~~

1           ~~(2) That allowing the applicant to engage in business will promote the convenience and~~  
2 ~~advantage of the community in which the business of the applicant is to be conducted.~~

3           (c) A license provided pursuant to this title shall remain in full force and effect until it is  
4 surrendered by the licensee or revoked or suspended as provided by law. The licensee is,  
5 however, subject to suspension or revocation for failure to comply with any applicable provision  
6 of this title or regulation promulgated thereunder.

7           (d) If the director<sub>2</sub> or the director's designee<sub>2</sub> rejects an application for a license, he or she  
8 shall notify the applicant, in writing, and advise the applicant of the reason for the denial of the  
9 application for license. When an application for a license is denied by the director<sub>2</sub> or the  
10 director's designee<sub>2</sub> or withdrawn by the applicant, the director<sub>2</sub> or the director's designee<sub>2</sub> shall  
11 return to the applicant the bond, but shall retain the investigation fee to cover the costs of  
12 investigating the application. The applicant may make written demand for hearing upon the  
13 director<sub>2</sub> or director's designee<sub>2</sub> within thirty (30) days of the notice to determine the  
14 reasonableness of the action to deny the license.

15           (e) Any applicant or licensee aggrieved by the action of the director<sub>2</sub> or the director's  
16 designee<sub>2</sub> in denying a completed application for a license shall have the right to appeal the  
17 action, order, or decision pursuant to chapter 35 of title 42.

18           **19-14-8. Denial of license due to incomplete application.** -- ~~If, within sixty (60) days of~~  
19 ~~the initial filing of the application,~~ the applicant has failed to provide the information requested  
20 by the department to complete the application, the director<sub>2</sub> or the director's designee<sub>2</sub> shall notify  
21 the applicant, in writing, that the application shall be considered ~~denied~~ withdrawn if all  
22 information requested is not received within thirty (30) days of the notice ~~unless the application is~~  
23 ~~withdrawn~~. The notice shall specify what information is necessary for completion. The applicant  
24 may make a written demand within thirty (30) days for a hearing to determine the reasonableness  
25 of the director's<sub>2</sub> or the director's designee's<sub>2</sub> action. The hearing shall be conducted pursuant to  
26 the Administrative Procedures Act, chapter 35 of title 42. If the applicant fails to provide the  
27 information or request a hearing within thirty (30) days from the notice, the application shall be  
28 ~~denied~~ withdrawn on the basis that it is incomplete.

29           **19-14-9. Contents of license—Posting.—Contents of license.** -- The license or branch  
30 certificate shall contain any information that the director<sub>2</sub> or the director's designee<sub>2</sub> shall require,  
31 including the type of activity authorized. ~~With the exception of licensed mortgage loan~~  
32 ~~originators, the license or branch certificate shall be kept conspicuously posted in the place of~~  
33 ~~business of the licensee.~~ In his or her discretion, the director, or the director's designee, may  
34 substitute an electronic record as the confirmation of a license status in substitution for a license

1 [or branch certificate](#). When dealing with an applicant, or potential applicant, for a mortgage loan  
2 or when dealing with any person providing settlement services (as defined in the Real Estate  
3 Settlement Procedures Act, as amended, or the regulations promulgated thereunder from time to  
4 time), a mortgage loan originator shall disclose the mortgage loan originator's nationwide  
5 mortgage licensing system unique identification number upon request to the applicant, or  
6 potential applicant, and the fact that the mortgage loan originator is licensed by this state. ~~Any~~  
7 ~~licensee who shall lose, misplace or mutilate the license or branch certificate shall pay a~~  
8 ~~replacement fee of one hundred dollars (\$100) to the director for the use of the state.~~

9 **19-14-10. Attorney for service of process.** -- (a) Every licensee shall appoint, and  
10 thereafter maintain, in this state a resident attorney with authority to accept process for the  
11 licensee in this state, including the process of garnishment.

12 (1) ~~A document evidencing the power of attorney~~ [The appointment](#) shall be filed with  
13 the director, or the director's designee, [in whatever format he or she directs](#). The power of  
14 attorney shall ~~state~~ [provide all contract information, including](#) the business address, including  
15 street and number, if any, of the resident attorney. Thereafter, if the resident attorney changes his  
16 or her business address [or other contact information](#), he or she shall, within ten (10) days after  
17 any change, file in the office of the director, or the director's designee, notice of the change  
18 setting forth the attorney's current business address [or other contact information](#).

19 (2) If the resident attorney dies, resigns, or leaves the state, the licensee shall make a new  
20 appointment and file the power of attorney in the office of the director, or the director's designee.  
21 The power of attorney shall not be revoked until this power of attorney shall have been given to  
22 some other competent person resident in this state and filed with the director, or the director's  
23 designee.

24 (3) Service of process upon the resident attorney shall be deemed sufficient service upon  
25 the licensee.

26 (4) Any licensee who fails to appoint a resident attorney and file the power of attorney in  
27 the office of the director, or the director's designee, as above provided for, or fails to replace a  
28 resident attorney for a period of thirty (30) days from vacancy, shall be liable for a penalty not  
29 exceeding five hundred dollars (\$500) [and shall be subject to suspension or revocation of the](#)  
30 [license](#).

31 (5) Upon the filing of any power of attorney required by this section, a fee of twenty-five  
32 dollars (\$25.00) shall be paid to the director for the use of the state.

33 (6) Any licensee that is a corporation and complies with the provisions of chapter 1.2 of  
34 title 7 is exempt from the power of attorney filing requirements of this section. Any licensee that

1 is a limited partnership or limited liability company and complies with the provisions of chapters  
2 13 and 16 of title 7 is exempt from the power of attorney requirements of this section.

3 (b) Any process, including the process of garnishment, may be served upon the director,  
4 or the director's designee, as agent of the licensee in the event that no resident attorney can be  
5 found upon whom service can be made, or in the event that the licensee has failed to designate a  
6 resident attorney as required, and process may be served by leaving a copy of the process with a  
7 fee of twenty-five dollars (\$25.00) which shall be included in the taxable costs of the suit, action,  
8 or proceeding, in the hands of the director or the director's designee. This manner of service upon  
9 the licensee shall be sufficient, provided that notice of service and a copy of the process shall be  
10 immediately sent by certified mail by the plaintiff, or the plaintiff's attorney of record, to the  
11 licensee at the latest address filed with the director or the director's designee. If the licensee has  
12 not filed his or her address pursuant to this chapter, notice of service shall be given in any manner  
13 that the court in which the action is pending may order as affording the licensee reasonable  
14 opportunity to defend the action or to learn of the garnishment. Nothing contained in this section  
15 shall limit or affect the right to serve process upon a licensee in any other manner now or  
16 hereafter permitted by law.

17 **19-14-12. Place of business -- Branch offices -- Name changes.** -- (a) Additional places  
18 of business may be maintained under the same license upon written application to the director, or  
19 the director's designee, for the establishment of an additional branch office. A separate  
20 application must be filed for each additional branch office being requested. At the time of the  
21 application, the licensee shall pay to, and for the use of, the state an investigation fee as provided  
22 for in ~~section~~ §19-14-3. Upon the filing of the application, the director, or the director's designee,  
23 shall investigate the facts, and if he or she ~~shall find that allowing the licensee to engage in~~  
24 ~~business in the additional branch location will promote the convenience and advantage of the~~  
25 ~~community in which the licensee desires to conduct his or her business,~~ finds that the  
26 requirements for licensure have been met, the director, or the director's designee, ~~shall issue and~~  
27 ~~deliver a branch certificate, signed by the director or the director's designee which~~ shall be grant  
28 authority for the operation of the business under the license at the branch location. If the director,  
29 or the director's designee, shall not so find, he or she shall deny the licensee permission to  
30 establish the branch location in a manner consistent with the licensing application process. Upon  
31 approval of a branch location request, the licensee shall pay an additional annual licensing fee for  
32 each branch location in the manner consistent with the licensing application process. ~~Any person~~  
33 ~~licensed under chapters 25, 25.1, 25.2, 25.3 or 25.4 of this title as in effect on June 30, 1995, that~~  
34 ~~has maintained more than one office licensed under any of those chapters as of June 30, 1995 will~~

1 ~~automatically be issued branch certificates for the comparable licenses under this chapter for all~~  
2 ~~of the locations other than the main office as part of the 1996 license renewal process. The~~  
3 ~~original licenses for locations deemed to be branches must be surrendered at that time.~~

4 (b) Whenever a licensee wishes to change his or her place of business or branch location  
5 to a street address other than that designated in the license, the licensee shall ~~make written~~  
6 ~~application to~~ notify the director, or the director's designee, in the manner directed by the director,  
7 or the directors' designee, prior to conducting business at that location. ~~who shall investigate the~~  
8 ~~facts. If~~ Unless the director, or the director's designee, finds that ~~allowing the licensee to engage~~  
9 ~~in business in~~ the new location ~~will promote the convenience and advantage of the community in~~  
10 ~~which the licensee desires to conduct business, the director or the director's designee shall reissue~~  
11 ~~the license or branch certificate reflecting the change and the date, which shall be authority for~~  
12 ~~the operation of the business under the license at the new location. If the director or the director's~~  
13 ~~designee shall not so find, he or she shall deny the licensee permission to change the location of~~  
14 ~~the place of business, in the manner consistent with the application process for a license~~ is not in  
15 the best interests of the public, the director, or the director's designee, will reflect the change in  
16 the records of the department. At the time of ~~application~~ notification, the licensee shall pay to the  
17 state the sum of ~~two hundred fifty dollars (\$250)~~ fifty dollars (\$50.00) ~~as an investigation and a~~  
18 processing fee.

19 (c) No licensee shall transact the business provided for by this chapter under any other  
20 name than that named in the license or branch certificate. Whenever a licensee shall wish to  
21 change the name, the licensee shall make written application to the director, or the director's  
22 designee, ~~who shall investigate the facts.~~ If the director, or the director's designee, shall find that  
23 the change of name is appropriate and all requirements for the name change have been met by the  
24 licensee, the director, or the director's designee, shall approve the change and ~~issue a replacement~~  
25 ~~license and branch certificate(s), if applicable, reflecting~~ reflect the new name, ~~upon surrender by~~  
26 ~~the licensee of the original license and branch certificate(s), if applicable~~ in the records of the  
27 department. At the time of application for change of name, the licensee shall pay to, and for the  
28 use of, the state the sum of ~~one hundred fifty dollars (\$150) and an additional fifty dollars~~  
29 ~~(\$50.00) for each branch location as an investigation and~~ fifty dollars (\$50.00) as a processing  
30 fee.

31 **19-14-14. Revocation by default.** -- (a) The director, or the director's designee, may  
32 revoke any license without a hearing by default if the licensee fails to respond to notifications  
33 informing the licensee of a failure to pay the annual license fee; maintain in effect the required  
34 bond or bonds; or maintain net worth requirements as required by this title.

1 (b) For the purposes of revocation by default, the director, or the director's designee,  
2 shall send, in writing, to the licensee and to the licensee's registered attorney for service of  
3 process at their current respective addresses ~~stated in the application for the license~~ according to  
4 the records of the department, notice of the deficiency and potential revocation of the license.  
5 Should the licensee or the licensee's registered attorney fail to respond within fifteen (15) days of  
6 the notification, the director, or the director's designee, may revoke the license by default and  
7 without hearing. The director, or the director's designees, shall notify the licensee of such  
8 revocation in writing.

9 (c) Any action taken under this section may be appealed pursuant to the Administrative  
10 Procedures Act, chapter 35, of title 42.

11 **19-14-23. Examinations and investigations.** -- (a) For the purpose of discovering  
12 violations of this title or securing information lawfully required, the director, or the director's  
13 designee(s), may at any time investigate the loans and business and examine the books, accounts,  
14 records, and files used therein, of every licensee and person who shall be engaged in any activity  
15 that requires a license under this title, whether the person shall act, or claim to act, as principal or  
16 agent, or under or without the authority of this title. For that purpose, the director, or the director's  
17 designee(s), shall have free access to the offices and places of business, books, accounts, paper,  
18 records, files, and safes, of all such persons. The director, or the director's designee(s), shall have  
19 authority to require the attendance of, and to examine under oath, any person whose testimony  
20 may be required relative to the loans or the business or to the subject matter of any examination,  
21 investigation, or hearing.

22 (b) The director, or the director's designee, shall make an examination of the affairs,  
23 business, office, and records of each licensee and branch location ~~at least once every eighteen~~  
24 ~~(18) months~~ as often as is necessary, based upon all relevant factors including the volume of  
25 activity within the state. The department shall provide a report to the legislature after July 1,  
26 2017, but no later than December 31, 2017, regarding the timing of examinations conducted  
27 pursuant to this section and shall make recommendations regarding the sufficiency of conducting  
28 examinations based on these factors versus on a stated, periodic basis. The director, or the  
29 director's designee, may accept, in lieu of an examination of the business of a licensed mortgage  
30 loan originator, the examination by the director, or the director's designee, of the licensed  
31 lender(s) or licensed loan broker who employ the licensed mortgage loan originator and/or who  
32 employed the licensed mortgage loan originator during the period under examination. The total  
33 cost of an examination made pursuant to this section shall be paid by the licensee or person being  
34 examined, and shall include the following expenses:

1 (1) One hundred fifty percent (150%) of the total salaries and benefits plus one hundred  
2 percent (100%) for the travel and transportation expenses for the examining personnel engaged in  
3 the examinations. The cost of an examination of a mortgage loan originator licensee shall be  
4 limited to twenty-five percent (25%) of the total salary and benefits for the personnel engaged in  
5 an examination specific to a mortgage loan originator. The fees shall be paid to the director to,  
6 and for the use of, the state. The examination fees shall be in addition to any taxes and fees  
7 otherwise payable to the state;

8 (2) All reasonable technology costs related to the examination process. Technology costs  
9 shall include the actual cost of software and hardware utilized in the examination process and the  
10 cost of training examination personnel in the proper use of the software or hardware; and

11 (3) All necessary and reasonable education and training costs incurred by the state to  
12 maintain the proficiency and competence of the examination personnel. All such costs shall be  
13 incurred in accordance with appropriate state of Rhode Island regulations, guidelines, and  
14 procedures.

15 (c) All expenses incurred pursuant to subsections (b)(2) and (b)(3) of this section shall be  
16 allocated equally to each licensee, other than licensed mortgage loan originators, no more  
17 frequently than annually and shall not exceed an annual average assessment of fifty dollars  
18 (\$50.00) per company for any given three (3) calendar-year period. All revenues collected  
19 pursuant to this section shall be deposited as general revenues. That assessment shall be in  
20 addition to any taxes and fees otherwise payable to the state.

21 (d) The provisions of ~~section~~ §19-4-3 shall apply to records of examinations or  
22 investigations of licensees; provided, however, the director, or the director's designee, is  
23 authorized to make public the number of valid consumer complaints as determined by the  
24 director, or the director's designee, filed against the licensee for a twelve-~~(12)~~ month (12) period  
25 immediately preceding the request for the information; and provided, further, that promptly  
26 following the completion of any examination under ~~subsection~~ §19-14-23(b), the director, or the  
27 director's designee, shall provide to the person examined a copy of the written report of the  
28 examination, together with a notice requiring the person examined to file a written response or  
29 rebuttal to the comments and recommendations contained in the examination report within thirty  
30 (30) days of receipt thereof or such longer period as the director, or the director's designee, may  
31 specify.

32 (e) If the director, or his or her designee, has reason to believe that any person required  
33 to be licensed under this chapter is conducting a business without having first obtained a license  
34 under this chapter, or who, after the denial, suspension, or revocation of a license is conducting

1 that business, the director, or his or her designee, may issue an order to that person commanding  
2 him or her to cease and desist from conducting that business. The order shall provide an  
3 opportunity to request a hearing to be held not sooner than three (3) days after issuance of that  
4 order to show cause why the order should not become final. Any order issued pursuant to this  
5 section shall become final if no request for a hearing is received by the director, or his or her  
6 designee, within thirty (30) days of the issuance of the order. The order may be served on any  
7 person by mailing a copy of the order, certified mail, return receipt requested, and first-class mail  
8 to that person at any address at which that person has done business or at which that person lives.  
9 Any hearing held pursuant to this section shall be governed in accordance with chapter 35 of title  
10 42. If that person fails to comply with an order of the director, or his or her designee, after being  
11 afforded an opportunity for a hearing, the superior court for Providence County has jurisdiction  
12 upon complaint of the department to restrain and enjoin that person from violating this chapter.

13 (f) The director may impose an administrative assessment, as well as the penalties  
14 provided for under ~~section~~ §19-14-26, against any person named in an order issued under  
15 subsection (e) or, in accordance with the rules and regulations promulgated pursuant to ~~section~~  
16 §19-14-30, against any person who violates or participates in the violation of any of the  
17 applicable provisions of this title, or any regulation promulgated pursuant to any provisions of  
18 this title. The amount of the administrative assessment may not exceed one thousand dollars  
19 (\$1,000) for each violation of this chapter or each act or omission that constitutes a basis for  
20 issuing the order. Any person aggrieved by an administrative assessment shall have the  
21 opportunity to request a hearing to be held in accordance with chapter 35 of title 42 within thirty  
22 (30) days of the imposition of such administrative assessment.

23 SECTION 4. Sections 19-14.8-5 and 19-14.8-11 of the General Laws in Chapter 19-14.8  
24 entitled "Uniform Debt-Management Services Act" are hereby amended to read as follows:

25 **19-14.8-5. Application for registration -- Form, fee and accompanying documents. --**

26 (a) An application for registration as a provider must be in a form prescribed by the director.

27 (b) Subject to adjustment of dollar amounts pursuant to ~~subsection~~ §19-14.8-32(f), an  
28 application for registration as a provider must be accompanied by:

29 (1) The fee established by chapter ~~19-14~~ [of this title](#);

30 (2) The bond required by ~~section~~ §19-14.8-13;

31 (3) Identification of all trust accounts required by ~~section~~ §19-14.8-22 and an irrevocable  
32 consent authorizing the director to review and examine the trust accounts;

33 (4) Evidence of insurance in the amount of two hundred fifty thousand dollars  
34 (\$250,000):

1 (A) Against the risks of dishonesty, fraud, theft, and other misconduct on the part of the  
2 applicant or a director, employee, or agent of the applicant;

3 (B) Issued by an insurance company authorized to do business in this state and rated at  
4 least "A" by a nationally recognized rating organization;

5 (C) With ~~no~~ a deductible [of not more than ten thousand dollars \(\\$10,000\)](#);

6 (D) Payable to the applicant, the individuals who have agreements with the applicant,  
7 and this state, as their interests may appear; and

8 (E) Not subject to cancellation by the applicant without the approval of the director;

9 (5) If the applicant is a foreign corporation, proof that the applicant holds a certificate of  
10 authority to conduct affairs in this state, as required by chapter ~~7-6~~ [of title 7](#); and

11 (6) If the applicant is organized as a not-for-profit entity or is exempt from taxation,  
12 evidence of not-for-profit and tax-exempt status applicable to the applicant under the Internal  
13 Revenue Code, 26 U.S.C. section 501, as amended.

14 **19-14.8-11. Renewal of registration.** -- (a) A provider must obtain a renewal of its  
15 registration annually.

16 (b) An application for renewal of registration as a provider must be in a form prescribed  
17 by the director, signed under oath or certified under the penalties of perjury, and:

18 (1) Be filed in accordance with ~~section~~ [§19-14-22](#);

19 (2) Be accompanied by the fee established by chapter ~~19-14~~ [of this title](#) and the bond  
20 required by this chapter;

21 (3) Contain the matter required for initial registration as a provider by this chapter and a  
22 financial statement, audited by an accountant licensed to conduct audits, for the applicant's fiscal  
23 year immediately preceding the application;

24 (4) Disclose any changes in the information contained in the applicant's application for  
25 registration or its immediately previous application for renewal, as applicable;

26 (5) Supply evidence of insurance in an amount equal to the larger of two hundred fifty  
27 thousand dollars (\$250,000) or the highest daily balance in the trust account required by this  
28 chapter during the six- ~~(6)~~ month [\(6\)](#) period immediately preceding the application:

29 (A) Against risks of dishonesty, fraud, theft, and other misconduct on the part of the  
30 applicant or a director, employee, or agent of the applicant;

31 (B) Issued by an insurance company authorized to do business in this state and rated at  
32 least "A" by a nationally recognized rating organization;

33 (C) With ~~no~~ a deductible [of not more than ten thousand dollars \(\\$10,000\)](#);

34 (D) Payable to the applicant, the individuals who have agreements with the applicant,

1 and this state, as their interests may appear; and

2 (E) Not subject to cancellation by the applicant without the approval of the director;

3 (6) Disclose the total amount of money received by the applicant pursuant to plans  
4 during the preceding twelve (12) months from, or on behalf of, individuals who reside in this state  
5 and the total amount of money distributed to creditors of those individuals during that period;

6 (7) Disclose, to the best of the applicant's knowledge, the gross amount of money  
7 accumulated during the preceding twelve (12) months pursuant to plans by or on behalf of  
8 individuals who reside in this state and with whom the applicant has agreements; and

9 (8) Provide any other information that the director reasonably requires to perform the  
10 director's duties under this section.

11 (c) Except for the information required by ~~subsections~~ [§§19-14.8-6\(7\), \(14\), and \(17\)](#) and  
12 the addresses required by ~~subsection~~ [§19-14.8-6\(4\)](#), the director shall make the information in an  
13 application for renewal of registration as a provider available to the public.

14 (d) If a registered provider files a timely and complete application for renewal of  
15 registration, the registration remains effective until the director, in a record, notifies the applicant  
16 of a denial and states the reasons for the denial.

17 (e) If the director denies an application for renewal of registration as a provider, the  
18 applicant, within ten (10) days after receiving notice of the denial, may appeal and request a  
19 hearing pursuant to chapter ~~42-35~~ [of title 42](#). Subject to ~~section~~ [§19-14.8-34](#), while the appeal is  
20 pending the applicant shall continue to provide debt-management services to individuals with  
21 whom it has agreements. If the denial is affirmed, subject to the director's order and ~~section~~ [§19-](#)  
22 [14.8-34](#), the applicant shall continue to provide debt-management services to individuals with  
23 whom it has agreements until, with the approval of the director, it transfers the agreements to  
24 another registered provider or returns to the individuals all unexpended money that is under the  
25 applicant's control.

26 SECTION 5. Section 19-14.9-12 of the General Laws in Chapter 19-14.9 entitled "Rhode  
27 Island Fair Debt Collection Practices Act" is hereby amended to read as follows:

28 **19-14.9-12. Registration required.** -- (1) After July 1, 2008, no person shall engage  
29 within this state in the business of a debt collector, or engage in soliciting the right to collect or  
30 receive payment for another of an account, bill, or other indebtedness, or advertise for or solicit in  
31 print the right to collect or receive payment for another of an account, bill, or other indebtedness,  
32 without first registering with the director or the director's designee.

33 (2) The application for registration shall be in writing; shall contain information as the  
34 director may determine; and shall be accompanied by a registration fee of ~~two hundred dollars~~

1 ~~(\$200)~~ one hundred dollars (\$100).

2 (3) The registration shall be for a period of ~~three (3) years~~ one year. Each registration  
3 shall plainly state the name of the registrant and the city or town with the name of the street and  
4 number, if any, of the place where the business is to be carried on; provided that the business  
5 shall at all times be conducted in the name of the registrant as it appears on the registration.

6 (4) No person registered to act within this state as a debt collector shall do so under any  
7 other name or at any other place of business than that named in the registration. The registration  
8 shall be for a single location but may, with notification to the director, be moved to a different  
9 location. A registration shall not be transferable or assignable.

10 (5) This section shall not apply:

11 (a) To the servicer of a debt by a mortgage; or

12 (b) To any debt collector located out of this state; provided that the debt collector:

13 (1) Is collecting debts on behalf of an out-of-state creditor for a debt that was incurred  
14 ~~out of state~~ out of state; and

15 (2) Only collects debts in this state using interstate communication methods, including  
16 telephone, facsimile, or mail.

17 (c) To any regulated institution as defined under ~~section~~ §19-1-1, national banking  
18 association, federal savings bank, federal savings and loan association, federal credit union, or  
19 any bank, trust company, savings bank, savings and loan association, or credit union organized  
20 under the laws of this state, or any other state of the United States, or any subsidiary of the above;  
21 but except as provided herein, this section shall apply to a subsidiary or affiliate, as defined by the  
22 director, of an exempted entity and of a bank holding company established in accordance with  
23 state or federal law.

24 SECTION 6. Section 5 of this act shall take effect on January 1, 2015. Sections 1, 2, 3,  
25 and 4 of this act shall take effect upon passage.

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LC004225/SUB A  
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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO FINANCIAL INSTITUTIONS

\*\*\*

1           This act would amend various state banking laws (including, but not limited to, those  
2 relating to licensing, bonding and fee structuring) to remove antiquated provisions, and to  
3 alleviate unnecessary regulatory burdens.

4           Section 5 of this act would take effect on January 1, 2015. Sections 1, 2, 3, and 4 of this  
5 act would take effect upon passage.

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LC004225/SUB A  
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