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HOUSE BILL NO. 2031

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Commerce and Labor
on February 3, 2009)

(Patron Prior to Substitute—Delegate Marshall, D.W.)

A BILL to amend the Code of Virginia by adding in Title 6.1 a chapter numbered 16.1, consisting of sections numbered 6.1-431.1 through 6.1-431.21, relating to mortgage loan originators.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 6.1 a chapter numbered 16.1, consisting of sections numbered 6.1-431.1 through 6.1-431.21, as follows:

CHAPTER 16.1.

MORTGAGE LOAN ORIGINATORS.

§ 6.1-431.1. Definitions.

As used in this chapter:

"Administrative or clerical tasks" means the receipt, collection, and distribution of information common for the processing or underwriting of a residential mortgage loan in the mortgage industry and communication with the consumer to obtain information necessary for the processing or underwriting of a residential mortgage loan.

"Commissioner" means the Commissioner of the Bureau of Financial Institutions.

"Depository institution" has the same meaning as in § 3 of the Federal Deposit Insurance Act (12 U.S.C. § 1811 et seq.), and includes any credit union.

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

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

"Individual loan servicer" means any person who, on behalf of the note holder, collects or receives payments, including payments of principal, interest, escrow amounts, and other amounts due, on obligations due and owing to the note holder pursuant to a residential mortgage loan, or who, when the borrower is in default or in foreseeable likelihood of default, works on behalf of the note holder with the borrower to modify or refinance, either temporarily or permanently, the obligations in order to avoid foreclosure or otherwise to finalize collection through the foreclosure process.

"Licensee" means an individual licensed under this chapter.

"Loan processor or underwriter" means an individual who performs clerical or support duties at the direction of and subject to the supervision and instruction of a licensee or a person exempt from licensing under this chapter. For the purposes of this definition, clerical or support duties may include (i) the receipt, collection, distribution, and analysis of information common for the processing or underwriting of a residential mortgage loan and (ii) communication with a consumer to obtain the information necessary for the processing or underwriting of a residential mortgage loan, to the extent that such communication does not include offering or negotiating loan rates or terms, or counseling consumers about residential mortgage loan rates or terms.

"Mortgage loan originator" means an individual who takes an application for or offers or negotiates the terms of a residential mortgage loan, as defined in § 1503(8) of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, P.L. 110-289, that is secured by real property located in the Commonwealth. "Mortgage loan originator" does not include (i) any individual who only performs administrative or clerical tasks on behalf of a person licensed or exempt pursuant to Chapter 16 (§ 6.1-408 et seq.) or on behalf of any individual licensed pursuant to this chapter; (ii) a person who only performs real estate brokerage activities and is licensed or registered in accordance with applicable law, unless the person is compensated by the lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator; (iii) a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in 11 U.S.C. § 101(53D); (iv) a registered mortgage loan originator; (v) any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual; (vi) any individual who offers or negotiates terms of a residential mortgage loan secured by a dwelling that serves as the individual's residence; (vii) a licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage broker, or other mortgage loan originator or by any agent of such lender, mortgage broker, or other mortgage loan originator; or (viii) any individual acting as an individual loan servicer.

60 "Nationwide Mortgage Licensing System and Registry" or "Registry" means a mortgage licensing
61 system developed and maintained by the Conference of State Bank Supervisors and the American
62 Association of Residential Mortgage Regulators for the licensing and registration of mortgage loan
63 originators.

64 "Nontraditional mortgage product" means any mortgage product other than a 30-year fixed rate
65 mortgage.

66 "Person" means any individual, firm, corporation, partnership, association, trust, or legal or
67 commercial entity or group of individuals however organized.

68 "Real estate brokerage activities" means any activity governed by Chapter 21 (§ 54.1-2100 et seq.) of
69 Title 54.1.

70 "Registered mortgage loan originator" means any individual who (i) meets the definition of mortgage
71 loan originator and is an employee of (a) a depository institution, (b) a subsidiary that is owned and
72 controlled by a depository institution and regulated by a federal banking agency, or (c) an institution
73 regulated by the Farm Credit Administration, and (ii) is registered with, and maintains a unique
74 identifier through, the Registry.

75 "Unique identifier" means a number or other identifier assigned by protocols established by the
76 Registry.

77 § 6.1-431.2. License requirement.

78 On or after July 1, 2010, no individual shall act as a mortgage loan originator, or hold himself out
79 to the general public as a mortgage loan originator, unless such individual has first obtained a license
80 under this chapter. An individual engaging solely in loan processor, or underwriter activities, who does
81 not represent to the public, through advertising or other means of communicating or providing
82 information including the use of business cards, stationery, brochures, signs, rate lists, or other
83 promotional items that such individual can or will perform any of the activities of a mortgage loan
84 originator, shall not be required to obtain a mortgage loan originator license. An individual acting as
85 an independent contractor may not engage in residential mortgage loan origination activities as a loan
86 processor or underwriter unless such individual obtains a mortgage loan originator license.

87 § 6.1-431.3. Application for license; form; content; fee.

88 A. An application for a license under this chapter shall be on a form provided by the Registry.

89 B. The application shall set forth:

90 1. The name and residential address of the applicant;

91 2. The address of the applicant's employer or the address where the applicant will act as a mortgage
92 loan originator, as applicable; and

93 3. Such other information concerning the financial responsibility, background, experience, and
94 activities of the applicant as the Commissioner may require.

95 C. The application shall be accompanied by payment of an application fee in an amount not to
96 exceed \$150, or a lesser amount as may be prescribed by the Commission. The application fee shall be
97 in addition to any other fees payable by the applicant, including but not limited to fees for pre-licensing
98 education and testing, fingerprinting, criminal background checks, credit reports, or administrative fees
99 charged by the Registry.

100 D. The application fee shall not be refundable in any event. The fee shall not be abated by
101 surrender, suspension, or revocation of the license.

102 § 6.1-431.4. Bond required.

103 A. The application for a license shall be accompanied by a bond to be filed with the Commission
104 with corporate surety authorized to execute such bond in the Commonwealth, the form of which shall be
105 approved by the Commission.

106 1. If the applicant is not an employee or exclusive agent of a person licensed or exempt from
107 licensing under Chapter 16 (§ 6.1-408 et seq.), the bond shall be an individual surety bond for the
108 applicant; or

109 2. If the applicant is an employee or exclusive agent of a person licensed or exempt from licensing
110 under Chapter 16, such bond shall be a surety bond filed by such person covering all such employees
111 and exclusive agents holding or applying for a license as a mortgage loan originator.

112 B. The amount of the bond shall be \$25,000, or such greater sum as the Commission may require
113 based on the total dollar amount of residential mortgage loans originated in the preceding calendar
114 year by (i) the applicant, in the case of the bond referred to in subdivision A 1 or (ii) the person
115 licensed or exempt from licensing under Chapter 16 (§ 6.1-408 et seq.), in the case of the bond referred
116 to in subdivision A 2. A bond already filed with the Commission pursuant to § 6.1-413 may be applied
117 toward the minimum bond required by this section, subject to approval by the Commission. In the case
118 of the bond referred to in subdivision A 2, it shall be the responsibility of the person licensed or exempt
119 from licensing under Chapter 16 (§ 6.1-408 et seq.) to provide information, in a form satisfactory to the
120 Commission, sufficient for determining and verifying the total dollar amount of residential mortgage
121 loans originated in the preceding calendar year.

C. Such bond shall be continuously maintained thereafter in full force.

D. Such bond shall be conditioned upon the licensee (i) performing all written agreements with borrowers or prospective borrowers; (ii) correctly and accurately accounting for all funds received by him in the course of his business activities as a licensee; and (iii) conducting himself in conformity with this chapter and all applicable laws and regulations.

E. Any person who may be damaged by noncompliance of a licensee with any condition of such bond may proceed on such bond against the principal or surety thereon, or both, to recover damages. The aggregate liability under the bond shall not exceed the penal sum of the bond.

§ 6.1-431.5. Mortgage loan originator background checks.

A. In connection with an application for licensing as a mortgage loan originator, the applicant shall furnish to the Registry information concerning the applicant's identity, including fingerprints for submission to the Federal Bureau of Investigation or any federal or state governmental agency or entity authorized to receive such information for a state, national, and international criminal history background check as prescribed by the Commission.

B. The applicant shall also submit personal history and experience in a form prescribed by the Registry, including submission of authorization for the Registry and the Commission to obtain (i) an independent credit report from a consumer reporting agency described in § 603(p) of the Fair Credit Reporting Act (15 U.S.C. § 1681 et seq.), and (ii) information related to any administrative, civil, or criminal findings by any governmental jurisdiction.

For the purposes of this section and in order to reduce the points of contact that the Federal Bureau of Investigation may have to maintain, the Commission may use the Registry as a channeling agent for requesting information from and distributing information to the Department of Justice or any governmental agency, or for requesting and distributing information to and from any source.

§ 6.1-431.6. Coordination of licensing.

In connection with its administration and enforcement of this chapter, the Commission is authorized to establish agreements or contracts with the Registry or other entities designated by the Registry to collect, distribute, and maintain information and records and process transaction fees and other fees related to licensees and persons subject to this chapter. When establishing such agreements or contracts the Commission shall not be subject to the Virginia Public Procurement Act (§ 2.2-4300 et seq.). Notwithstanding the provisions of § 6.1-1.1, the Commission shall report regularly to the Registry any violations of this chapter, enforcement actions, and license status changes. The Commission shall report to the Registry only those violations, actions, and license status changes effected by final order of the Commission or by the Commissioner pursuant to his delegated authority.

§ 6.1-431.7. Qualifications.

Upon the filing and investigation of an application for a license, and compliance by the applicant with all applicable provisions of this chapter, the Commission shall issue and deliver to the applicant the license applied for to engage in business under this chapter if it finds that the financial responsibility, character, and general fitness of the applicant are such as to warrant belief that the licensee will act as a mortgage loan originator efficiently and fairly, in the public interest, and in accordance with law. If the Commission fails to make such findings, no license shall be issued and the Commissioner shall notify the applicant of the denial and the reasons for such denial. The Commission shall not base a license denial, in whole or in part, on an applicant's credit score, nor shall it use a credit report as the sole basis for license denial.

§ 6.1-431.8. Other conditions for mortgage loan originator licensing.

In addition to the findings required by § 6.1-431.7, the Commission shall not issue a mortgage loan originator license unless it makes the following findings:

1. The applicant has never had a mortgage loan originator license revoked by any governmental authority;

2. The applicant has not been convicted of, or pled guilty or nolo contendere to, a felony in a domestic, foreign, or military court (i) during the seven-year period preceding the application for licensing and registration; or (ii) at any time preceding such date of application if such felony involved an act of fraud, dishonesty, breach of trust, or money laundering;

3. The applicant has completed the pre-licensing education requirement described in § 6.1-431.9;

4. The applicant has passed a written test that meets the test requirement in § 6.1-431.10; and

5. The applicant has become registered through, and obtained a unique identifier from, the Registry.

§ 6.1-431.9. Pre-licensing education of mortgage loan originators.

A. In order to meet the pre-licensing education requirement referred to in § 6.1-431.8, an applicant shall complete at least 20 hours of education approved in accordance with subsection B, which shall include at least (i) three hours of federal law and regulations, (ii) three hours of ethics, which shall include instruction about fraud, consumer protection, and fair lending issues, and (iii) two hours of training related to lending standards for the nontraditional mortgage product marketplace.

183 B. For purposes of subsection A, pre-licensing education courses shall be reviewed and approved by
184 the Registry based upon reasonable standards. Review and approval of a course shall include review
185 and approval of the course provider.

186 C. Nothing in this section shall preclude any pre-licensing course, as approved by the Registry, that
187 is provided by (i) the employer of the applicant; (ii) an entity that is affiliated with the applicant by any
188 agency contract; or (iii) a subsidiary or affiliate of such employer or entity.

189 D. Pre-licensing education may be offered in a classroom, online, or by any other means approved
190 by the Registry.

191 § 6.1-431.10. Testing of mortgage loan originator applicants.

192 A. In order to meet the written test requirement referred to in § 6.1-431.8, an individual shall pass,
193 in accordance with reasonable standards established under this subsection, a qualified written test
194 developed by the Registry and administered by a test provider approved by the Registry.

195 B. A written test shall not be treated as a qualified written test for purposes of subsection A unless
196 the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas,
197 including (i) ethics, (ii) federal law and regulation pertaining to mortgage loan origination, (iii) state
198 law pertaining to mortgage loan origination, and (iv) federal and state law and regulation, including
199 instruction about fraud, consumer protection, the nontraditional mortgage product marketplace, and fair
200 lending issues.

201 C. Nothing in this section shall prohibit a test provider approved by the Registry from providing a
202 test at a location of (i) the employer of the applicant, (ii) any subsidiary or affiliate of the employer, or
203 (iii) any entity with which the applicant maintains an exclusive arrangement to act as a mortgage loan
204 originator.

205 D. An individual shall not be considered to have passed a qualified written test unless he has
206 correctly answered at least 75 percent of the test questions. An individual may retake a test three
207 consecutive times with each consecutive taking occurring at least 30 days after the preceding test. After
208 failing three consecutive tests, an individual shall wait at least six months before taking the test again.
209 A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or
210 longer shall retake the test, not taking into account any time during which such individual is a
211 registered mortgage loan originator.

212 E. An applicant who has successfully completed the Registry-approved pre-licensing education and
213 testing, not including any limited or separate state test in addition to that mandated by the federal
214 Secure and Fair Enforcement for Mortgage Licensing Act of 2008, P.L. 110-289, and the Registry, shall
215 be deemed to have completed Virginia's pre-licensing education and testing requirements.

216 § 6.1-431.11. Continuing education requirements for mortgage loan originators.

217 A. A licensed mortgage loan originator shall complete annually at least eight hours of continuing
218 education approved in accordance with subsection B, which shall include at least (i) three hours related
219 to federal law and regulations, (ii) two hours related to ethics, which shall include instruction about
220 fraud, consumer protection, and fair lending issues, and (iii) two hours related to lending standards for
221 the nontraditional mortgage product marketplace.

222 B. For purposes of subsection A, continuing education courses shall be reviewed and approved by
223 the Registry based upon reasonable standards. Review and approval of a continuing education course
224 shall include review and approval of the course provider.

225 C. Nothing in this section shall preclude any education course, as approved by the Registry, that is
226 provided by (i) the employer of the mortgage loan originator; (ii) an entity that is affiliated with the
227 mortgage loan originator by an agency contract; or (iii) any subsidiary or affiliate of such employer or
228 entity.

229 D. Continuing education may be offered in a classroom, online, or by any means approved by the
230 Registry.

231 E. A licensed mortgage loan originator may only receive credit for a continuing education course in
232 the year in which the course is taken and may not take the same approved course in the same or
233 successive years to meet the annual requirements for continuing education.

234 F. A licensed mortgage loan originator who is an instructor of an approved continuing education
235 course may receive credit for his annual continuing education requirement at the rate of two hours of
236 credit for every one hour of teaching.

237 G. Successful completion of the education requirements approved by the Registry in subsection A for
238 any state shall be accepted as completion of continuing education requirements in the Commonwealth.

239 § 6.1-431.12. Licenses; places of business; changes.

240 A. Each license shall state fully the name and address of record of the licensee. Each licensee shall
241 be required to display proof of licensing upon request, and to prominently display at any location where
242 he acts as a mortgage loan originator the telephone numbers and Internet addresses for the Registry
243 and the Commission where consumers and other interested parties may confirm the status of his license.
244 Licenses shall not be transferable or assignable, by operation of law or otherwise. No licensee shall use

any name, in acting as a mortgage loan originator, other than the name set forth on the license issued by the Commission.

B. Every licensee shall within 10 days notify the Commissioner, in writing, of any change of residential or business address and provide such other information with respect to any such change as the Commissioner may reasonably require.

C. Every license shall remain in force until it expires or has been surrendered, revoked, or suspended. The expiration, surrender, revocation, or suspension of a license shall not affect any preexisting legal right or obligation of the licensee. Licenses shall expire at the end of each calendar year unless renewed by prior payment of the annual license renewal fee.

§ 6.1-431.13. Provisional mortgage loan originator license.

A. A mortgage loan originator applicant who has completed and filed with the Commission and the Registry all information, documents, and requirements for licensure pursuant to this chapter shall be provided a provisional license, registration, and unique identifier as a mortgage loan originator for the period prior to action being taken on his application by the Commission if (i) the applicant is employed by or contracted to act as a mortgage loan originator for a person licensed under Chapter 16 (§ 6.1-408 et seq.), and (ii) a senior officer or principal of such person attests to the Commission that:

1. If the applicant is not currently or has not within the six-month period prior to the date of application been acting as a mortgage loan originator or a state-licensed mortgage loan originator in another state under provisions of § 1507 of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, P.L. 110-289:

a. The applicant has never had a mortgage loan originator license denied, revoked, or suspended in any governmental jurisdiction;

b. The Commission has not denied the application of or revoked or taken any adverse action with respect to any license held by the applicant during the five-year period ending on the date of filing of the application;

c. The applicant has not been convicted of a felony that would otherwise authorize the Commission to deny a license;

d. The application meets or exceeds all of the applicable requirements of this chapter for licensure; and

e. The licensed person will be responsible for the acts of the applicant during the period that such application is pending; or

2. If the applicant is currently or has within the six-month period prior to the date of the application been acting as a registered mortgage loan originator or a state-licensed mortgage loan originator in another state under provisions of § 1507 of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, P.L. 110-289:

a. The applicant has never had a mortgage loan originator license denied, revoked, or suspended in any governmental jurisdiction; and

b. The applicant has not been convicted of a felony that would otherwise authorize the Commission to deny a license.

B. Any provisional license issued pursuant to this section shall expire on the earlier of the following:

1. The date upon which the Commission issues or denies the license applied for; or

2. Six months from the date the provisional license was issued.

C. The Commission may (i) suspend or revoke the license of, or (ii) impose a fine not exceeding \$2,500 upon, a person licensed under Chapter 16 (§ 6.1-408 et seq.) if the Commission finds that the licensee, or a senior officer or principal thereof, did not make the certification or undertaking set forth in subsection A in good faith.

§ 6.1-431.14. Investigations; examinations.

The Commission may, by its designated officers and employees, as often as it deems necessary, investigate and examine the business activities, premises, and records of any individual required to be licensed under this chapter insofar as they pertain to any activities for which a license is required by this chapter. In the course of such investigations and examinations, the individual being investigated or examined shall, upon demand of the person making such investigation or examination, afford full access to all persons, premises, books, records, and information that the person making such investigation or examination deems necessary. For the foregoing purposes, the person making such investigation or examination shall have authority to administer oaths, examine under oath all the aforementioned individuals, and compel the production of papers and objects of all kinds.

§ 6.1-431.15. Annual fees.

A. In order to defray the costs of his examination, supervision, and regulation, every licensee shall pay an annual license renewal fee. The fee shall be \$100 or such other amount as may be prescribed by the Commission. The renewal fee shall be paid by the licensee to the State Treasurer or through the Registry, as determined by the Commission, on or before the end of each license year.

306 *B. In addition to the annual fee prescribed in subsection A, when it becomes necessary to examine or*
307 *investigate the books and records of an individual required to be licensed under this chapter at a*
308 *location outside the Commonwealth, the individual shall be liable for and shall pay to the Commission*
309 *within 30 days of the presentation of an itemized statement, the actual travel and reasonable living*
310 *expenses incurred on account of his examination, supervision, and regulation, or shall pay at a*
311 *reasonable per diem rate approved by the Commission.*

312 *C. If an individual is an employee or exclusive agent of a person licensed under Chapter 16*
313 *(§ 6.1-408 et seq.), the expenses referred to in subsection B shall be paid by the licensed mortgage*
314 *lender or mortgage broker.*

315 *§ 6.1-431.16. Advertising.*

316 *No individual required to be licensed under this chapter shall use or cause to be published any*
317 *advertisement that:*

318 *1. Contains any false, misleading, or deceptive statement or representation; or*

319 *2. Identifies a licensee by any name other than the name set forth on the license issued by the*
320 *Commission.*

321 *§ 6.1-431.17. Suspension or revocation of license.*

322 *The Commission may suspend or revoke any license issued under this chapter based upon:*

323 *1. Any ground sufficient for denial of the issuance of a license under this chapter;*

324 *2. Any violation of the provisions of this chapter or regulations promulgated by the Commission*
325 *pursuant thereto, or a violation of any other law or regulation applicable to the conduct of the*
326 *licensee's licensed activities;*

327 *3. Conviction of a felony or misdemeanor involving fraud, misrepresentation, or deceit;*

328 *4. Entry of a judgment against a licensee involving fraud, misrepresentation, or deceit;*

329 *5. Entry of a federal or state administrative order against a licensee for violation of any law or any*
330 *regulation applicable to the conduct of his licensed activities;*

331 *6. Refusal to permit an investigation or examination by the Commission;*

332 *7. Failure to pay any fee or assessment imposed by this chapter;*

333 *8. Failure to comply with any order of the Commission; or*

334 *9. Failure to maintain registration with, or a unique identifier from, the Registry.*

335 *§ 6.1-431.18. Filing of written report with Commissioner; events impacting a licensee.*

336 *Within 15 days of becoming aware of the occurrence of any of the events listed below, a licensee*
337 *shall file a written report with the Commissioner describing such event:*

338 *1. The institution of revocation or suspension proceedings against the licensee by any state or*
339 *governmental authority;*

340 *2. The denial of the opportunity to engage in business by any state or governmental authority;*

341 *3. Any felony indictment of the licensee;*

342 *4. Any felony conviction of the licensee; and*

343 *5. Such other events as the Commission may determine and identify by rule.*

344 *§ 6.1-431.19. Notice of proposed suspension or revocation.*

345 *The Commission may not revoke or suspend the license of any licensee under this chapter unless it*
346 *has given the licensee 21-days' notice in writing of the reasons for the proposed revocation or*
347 *suspension and has given the licensee an opportunity to introduce evidence and be heard. The notice*
348 *shall be sent by certified mail to the licensee's last address on the Commission's records and shall state*
349 *with particularity the basis for the contemplated action. Within 14 days of mailing the notice, the*
350 *individual named therein may file with the Clerk of the Commission a written request for a hearing. If a*
351 *hearing is requested, the Commission shall not suspend or revoke the license except based upon findings*
352 *made at such hearing. The hearing shall be conducted in accordance with the provisions of Title 12.1.*

353 *§ 6.1-431.20. Fines for violations.*

354 *The Commission may impose a fine or penalty not exceeding \$2,500 upon any individual required to*
355 *be licensed under this chapter who it determines, in proceedings commenced in accordance with the*
356 *Rules of Practice and Procedure of the Commission, has violated any of the provisions of this chapter,*
357 *or any other law or regulation applicable to the licensee's activities. For the purposes of this section,*
358 *each separate violation shall be subject to the fine or penalty herein prescribed, and each day that an*
359 *unlicensed individual acts as or holds himself out to the general public as, a mortgage loan originator*
360 *shall constitute a separate violation.*

361 *§ 6.1-431.21. Rules and regulations.*

362 *A. The Commission shall promulgate such rules and regulations as it deems appropriate to effect the*
363 *purposes of this chapter. Before promulgating any such rules and regulations, the Commission shall give*
364 *reasonable notice of their content and shall afford interested parties an opportunity to present evidence*
365 *and be heard, in accordance with the Rules of Practice and Procedure of the Commission.*

366 *B. The Commission shall, to the extent practicable, include in any written memorandum of*
367 *understanding or other written agreement between the Commission and the Registry provisions*

substantially similar to the following:

1. Any organization serving as the administrator of the Registry or any officer or employee of any such entity shall implement and maintain an information security program that meets or exceeds federal and state standards pursuant to § 18.2-186.6 and that complies with the Gramm-Leach-Bliley Act, (15 U.S.C. § 6801 et seq.), regulation guidelines for safeguarding personal information of mortgage loan originators and applicants.

2. The Registry shall not under any circumstances disclose to any third party any information pertaining to any pending or incompletely adjudicated regulatory matters.

3. The Registry shall develop, as requested by the Commission, a mortgage loan originator licensing test that may be limited to specific products and services.

4. The Registry shall provide to the Commission summary statistical information by March 31 of each year relating to loan originator examinations taken by applicants for a mortgage loan originator license in Virginia during the preceding calendar year.

5. Except as otherwise provided in § 1512 of the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008, Public Law Number 110-289, the requirements under any federal or state law regarding the privacy or confidentiality of any information or material provided to the Registry, and any privilege arising under federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the Registry. Such information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of privilege or the loss of confidentiality protections provided by federal or state law.

6. Information or material that is subject to a privilege or confidentiality under § 6.1-1.1 shall not be subject to (i) disclosure under any federal or state law governing the disclosure to the public of information held by an officer or an agency of the federal government or the Commonwealth; or (ii) subpoena or discovery, or admission into evidence, in any private civil action or administrative process, unless with respect to any privilege held by the Registry with respect to such information or material, the individual to whom such information or material pertains waives, in whole or in part, in the discretion of such individual, that privilege.

C. Any provision of the laws of the Commonwealth relating to the disclosure of confidential supervisory information or any information or material described in § 6.1-1.1 that is inconsistent with such provision shall be superseded by the requirements of this chapter.

D. This chapter shall not apply with respect to the information or material relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators that is included in the Registry for access by the public.

E. The Commission shall:

1. Annually review the proposed budget, fees, and audited financial statements of the Registry.

2. Annually, to the extent practicable, report to the House and Senate Committees on Commerce and Labor on the operations of the Registry, including compliance with its established protocols for securing and safeguarding personal information in the Registry.

3. To the extent practicable, prepare, publicly announce, and publish a report, by no later than May 1 of each year, that summarizes statistical test results and demographic information to be prepared by the Registry or its test administrator.