GENERAL ASSEMBLY
COMMONWEALTH OF KENTUCKY

2016 REGULAR SESSION

SENATE BILL NO. 97

AS ENACTED

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ALISON LUNDERGAN GRIMES
SECRETARY OF STATE
COMMONWEALTH OF KENTUCKY
BY R. Adler

1 AN ACT relating to mortgage loans.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 286.8-010 is amended to read as follows:

4 As used in this subtitle, unless the context otherwise requires:

5 (1) "Affiliate" means any person who directly or indirectly through one (1) or more
6 intermediaries, controls, or is controlled by, or is under common control with
7 another person;

8 (2) "Department" means the Department of Financial Institutions;

9 (3) "Commissioner" means the commissioner of the department;

10 (4) "Applicant" means a person filing an application or renewal application for a
11 license, registration, or claim of exemption under this subtitle;

12 (5) "Borrower" means any person that seeks, applies for, or obtains a mortgage loan;

13 (6) "Branch" or "branches" means any location other than the mortgage loan company's
14 or mortgage loan broker's principal location where the mortgage loan company,
15 mortgage loan broker, or its employees maintain a physical presence for the purpose
16 of conducting business in the mortgage lending process, including the servicing of
17 mortgage loans;

18 (7) "Classroom" means a physical classroom environment in which teachers and
19 participants are physically present for the teaching of a course. Courses taught
20 through Internet, mail, or correspondence classes shall not be considered to be
21 courses taught in a classroom;

22 (8) "Clerical or support duties" means administrative functions such as gathering
23 information, requesting information, word processing, sending correspondence, or
24 assembling files, and may include:

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

27 (b) Any communication with a borrower to obtain the information necessary for

1 the processing or underwriting of a loan, to the extent that such
2 communication does not include taking a residential mortgage loan
3 application, ***assisting a borrower or prospective borrower with the***
4 ***preparation of documents necessary to obtain a mortgage loan,*** offering or
5 negotiating loan rates or terms, or counseling consumers about residential
6 mortgage loan rates or terms;
7 (9) "Control" means the power, directly or indirectly, to direct the management or
8 policies of a company, whether through ownership of securities, by contract, or
9 otherwise;
10 (10) "Control records" means all records relating to the operation of a branch that are
11 necessary to exercise control and supervision over the branch;
12 (11) "Criminal syndicate" means five (5) or more persons collaborating to promote or
13 engage in any pattern of residential mortgage fraud on a continuing basis;
14 (12) "Depository institution" means a depository institution as defined in the Federal
15 Deposit Insurance Act, 12 U.S.C. sec. 1813(c), and amendments thereto, and
16 includes any credit union;
17 (13) "Employ or use" means to employ, utilize, or contract with a person or the person's
18 employees for the purpose of participating in the mortgage lending process,
19 including the servicing of mortgage loans;
20 (14) "Immediate family member" means a spouse, child, sibling, parent, grandparent, or
21 grandchild;
22 (15) "Licensee" means a person to whom a license has been issued;
23 (16) "Managing principal" means a natural person who meets the requirements of KRS
24 286.8-032(6) and who agrees to actively participate in and be primarily responsible
25 for the operations of a licensed mortgage loan broker;
26 (17) "Mortgage lending process" means the process through which a person seeks or
27 obtains a mortgage loan, including the solicitation, application, origination,

1 negotiation of terms, processing, underwriting, signing, closing, and funding of a
2 mortgage loan and the services provided incident to a mortgage loan, including the
3 appraisal of the residential real property. Documents involved in the mortgage
4 lending process include but are not limited to:
5 (a) Uniform residential loan applications or other loan applications;
6 (b) Appraisal reports;
7 (c) Settlement statements;
8 (d) Supporting personal documentation for loan applications, including:
9 1. Form W-2 or other earnings or income statements;
10 2. Verifications of rent, income, and employment;
11 3. Bank statements;
12 4. Tax returns; and
13 5. Payroll stubs;
14 (e) Any required mortgage-related disclosures; and
15 (f) Any other document required as a part of, or necessary to, the mortgage
16 lending process;
17 (18) "Mortgage loan" means any loan primarily for personal, family, or household use
18 that is secured by a mortgage, deed of trust, or other equivalent consensual security
19 interest on residential real property or any loan primarily for personal, family, or
20 household use that is secured by collateral that has a mortgage lien interest in
21 residential real property;
22 (19) "Mortgage loan broker" means any person who for compensation or gain, or in the
23 expectation of compensation or other gain, received directly or indirectly, serves as
24 an agent for any borrower in an attempt to obtain a mortgage loan, or holds oneself
25 out as being able to do so;
26 (20) "Mortgage loan company" means any person who directly or indirectly:
27 (a) Makes, purchases, or sells mortgage loans, or holds oneself out as being able

1 to do so; or
2 (b) Services mortgage loans, or holds oneself out as being able to do so;
3 (21) "Mortgage loan originator" means a natural person who, in exchange for
4 compensation or gain or in the expectation of compensation or gain:
5 (a) Performs any one (1) or more of the following acts in the mortgage lending
6 process:
7 1. Solicits, places, negotiates, or offers to make a mortgage loan;
8 2.[~~Obtains personal and financial information from a borrower or~~
9 ~~prospective borrower;~~
10 ~~3.~~] Assists a borrower or prospective borrower with the preparation of
11 ***documents necessary to obtain*** a mortgage loan[~~or related documents~~];
12 ***3.***[~~4.~~]Explains, recommends, discusses, negotiates, or quotes rates, terms, and
13 conditions of a mortgage loan with a borrower or prospective borrower,
14 whether or not the borrower or prospective borrower makes or
15 completes an application;
16 ***4.***[~~5.~~]Explains any term or aspect of any disclosure or agreement given at or
17 after the time a mortgage loan application is received; or
18 ***5.***[~~6.~~]Takes a residential mortgage loan application; or
19 (b) Is an independent contractor engaging in the mortgage lending process as a
20 mortgage loan processor;
21 (22) "Mortgage loan processor" means a natural person who performs only clerical or
22 support duties at the direction of and subject to the supervision and instruction of a
23 mortgage loan originator;
24 (23) "Nationwide Mortgage Licensing System and Registry" means a mortgage licensing
25 system developed and maintained by the Conference of State Bank Supervisors and
26 the American Association of Residential Mortgage Regulators;
27 (24) "Originate" means to solicit, place, negotiate, offer to make, or broker a mortgage

1 loan;

2 (25) "Pattern of residential mortgage fraud" means residential mortgage fraud that
3 involves two (2) or more mortgage loans that have the same or similar intents,
4 results, accomplices, victims, or methods of commission or otherwise are
5 interrelated by distinguishing characteristics;

6 (26) "Person" means a natural person, or any type or form of corporation, company,
7 partnership, proprietorship, or association;

8 (27) "Physical location" means any location where the mortgage lending process,
9 including the servicing of mortgage loans, is conducted;

10 (28) "Record" means any books of account or other books, papers, journals, ledgers,
11 statements, instruments, documents, files, messages, writings, correspondence, or
12 other internal data or information, made or received in the regular course of
13 business or otherwise, regardless of the mode in which it is recorded;

14 (29) "Registrant" means a person to whom a~~[certificate of]~~ registration has been issued;

15 (30) "Residential mortgage loan application" means the submission of a borrower's
16 financial information in anticipation of a credit decision, whether written or
17 computer-generated, relating to a mortgage loan;

18 (31) "Residential real property" means a dwelling as defined in the Federal Truth in
19 Lending Act, 15 U.S.C. sec. 1602(v), or any real property upon which is constructed
20 or intended to be constructed a dwelling as so defined;

21 (32) "Service" or "servicing" means:

22 (a) Receiving any scheduled periodic mortgage loan payments from a borrower,
23 including amounts for escrow accounts or other fees or obligations related to
24 the mortgage loan, and making or crediting the payments to the mortgage loan
25 account, owner of the loan, or a third party assigned to receive said payments;

26 (b) Maintaining accountings of principal, interest, and other accounts associated
27 with the servicing of mortgage loans and responding to borrower inquiries

1 regarding the status of these loans or accounts;
2 (c) Initiating, supervising, or conducting foreclosure proceedings and property
3 dispositions in the case of default, except this shall not include licensed
4 attorneys representing clients in such matters; or
5 (d) In the case of a home equity conversion mortgage or reverse mortgage,
6 making payments to the borrower;
7 (33) "Takes a residential mortgage loan application" means:
8 (a) Recording the borrower's application information in any form for use in a
9 credit decision; or
10 (b) Receiving the borrower's application information in any form for use in a
11 credit decision;
12 (34) "Transact business in Kentucky" or "transacting business in Kentucky" means to
13 participate in any meaningful way in the mortgage lending process, including the
14 servicing of mortgage loans, with respect to any residential real property located in
15 Kentucky;
16 (35) "Unique identifier" means a number or other identifier assigned by protocols
17 established by the Nationwide Mortgage Licensing System and Registry; and
18 (36) "Wholly owned subsidiary" means a subsidiary that is entirely owned or controlled
19 by another person.
20 ➔Section 2. KRS 286.8-030 is amended to read as follows:
21 (1) (a) It is unlawful for any person to transact business in Kentucky, either directly
22 or indirectly, as a mortgage loan company or mortgage loan broker if the
23 mortgage loan company or mortgage loan broker is not licensed in accordance
24 with the requirements of this subtitle, unless that person is exempt under KRS
25 286.8-020 and, if required by KRS 286.8-020(3) has timely filed a completed
26 application for a claim of exemption, and the filed application for a claim of
27 exemption has been approved by the commissioner.

1 (b) It is unlawful for any natural person to make a loan under KRS 286.8-020(10)
2 without making the disclosure required by KRS 286.8-020(7).
3 (c) It is unlawful for any natural person to transact business in Kentucky, either
4 directly or indirectly, as a mortgage loan originator~~[or mortgage loan~~
5 ~~processor]~~, unless otherwise exempted, if the mortgage loan originator~~[or~~
6 ~~mortgage loan processor]~~ is not registered in accordance with KRS 286.8-255.
7 (d) It is unlawful for any mortgage loan company or mortgage loan broker to
8 employ or use a mortgage loan originator~~[or a mortgage loan processor]~~ if the
9 mortgage loan originator~~[or mortgage loan processor]~~ is not registered in
10 accordance with KRS 286.8-255 or otherwise exempted.
11 (e) It is unlawful for any mortgage loan company to employ or use, with or
12 without compensation, a mortgage loan broker if the mortgage loan broker is
13 not licensed in accordance with the requirements of this subtitle unless that
14 person is exempt under KRS 286.8-020 and, if required by KRS 286.8-020(3),
15 has timely filed a completed application for a claim of exemption, and the
16 filed application for a claim of exemption has been approved by the
17 commissioner.
18 (2) Neither the fact that a license or~~[certificate of]~~ registration has been issued nor the
19 fact that any person, business, or company is effectively registered or licensed,
20 constitutes a finding by the commissioner that any document filed under this
21 subtitle is true, complete, and not misleading. Nor does such fact directly or
22 indirectly imply approval of the registrant or licensee by the commissioner or the
23 Commonwealth of Kentucky. It is unlawful to make or cause to be made to any
24 prospective customer or client any representation inconsistent with this subsection.
25 (3) Any mortgage loan company or mortgage loan broker who willfully transacts
26 business in Kentucky in violation of subsection (1) of this section shall have no
27 right to collect, receive, or retain any interest or charges whatsoever on a loan

1 contract, but the unpaid principal of the loan shall be paid in full.
2 (4) Each solicited, attempted, or closed loan shall constitute a separate violation of this
3 section.
4 (5) The unique identifier, name, and signature of any person originating a mortgage
5 loan shall be clearly shown on the mortgage loan application. It shall be unlawful to
6 make or cause to be made any representations on a mortgage loan application that
7 are inconsistent with this subsection. The unique identifier shall also be displayed
8 on solicitations or advertisements, including business cards or Web sites, of all
9 persons holding themselves out as being able to originate mortgage loans in
10 Kentucky, and any other document as established by rule, regulation, or order of the
11 commissioner.
12 ➔Section 3. KRS 286.8-034 is amended to read as follows:
13 (1) An applicant for a license under this subtitle shall provide the commissioner with
14 separate checks payable to the Kentucky State Treasurer for:
15 (a) An investigation fee of three hundred dollars ($300) for the principal office
16 and one hundred fifty dollars ($150) for each branch office; and
17 (b) A license fee of four hundred fifty dollars ($450) for the principal office and
18 two hundred fifty dollars ($250) for each branch originating mortgages on
19 residential real properties located in Kentucky if the applicant applies for a
20 license on or between November 1 and June 30 of the following calendar year
21 or of one hundred fifty dollars ($150) for the principal office and one hundred
22 dollars ($100) for each branch if the applicant applies for a license on or
23 between July 1 and October 31 of the same calendar year.
24 (2) A license issued between January 1 and October 31 of the same calendar year shall
25 expire on December 31 of the same calendar year. A license issued between
26 November 1 and December 31 of the same calendar year shall expire on December
27 31 of the following calendar year.

1 (3) A license may be renewed by paying the annual renewal license fee which is three
2 hundred fifty dollars ($350) for the principal office and two hundred fifty dollars
3 ($250) for each branch originating mortgages on residential real properties located
4 in Kentucky, submitting to the Nationwide Mortgage Licensing System and
5 Registry an annual report of condition, which shall be in such form and contain such
6 information as the Nationwide Mortgage Licensing System and Registry may
7 require, and submitting to the commissioner any other information required by the
8 commissioner. The commissioner shall not approve the renewal of a mortgage loan
9 broker's license if the commissioner has not received the information on physical
10 location as required in KRS 286.8-032(8).
11 (4) The application, fees, and any required information shall be received by the
12 commissioner on or before November 30 prior to the December 31 expiration date.
13 The commissioner may reinstate the license within thirty-one (31) days of the
14 expiration of the license if the licensee pays the filing fee and a reinstatement fee of
15 two hundred fifty dollars ($250). A license shall not be reinstated when the
16 application, fees, or any required information is received on or after February 1 of
17 the following year that the renewal application was due.
18 ~~[(5) The commissioner shall provide a licensee with a duplicate copy of any license~~
19 ~~upon a satisfactory showing of its loss and payment of a ten dollar ($10)~~
20 ~~replacement fee.]~~
21 ➔Section 4. KRS 286.8-048 is amended to read as follows:
22 (1) The commissioner may enter an emergency order suspending, limiting, or
23 restricting the license, claim of exemption, or registration of any mortgage loan
24 broker, mortgage loan company, ***or*** mortgage loan originator~~[, or mortgage loan~~
25 ~~processor]~~ without notice or hearing if it appears upon grounds satisfactory to the
26 commissioner that the mortgage loan broker, mortgage loan company, ***or*** mortgage
27 loan originator~~[, or mortgage loan processor]~~ has engaged or is engaging in unsafe,

1 unsound, and illegal practices that pose an imminent threat to the public interest.
2 (2) One (1) or more of the following circumstances shall be considered sufficient
3 grounds for an emergency order under this section if it appears on grounds
4 satisfactory to the commissioner that:
5 (a) The mortgage loan broker, mortgage loan company, ***or*** mortgage loan
6 originator[~~, or mortgage loan processor~~] does not meet or has failed to comply
7 with more than one (1) of the requirements of this subtitle and the violations
8 appear to be willful;
9 (b) The mortgage loan broker or mortgage loan company is in such financial
10 condition that it cannot continue in business with safety to its customers;
11 (c) The mortgage loan broker, mortgage loan company, ***or*** mortgage loan
12 originator[~~, or mortgage loan processor~~] has been indicted, charged with, or
13 found guilty of any act involving fraud, deception, theft, or breach of trust, or
14 is the subject of an administrative cease-and-desist order or similar order, or
15 of a permanent or temporary injunction currently in effect entered by any court
16 or agency of competent jurisdiction;
17 (d) The mortgage loan broker, mortgage loan company, ***or*** mortgage loan
18 originator[~~, or mortgage loan processor~~] has made any misrepresentations or
19 false statements to, or concealed any essential or material fact from, any
20 person in the course of doing business in the mortgage lending process, or has
21 engaged in any course of business that has worked or tended to work a fraud
22 or deceit upon any person or would so operate;
23 (e) The mortgage loan broker, mortgage loan company, ***or*** mortgage loan
24 originator[~~, or mortgage loan processor~~] has made or caused to be made to the
25 commissioner any false representation of material fact, has refused to permit
26 an examination, or has refused or failed, within a reasonable time, to furnish
27 any information or make any report that may have been requested or required

1 by the commissioner;

2 (f) The mortgage loan broker, mortgage loan company, ***or*** mortgage loan
3 originator~~[, or mortgage loan processor]~~ has had any license, registration, or
4 claim of exemption related to the financial services industry denied,
5 suspended, or revoked under the laws of this state or any other state of the
6 United States, or has surrendered or terminated any license, registration, or
7 claim of exemption issued by this state or any other jurisdiction under threat
8 of administrative action; or

9 (g) The surety bond required under KRS 286.8-060 has terminated, expired, or no
10 longer remains in effect.

11 (3) An emergency order issued under this section becomes effective when signed by the
12 commissioner. The emergency order shall be delivered by personal delivery or
13 certified mail to the last known address of the party or parties. The order shall be
14 deemed served upon delivery or upon return of the order.

15 (4) A party aggrieved by an emergency order issued by the commissioner under this
16 section may request an emergency hearing. The request for hearing shall be filed
17 with the commissioner within twenty (20) days of service of the emergency order.

18 (5) Upon receipt of a written request for emergency hearing, the commissioner shall
19 conduct an emergency hearing as required under KRS 13B.125, within ten (10)
20 working days from the date of receipt of the request for hearing, unless the parties
21 agree otherwise.

22 (6) An emergency order issued under this section shall remain in effect until it is
23 withdrawn or superseded by an order of the commissioner or until it is terminated
24 by a court order.

25 ➔SECTION 5. A NEW SECTION OF SUBTITLE 8 OF KRS CHAPTER 286 IS
26 CREATED TO READ AS FOLLOWS:

27 ***A mortgage loan processor who is not registered or otherwise authorized to act as a***

1 ***mortgage loan originator shall not represent to the public or to individual consumers***
2 ***that he or she can, or is willing to, perform any of the activities of a mortgage loan***
3 ***originator.***
4 ➔Section 6. KRS 286.8-170 is amended to read as follows:
5 (1) Every mortgage loan company and mortgage loan broker shall keep at its principal
6 office correct and complete records of its business transactions, books of accounts,
7 and minutes of proceedings of its directors, principals, or partners. Complete
8 records of all business transactions at the principal office shall be maintained at the
9 principal office. Each branch office shall keep detailed records of all transactions at
10 such branch office and shall furnish full control records to the principal office.
11 (2) No mortgage loan company or mortgage loan broker by any system of accounting or
12 any device of bookkeeping shall, either directly or indirectly, enter any of its assets
13 upon its books in the name of any person, partnership, association, or corporation,
14 or under any title, designation, or value that is not thoroughly descriptive of any
15 assets.
16 (3) The affairs of every mortgage loan company, mortgage loan broker, ***and*** mortgage
17 loan originator,~~[and mortgage loan processor,]~~ and the records required to be
18 maintained by KRS 286.8-160 are subject at any time or from time to time to such
19 periodic, special, or other examinations by the executive director or an examiner of
20 the commissioner within or without this state and with or without notice to the
21 person being examined, as the commissioner deems necessary or appropriate in the
22 public interest. All records of the person being examined shall be subject to the
23 commissioner's inspection.
24 (4) The examiner shall make a thorough examination into the condition, workings and
25 affairs of the person being examined and report any violation of law or any
26 unauthorized unsafe practices or any failure to keep and have correct any required
27 books and records as he or she may find to the commissioner.

1 (5) A mortgage loan company or mortgage loan broker shall pay a fee for each such
2 examination of its operations or employees based on fair compensation for time and
3 actual expense. For the purpose of avoiding unnecessary duplication of
4 examinations, the commissioner, insofar as he or she deems it practicable in
5 administering this section, may cooperate and exchange information with any
6 agency of the state or federal government, other states, the Nationwide Mortgage
7 Licensing System and Registry, or the federal National Mortgage Association,
8 Government National Mortgage Association, and Federal Home Loan Mortgage
9 Corporation, and may accept such examinations in whole or in part in lieu of an
10 examination by the commissioner.
11 (6) The commissioner or the commissioner's examiners or designated representative
12 shall have access to all records of a mortgage loan company, mortgage loan broker,
13 ***and*** mortgage loan originator[~~, and mortgage loan processor~~] which relate to their
14 business, and records kept by any officers, agents, or employees, relating to or upon
15 which any record of its business is kept.
16 (7) A mortgage loan originator[~~ or mortgage loan processor~~] shall make available and
17 grant access to the commissioner, or an examiner of the commissioner, the records
18 relating to its operations. A mortgage loan company or mortgage loan broker shall
19 make available and grant access to all records of its current and former employees
20 and contractors relating to its operations.
21 (8) Any person subject to this subtitle shall make or compile reports or prepare other
22 information as directed by the commissioner or an examiner of the commissioner to
23 include:
24 (a) Accounting compilations;
25 (b) Information lists and data concerning loan transactions in a format prescribed
26 by the commissioner or an examiner of the commissioner; and
27 (c) Such other information deemed necessary to carry out the purposes of this

1 section.

2 (9) No mortgage loan company, mortgage loan broker, ***or*** mortgage loan originator[~~, or~~
3 ~~mortgage loan processor~~] shall impede the commissioner or an examiner of the
4 commissioner from interviewing its officers, principals, members, employees,
5 independent contractors, agents, or customers.

6 (10) In making any examination or investigation authorized by this subtitle, the
7 commissioner may control access to any documents and records of the licensee or
8 person under examination or investigation. The commissioner may take possession
9 of the documents and records, or place a person in exclusive charge of the
10 documents and records in the place where they are usually kept. During the period
11 of control, no individual or person shall remove or attempt to remove any of the
12 documents and records except pursuant to a court order or with the consent of the
13 commissioner. Unless the commissioner has reasonable grounds to believe the
14 documents or records of the licensee have been, or are at risk of being, altered or
15 destroyed for purposes of concealing a violation of this subtitle, the licensee or
16 owner of the documents and records shall have access to the documents or records
17 as necessary to conduct its ordinary business affairs.

18 (11) It shall be unlawful for any person subject to investigation or examination under this
19 subtitle to knowingly withhold, abstract, alter, remove, mutilate, destroy, or secrete
20 any books, records, or other information.

21 (12) In order to carry out the purposes of this subtitle, the commissioner may:

22 (a) Retain attorneys, accountants, or other professionals and specialists as
23 examiners, auditors, or investigators to conduct or assist in the conduct of
24 examinations or investigations;

25 (b) Enter into agreements or relationships with other government officials or
26 regulatory associations in order to improve efficiencies and reduce regulatory
27 burden by sharing resources, standardized or uniform methods or procedures,

1 and documents, records, information, or evidence obtained under this subtitle;
2 and
3 (c) Use, hire, contract, or employ public or privately available analytical systems,
4 methods, or software to examine or investigate the persons subject to this
5 subtitle.
6 (13) The authority of this section shall remain in effect, whether a person acts or claims
7 to act under any licensing or registration law of this subtitle, or claims to act without
8 such authority.
9 ➔Section 7. KRS 286.8-250 is amended to read as follows:
10 [~~(1)~~]Each mortgage loan broker licensed under this subtitle shall maintain a physical
11 location.
12 [~~(2) The license certificate of a mortgage loan broker shall be at all times prominently~~
13 ~~displayed at the mortgage loan broker's physical location.~~]
14 ➔Section 8. KRS 286.8-255 is amended to read as follows:
15 (1) No natural person shall transact business in Kentucky, either directly or indirectly,
16 as a mortgage loan originator[~~ or mortgage loan processor~~] unless such mortgage
17 loan originator[~~ or mortgage loan processor~~] is registered with the department[~~ and~~
18 ~~has been issued a current certificate of registration by the department~~], complies
19 with all applicable requirements of this subtitle, and maintains a valid unique
20 identifier issued by the Nationwide Mortgage Licensing System and Registry. The
21 department shall maintain a database of all mortgage loan originators[~~ and mortgage~~
22 ~~loan processors~~] originating[~~ or processing~~] mortgage loans on residential real
23 property in Kentucky.[~~ The department shall issue a certificate of registration to all~~
24 ~~registered mortgage loan originators and mortgage loan processors.~~]
25 (2) The application for registration shall:
26 (a) Be on a form prescribed by the commissioner;
27 (b) Be accompanied by a registration fee in the amount of fifty dollars ($50)

1 which shall be used solely by the department to establish and maintain a
2 database of all mortgage loan originators~~[and mortgage loan processors,]~~ and
3 any excess funds shall be retained by the department and shall not lapse to the
4 general fund; and
5 (c) Contain such information as the commissioner deems necessary to carry out
6 the purposes of this subtitle.
7 (3) (a) Applications for initial registrations of mortgage loan originators~~[and~~
8 ~~mortgage loan processors]~~ shall be accompanied by satisfactory evidence that
9 the applicant has successfully completed twenty (20) hours of prelicensing
10 education courses related directly to the mortgage lending process, as
11 approved and designated by the commissioner.
12 (b) For the purposes of paragraph (a) of this subsection, the prelicensing
13 education courses approved and designated by the commissioner shall meet
14 the minimum requirements set forth in Section 1505(c) of the S.A.F.E.
15 Mortgage Licensing Act, Pub. L. No. 110-289, and amendments thereto, and
16 shall be reviewed, and approved by the Nationwide Mortgage Licensing
17 System and Registry.
18 (c) For the purposes of paragraph (a) of this subsection, the commissioner may
19 accept as credit towards the completion of the prelicensing education
20 requirements in this state, the completion of prelicensing education
21 requirements in any other state so long as the education has met the
22 requirements set forth in paragraphs (a) and (b) of this subsection.
23 (4) Applications for renewals~~[of certificates]~~ of registration by registered mortgage
24 loan originators~~[and mortgage loan processors]~~ shall be accompanied by
25 satisfactory evidence that the individual has successfully met the continuing
26 education requirements of KRS 286.8-260 and by payment of a renewal fee in the
27 amount of fifty dollars ($50). The renewal fee shall be used solely by the

department to establish and maintain a database of all mortgage loan originators[~~ and mortgage loan processors~~] and any excess funds shall be retained by the department and shall not lapse to the general fund.

(5) A[~~ certificate of~~] registration issued between January 1 and October 31 of the same calendar year shall expire on December 31 of the same calendar year. A[~~ certificate of~~] registration issued between November 1 and December 31 of the same calendar year shall expire on December 31 of the following calendar year. Any[~~ certificate of~~] registration that has expired may be reinstated by the commissioner upon payment of the annual registration fee, and a reinstatement fee of two hundred fifty dollars ($250), within thirty (30) days of the expiration of the[~~ certificate of~~] registration.

(6) [~~The department shall provide a registrant with a duplicate copy of any certificate of registration upon satisfactory showing of its loss and payment of a ten dollar ($10) replacement fee.~~

~~(7)~~]All mortgage loan originators[~~ and mortgage loan processors~~] subject to the registration requirements of this section shall also be subject to and comply with all applicable provisions of this subtitle.

(7)[~~(8)~~] The commissioner ***shall***[~~may~~] require the submission of background records checks, including but not limited to checks for state, federal, and international criminal histories, civil or administrative records, and any other information as deemed necessary to comply with the minimum requirements set forth in Section 1505 of the S.A.F.E. Mortgage Licensing Act, Pub. L. No. 110-289, and amendments thereto, as well as the submission of an independent credit report obtained from a consumer reporting agency described in the Fair Credit Reporting Act, 15 U.S.C. sec. 1681a, as part of an application or renewal application filed under this subtitle***, including but not limited to applications or renewals for mortgage loan originators***. The cost of the background and records checks, and

1 credit report shall be borne by the applicant.

2 ***(8)***[~~(9)~~] No mortgage loan originator[~~ or mortgage loan processor~~] shall be granted or
3 shall be entitled to maintain a[~~ certificate of~~] registration unless he or she satisfies
4 the following minimum standards for registration:

5 (a) The applicant has never had a loan originator's license or registration revoked
6 in any governmental jurisdiction, except revocations that have been formally
7 vacated or set aside shall not be deemed a revocation for the purposes of this
8 section;

9 (b) The applicant has not been convicted of, pled guilty to, or pled nolo
10 contendere to a felony in any domestic, foreign, or military court:

11 1. During the seven (7) year period preceding the date of the application for
12 registration or renewal of registration; or

13 2. At any time preceding such date of application for registration or
14 renewal of registration, if such felony involved an act of fraud or
15 dishonesty, a breach of trust, or money laundering;

16 (c) The applicant has demonstrated financial responsibility, character, and general
17 fitness such as to command the confidence of the community and to warrant a
18 determination that the loan originator[~~ or loan processor~~] will operate
19 honestly, fairly, lawfully, and efficiently within the purposes of the subtitle;

20 (d) The applicant has completed the prelicensing education requirement set forth
21 in subsection (3) of this section;

22 (e) The applicant has passed a qualified written test which satisfies the minimum
23 requirements set forth in Section 1505(d) of the S.A.F.E. Mortgage Licensing
24 Act, Pub. L. No. 110-289, and amendments thereto; and

25 (f) [~~If required by KRS 286.8-060,~~]The applicant holds or is covered by a surety
26 bond which satisfies the minimum requirements set forth in KRS 286.8-060.

27 ***(9) A mortgage loan processor shall not be required to maintain a registration, but***

1 ***the processor's supervising mortgage loan company or mortgage loan broker***
2 ***shall be required to provide the mortgage loan processor with the continuing***
3 ***education required under Section 9 of this Act, as well as perform an employee***
4 ***background check in accordance with uniform standards established by the***
5 ***commissioner prior to hiring an applicant as a processor, and provide proof of***
6 ***compliance with this section to the commissioner upon demand, demonstrating***
7 ***that:***
8 ***(a) The applicant has not been convicted of, pled guilty to, or pled nolo***
9 ***contendere to a felony in any domestic, foreign, or military court:***
10 ***1. During the seven (7) year period preceding the date of the application;***
11 ***or***
12 ***2. At any time preceding the date of application, if the felony involved an***
13 ***act of fraud or dishonesty, a breach of trust, or money laundering;***
14 ***and***
15 ***(b) The applicant has demonstrated financial responsibility, character, and***
16 ***general fitness sufficient to command the confidence of the community and***
17 ***to warrant a determination that the loan processor will operate honestly,***
18 ***fairly, lawfully, and efficiently within the purposes of this subtitle.***
19 (10) No mortgage loan originator[~~ or mortgage loan processor~~] shall be granted a
20 renewal[~~ certificate~~] of registration unless he or she satisfies the following
21 minimum standards for renewal of registration:
22 (a) The applicant has met and continues to meet the minimum standards set forth
23 in subsection ***(8)***[~~(9)~~] of this section; and
24 (b) The applicant has satisfied the annual continuing education requirements set
25 forth in KRS 286.8-260.
26 (11) The[~~ certificate of~~] registration of any mortgage loan originator[~~ or mortgage loan~~
27 ~~processor~~] that fails to comply with the minimum standards for registration renewal

1 set forth in this section shall expire and shall promptly be deemed surrendered to the
2 commissioner without demand. The commissioner may adopt procedures and
3 requirements for the reinstatement of expired registrations consistent with the
4 standards established by the Nationwide Mortgage Licensing System and Registry.
5 (12) Mortgage loan originators engaging in any of the activities set forth in KRS 286.8-
6 010(21)(a) shall provide loan origination services to not more than one (1) mortgage
7 loan company or mortgage loan broker at a time.
8 ➔Section 9. KRS 286.8-260 is amended to read as follows:
9 (1) Any person required to be registered under this subtitle shall complete at least ***eight***
10 ***(8)***[~~twelve (12)~~] hours of continuing professional education on an annual basis that
11 is approved and designated by the commissioner. A minimum of ***one (1) hour***[~~four~~
12 ~~(4) hours~~] of continuing professional education ***each year***[~~at least once every two~~
13 ~~(2) years~~] shall be instruction on the requirements of this subtitle or KRS 360.100,
14 or a combination of both.
15 (2) For the purposes of subsection (1) of this section, the continuing professional
16 education courses approved and designated by the commissioner shall meet the
17 minimum requirements set forth in Section 1505(b) of the S.A.F.E. Mortgage
18 Licensing Act, Pub. L. No. 110-289, and amendments thereto. The education
19 courses approved and designated by the commissioner shall also be reviewed and
20 approved by the Nationwide Mortgage Licensing System and Registry unless the
21 Nationwide Mortgage Licensing System and Registry provides otherwise.
22 (3) For the purposes of subsection (1) of this section, the commissioner may accept as
23 credit towards the completion of the continuing professional education requirements
24 in this state, the completion of continuing professional education requirements in
25 any other state so long as the education has met the requirements set forth in
26 subsections (1) and (2) of this section.
27 (4) For good cause shown, the commissioner may grant an extension during which the

1 continuing education requirement of this section may be completed, but the
2 extension may not exceed thirty (30) days. What constitutes good cause for the
3 extension of time rests within the discretion of the commissioner.
4 (5) The[~~ certificate of~~] registration of any mortgage loan originator [~~or mortgage loan~~
5 ~~processor~~]that fails to comply with the continuing professional education
6 requirements of this section and who has not been granted an extension of time to
7 comply in accordance with subsection (4) of this section shall expire and shall
8 promptly be deemed surrendered to the commissioner without demand.
9 ➔Section 10. KRS 286.8-290 is amended to read as follows:
10 (1) The following mortgage loan originators shall be subject to subsections *(2)*[~~(3)~~] and
11 *(3)*[~~(4)~~] of this section, but shall be exempt from the registration and regulatory
12 requirements of KRS 286.8-255:
13 (a) An individual employed by the following institutions and acting on behalf of
14 such institutions:
15 1. A depository institution;
16 2. A subsidiary that is:
17 a. Owned and controlled by a depository institution; and
18 b. Regulated by the Board of Governors of the Federal Reserve
19 System, the Comptroller of the Currency, the Director of the
20 Office of Thrift Supervision, the National Credit Union
21 Administration, or the Federal Deposit Insurance Corporation; or
22 3. An institution regulated by the Farm Credit Administration;
23 (b) A licensed attorney who negotiates the terms of a mortgage loan on behalf of a
24 client as an ancillary matter to the attorney's representation of the client,
25 unless the attorney is compensated by a mortgage loan company, mortgage
26 loan broker, or other mortgage loan originator, or by an agent of such
27 company, broker, or other originator;

1 (c) A natural person who originates a mortgage loan on behalf of an immediate
2 family member of the natural person unless the natural person is compensated
3 in connection with that transaction by a mortgage loan company, mortgage
4 loan broker, or other mortgage loan originator, or by an agent of such
5 company, broker, or other originator;
6 (d) A natural person who originates a mortgage loan secured by a dwelling that
7 served as the natural person's residence unless the natural person is
8 compensated in connection with that transaction by a mortgage loan company,
9 mortgage loan broker, or other mortgage loan originator, or by an agent of
10 such company, broker, or other originator;
11 (e) Any natural person, including all entities owned in whole or part by that
12 natural person, that make no more than four (4) loans each calendar year; and
13 (f) A person who originates a mortgage loan secured by a dwelling; and
14 1. Who is exempted by an order of the commissioner; and
15 2. Whose exemption would not be contrary to the registration requirements
16 of the S.A.F.E. Mortgage Licensing Act, Pub. L. No. 110-289, and
17 amendments thereto.
18 (2)[~~The following mortgage loan processors shall be subject to subsections (3) and (4)~~
19 ~~of this section, but shall be exempt from the registration and regulatory~~
20 ~~requirements of KRS 286.8-255:~~
21 ~~(a) Any natural person exempted in subsection (1) of this section; and~~
22 ~~(b) Any natural person employed by a person exempted in KRS 286.8-020(1)(a), (b),~~
23 ~~(c), (d), (e), (f), (g), or (h) and acting on behalf of such person.~~
24 ~~(3)~~] Notwithstanding any provisions to the contrary set forth in this subtitle, no
25 mortgage loan originator[~~ or mortgage loan processor~~] shall impede the
26 commissioner or an examiner of the commissioner from interviewing any person
27 regarding any potential violations of this subtitle.

1 *(3)*[~~(4)~~] Notwithstanding any provisions to the contrary set forth in this subtitle, every
2 mortgage loan originator[~~ and mortgage loan processor~~] shall make available and
3 grant access to the commissioner or an examiner of the commissioner the records in
4 the originator's or processor's possession or control that are subject to the provisions
5 of this subtitle.
6 ➔Section 11. KRS 286.8-036 is amended to read as follows:
7 (1) Each license issued under this subtitle shall state the address or addresses at which
8 business is to be conducted, the name of the licensee, and the date and place of its
9 incorporation, if applicable.
10 (2) [~~A licensee shall post a copy of such license in a conspicuous place in the office to~~
11 ~~which it pertains.~~
12 ~~(3)~~]A license may not be transferred or assigned without the prior written approval of
13 the commissioner.
14 *(3)*[~~(4)~~] No licensee shall transact the business provided for by this subtitle under any
15 other name or maintain an office at any location other than that designated in the
16 license.
17 *(4)*[~~(5)~~] Every licensed mortgage loan company or mortgage loan broker shall notify
18 the commissioner, in writing, within ten (10) days of the closing of any licensed
19 office or registered Kentucky branch.

President of Senate

Speaker-House of Representatives

Attest: Chief Clerk of Senate

Approved Governor

Date 13 APRIL 2018